

MAINE STATE LEGISLATURE

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NEW DRAFT

EIGHTY-FOURTH LEGISLATURE

House Document

No. 753

H. P. 1693 House of Representatives, March 27, 1929.

Reported by Mr. Farris from Committee on Judiciary and
laid on table to be printed under joint rules.

CLYDE R. CHAPMAN, Clerk.

STATE OF MAINE

**IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-NINE**

AN ACT Relating to the Consolidation of Corporations.

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

Section sixty of chapter fifty-one of the revised statutes of
2 nineteen hundred and sixteen is hereby amended by adding
3 thereto the following:

‘To effect a consolidation under the provisions of the
2 foregoing paragraph and subject to the provisions of this
3 and the eleven following sections, any two or more corpora-
4 tions organized or to be organized under the provisions of
5 this chapter or existing under the laws of this state, or any
6 corporation or corporations organized or to be organized

7 under the provisions of this chapter or existing under the
8 laws of this state and any corporation or corporations or-
9 ganized under the laws of any other state, may consolidate
10 into a single corporation which may be either one of said
11 corporations, provided the same be a corporation originally
12 organized under the laws of this state, or a new corpora-
13 tion under the laws of this state to be formed by means
14 of such consolidation, by entering into an agreement duly
15 authorized by a majority of the directors of the respective
16 corporations and signed by the duly authorized officers,
17 and under the respective seals of said corporations, pre-
18 scribing the terms and conditions of the consolidation, the
19 mode of carrying the same into effect, whether or not the
20 consolidated corporation shall be one of the constituent cor-
21 porations or a new corporation created by such consolida-
22 tion, and stating in such altered form as the circumstances
23 of the case may require such other facts as are necessary
24 to be set out in the certificate of organization of corpora-
25 tions organized under this chapter and as are pertinent in
26 the case of a consolidation, the manner of converting the
27 capital stock of each of such consolidating corporations into
28 the stock or obligations of such consolidated corporation
29 together with such other provisions and details as shall be
30 deemed necessary to perfect the consolidation. Said agree-
31 ment shall be acknowledged by one of the executing officers
32 of each of the consolidating corporations before an officer
33 authorized by the laws of this state to take acknowledg-

34 ments of deeds, to be the respective act, deed and agreement
35 of each of said corporations.

Subject to provisions of by-laws with reference to closing
2 stock books prior to stockholders' meetings, said consolida-
3 tion agreement shall be submitted to the stockholders of
4 record of each corporation at a meeting thereof called sep-
5 arately for the purpose of taking the same into considera-
6 tion, and at said meeting a vote in person or by proxy shall
7 be taken for the adoption or rejection of said agreement,
8 and if the votes of stockholders of each corporation rep-
9 resenting a majority of the voting power, on a proposal to
10 consolidate said corporation with another, shall be for the
11 adoption of said agreement, then that fact shall be certified
12 on said agreement by the clerk or secretary of each cor-
13 poration and the agreement so signed, acknowledged, adopt-
14 ed and certified, after it has been examined by the attorney-
15 general, and been by him certified to be properly drawn
16 and signed and to be conformable to the constitution and
17 laws of this state, shall be recorded in the registry of deeds
18 in the county where the said consolidated corporation is lo-
19 cated, and within sixty days after the day of the meeting
20 at which said consolidation agreement is adopted by the
21 stockholders, a copy thereof certified by such register shall
22 be filed in the office of the secretary of state, who shall en-
23 ter the date of filing thereon, and on the original agree-
24 ment, certified as aforesaid, to be kept by the consolidated
25 corporation, and shall record said copy. From the time

26 of filing the copy of such agreement in the office of the
27 secretary of state, said agreement shall be taken and deemed
28 to be the agreement and act of consolidation of the said
29 corporations and said original consolidation agreement or
30 a certified copy thereof shall be evidence of the existence
31 of such consolidated corporation and of the observance and
32 performance of all acts and conditions necessary to have
33 been observed and performed precedent to such consolida-
34 tion. When said agreement is so signed, acknowledged,
35 adopted, recorded and filed, the separate existence of all
36 of the constituent corporations, or all of such constituent
37 corporations except the one into which such constituent
38 corporations shall have been consolidated, shall cease, and
39 the constituent corporations, whether consolidated into a
40 new corporation or merged into one of such constituent
41 corporations, as the case may be, shall become the consoli-
42 dated corporation by the name provided in said agreement,
43 possessing all the rights, privileges, powers, franchises and
44 immunities as well of a public as of a private nature, and
45 being subject to all the liabilities, restrictions and duties of
46 each of such corporations so consolidated and all and singu-
47 lar the rights, privileges, powers, franchises and immuni-
48 ties of each of said corporations, and all property, real,
49 personal and mixed, and all debts due to any of said con-
50 stituent corporations on whatever account, and all other
51 things in action of or belonging to each of said corpora-
52 tions, shall be vested in the consolidated corporation; and

53 all property, rights, privileges, powers, franchises and im-
54 munities, and all and every other interest shall be there-
55 after as effectually the property of the consolidated cor-
56 poration as they were of the several and respective con-
57 stituent corporations, and the title to any real estate, wheth-
58 er by deed or otherwise, under the laws of this state, vested
59 in any of such constituent corporations, shall not revert or
60 be in any way impaired by reason thereof; provided, that
61 all rights of creditors and all liens upon the property of
62 any of said constituent corporations shall be preserved un-
63 impaired, limited to the property affected by such liens at
64 the time of the consolidation, and all debts, liabilities and
65 duties of the respective constituent corporations shall
66 thenceforth attach to said consolidated corporation and may
67 be enforced against it to the same extent as if said debts,
68 liabilities and duties had been incurred or contracted by it.

The notice herein provided for shall be given to all stock-
2 holders of record of all of the consolidating corporations,
3 whether or not entitled to vote, but subject to any by-law
4 provisions with reference to closing stock books prior to
5 stockholders' meetings. If the holder of record of any
6 share not entitled to vote in any constituent corporation
7 selling, leasing, consolidating, or otherwise disposing of its
8 property as aforesaid, shall at or prior to the taking of the
9 vote, dissent therefrom in writing and shall at such time,
10 or within one month from the date of such vote, file his
11 written dissent therefrom with the president, clerk or treas-

12 urer of such corporation, then such non-voting shares of
13 such stockholder shall be subject to and be entitled to all
14 of the rights granted by the eleven following sections in like
15 manner as if they had been voting shares.

If the location of the consolidated corporation is not the
2 same as that of the constituent corporations, then the clerk
3 of the consolidated corporation shall within sixty days after
4 such consolidation has become effective file a certificate of
5 the consolidation, setting forth the names and locations of
6 the consolidated and constituent corporations, in the registry
7 of deeds of each county, other than that of the consolidated
8 corporation, where the constituent corporations may be
9 located.

The provisions of this section with reference to consoli-
2 dation shall neither restrict nor enlarge the provisions of
3 section one of chapter sixty and section forty of chapter
5 fifty-five of the revised statutes as now amended.'

So that said section sixty as amended shall read as follows :

'Sect. 60. No corporation shall sell, lease, consolidate or
2 in any manner part with its franchises, or its entire proper-
3 ty, or any of its property, corporate rights or privileges
4 essential to the conduct of its corporate business and pur-
5 poses, otherwise than in the ordinary and usual course of
6 its business except with the consent of its stockholders at
7 an annual or special meeting, the call for which shall give
8 notice of the proposed sale, lease or consolidation. All such
9 sales, leases and consolidations shall be subject to the pro-

10 visions of this and the eleven following sections, and to the
11 prior lien of stockholders as therein defined. Except as
12 to franchises this and the eleven following sections shall
13 not be held to apply to mortgages of corporate property.

To effect a consolidation under the provisions of the
2 foregoing paragraph and subject to the provisions of this
3 and the eleven following sections, any two or more corpora-
4 tions organized or to be organized under the provisions of
5 this chapter or existing under the laws of this state, or any
6 corporation or corporations organized or to be organized
7 under the provisions of this chapter or existing under the
8 laws of this state and any corporation or corporations or-
9 ganized under the laws of any other state, may consolidate
10 into a single corporation which may be either one of said
11 corporations, provided the same be a corporation originally
12 organized under the laws of this state, or a new corpora-
13 tion under the laws of this state to be formed by means
14 of such consolidation, by entering into an agreement duly
15 authorized by a majority of the directors of the respective
16 corporations and signed by the duly authorized officers,
17 and under the respective seals of said corporations, pre-
18 scribing the terms and conditions of the consolidation, the
19 mode of carrying the same into effect, whether or not the
20 consolidated corporation shall be one of the constituent cor-
21 porations or a new corporation created by such consolida-
22 tion, and stating in such altered form as the circumstances
23 of the case may require such other facts as are necessary

24 to be set out in the certificate of organization of corpora-
25 tions organized under this chapter and as are pertinent in
26 the case of a consolidation, the manner of converting the
27 capital stock of each of such consolidating corporations into
28 the stock or obligations of such consolidated corporation
29 together with such other provisions and details as shall be
30 deemed necessary to perfect the consolidation. Said agree-
31 ment shall be acknowledged by one of the executing officers
32 of each of the consolidating corporations before an officer
33 authorized by the laws of this state to take acknowledg-
34 ments of deeds, to be the respective act, deed and agreement
35 of each of said corporations.

Subject to provisions of by-laws with reference to closing
2 stock books prior to stockholders' meetings, said consolida-
3 tion agreement shall be submitted to the stockholders of
4 record of each corporation at a meeting thereof called sep-
5 arately for the purpose of taking the same into considera-
6 tion, and at said meeting a vote in person or by proxy shall
7 be taken for the adoption or rejection of said agreement,
8 and if the votes of stockholders of each corporation rep-
9 resenting a majority of the voting power, on a proposal to
10 consolidate said corporation with another, shall be for the
11 adoption of said agreement, then that fact shall be certified
12 on said agreement by the clerk or secretary of each cor-
13 poration and the agreement so signed, acknowledged, adopt-
14 ed and certified, after it has been examined by the attorney-
15 general, and been by him certified to be properly drawn

16 and signed and to be conformable to the constitution and
17 laws of this state, shall be recorded in the registry of deeds
18 in the county where the said consolidated corporation is lo-
19 cated, and within sixty days after the day of the meeting
20 at which said consolidation agreement is adopted by the
21 stockholders, a copy thereof certified by such register shall
22 be filed in the office of the secretary of state, who shall en-
23 ter the date of filing thereon, and on the original agree-
24 ment, certified as aforesaid, to be kept by the consolidated
25 corporation, and shall record said copy. From the time
26 of filing the copy of such agreement in the office of the
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31 of such consolidated corporation and of the observance and
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33 been observed and performed precedent to such consolida-
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35 adopted, recorded and filed, the separate existence of all
36 of the constituent corporations, or all of such constituent
37 corporations except the one into which such constituent
38 corporations shall have been consolidated, shall cease, and
39 the constituent corporations, whether consolidated into a
40 new corporation or merged into one of such constituent
41 corporations, as the case may be, shall become the consoli-
42 dated corporation by the name provided in said agreement,

43 possessing all the rights, privileges, powers, franchises and
44 immunities as well of a public as of a private nature, and
45 being subject to all the liabilities, restrictions and duties of
46 each of such corporations so consolidated and all and singu-
47 lar the rights, privileges, powers, franchises and immuni-
48 ties of each of said corporations, and all property, real,
49 personal and mixed, and all debts due to any of said con-
50 stituent corporations on whatever account, and all other
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52 tions, shall be vested in the consolidated corporation; and
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55 after as effectually the property of the consolidated cor-
56 poration as they were of the several and respective con-
57 stituent corporations, and the title to any real estate, wheth-
58 er by deed or otherwise, under the laws of this state, vested
59 in any of such constituent corporations, shall not revert or
60 be in any way impaired by reason thereof; provided, that
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