

# MAINE STATE LEGISLATURE

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**Legislative Document**

**No. 1059**

H. P. 740

House of Representatives, March 4, 1959

Referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Linnell of South Portland.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-NINE

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**AN ACT Relating to Formation and Operation of Mutual Trust Investment  
Companies Under Supervision of Bank Commissioner.**

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

Sec. 1. R. S., c. 59, §§ 154-A - 154-G, additional. Chapter 59 of the Revised Statutes is amended by adding 7 new sections, to be numbered 154-A to 154-G, to read as follows :

**‘Mutual Trust Investment Company Act.**

Sec. 154-A. Definition. As used in sections 154-A to 154-G, the term “mutual trust investment company” means a corporation which is :

I. An investment company as defined by an Act of Congress entitled “Investment Company Act of 1940” approved August 22, 1940, as amended; and

II. Incorporated in compliance with sections 154-A to 154-G to constitute a medium for the common investment of trust funds held in a fiduciary capacity and for true fiduciary purposes, either alone or with one or more co-fiduciaries, by state banks with trust powers, trust companies and national banks with trust powers which are located in this State.

Sec. 154-B. Authority to incorporate. Any 5 or more state banks with trust powers, trust companies and national banks with trust powers located in this State are authorized, subject to the approval of the Bank Commissioner and subject to such regulations as he may from time to time prescribe, to cause a mutual trust investment company to be organized and incorporated.

**Sec. 154-C. Application of general corporation law; articles of incorporation.** Such a mutual trust investment company shall be incorporated under and be subject to the general corporation laws of this State except as otherwise provided in sections 154-A to 154-G. The incorporators subscribing and acknowledging the articles of incorporation shall consist of 5 or more persons who are officers or directors of the banks and trust companies causing such mutual trust investment company to be incorporated.

**Sec. 154-D. Corporate powers; ownership of stock.**

I. The stock of a mutual trust investment company shall be owned only by state banks with trust powers, trust companies and national banks with trust powers located in this State, acting as fiduciaries, and their individual co-fiduciaries, if any, but may be registered in the name of their nominee or nominees.

II. The stock of a mutual trust investment company shall not be subject to transfer or assignment except to the mutual trust investment company or to a fiduciary or co-fiduciary which becomes successor to the stockholder or its nominee provided such successor fiduciary or co-fiduciary or its nominee is qualified to hold such stock under subsection I.

III. A mutual trust investment company shall have not less than 5 directors who need not be stockholders but shall be officers or directors of banks or trust companies located in this State.

IV. A mutual trust investment company may invest its assets only in those investments in which a trustee may invest under the laws of this State and its assets shall constitute personal property held in trust within the meaning of chapter 91-A, section 9, subsection VI.

In addition to the foregoing restriction it shall make no investment in:

A. The note of an individual or individuals, whether or not it is secured;

B. The note, bond or other obligation of any firm, corporation or other issuer if the total original issue of such notes, bonds or other obligations is less than \$500,000;

C. Any stocks, bonds or other obligations issued or guaranteed by any one firm, corporation or other issuer in excess of 10% of the total assets of the mutual trust investment company as increased by the proposed investment, provided that this limitation shall not apply to obligations of the United States, or for the payment of the principal and interest of which the full faith and credit of the United States is pledged;

D. Shares of stock of any one corporation which would cause the total number of such shares held by the mutual trust investment company to exceed 10% of the number of such shares outstanding.

V. A mutual trust investment company may acquire, purchase or redeem its own stock and shall by means of contract or of its by-laws, bind itself to acquire, purchase or redeem its own stock, but it shall not vote upon shares of its own stock.

VI. A mutual trust investment company shall not be responsible for ascertaining the investment powers of any fiduciary who may purchase its stock and shall not be liable for accepting funds from a fiduciary in violation of the restrictions of the will, trust indenture or other instrument under which such fiduciary is acting in the absence of actual knowledge of such violation, and shall be accountable only to the Bank Commissioner and the fiduciaries who are the owners of its stock.

Sec. 154-E. Purchase of stock by fiduciaries; authority and restrictions.

I. State banks with trust powers, trust companies and national banks with trust powers located in this State, acting in a fiduciary capacity and for true fiduciary purposes, either alone or with one or more individual co-fiduciaries, may, if exercising the care of a prudent investor and with the comment of such individual co-fiduciary or co-fiduciaries, if any, invest and reinvest funds held in such fiduciary capacity in the shares of stock of a mutual trust investment company except where the will, trust indenture or other instrument under which such fiduciary is acting prohibits such investment. No investment in the stock of a mutual trust investment company may be made by any bank or trust company which operates its own common trust fund under the laws of this State. The stock shall not be subject to sections 228 to 242.

II. No funds of any estate, trust or fund shall be invested in the stock of a mutual trust investment company in an amount which would result in any bank or trust company having an aggregate holding in excess of 25% of the total issued and outstanding stock of such mutual trust investment company as increased by the amount of the proposed investment. In the event that by reason of reduction of the holdings of stock by other banks or trust companies, mergers of banks or trust companies, or for other reasons the aggregate holding of stock in the mutual trust investment company by any bank or trust company shall become greater than 25% of the total issued and outstanding stock, such bank or trust company may retain the stock then held by it but may not make further investments in such stock until its aggregate holdings have become less than such 25%.

III. A mutual trust investment company shall be permitted to rely on the written statement of any bank or trust company purchasing its stock, that the purchase complies with the foregoing requirements except that the mutual trust investment company shall be responsible to see that the limit on the holding of stock by any one bank or trust company as provided in subsection II is not exceeded.

Sec. 154-F. Powers of the Bank Commissioner.

I. The Bank Commissioner shall have authority to adopt and issue reasonable and uniform rules and regulations to govern the conduct and management of all mutual trust investment companies formed pursuant to sections 154-A to 154-G and to prescribe, among other things:

A. The records and accounts to be kept by the mutual trust investment company;

B. The methods and standards to be employed in establishing the value of the shares of stock in the mutual trust investment company and of its assets;

C. The procedure to be followed in the sale and redemption of its stock.

II. The Bank Commissioner shall at least once in each calendar year, and whenever he deems it necessary or expedient, examine every such mutual trust investment company. On every such examination of a mutual trust investment company the Bank Commissioner shall make inquiry as to its financial condition, the policies of its management, whether it is complying with the laws of this State and such other matters as the Bank Commissioner may prescribe. The reasonable expenses of each examination of a mutual trust investment company pursuant to this section shall be borne and paid for by such company.

III. In the enforcement of sections 154-A to 154-G and the fulfillment of his responsibilities hereunder, the Bank Commissioner shall have the same powers and authorities over and with respect to mutual trust investment companies and their directors, officers and employees, including the power to compel the attendance of witnesses and the production of books, records, documents and testimony, the power to require the submission to him of reports and information in such form and at such times as he may prescribe, the power to direct the discontinuation of any practice which he may consider illegal, unauthorized or unsafe, and all other powers and authorities, whether or not specifically mentioned herein, as are given the Bank Commissioner by the laws of this State with respect to banks and trust companies, in the same manner and with like effect as if mutual trust investment companies were expressly named therein.

Sec. 154-G. Short title. Sections 154-A to 154-G may be cited as the "Mutual Trust Investment Company Act."

Sec. 2. Severability. If any provision of this act or the application of such provision to any person, corporation or circumstance shall be held invalid, the remainder of this act or the application of such provisions to persons, corporations or circumstances other than those as to which it is held invalid, shall not be affected thereby.