

MAINE STATE LEGISLATURE

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SEVENTY-SIXTH LEGISLATURE

SENATE

NO. 16

In Senate, Jan. 10, 1913.

Laid on table for printing on motion by Senator Smith of Penobscot, pending reference to the Committee on Legal Affairs in concurrence and 500 extra copies ordered printed.

W. E. LAWRY, Sec.

STATE OF MAINE

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

AN ACT to provide for the regulation and supervision of Investment Companies and providing penalties for the violation thereof.

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

Section 1. Every corporation, every co-partnership or
2 company, and every association organized or which shall be
3 organized in this state, whether incorporated or unincorporated,
4 which shall sell or negotiate for the sale of any stocks,
5 bonds or other securities of any kind or character, other than
6 the bonds of the United States, the State of Maine, or of
7 some municipality of the State of Maine, and notes secured

8 by mortgages on real estate located in the State of Maine,
9 to any person or persons in the State of Maine, other than
10 those specifically exempted by this act, shall be known for
11 the purpose of this act as a Domestic Investment Company.
12 Every such investment company organized in any other state,
13 territory or government, or organized under the laws of any
14 other state, territory or government, shall be known for the
15 purpose of this act as a Foreign Investment Company.

Sect. 2. Before offering or attempting to sell any stocks,
2 bonds or other securities of any kind or character, other than
3 those specially exempted by Section 1 of this act, and also
4 exempting those of national banks, state banks and trust
5 companies, and loan and building associations organized un-
6 der the laws of the State of Maine; real estate mortgage
7 companies dealing exclusively in mortgages on real estate
8 within the State of Maine, and corporations not organized
9 for profit, to any person or persons, or transacting any busi-
10 ness whatever in this state, excepting that of organizing and
11 preparing the documents hereinafter required, every such
12 investment company, whether foreign or domestic, shall file
13 in the office of the Bank Commissioner of this state, together
14 with a filing fee of ten dollars, the following documents, to
15 wit: A statement showing in full detail the plan upon which
16 it proposes to transact business. A copy of all contracts,
17 bonds or other instruments which it proposes to make with
18 or sell to its contributors. A statement which shall show
19 the name and location of the investment company, with an

20 itemized account of its actual financial condition, the nature
21 and amount of its properties and liabilities, and any such
22 other information touching its affairs as the Bank Commis-
23 sioner may require. If such investment company shall be
24 a co-partnership or an unincorporated association, it shall
25 also file with the Bank Commissioner a copy of its articles
26 of co-partnership or association, and all other papers per-
27 taining to its co-partnership or organization, and if it shall
28 be a corporation organized under the laws of Maine it shall
29 also file with the Bank Commissioner a copy of its articles
30 of incorporation, constitution and by-laws, and all other
31 papers pertaining to its organization. If it shall be an in-
32 vestment company organized under the laws of any other
33 state, territory or government, incorporated or unincorpo-
34 rated, it shall also file with the Bank Commissioner a copy of
35 the laws of such state, territory or government under which
36 it exists or is incorporated, and also a copy of its charter,
37 articles of incorporation or association, constitution and by-
38 laws, and all amendments thereof which have been made,
39 and all other papers pertaining to its organization.

Sect. 3. All of the above described documents and papers
2 shall be verified by the oath of a member of a co-partnership
3 or company, if it be a co-partnership or company, or by the
4 oath of a duly authorized officer if it be an incorporated or
5 unincorporated association. All such documents and papers,
6 however, as are recorded or are on file in any public office
7 shall be further certified to by the officer of whose records

8 or archives they form a part, as being correct copies of such
9 records or archives.

Sect. 4. Every foreign investment company shall also file
2 its written consent, irrevocable, that action may be com-
3 menced against it in the proper court of any county in which
4 a course of action may arise in this state, or in which the
5 plaintiff may reside, by the service of process on the Secre-
6 tary of State or his Deputy, and stipulating and agreeing
7 that such service or process on the Secretary of State or his
8 Deputy shall be taken and held, in all courts, to be as valid
9 and binding as if due service had been made upon the com-
10 pany itself according to the laws of this or any other state,
11 territory or government, and such instrument shall be au-
12 thenticated by the seal of such foreign investment company,
13 and by the signature of a member of the co-partnership or
14 company, if it be a co-partnership or company, or by the sig-
15 natures of the president and secretary of the incorporated or
16 unincorporated association, if it be an incorporated or un-
17 incorporated association, and shall be accompanied by a duly
18 certified copy of the order or resolution of the board of di-
19 rectors, trustees or managers of the corporation authorizing
20 the said officers to execute the same.

Sect. 5. It shall be the duty of the Bank Commissioner
2 to examine the statement and documents so filed, and if he
3 shall deem it advisable he shall make or have made a detailed
4 examination of such investment company's affairs, which
5 examination shall be at the expense of such investment com-

6 pany, as hereinafter provided; and if he finds that such in-
7 vestment company is solvent, that its articles of incorpora-
8 tion or association, its constitution and by-laws, its proposed
9 plan of business and its proposed contract contain and pro-
10 vide for a fair, just and equitable plan for the transaction
11 of business, and in his judgment promises a fair return on
12 the stocks, bonds and other securities by it offered for sale,
13 the Bank Commissioner shall issue to such investment com-
14 pany a statement reciting that such company has complied
15 with the provisions of this act; that detailed information in
16 regard to the company and its securities is on file in the Bank
17 Commissioner's office for public inspection and information;
18 that such investment company is permitted to do business in
19 this state, and such statement shall also recite in bold type
20 that the Bank Commissioner in no wise recommends the se-
21 curities to be offered for sale by such investment company.
22 But if the Bank Commissioner finds that such articles of in-
23 corporation or association, charter, constitution and by-laws,
24 plan of business or proposed contract, contain any provis-
25 ions that are unfair, unjust, inequitable or oppressive to any
26 class of contributors; or if he decides from his examination
27 of its affairs that such investment company is not solvent
28 and in his judgment cannot do a fair and honest business,
29 or render a fair return on the stocks, bonds or other securi-
30 ties by it offered for sale, then he shall notify such invest-
31 ment company of his findings, in writing, and it shall be un-
32 lawful for such company to do any further business in this

33 state until it shall so change its constitution and by-laws,
34 articles of incorporation or association, its proposed plan of
35 business and proposed contract, and its general financial con-
36 dition, in such manner as to satisfy the Bank Commissioner
37 that it is solvent, and its articles of incorporation or asso-
38 ciation, its constitution and by-laws, its proposed plan of
39 business and proposed contract provide for a fair, just and
40 equitable plan for the transaction of business, and does, in
41 his judgment, promise a fair return on the stocks, bonds and
42 other securities by it offered for sale; provided, that all ex-
43 penses paid or incurred, and all fees or charges received or
44 collected for any examination made under the provisions of
45 this section of this act shall be reported in detail by the Bank
46 Commissioner and a full report and record thereof made in
47 detail.

Sect. 6. It shall not be lawful for any investment com-
2 pany, either as principal or agent, to transact any business
3 in form or character similar to that set forth in Section 1 of
4 this act, except as is provided in Section 2 of this act, until
5 it shall have filed the papers and documents and paid the
6 filing fee above provided for. No amendment of the char-
7 ter, articles of incorporation or association, constitution and
8 by-laws of any such investment company shall become
9 operative until a copy of the same shall have been filed with
10 the Bank Commissioner as provided for in regard to the
11 original filing of charters, articles of incorporation or asso-
12 ciation, constitution and by-laws; nor shall it be lawful for

13 any such investment company to transact business on any
14 other plan than that set forth in the statement required to
15 be filed by Section 2 of this act, or to make any contract
16 other than that shown in the copy of the proposed contract
17 required to be filed by Section 2 of this act, until a written
18 statement, showing in full detail the proposed new plan of
19 transacting business, and a copy of the proposed new con-
20 tract, shall have been filed with the Bank Commissioner in
21 like manner as provided in regard to the original plan of
22 business and proposed contract, and the consent of the Bank
23 Commissioner obtained as to making such proposed new
24 plan of transacting business and proposed new contract.

Sect. 7. Any investment company may appoint one or
2 more agents, but no such agent shall do any business for
3 such investment company in this state until he shall first
4 register with the Bank Commissioner as agent for such in-
5 vestment company, and for each of such registrations there
6 shall be paid to the Bank Commissioner the sum of five dol-
7 lars. Such registration shall entitle such agent to represent
8 such investment company as its agent in the state of Maine
9 until the first day of July following, unless such authority
10 is sooner revoked by the Bank Commissioner; and such
11 authority shall be subject to revocation at any time by the
12 Bank Commissioner for cause appearing to him to be suffi-
13 cient.

Sect. 8. Every investment company, domestic or foreign,
2 shall file at the close of business on December 31st and June

3 30th of each year, and at any other time when required by
4 the Bank Commissioner, a statement verified by the oath of
5 a co-partnership or company, if it be a co-partnership or
6 company, or by the oath of a duly authorized officer if it be
7 an incorporated or an unincorporated association, setting
8 forth in such form as may be prescribed by the Bank Com-
9 missioner its financial condition and the amount of its assets
10 and liabilities, and furnishing such other information con-
11 cerning its affairs as the Bank Commissioner may require.
12 Each regular statement of Dec. 31st and June 30th shall be
13 accompanied by a filing fee of five dollars. Any investment
14 company failing to file its report at the close of business
15 December 31st and June 30th of each year, together with
16 the filing fee, within fifteen days thereafter, or failing to file
17 any other or any special report herein required within fifteen
18 days after receipt of request or requisition therefor, shall
19 forfeit its right to do business in this state.

Sect. 9. The general accounts of every investment com-
2 pany, domestic or foreign, doing business in this state, shall
3 be kept by double entry, and such company, its co-partners
4 or managing officers, shall at least once in each month make
5 a trial balance of such accounts, which shall be recorded in
6 a book provided for that purpose; such trial balances and
7 all other books and accounts of such company shall at all
8 times during business hours, Sundays and legal holidays ex-
9 cepted, be open to the inspection of stockholders and invest-
10 ors in said company, or investors in the stocks, bonds or

11 other securities by it offered for sale, and to the Bank Com-
12 missioner and his deputies.

Sect. 10. The Bank Commissioner shall have general super-
2 vision and control, as provided by this act, over any and all
3 investment companies, domestic or foreign, doing business
4 in this state, and all such investment companies shall be sub-
5 ject to examination by the Bank Commissioner or his duly
6 authorized deputies at any time the Bank Commissioner may
7 deem it advisable, and in the same manner as is now pro-
8 vided by law for the examination of state banks and trust
9 companies. The rights, powers and privileges of the Bank
10 Commissioner in connection with such examinations shall be
11 the same as is now provided by law with reference to the
12 examination of state banks and trust companies; and such
13 investment company shall pay a fee for each of such exam-
14 inations of not to exceed ten dollars for each day or frac-
15 tion thereof, plus the actual traveling and hotel expenses of
16 the Bank Commissioner or deputy that he is absent from the
17 capitol building for the purpose of making such examina-
18 tion, and the failure or refusal of any investment company
19 to pay such fees upon the demand of the Bank Commissioner
20 or deputy for making such examination shall work a for-
21 feiture of its right to do business in this State.

Sect. 11. Whenever it shall appear to the Bank Commis-
2 sioner that the assets of any investment company doing busi-
3 ness in this state are impaired to the extent that such assets
4 do not equal its liabilities, or that it is conducting its busi-

5 ness in an unsafe, inequitable or unauthorized manner, or is
6 jeopardizing the interests of its stockholders or investors in
7 stocks, bonds or other securities by it offered for sale, or
8 whenever any investment company shall fail or refuse to
9 file any papers, statements or documents required by this act,
10 without giving satisfactory reasons therefor, the Bank Com-
11 missioner shall at once communicate such facts to the State
12 Attorney General, who shall thereupon apply to one of the
13 justices of the supreme judicial court to issue an injunction
14 to restrain such investment company from proceeding fur-
15 ther with its business in this state until a hearing can be had.
16 such justice may forthwith issue process for such purpose
17 and after a full hearing may dissolve or modify the injunc-
18 tion, or make the same perpetual, and make such orders and
19 decrees to suspend, restrain or prohibit the further prosecu-
20 tion of its business in this state as may be needful in the
21 premises, according to the course of proceedings in equity;
22 and he may appoint one or more receivers to take charge of
23 and wind up the business of such investment company, who
24 shall make such report to the Bank Commissioner as the
25 latter may from time to time require; and the justice may
26 make such further orders and decrees in such cases as equity
27 may require.

Sect. 12. Any person who shall knowingly or wilfully sub-
2 scribe to or make or cause to be made any false statements
3 or false entry in any book or record of any investment com-
4 pany, or exhibit any false paper, book or record with the

5 intention of deceiving any person authorized to examine into
6 the affairs of such investment company, or shall make or
7 publish any false statement of the financial condition of such
8 investment company, or the stocks, bonds or other securities
9 by it offered for sale, or exhibit any false paper or document
10 whereby any person is induced to subscribe for such
11 stocks, bonds or other securities, shall be deemed guilty of
12 a felony, and upon conviction thereof shall be fined not less
13 than one hundred dollars, nor more than five thousand dol-
14 lars, and shall be imprisoned for not less than one year nor
15 more than ten years in the state prison.

Sect. 13. Any person or persons, whether sole or a co-
2 partnership, and any association, whether incorporated or
3 unincorporated, who shall hereafter engage in the buying or
4 selling of stocks, bonds, or other investment securities in
5 this state, excepting as is provided in Section 2 of this act,
6 before commencing business shall file an application to en-
7 gage in such business with the Bank Commissioner, together
8 with a filing fee of ten dollars; if the Bank Commissioner
9 is satisfied, after due inquiry and information, that such
10 person or persons, association or corporation, has a good
11 reputation and will handle nothing but first class securities,
12 he may issue a permit entitling such applicant to handle and
13 deal in such securities as may be desired, providing, how-
14 ever, that a list of the stocks, bonds and other securities
15 handled shall be filed with the Bank Commissioner at least
16 once in every six months, and at any other time the Bank

17 Commissioner may call for such list; and the Bank Commis-
18 sioner shall have the right to reject any of the stocks, bonds,
19 and other securities as he may deem for the public good to
20 reject at any time; whereupon, after notice given, such re-
21 jected stocks, bonds and other securities shall not be hand-
22 led or sold by the holder of such license, and the Bank Com-
23 missioner shall have the same power to proceed in case of a
24 violation of his notice as is provided in Section 11 of this act,
25 and for any other cause, as herein contained, he may pro-
26 ceed under said Section 11 of this act. Such permit shall
27 hold good for the term of one year, only, and each renewal
28 thereof shall be accompanied by a fee of ten dollars. The
29 Bank Commissioner shall have full power to investigate such
30 brokers or dealers in stocks, bonds and other securities, with
31 the same fees therefor, as provided for in Section ten of this
32 act. Nothing in this section shall be construed to apply to
33 agents appointed to represent but one investment company,
34 as provided for by Section 7 of this act.

Sect. 14. Any person or persons, agent or agents, who
2 shall sell or attempt to sell the stocks, bonds or other securi-
3 ties of any investment company, domestic or foreign, or the
4 stocks, bonds or other securities by it offered for sale, who
5 have not complied with the provisions of this act, or any
6 investment company, domestic or foreign, which shall do
7 any business, or offer or attempt to do any business, except
8 as provided in Section 2 of this act, which shall not have com-
9 plied with the provisions of this act, or any agent or agents

10 who shall do or attempt to do any business for any invest-
11 ment company, domestic or foreign, in this state, which
12 agent is not at the time duly registered and has fully com-
13 plied with the provisions of this act, shall be deemed guilty
14 of a misdemeanor, and upon conviction thereof shall be fined
15 for each offense not less than one hundred nor more than
16 five thousand dollars, or by imprisonment in the county jail
17 for not less than ninety days, or more than one year; or both
18 such fine and imprisonment at the discretion of the court.

Sect. 15. The Bank Commissioner shall have power to
2 prohibit the advertising or giving of notices in any manner
3 of the sale of stocks, bonds or other investment securities
4 of any domestic or foreign investment company. Whoever
5 so advertises, gives notice in any manner, or knowingly pub-
6 lishes any newspaper in the state in which such notices are
7 given, after notice given by the Bank Commissioner pro-
8 hibiting such advertisement, notice or publication as afore-
9 said, shall be deemed guilty of a misdemeanor, and upon
10 conviction thereof shall be fined for each offense the sum
11 of twenty dollars and costs.

Sect. 16. All fees herein provided for shall be collected
2 by the Bank Commissioner, or his deputy, and by him shall
3 be turned over into the state treasury. And the Bank Com-
4 missioner is hereby authorized to appoint such deputies and
5 clerks as are actually necessary to carry this act into full
6 force and effect, none of whom shall be related by blood or
7 marriage to such Commissioner or any of his deputies. All

8 money actually and necessarily paid out to any deputy or
9 clerk under this act, as salaries, or any money actually and
10 necessarily paid out by the Bank Commissioner, or by any
11 deputy or clerk appointed under this act, for traveling or
12 authorized expenses, or incurred in the discharge of the du-
13 ties thereof, shall be paid by the state treasurer upon the
14 state auditor's warrants, to be issued upon sworn vouchers
15 containing an itemized account of such salaries and ex-
16 penses.

Sect. 17. Should the courts declare any section of this act
2 unconstitutional or unauthorized by law, or in conflict with
3 any other section or provision of this act, then such decision
4 shall affect only the section or provision so declared to be un-
5 constitutional, and shall not affect any other section or part
6 of this act.

Sect. 18. All acts and parts of acts in conflict herewith
2 are hereby repealed.