

# MAINE STATE LEGISLATURE

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# E I G H T Y - S I X T H   L E G I S L A T U R E

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**Legislative Document**

**No. 919**

S. P. 589

In Senate, March 15, 1933.

Received by unanimous consent and under suspension of rules. Tabled by Senator Page of Somerset pending printing. 500 copies ordered printed.

ROYDEN V. BROWN, Secretary.

Presented by Senator Page of Somerset.

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## S T A T E   O F   M A I N E

IN THE YEAR OF OUR LORD NINETEEN HUNDRED THIRTY-THREE

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AN ACT for the Protection of Trust Companies and Depositors Therein.

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**Emergency preamble.** Whereas, as a result of the existing world-wide depression, there has arisen in the United States a business and financial emergency hitherto unforeseen, with which existing laws are inadequate to deal; and

Whereas, in recognition of such emergency, by proclamation of the President of the United States issued on March 5, 1933 and March 9, 1933, a banking holiday was directed to be maintained and observed indefinitely by all banking institutions in the United States, and all branches thereof, said proclamation having further directed that during said period all banking transactions should be suspended; and

Whereas, in like recognition of such emergency the Governor of the State of Maine, on March 4, 1933, directed that a similar holiday be observed by all banking institutions in the State of Maine on March 4, 1933 and March 6, 1933, both dates inclusive; and

Whereas, the Governor of the State of Maine on March 7, 1933 by proclamation made under the authority of an Act "Authorizing the Governor to Proclaim a Banking Emergency and Providing for the Further Protection of Depositors in Banks and Banking Institutions and Maintenance of the Banking Structure of the State" did proclaim that a banking emergency exists; and

Whereas, in the judgment of this Legislature the facts hereinbefore set

forth create an emergency within the meaning of Article XXXI, Section 16, of the Constitution of Maine, and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

1. Whenever, in the opinion of a majority of the directors or the executive committee of any trust company organized under the laws of the State of Maine and the Bank Commissioner, it will be for the benefit of the depositors and the public for the assets of the trust company to be revalued, the bank reorganized and put in sound condition, any Justice of the Supreme Judicial Court shall, on petition in equity by the Bank Commissioner setting forth the facts, appoint a time for the examination of the affair of such trust company and cause notice thereof to be given to all parties interested in such manner as may be prescribed and, upon examination of its assets and liabilities including stock liability, he may, if he deems it for the benefit of the public and the depositors, issue decrees necessary to carry out the provisions of this act.

2. If the liabilities of the trust company, exclusive of stock liability, exceed its assets, the deficit, after making due allowance for priorities, shall be divided pro rata among the depositors and each account shall be charged with its proportionate share thereof, proper allocation being made of segregated assets and the distinction between savings accounts and demand accounts being observed. The depositor will be entitled to draw the amount of his account as thus fixed and determined in such amounts and at such times as the Court directs.

3. The trust company shall issue to each depositor a certificate showing the amount of the deficit charged to his account, which said certificate shall be negotiable and shall bear no interest. No dividend or profit shall thereafter be made in liquidation of common stock until said certificate shall have been paid in full with interest compounded at the rate of 3% per annum; otherwise, said certificate shall not be deemed to be a liability of the Corporation; provided that the holder of said certificate, the Commissioner or the Corporation shall be entitled to petition the Court, after one year from the date thereof, for an order of distribution whenever the condition of the corporation, taking into account the rights of creditors and preferred stockholders, warrants such payment.

4. The Court may on petition by the Bank Commissioner appoint one or more Conservators for such trust company and require such bond as the Court deems proper. Such Conservator shall have all the rights, powers and privileges now possessed by or hereafter given Receivers of banks and trust companies in this State including the right and power to enforce

stockholders' liability and is specifically authorized to borrow money and pledge assets when so ordered by the Court. Such Conservatorships may be terminated at any time by order of the Court. While such trust company is in the hands of the Conservator, he may set aside and make available for withdrawal by depositors and payments to other creditors on a ratable basis such amounts as in the opinion of the Court may safely be used for this purpose; and he may be permitted to receive deposits, but deposits so received shall not be subject to any limitation as to payment or withdrawal, and shall be segregated and shall not be used to liquidate any indebtedness of such trust company existing at the time that a Conservator was appointed for it or any subsequent indebtedness incurred for the purpose of liquidating any indebtedness of such bank existing at the time the Conservator was appointed. Such deposits received while the bank is in the hands of the Conservator shall be kept on hand in cash or invested in the direct obligations of the United States or deposited with a Federal Reserve Bank.

5. The Court may authorize the trust company to issue preferred stock without double liability and prescribe the amount, terms, conditions, restrictions and privileges thereof.

6. The Court may order the merger or consolidation of said trust company with any other banking institution, State or Federal, with the consent of said latter banking institution, and prescribe the mode of procedure for said merger or consolidation and the terms and conditions thereof.

7. Whenever proceedings are instituted under any provisions of this Act injunctions may be issued, restraining all persons from proceeding against said trust company until final decree, including trustee processes.

8. The Court may dissolve all attachments on the property of the trust company made within four months before the filing of the petition; cancel leases, contracts and all other claims as in Receivership proceedings, discontinue all suits pending against said trust company and fix the rights of said claimants, and adjudicate and fix the time and mode of payment of all claims, accounts and deposits having priority.

9. The Court may approve or modify any plan of reorganization agreed to by a majority of the directors or executive committee of any trust company and the Bank Commissioner.

10. The Court may do all other and further things necessary to carry out the terms and provisions of this Act.

11. The Court may appoint one or more receivers or trustees to liquidate the affairs of said trust company in accordance with the provisions of Chap. 57 of the Revised Statutes.

12. All powers conferred under this Act on the Bank Commissioner are in addition to the powers now conferred upon him by law.

13. Any trust company may be authorized to issue preferred stock as provided in section 4 hereof on a petition filed for that purpose only.

14. All expenses of the Commissioner or his assistants shall be paid out of the assets of the trust company in connection with which such expenses were incurred.

15. Any act or statutory provision inconsistent with the provisions of this act are repealed during the period this act is in force.

16. **Validity.** If any provisions of this act are held invalid by any court of final jurisdiction, no other provisions shall be affected by such decision, but the same shall remain in full force and effect.

17. **Emergency clause.** In view of the emergency set forth in the preamble, this act shall take effect when approved.