

MAINE STATE LEGISLATURE

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SEVENTH REVISION

THE
REVISED STATUTES

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CHAPTER 44.

Principal, Factors, and Agents. Partnerships.

- Sections 1-3 Authority of Factors and Agents.
 Sections 4-8 Publicity of Mercantile Partnerships.
 Sections 9-18 Limited Partnerships.

Authority of Factors and Agents.

Sec. 1. How far shipper, factor, or agent shall be considered owner of goods under his control. R. S. c. 39, § 1. Every person in whose name merchandise is forwarded, every factor or agent entrusted with the possession of any bill of lading, custom-house permit, or warehouse keeper's receipt for the delivery of such merchandise, and every such factor or agent not having the documentary evidence of title, who is entrusted with the possession of merchandise for the purpose of sale, or as security for advances to be made thereon, shall be deemed the true owner thereof, so far as to give validity to any lien or contract made by such shipper or agent with any other person for the sale or disposal of the whole or any part of such merchandise, money advanced, or negotiable instrument or other obligation in writing, given by such person upon the faith thereof.

See c. 165, § 28. *1 Me. 179; 4 Me. 543; 11 Me. 418; 15 Me. 343; *31 Me. 411; *57 Me. 64.

Sec. 2. Title does not extend to prior demands against agent. R. S. c. 39, § 2. No person taking such merchandise in deposit from such agent as security for an antecedent demand shall thereby acquire or enforce any right or interest therein other than such agent could then enforce.

Sec. 3. Rights of the true owner in such cases. R. S. c. 39, § 3. But the true owner of such merchandise, upon repayment of the money so advanced, restoration of the security so given, or satisfaction of all legal liens, may demand and receive his property, or recover the balance remaining as the proceeds of the legal sale thereof, after deducting all proper claims and expenses thereon.

Publicity of Mercantile Partnerships.

Sec. 4. Persons engaging in mercantile partnerships to file certificate; certificate of withdrawal. R. S. c. 39, § 11. Whenever two or more persons become associated as partners or otherwise for the purpose of engaging in any mercantile enterprise, they shall, before commencing business, deposit in the office of the clerk of the city or town in which the same is to be carried on, a certificate signed and sworn to by them, setting forth their names and places of residence, the nature of the business in which they intend to engage, and giving the name under which they are to transact business. Whenever any member of such partnership or association withdraws therefrom, he may certify under oath to the fact of such withdrawal, which certificate shall be deposited in the clerk's office where the partnership certificate is recorded; and he shall conclusively be presumed to be a member of the firm or association to the time of his depositing such certificate.

119 Me. 165.

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Sec. 5. Sole proprietor to file certificate when adopting any business name, or style other than his own name. R. S. c. 39, § 12. Whenever any person intends to engage in such business as sole proprietor thereof, and to adopt any business name, style, or designation other than his own name exclusively, he shall, before commencing business, deposit in the office of the clerk of the city or town in which such business is to be carried on, a certificate signed and sworn to by him setting forth his name and place of residence, the name, style, or designation under which the business is to be conducted, and stating that he is the sole proprietor.

Sec. 6. Statement cannot be contradicted in judicial proceedings. R. S. c. 39, § 13. A person signing and making oath to any certificate deposited as provided by the two preceding sections shall not be permitted in any judicial proceeding to contradict the statements contained in such certificate. Whoever swears or affirms to any such certificate which is not true in fact shall be deemed guilty of perjury.

Sec. 7. Record. R. S. c. 39, § 14. The clerks of the several cities and towns shall record in suitable books, kept exclusively for the purpose, the certificates deposited under the provisions of sections four and five, and such books shall be open to public inspection.

Sec. 8. Penalty for neglect to file certificate. R. S. c. 39, § 15. Whoever fails to deposit seasonably the certificate required by sections four and five shall be punished by a fine of five dollars for each day he is in default.

Limited Partnerships.

Sec. 9. Organization for mercantile, mechanical, or manufacturing business. R. S. c. 39, § 16. Limited partnerships for the transaction of mercantile, mechanical, or manufacturing business, but not for banking or insurance, may be formed upon the following conditions and liabilities, to consist of one or more persons, called general partners, who shall be jointly and severally responsible, as general partners are by law, and of one or more persons, who contribute a specific sum in actual cash payment, as capital, to the common stock, called special partners, who shall not be liable for the debts of the partnership beyond the sum so contributed by each.

Sec. 10. Certificate and particulars thereof. R. S. c. 39, § 17. Persons forming such a partnership shall sign a certificate, containing the following particulars:

- I. The name of the firm, under which the partnership shall be conducted.
- II. The name and place of residence of each of the general and each of the special partners.
- III. The general nature of the business to be transacted, and the amount of capital which each of the special partners contributes.
- IV. The time when the partnership shall commence, and when it shall cease.

Sec. 11. Certificate to be acknowledged and recorded. R. S. c. 39, § 18. Such partnership shall not be considered as formed, until such certificate is acknowledged by all the partners before a justice of the peace, and recorded in the registry of deeds for each county or registry district where such partnership is to have an established place of business, in a book kept for that purpose open to public inspection.

Sec. 12. Liability for any misstatement therein. R. S. c. 39, § 19. If any statement is made in such certificate, which misleads third persons, or is inten-

tionally false, all the persons interested in such partnership are liable for all the engagements thereof, as general partners, to any person thereby deceived or injured.

Sec. 13. Publication of such partnership, and mode of renewing it. R. S. c. 39, § 20. After such registry, the partners shall cause a copy of the certificate above mentioned to be published in a newspaper printed in the county in which the principal place of business is situated, if any, otherwise in one printed in an adjoining county, or in the state paper, for six weeks successively, the first publication to be within twenty days thereafter; and if not so published, or if upon every renewal or continuance of such partnership beyond the time originally fixed for its duration, a certificate is not made, signed, acknowledged, recorded, and published, as aforesaid, it shall be deemed a general one.

Sec. 14. Special partners not to be named and not to act. R. S. c. 39, § 21. The business of the partnership shall be conducted under a firm, in which no names are used but those of the general partners, without the word "company," or any other general term; and the general partners only shall transact business; and if the name of any special partner is used in the firm with his consent and privity, or if he makes any contract respecting the concerns of the partnership with any person, except the general partners, he shall be deemed a general partner as to such contract.

Sec. 15. Capital not to be reduced below amount stated in certificate. R. S. c. 39, § 22. During the continuance of such partnership, no part of the capital stock shall be withdrawn therefrom, nor any division of interest or profits be made, so as to reduce the capital stock below the sum stated in the certificate above mentioned; and if during the continuance or at the termination of the partnership the property is not sufficient to pay the partnership debts, the special partners shall be severally answerable for all sums by them in any way received, withdrawn, or divided, with interest thereon from the time of withdrawal, notwithstanding the provision in the following section.

Sec. 16. Prosecution of suits relating to partnership business. R. S. c. 39, § 23. Suits respecting the business of such partnership shall be commenced and prosecuted by and against the general partners only, except in those cases in which provision is hereinbefore made, that special partners shall be deemed general partners, and special partnerships, general partnerships; in which cases all the partners deemed general partners may join or be joined in such suits.

Sec. 17. Voluntary dissolution, and notice thereof. R. S. c. 39, § 24. No voluntary dissolution of such partnerships shall take place before the time specified in the certificate before named, unless a notice thereof is recorded in each registry, in which the original certificate, or certificate of renewal or continuance, is recorded, and published in such paper, as is directed in section thirteen.

Sec. 18. In cases not otherwise provided for herein, limited partners to be same as general. R. S. c. 39, § 25. In all cases not otherwise provided for herein, the members of limited partnerships are subject to the liabilities, and entitled to the immunities, incident to general partnerships, and the supreme judicial court and the superior court may hear and determine, in equity, all questions between copartners in any partnership formed by virtue of this chapter, and between said copartners and any creditors of the firm.