

MAINE STATE LEGISLATURE

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CHAPTER 101

**PROTECTION OF ASSETS AND RIGHTS
OF CREDITORS**

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§ 1171. Examination and revaluation

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, and the 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, the Superior Court shall, on a complaint by the commissioner setting forth the facts, appoint a time for the examination of the affairs 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 he may, if he deems it for the benefit of the public and the depositors, issue decrees necessary to carry out this chapter. In such examination of assets there shall be included the liability of stockholders to assessment.

R.S.1954, c. 59, § 130; 1961, c. 317, § 171.

§ 1172. Allocation of assets

If the liabilities of the trust company described in section 1171, not including the outstanding capital stock, exceed its assets, including the amount realized from an assessment of stockholders' liability, 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. 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.

R.S.1954, c. 59, § 131.

§ 1173. Negotiable certificates

The trust company described in section 1171 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 year; otherwise, said certificate shall not be deemed to be a liability of the corporation. The holder of said certificate, the commissioner or the corporation shall be entitled to file a complaint with 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.

R.S.1954, c. 59, § 132; 1961, c. 317, § 172.

§ 1174. Conservators; appointment; powers

The court may on a complaint filed by the commissioner appoint one or more conservators for such trust company described in section 1171 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. 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 in-

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debtedness 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 or member of the federal reserve system.

R.S.1954, c. 59, § 133; 1961, c. 317, § 173.

§ 1175. Merger or consolidation

The court may order the merger or consolidation of said trust company described in section 1171 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.

R.S.1954, c. 59, § 134.

§ 1176. Injunctions restraining procedure against trust companies

Whenever proceedings are instituted under any provisions of this chapter, injunctions may be issued restraining all persons from proceeding against said trust company described in section 1171 until final decree, including trustee processes.

R.S.1954, c. 59, § 135.

§ 1177. Dissolution of attachments

The court may dissolve all attachments on the property of the trust company made within 4 months before the filing of the complaint; cancel leases, contracts and all other claims as in receivership proceedings, discontinue all actions 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.

R.S.1954, c. 59, § 136; 1961, c. 317, § 174.

§ 1178. Authority of courts in protecting creditors' rights

The relief sought in the complaint described in section 1171 filed by the commissioner shall not be granted without hearing. It shall not be granted if objected to in writing by the time and demand depositors of said trust company who are credited with the majority in amount of the trust and demand deposits. The court shall appoint immediately upon the filing of such complaint

a conservator with authority to act pending hearing. Any depositor may be permitted to intervene as party plaintiff in any complaint filed hereunder and may be heard thereon. Any depositor or party in interest may present in writing a plan of reorganization. The commissioner may file his plan of reorganization. The depositors, who are credited with the majority in amount of the trust and demand deposits, may present in writing to said court a plan of reorganization and if said plan is the most feasible, it shall be adopted. Final decree of reorganization shall be made by said court after submission of plans and hearing thereon. The right of appeal is granted.

R.S.1954, c. 59, § 137; 1961, c. 317, § 175; 1963, c. 414, § 51.

§ 1179. General authority of courts

The court may do all other and further things necessary to carry out the terms and provisions of this chapter.

R.S.1954, c. 59, § 138.

§ 1180. Appointment of receivers or trustees

The court may appoint one or more receivers or trustees to liquidate the affairs of said trust company described in section 1171 in accordance with this Title.

R.S.1954, c. 59, § 139.

§ 1181. Receivers; powers and duties

Upon taking possession of the property and business of a trust company, 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

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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 this chapter.

R.S.1954, c. 59, § 140; 1963, c. 414, § 52.

§ 1182. Powers of commissioner as additional

All powers conferred under this chapter on the commissioner are in addition to the powers conferred upon him by law.

R.S.1954, c. 59, § 141.

§ 1183. Preferred stock

Any trust company described in section 1171 may be authorized to issue preferred stock as provided in section 1001 on a petition filed for that purpose only.

R.S.1954, c. 59, § 142.

§ 1184. Expenses

All expenses of the commissioner or his assistants incurred in carrying out this chapter shall be paid out of the assets of the trust company in connection with which such expenses were incurred.

R.S.1954, c. 59, § 143.