

# MAINE STATE LEGISLATURE

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*Maine*  
REVISED STATUTES  
1964

*Prepared Under the Supervision  
of the  
Committee on Revision of Statutes*

Being the Tenth Revision of the  
Revised Statutes of the State  
of Maine, 1964

Volume 1  
CONSTITUTION

Titles 1 to 10



**Boston, Mass.**  
Boston Law Book Co.

**Orford, N. H.**  
Equity Publishing Corporation

**St. Paul, Minn.**  
West Publishing Co.

Text of Revised Statutes  
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State of Maine

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## CHAPTER 55

## LIQUIDATION AND INSOLVENCY

Sec.

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**§ 691. Voluntary liquidation; jurisdiction; proceedings**

Whenever, in the opinion of the commissioner and a majority of the trustees of any savings bank, it is inexpedient for any reason for said bank to continue the further prosecution of its business, said trustees may join with the commissioner in an application to the Superior Court for the liquidation of the affairs of such corporation. Upon presentation of such application, such court may issue an injunction wholly or partially restraining further payment of deposits until further order of court. If, after notice and hearing on such application, such court is of the opinion that it is inexpedient for said bank to continue the further prosecution of its business, it may make such orders and decrees in the premises as seem proper for liquidating the affairs of said bank, the distribution of its assets and the protection of its depositors. Further proceedings on such application may be in the manner provided for the liquidation of an insolvent savings bank; or such court may authorize the president and trustees of such bank then in office to liquidate its affairs under the direction of the court. Section 698 is made applicable to such applications.

R.S.1954, c. 59, § 69; 1963, c. 414, § 47.

**§ 692.    Injunction to restrain insolvent corporation; receivers appointed**

If, upon examination of any savings bank, the commissioner is of the opinion that it is insolvent or that its condition is such as to render its further proceedings hazardous to the public or to those having funds in its custody, he may apply to the Superior Court to issue an injunction to restrain such corporation in whole or in part from proceeding further with its business until a hearing can be had. Such court may forthwith issue process for such purpose and, after a full hearing of the corporation, may dissolve or modify the injunction or make the same permanent, and make such orders and decrees to suspend, restrain or prohibit the further prosecution of its business as may be needful in the premises, according to the course of proceedings in which equitable relief is sought. The court may appoint one or more receivers or trustees to take possession of its property and effects, subject to such rules and orders as are from time to time prescribed by the Superior Court.

R.S.1954, c. 59, § 71; 1961, c. 385, § 8; 1963, c. 414, § 48.

**§ 693.    Duties and powers of receivers; reports; duties of commissioner and Attorney General**

Upon taking possession of the property and business of a savings bank, the receiver may collect moneys due to the corporation and do all acts necessary to conserve its assets and business and shall proceed to liquidate its affairs. He shall collect all debts due and claims belonging to it, and upon the order or decree of the Superior Court, may sell or compound all bad or doubtful debts, and on like order or decree may sell for cash or other consideration or as provided by law all or any part of the real and personal property of the corporation on such terms as the court shall direct; and, in the name of such corporation, may take a mortgage on such real property from a bona fide purchaser to secure the whole or part of the purchase price, upon such terms and for such periods as the court shall direct; and on like order or decree he may borrow money and issue evidence of indebtedness therefor, and to secure the repayment of the same may mortgage, pledge, transfer in trust or hypothecate any or all of the property of such institution, whether real, personal or mixed, superior to any charge thereon for expenses of liquidation. Such receivers shall have all the rights and powers given to conservators by chapter 101. Such receivers or

trustees shall annually, in May, and at such other times as the commissioner requires, make a report to him of the progress made in the settlement of the affairs of said corporation; and the commissioner shall seasonably give notice of the time and furnish blanks for the report. The court in its discretion may appoint the commissioner or deputy bank commissioner receiver for such purpose, in which case no commission, fee or other perquisite shall be allowed such official for his services in said capacity, but his expenses incurred in the performance of his duty as said receiver shall be chargeable against the assets of the institution and allowed in his account as receiver. The Attorney General shall render such legal services in connection with such receivership as the commissioner or deputy bank commissioner may require, without additional compensation.

R.S.1954, c. 59, § 72; 1961, c. 317, § 162.

**§ 694. Appointment of commissioners; powers and duties; payment of claims**

After a decree of sequestration is passed as provided in section 692, the court shall appoint commissioners who shall give such notice of the times and places of their sessions as the court orders; receive and decide upon all claims against the institution, and make report to the court at such time as the court orders of the claims allowed and disallowed and of the amount due each depositor, which shall be subject to objections and amendment as reports of masters in chancery. On application of any person interested, the court may extend the time for hearing claims by the commissioners as justice may require. When the amount due each person is established, the court shall cause others than depositors to be paid in full, and after deducting expenses the balance to be ratably distributed among depositors. When it appears upon the settlement of the account of the receiver of such an institution that there is remaining in his hands funds due depositors who cannot be found and whose heirs or legal representatives are unknown, the court may order such unclaimed funds to be paid into the State Treasury, together with a statement giving the names of such depositors and the amount due each, the same to be held in trust for 20 years thereafter to be paid to the person or persons having established a lawful right thereto when made to appear upon proper proceedings instituted in the court ordering such disposition of such unclaimed funds. Whenever any such unclaimed fund is in an amount less than \$200, the claimant thereto may make applica-

tion to the Superior Court which may, after identification to it satisfactory, issue an order under the seal of the Superior Court directing the Treasurer of State to pay said fund to the claimant therein named; and said fund shall be paid as directed. Any income earned on such funds shall be paid into the General Fund as compensation for administration.

R.S.1954, c. 59, § 73; 1959, c. 77; c. 317, § 28; 1963, c. 414, § 49.

**§ 695.    Attachments dissolved; actions discontinued; judgment recovered added to claims**

All attachments of the property of the savings bank shall be dissolved by the decree of sequestration, and all pending actions discontinued and the claim presented to the commissioners, unless the Superior Court, on application of the plaintiff within 3 months from said decree, passes an order allowing the receiver to be made a party to the action and that the same may be prosecuted to final judgment. After a decree of sequestration, no action shall be maintained on any claim against the bank unless the Superior Court, on application therefor within the time named, authorizes it, and in such case the receiver shall be made a party. Any judgment recovered shall be added to the claims against the bank.

R.S.1954, c. 59, § 74; 1961, c. 317, § 163.

**§ 696.    Claims not timely are barred**

All claims not presented to the commissioners within the time fixed by the court or litigated as provided are forever barred.

R.S.1954, c. 59, § 75.

**§ 697.    Court may reduce deposit accounts**

Whenever a savings bank is insolvent by reason of loss on or depreciation in the value of any of its assets without the fault of its trustees, the Superior Court shall, on complaint in writing of a majority of the trustees and the commissioner setting forth the facts, appoint a time for the examination of the affairs of such corporation, and cause notice thereof to be given to all parties interested, in such manner as may be prescribed. If upon examination of its assets and liabilities and from other evidence, he is satisfied of the facts set forth in said complaint and that the corporation has not exceeded its powers nor failed to comply with

any of the rules, restrictions and conditions provided by law, he may, if he deems it for the interest of the depositors and the public, by proper decree reduce the deposit account of each depositor so as to divide such loss pro rata among the depositors, thereby rendering the corporation solvent so that its further proceedings will not be hazardous to the public or those having or placing funds in its custody. The depositors shall not draw from such corporation a larger sum than is thus fixed by the court, except as authorized. Its treasurer shall keep an accurate account of all sums received for such assets of the corporation held by it at the time of filing such complaint. If a larger sum is realized therefrom than the value estimated by the court, he shall, at such times as the court prescribes, render to the court a true account thereof, and thereupon the court, after due notice to all parties interested, shall declare a pro rata dividend of such excess among the depositors at the time of filing the complaint. Such dividend may be declared by the court, whenever the court deems it for the interest of the depositors and the public, whether all or only a portion of such assets has been reduced to money. Any such dividend may at any time, in the discretion of the court, be declared to be a final one. No deposit shall be paid or received by such corporation after the filing of the complaint until the decree of the court, reducing the deposits. If the complaint is denied, the commissioner shall proceed to wind up the affairs of the corporation as provided in section 693.

R.S.1954, c. 59, § 76; 1961, c. 317, § 164.

**§ 698. Payments restrained to preserve assets or protect depositors; order revoked or modified**

Whenever it may become necessary to preserve the assets or protect depositors in a savings bank, the Superior Court, on application of the commissioner or trustees of such bank may, after due notice, make an order restraining the bank from paying out its funds or any portion thereof or from declaring or paying any dividends or deposits for such time as the court shall deem advisable. The court may at any time revoke or modify the original order and authorize the bank to pay dividends upon its deposits, or pay any portion of its deposits to such as may desire to withdraw the same or make any other or further order that may be necessary to protect the depositors in such institution. Nothing in this section shall be construed to take away the rights of the parties in interest to proceed under sections 692, 693 and 697.

R.S.1954, c. 59, § 77; 1961, c. 317, § 165.