

MAINE STATE LEGISLATURE

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SEVENTY-THIRD LEGISLATURE

SENATE.

No. 172

STATE OF MAINE.

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

AN ACT additional to and amendatory of Chapter 48 of the
Revised Statutes of the State of Maine, as amended, relating
to the organization and management of Trust Companies.

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

Section 1. Five or more persons, a majority of whom shall
2 be residents of the State, who associate themselves by an
3 agreement in writing for the purpose of forming a trust
4 company, may, upon compliance with the provisions of this
5 act, become a corporation, subject to all the duties, restric-
6 tions and liabilities set forth in all general laws now or here-
7 after in force relating to such corporations, with power:
8 first, to receive on deposit, money, coin, bank notes, evidences
9 of debt, accounts of individuals, companies, corporations,

10 municipalities and states, allowing interest thereon, if
11 agreed, or as the by-laws of said corporation may provide;
12 second, to borrow money, to loan money on credits, or real
13 estate, or personal security, and to negotiate loans and sales
14 for others; third, to own and maintain safe deposit vaults,
15 with boxes, safes and other facilities therein, to be rented
16 to other parties for the safe keeping of moneys, securities,
17 stocks, jewelry, plate, valuable papers and documents, and
18 other property susceptible of being deposited therein, and
19 may receive on deposit for safe keeping, property of any
20 kind entrusted to it for that purpose; fourth, to hold and
21 enjoy all such estate, real, personal and mixed as may be
22 obtained by the investment of its capital stock or any other
23 moneys and funds that may come into its possession in the
24 course of its business and dealings, and the same sell, grant,
25 and dispose of; fifth, to act as agent for issuing, registering
26 and countersigning certificates, bonds, stocks, and all evi-
27 dences of debt or ownership in property; sixth, to hold by
28 grant, assignment, transfer, devise, or bequest, any real or
29 personal property or trusts duly created, and to execute
30 trusts of every description; seventh, to act as assignee,
31 receiver, executor, and no surety shall be necessary upon the
32 bond of the corporation, unless the court or officer approv-
33 ing such bond shall require it; eighth, to do in general all
34 the business that may lawfully be done by trust and banking
35 companies.

Sect. 2. Said agreements shall set forth that the sub-
2 scribers thereto associate themselves with the intention of
3 forming a corporation, and shall specifically state:

First, The name by which the corporation shall be known.

Second, The purpose for which it is formed.

Third, The city or town, which shall be within this State,
7 where its business is to be transacted.

Fourth, The amount of its capital stock, and the number
9 of shares into which the same is to be divided.

Each associate shall subscribe to the articles his name, resi-
11 dence, post office address and the number of shares of stock
12 which he agrees to take.

Sect. 3. A notice of the intention of the subscribers to
2 form such a trust company shall be given to the bank
3 examiner. A notice in such form as said examiner shall
4 approve shall be published at least once a week, for three
5 successive weeks, in one or more newspapers designated by
6 said examiner, and published in the county in which it is
7 proposed to establish the company. Such notice shall specify
8 the names of the proposed incorporators, the name of the
9 corporation and the location of the same, as set forth in
10 the above mentioned agreement of association. Within
11 thirty days after the first publication of said notice the sub-
12 scribers to said agreement shall apply to said examiner for
13 a certificate that public convenience and advantage will be
14 promoted by the establishment of such trust company. If
15 the examiner refuses to issue such certificate, no further
16 proceedings shall be had, but the application may be renewed
17 after one year from the date of such refusal, without further
18 notice or publication unless the examiner shall order the
19 same.

Sect. 4. The first meeting of the subscribers to the agreement of association shall be called by a notice signed either by that subscriber to the agreement who is designated therein for the purpose, or by a majority of the subscribers; and such notice shall state the time, place and purposes of the meeting. A copy of the notice shall, seven days at least before the day appointed for the meeting, be given to each subscriber or left at his residence or usual place of business, or deposited in the post office, postage prepaid, and addressed to him at his residence or usual place of business, and another copy thereof and an affidavit of one of the signers that the notice has been duly served shall be recorded with the records of the corporation. If all the incorporators shall in writing, endorsed upon the agreement of association, waive such notice and fix the time and place of the meeting, no notice shall be required. The subscribers to the agreement of association shall hold the franchise until the organization has been completed. At such first meeting, or at any adjournment thereof, the incorporators shall organize by the choice by ballot of a temporary clerk, by the adoption of by-laws and by the election in such manner as the by-laws may determine, of directors, a president, a clerk, and such other officers as the by-laws may prescribe. All the officers so elected shall be sworn to the faithful performance of their duties. The temporary clerk shall make and attest a record of the proceedings until the clerk has been chosen and sworn, including a record of such choice and qualification.

Sect. 5. The president, and a majority of the directors who are elected at such first meeting, shall make, sign and make oath to, in duplicate, articles setting forth:

a. A true copy of the agreement of association, the names
5 of the subscribers thereto, and the name, residence and post
6 office address of each of the officers of the company ;

b. The date of the first meeting and the successive
8 adjournments thereof, if any.

One of such certificates shall be submitted to the bank
10 examiner and the other, together with the records of the
11 proposed corporation, to the attorney general, who shall
12 examine the same, and who may require such amendment
13 thereof or such additional information as he may consider
14 necessary. If he finds that the articles conform to the pro-
15 visions of the preceding sections relative to the organization
16 of the corporation and that the provisions of section three
17 have been complied with, he shall so certify and endorse
18 his approval thereon. Thereupon the articles shall be filed
19 in the office of the secretary of state, who shall cause the
20 same, with the endorsement thereon, to be recorded, and
21 shall thereupon issue a certificate of incorporation in the
22 following form :

STATE OF MAINE.

Be it known that whereas (the names of the subscribers
25 to the agreement of association) have associated themselves
26 with the intention of forming a corporation under the name
27 of (the name of the corporation), for the purpose (the pur-
28 pose declared in the agreement of association), with a cap-
29 ital stock of (the amount fixed in the agreement of asso-
30 ciation), and have complied with the provisions of the stat-
31 utes of this State in such case made and provided, as appears
32 from the articles of organization of said corporation, duly

33 approved by the attorney general, and recorded in this
34 office; now, therefore, I (the name of the secretary), secre-
35 tary of the State of Maine, do hereby certify that said (the
36 names of the subscribers to the agreement of association),
37 their associates and successors, are legally organized and
38 established as, and are hereby made, an existing corporation
39 under the name of (name of the corporation), with the
40 powers, rights and privileges, and subject to the limitations,
41 duties and restrictions, which by law appertain thereto.

Witness my official signature hereunto subscribed, and the
43 great seal of the State of Maine hereunto affixed this day
44 of in the year (the date of the filing of the
45 articles of organization).

The secretary shall sign the certificate of incorporation and
47 cause the great seal of the State to be thereto affixed, and
48 such certificate shall have the force and effect of a special
49 charter. The existence of every corporation which is not
50 created by special law shall begin upon the filing of the
51 articles of organization in the office of the secretary of state.
52 The secretary of state shall also cause a record of the cer-
53 tificate of incorporation to be made, and such certificate, or
54 such record, or a certified copy thereof, shall be conclusive
55 evidence of the existence of such corporation.

Sect. 6. Such corporation shall not issue any shares of
2 stock until the par value of such shares shall have been
3 actually paid in in cash. When the whole capital stock has
4 been issued, a complete list of the stockholders, with the
5 name, residence and post office address of each, and the
6 number of shares held by each, shall be filed with the bank

7 examiner, which list shall be verified by the president and
8 treasurer of the corporation. Upon receipt of such state-
9 ment said examiner shall cause an examination to be made,
10 and if, after such examination, it appears that the whole
11 capital stock has been paid in in cash, and that all require-
12 ments of law have been complied with, said examiner shall
13 issue a certificate authorizing such corporation to begin the
14 transaction of business. It shall be unlawful for any such
15 corporation to begin the transaction of business until such
16 a certificate has been granted.

Sect. 7. The written articles of association mentioned in
2 section one shall not be regarded as sufficient unless they
3 show that at least one-third of the proposed amount of cap-
4 ital stock has been subscribed for. And when filed with the
5 bank examiner they shall be accompanied by satisfactory
6 evidence that the sum of fifty dollars has been paid to the
7 State Treasurer, to be credited to an account for "Expense
8 of Organizing Trust Companies," so much thereof to be
9 paid out for expenses of the several departments as the
10 Governor and Executive Council shall find to have been
11 actually incurred.

Sect. 8. The minimum amount of paid-in capital stock
2 on which a trust company may be authorized to begin busi-
3 ness shall be twenty-five thousand dollars for a town or city
4 of not more than five thousand inhabitants, fifty thousand
5 dollars for from five thousand to ten thousand inhabitants,
6 seventy-five thousand dollars for from ten thousand to
7 twenty thousand inhabitants, one hundred thousand dollars
8 for from twenty thousand to thirty thousand inhabitants,
9 and one hundred and fifty thousand dollars for a town or

10 city of more than thirty thousand inhabitants. It shall be
11 lawful for the bank examiner in ascertaining the number
12 of inhabitants of such town or city for the purpose of deter-
13 mining the sufficiency of the capital stock, to require such
14 proof in addition to the last preceding United States census
15 as he may deem necessary; but no charter once granted shall
16 ever be deemed void for any error in computing the popu-
17 lation. The par value of the shares of stock shall be one
18 hundred dollars each.

Sect. 9. Every such company shall forfeit its charter
2 unless it shall actually commence to do business as a trust
3 company within one year from the date thereof.

Sect. 10. Any company organized under this act may
2 increase its capital stock from time to time to an amount
3 not exceeding in the aggregate, one million dollars, at any
4 stockholders' meeting at which a majority of shares issued
5 and outstanding is represented, notice of the intention so
6 to do having been given in the call therefor. A certified
7 copy of every such vote shall be filed with the bank examiner
8 within ten days after its passage.

Sect. 11. All the corporate powers of any such company
2 shall be exercised by a board of not less than five directors,
3 two-thirds of whom shall be residents of this State, whose
4 number and term of office shall be determined, and who
5 shall be elected by a vote of the stockholders at the first
6 meeting held by the incorporators and at each annual meet-
7 ing thereafter. The affairs and powers of the company
8 may, at the option of the stockholders, be entrusted to an
9 executive board of not less than five members, two-thirds
10 of whom shall be residents of this State, to be, by vote of

11 the stockholders, elected from the full board of directors.
12 The directors of such company shall be sworn to the proper
13 discharge of their duties, and they shall hold office until
14 others are elected and qualified in their stead. If a director
15 dies, resigns, or becomes disqualified for any cause, the
16 remaining directors may elect a person to fill the vacancy
17 until the next annual meeting of the corporation. The oath
18 of office of any director shall be taken within thirty days of
19 his election, or his office shall become vacant. The clerk
20 of such company shall, within ten days, notify such directors
21 of their election and within thirty days shall publish the
22 list of all persons who have taken the oath of office as
23 directors. The removal of any director from this State
24 shall immediately vacate his office, if such removal leaves
25 less than two-thirds of the membership resident in the State.
26 The board of directors or executive board shall elect a pres-
27 ident from its number, a clerk who shall be sworn to the
28 faithful performance of his duties, a treasurer and such
29 other officers, servants and employes as they may deem nec-
30 essary.

Sect. 12. The board of directors or the executive board
2 of such company shall constitute the board of investment
3 of the company. Said directors or executive board shall
4 keep in a separate book, specially provided for the purpose,
5 a record of all loans, and investments of every description,
6 made by said company substantially in the order of time
7 when such loans or investments are made, which shall show
8 that such loans or investments have been made with the
9 approval of the investment board of said company, which
10 shall indicate such particulars respecting such loans or

11 investments as the bank examiner shall direct. This book
12 shall be submitted to the directors and stockholders, and to
13 the bank examiner whenever requested. Such loans or
14 investments shall be classified in the book as the bank exam-
15 iner shall direct.

Sect. 13. No person shall be eligible to the position of a
2 director of any such company who is not the actual owner
3 of ten shares of the stock.

Sect. 14. All the property or money held in trust by any
2 such company, shall constitute a special deposit and the
3 accounts thereof, of said trust department shall be kept
4 separate, and such funds and the investment or loans of
5 them shall be specially appropriated to the security and pay-
6 ment of such deposits, and not be subject to any other liabili-
7 ties of the company, and for the purpose of securing the
8 observance of this proviso, such company shall have a trust
9 department in which all business pertaining to such trust
10 property shall be kept separate and distinct from its general
11 business.

Sect. 15. An administrator, executor, assignee, guardian
2 or trustee, any court of law or equity, including courts of
3 probate and insolvency, officers and treasurers of towns,
4 cities, counties, and savings banks of the State of Maine,
5 may deposit any moneys, bonds, stocks, evidences of debt
6 or of ownership in property, or any personal property, with
7 said corporation, and any of said courts may direct any
8 person deriving authority therefrom to so deposit the same.

Sect. 16. No trust company shall loan to any one person,
2 firm, business syndicate, or corporation, an amount, or
3 amounts, at any time outstanding in excess of ten per cent

4 of its total capital, unimpaired surplus and net undivided
5 profits, except on approval of a majority of its entire invest-
6 ment board, nor in excess of twenty-five per cent thereof,
7 except on such approval and secured by collateral of a value
8 equal to the excess of said loan above said twenty-five per
9 cent; provided, that in determining said amount every per-
10 son, firm, syndicate or corporation appearing on any loan
11 as endorser, guarantor or surety, shall be regarded as an
12 original promissor. But the discount of bills of exchange
13 drawn in good faith against actually existing values, and the
14 discount of commercial or business paper actually owned by
15 the person negotiating the same, shall not be considered as
16 money borrowed. Provided, however, that any such com-
17 pany now having loans outstanding in excess of any of the
18 aforesaid restrictions may permit the same to be renewed
19 from time to time as they mature, for periods not exceeding
20 six months each, if an amount equal to not less than ten per
21 cent of every loan so maturing shall have first been paid in
22 in cash, and if an equivalent amount shall be paid in at the
23 end of every six months on all demand loans in such aggre-
24 gate. In all cases where loans in excess of said ten per
25 cent are granted, the records of the company shall show who
26 voted in favor thereof, and said records and those required
27 by section seventeen of this act shall constitute *prima facie*
28 evidence of the truth of all facts stated therein in prosecu-
29 tions and suits to enforce the several provisions and penal-
30 ties enumerated in section twenty-two of this act.

Sect. 17. Section eighty-two of chapter forty-eight of the
2 Revised Statutes is hereby amended so as to read as follows:

'Sect. 82. No trust company shall make any loan to its
4 directors, officers, agents or other persons in its employ, or
5 on which any such director, officer, agent or employee is an
6 endorser, guarantor or surety, or to any firm or business
7 syndicate of which such director, officer, agent or employee
8 is a member, or to any person or on the endorsement or guar-
9 anty of any person who is a partner of, or member of a bus-
10 iness syndicate with, such director, officer, agent or employee,
11 or to any corporation of which any such director, officer,
12 agent or employee is a director, officer, superintendent or
13 manager, until the proposition to make such loan shall have
14 been submitted by the person desiring the same to the board
15 of directors of such company, or to the executive committee
16 thereof, if any, and accepted and approved by a majority of
17 the entire membership of such board or committee; pro-
18 vided, however, that no director of such company who is
19 interested in said loan in any of the above capacities, or who
20 is connected or associated with the borrower in any of the
21 above ways, shall be regarded as voting in the affirmative
22 on such loan. Such approval, if the loan is made, shall be
23 spread upon the records of the company; and this record
24 shall, in every instance, give the names of the directors
25 authorizing the loans.'

Sect. 18. Every trust company shall make such report
2 of its condition from time to time as the bank examiner
3 shall require, and shall cause the same to be published as
4 he may direct.

Sect. 19. Two of the directors, at least, shall twice in each
2 year thoroughly examine the affairs of the company, set-
3 tle the treasurer's account, and report under oath to the

4 bank examiner the standing of the company, the situation
5 of its funds, and all other matters which the examiner
6 requires, in the manner and according to the form that he
7 prescribes, and publish an abstract thereof, if required. The
8 examiner shall seasonably give notice of the time and furnish
9 blanks for said examination and report.

Sect. 20. Any trust company organized under this act
2 may adopt all necessary by-laws, not inconsistent with the
3 general laws of the State, for the management of its affairs.

Sect. 21. No trust company now or hereafter organized,
2 shall establish a branch or agency in any city or town other
3 than that in which the parent institution has its location
4 until it shall have received a warrant so to do from the
5 bank examiner, who shall issue such warrant only when
6 satisfied that public convenience and advantage will be pro-
7 moted by the establishment of such branch or agency and
8 that the unimpaired capital stock of the parent institution is
9 sufficient to comply with the conditions of section eight of
10 this act, reckoning the aggregate population of its home city
11 or town and of all cities or towns in which it is authorized
12 by its charter to establish branches or agencies, including the
13 one under consideration. The examiner may require such
14 notice on an application for a branch or agency as he
15 deems proper. No trust company shall be permitted to
16 establish a branch or agency except in its own or an adjoin-
17 ing county. If granted, the Bank Examiner shall issue his
18 warrant in duplicate, one copy to be delivered to the trust
19 company, and the other to the secretary of state for record.
20 The company shall within ten days after opening said branch
21 or agency, file a certificate thereof, signed by its president

22 and treasurer, with the Bank Examiner. The right to open
23 a branch or agency shall lapse in one year from the date of
24 filing the examiner's warrant with the secretary of state
25 unless the same shall have been opened and business actually
26 begun in good faith. No application for permission to open
27 such branch or agency shall be acted upon until the petition-
28 ing company shall have paid to the state treasurer the sum of
29 fifty dollars for the benefit of the state, to be credited
30 and used as provided in section seven of this act.

Sect. 22. Every director, officer, agent or employee of
2 such company, who authorizes, or assists in procuring,
3 granting or causing the granting of, a loan in violation of
4 section sixteen of this act, or pays, or wilfully permits the
5 payment of, any funds of the company on such loan, and
6 every director of a company who votes on a loan in viola-
7 tion of any of the provisions of section seventeen of this
8 act, and every director, officer, agent or employee who wil-
9 fully and knowingly pays out any of said funds on a loan
10 granted in violation of said section seventeen, or who wil-
11 fully and knowingly permits or causes the same to be done,
12 shall be personally responsible for the payment thereof, and
13 shall also be guilty of a misdemeanor. All loans granted in
14 violation of either of said sections shall be due and payable
15 immediately and without demand, whether they appear on
16 their face to be time loans or otherwise. When the bank
17 examiner shall find any loans outstanding in violation of
18 either of said sections, he shall notify the president or treas-
19 urer of the company to cause the same to be paid forthwith.
20 And if they are not paid within ten days, he shall report the

21 facts to the attorney general, who shall commence suit in
22 the name and for the benefit of such company for the collec-
23 tion of the same. The attorney general may employ special
24 counsel to prosecute said suit, and said company shall pay
25 all expenses thereof, to be recovered in an action of debt in
26 the name of the state.

Sect. 23. The enumeration of powers in section one of
2 this act shall not be construed as revoking any power already
3 expressly granted to a trust company by special act of the
4 legislature. The passage of this act shall not invalidate a
5 charter previously granted or hereafter granted by special
6 legislation during the present session of the legislature,
7 except to make it conform to all regulations and restrictions
8 herein established, and the right so granted to any trust
9 company to establish a branch or agency shall continue in
10 force for a period of two years from the passage of the act
11 granting the same. All trust companies so chartered which
12 now have a right to entrust the management of their affairs
13 to a board constituted differently from that herein prescribed,
14 may continue so to do until their next annual meeting.
15 Except as herein otherwise provided, all acts and parts of
16 acts inconsistent herewith are hereby repealed, and all acts
17 and parts of acts not so inconsistent are hereby expressly
18 made to apply to all trust companies organized under this
19 act.

Sect. 24. This act shall take effect when approved.

STATE OF MAINE.

IN SENATE, March 1, 1907.

Reported by Mr. IRVING from Committee on Banks and Banking,
and laid on table to be printed under joint rules.

F. G. FARRINGTON, *Secretary.*