

MAINE STATE LEGISLATURE

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SEVENTY-EIGHTH LEGISLATURE

HOUSE

NO. 538

House of Representatives, March 9, 1917.

Referred to Committee on Judiciary and one thousand copies ordered printed. Sent up for concurrence.

W. R. ROIX, Clerk.

Presented by Mr. Hutchins of Mexico.

STATE OF MAINE

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

AN ACT to Provide for the Establishment of a Bonding or Surety Department in Connection with Trust Companies, under Certain regulations, and Supervision of the Bank Commissioner and the Insurance Commissioner.

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

Section 1. Any trust company incorporated under the
2 laws of this state may upon complying with the provisions
3 hereinafter set forth establish a department to conduct the
4 business of guaranteeing the fidelity of persons in positions
5 of trust; private or public, and to act as surety on official

6 bonds and for the performance of other obligations, such
7 department to be known as its “bonding” or “surety” depart-
8 ment. To establish such a department its Board of Trus-
9 tees or Directors shall at a meeting specially called for the
10 purpose by a vote of a majority of two-thirds of its trus-
11 tees present at the meeting and voting establish such a de-
12 partment, such vote of the trustees or directors shall be rati-
13 fied by a vote of a majority of the stockholders present and
14 voting and at a meeting duly called for the purpose before
15 such department may be established; notice for the trustees
16 meeting shall be given at least thirty days prior to the date
17 of the meeting and shall be otherwise in accordance with
18 any laws and by-laws governing the calling of special meet-
19 ings of trustees or directors. Copies of the vote of the
20 trustees or directors to establish a Bonding and Surety de-
21 partment and of the vote of the stockholders ratifying the
22 same, certified to by the clerk of the trust company and
23 sworn to by the president or vice-president and treasurer or
24 assistant-treasurer shall be filed in the office of the Bank
25 Commissioner and in the office of the Insurance Commis-
26 sioner within thirty days after the adoption thereof; and if
27 the said commissioners shall find said votes to be in con-
28 formity with law and that the conditions provided by this
29 act have been complied with and if in the opinion of the
30 Bank Commissioner the financial condition of the bank pre-
31 sents no objection to the establishment of a bonding or surety
32 department they shall issue a joint certificate declaring said

33 bonding and surety department established. Any trust com-
34 pany authorized by its charter to transact the business pro-
35 vided in this act shall be subject to the provisions of this
36 act and any trust company now transacting such business
37 under authority of its charter shall be subject to the pro-
38 visions of this act, except that the vote of its trustees or
39 directors ratified by vote of its stockholders shall not be
40 required, but the joint certificate and other certificates re-
41 quired by this act may be issued by application to the bank
42 commissioner and insurance commissioner, but it shall other-
43 wise comply with the act before authority shall be granted
44 it to continue its business.

Sect. 2. The certificate establishing the bonding or surety
2 department shall not be issued until there shall have been
3 provided a guaranty fund of not less than \$25,000 to be
4 fixed by the trustees or directors with the approval of the
5 insurance commissioner, nor until said commissioners shall
6 upon investigation have made a joint finding that this re-
7 quirement has been duly complied with. Said guaranty
8 fund shall be placed at the risk of the bonding or surety
9 department and shall be applicable to the payment and stand-
10 ing of all losses or other obligations arising out of con-
11 tracts made by the department and whenever the liabilities
12 of said department including the insurance reserve are in
13 excess of its assets. The bonding or surety department may
14 accumulate a surplus and after providing for reserves for
15 reinsurance losses and other obligations such part thereof

16 as may be deemed advisable shall be returned to the trust
17 company upon vote of the trustees whenever the surplus of
18 the bonding or surety department exceeds the guaranty
19 fund, the whole or a part thereof may be retired and re-
20 stored to the trust company by a vote of its trustees with
21 the approval of the insurance commissioner.

Sect. 3. License to issue policies and make contracts in
2 accordance with the authority conferred by this act shall
3 upon application of the trustees or directors be granted by
4 the insurance commissioner to any trust company which has
5 duly complied with the requirements set forth in this act.
6 Such license shall be revocable by the insurance commis-
7 sioner at his discretion after giving thirty days' written no-
8 tice to said trustees provided in the opinion of the insur-
9 ance commissioner said department of said trust company
10 has insufficient business to maintain it upon a stable busi-
11 ness basis. The revocation of license of any trust company
12 under the terms of this act shall not affect its right to con-
13 tinue and fulfill its existing obligations under its contract,
14 or the right with the approval of the insurance commis-
15 sioner to reinsure them or transfer them to a similar de-
16 partment or another trust company holding license to do
17 such business in this state or to reinsure them with an in-
18 surance company duly authorized to transact business in
19 Maine.

Sect. 4. Assets of the trust company shall be liable for
2 and applicable to the payment and standing of its liabilities,

3 obligations and expenses of its banking department only.
4 The assets of the bonding or surety department shall be liable
5 for and applicable to the payment and standing of the liabili-
6 ties, obligations and expenses of the bonding or surety de-
7 partment only. The banking department and the bonding
8 or surety department shall be kept distinct in all matters of
9 accounting and investment. Expenses pertaining to the con-
10 duct of both departments such as office rent, salaries of gen-
11 eral officers, etc., shall be proportioned by the trustees equi-
12 tably between the two departments. The business of the
13 banking department and bonding or surety department may
14 be conducted in the same office, or in separate offices as the
15 trustees or directors may elect.

Sect. 5. Agents to solicit business for the bonding or
2 surety department may be employed provided such agents
3 are first licensed by the insurance commissioner in the same
4 manner as are agents of mutual fire insurance companies.
5 A trust company authorized under the provisions of this
6 act and having established a bonding and surety department
7 may discontinue such department if at a meeting duly called
8 for the purpose it is voted so to do by a majority of two-
9 thirds of its trustees present at the meeting and voting.
10 Notice of such meeting shall be given at least thirty days
11 prior to the date of such meeting and shall be otherwise in
12 accordance with the laws or by-laws governing the calling
13 of special meetings of its trustees or directors. A copy of
14 the vote to discontinue such business certified by the clerk

15 of the bank and sworn to by the president or vice-president
16 and treasurer or assistant treasurer shall be filed in the
17 office of bank commissioner and also in the office of the
18 insurance commissioner. A trust company which has so
19 voted may reinsure its outstanding obligations in any other
20 bonding or surety department or a trust company author-
21 ized under this act with the approval of the insurance com-
22 missioner and the bank commissioner or with a company
23 duly authorized to transact business in this state with the
24 approval of the insurance commissioner.

Sect. 6. The insurance commissioner and the bank com-
2 missioner shall at least once in each year, and oftener when
3 they consider it necessary, either alone or together, person-
4 ally or by the deputy or assistant, examine the bonding or
5 surety department of each trust company. At such exam-
6 ination they shall have free access to the vaults, papers
7 and books and shall thoroughly inspect and examine the
8 affairs of said corporation to ascertain its condition, its
9 ability to fulfill its obligations and whether it has complied
10 with the provisions of this act and laws applicable to it.
11 Either of said commissioners or his deputy or assistant
12 especially authorized by him in writing may summons trus-
13 tees, officers or agents of any such corporation and such
14 other witnesses as he feels proper and examine them rela-
15 tive to the affairs, transactions and conditions of the bond-
16 ing or surety department and for that purpose may admin-
17 ister oaths.

Sect. 7. If upon examination the bonding or surety department or any trust company appears to both the bank commissioner and insurance commissioner to be insolvent or if they find its condition such as to render the continuance of its business hazardous to the public or to the holders of its policies or contracts they shall apply, or if such bank appears to have exceeded its powers or failed to comply with any provision of law they may apply to the supreme judicial court having jurisdiction in equity over such obligations for an injunction and restraining such department in whole or in part from further proceeding with its business. The court may appoint one or more receivers to take possession of the property of the bonding or surety department, subject to such direction as may from time to time be prescribed by the court without in any respect affecting the operations of the trust company other than in this bonding or surety department. Other than as provided in this act the general laws relating to receivers of insurance companies shall apply to receivers of bonding or surety departments or trust companies.

Sect. 8. The treasurer shall annually in the month of January file in the office of insurance commissioner and of the bank commissioner a statement of the financial condition of the bonding or surety department on the last business day of December. For cause the commissioners may extend the time within which such statement may be filed, but not to a date later than the fifteenth day of February. Such

8 annual statement shall be in the form required by the bank
9 commissioner and insurance commissioner. The assets and
10 liabilities shall be computed and allowed in such statement
11 in accordance with the rules governing insurance companies.
12 The president or vice-president and treasurer shall certify
13 and make oath that the report is correct according to the
14 best of their knowledge and belief. The insurance commis-
15 sioner and bank commissioner may also at any time require
16 the treasurer to make such other statement of conditions and
17 furnish such other information concerning the bonding or
18 surety department as they may deem necessary.

Sect. 9. The bonding or surety department shall be sub-
2 ject to the same taxes as are prescribed for insurance com-
3 panies incorporated under the laws of this state and the
4 assets or funds of such department shall not otherwise be
5 taxable under the banking laws of this state.