

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

RR
BE
Self
1971

CT SYSTEM

Publication
for Lawyers Only

L.U.O.

STATE LAW LIBRARY
AUGUSTA, MAINE

MAINE

CORPORATIONS
Maine

Comparison of Features

of

Old and New Business Corporation Laws

Relating to

Domestic Corporations

References are to:

Old Corporation Law: *Revised Statutes of Maine, Title 13.*

New Corporation Law: *Maine Business Corporation Act
(Revised Statutes of Maine, Title 13-A,
Senate Print No. 293, Laws of 1971.)*

The new Maine Business Corporation Act, which becomes effective January 1, 1972 is patterned after the American Bar Association Model Business Corporation Act.

KF
1384
.799
A222
1971



OLD LAW

NEW LAW

INCORPORATION

Publication

None required.

None required.

Number and qualifications of incorporators

Three or more persons. (Sec. 71) It is customary for incorporators to subscribe for stock although there is no statutory provision requiring incorporators to subscribe. Incorporators need not be residents.

One or more persons. The incorporator or incorporators may be natural persons, or domestic or foreign corporations, whether or not authorized to do business in Maine, or any combination thereof. Incorporators need not be residents of Maine. (Sec. 402) There is no statutory provision requiring incorporators to subscribe for stock.

Subscribed shares or paid-in capital

No statutory provision specifying the amount which must be paid in. The certificate of organization is required to show the number of shares subscribed, the number of shares unsubscribed and unissued and the amount of capital already paid in. (Sec. 73) The amount of capital paid in may be stated as "none".

No statutory requirements as to the amount which must be paid in before commencing business.

Use of words denoting a corporation

No statutory requirement.

No statutory requirement.

Protection of name

May not be the same as the name of a domestic corporation or so nearly resembling the name of such corporation as to be a colorable imitation thereof or calculated to deceive any person. (Sec. 74) Although there is no statutory provision, it is the practice of the Secretary of State to accept qualification papers of a foreign corporation having a name the same as that of a domestic corporation and the charter of a domestic corporation having the same name as that of a foreign corporation.

May not be the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this State or any foreign corporation authorized to transact business in this State, or a name the exclusive right to which is, at the time, reserved in the manner provided in this Act, or the name of a corporation which has in effect a registration of its corporate name as provided in this Act, unless such other corporation executes and files with the Secretary of State as provided

OLD LAW

-2-

NEW LAW

Protection of name – Cont'd

in sections 104 and 106 proof of a resolution of its board of directors authorizing the use of a similar name by the corporation seeking to use such similar name. (Sec. 301)

Reservation of name

No statutory provision.

An available corporate name may be reserved for 120 days by filing an application. The reservation may not be renewed; but after the expiration thereof, the same name may be reserved by the same or another applicant. The right to a reserved name may be transferred by filing a notice of transfer. (Sec. 302) There is a filing fee of \$5 for the reservation and on a transfer the fee is \$5. (Sec. 1401)

AUTHORIZED SHARES

Classification

May create two or more kinds of stock with such classes and with such designations, preferences, and voting powers, or restrictions, or qualifications thereof, as shall be fixed and determined in the by-laws, or by vote of the stockholders at a meeting duly called for the purpose. (Sec. 422)

Shares may be divided into one or more classes, any or all of which classes may consist of shares with par value or shares without par value, with such designations, preferences, limitations, and relative rights as shall be stated in the articles of incorporation. The articles of incorporation may limit or deny the voting rights of, or provide special voting rights for, the shares of any class to the extent not inconsistent with the Maine Business Corporation Act. (Sec. 501)

Series

No statutory authorization.

If the articles of incorporation so provide, the shares of any preferred or special class may be divided into and issued in series. Any or all of the series of any such class and the variations in the relative rights and preferences as between different series shall be fixed

OLD LAW

-3-

NEW LAW

Series -- Cont'd

No payment on any subscription to or agreement for the capital stock shall be deemed a payment unless bona fide made in cash or in some other matter or thing at a bona fide and fair valuation. (Sec. 454) Any corporation may purchase mines, manufactories and other property necessary for its business, and the stock of any company or companies owning, mining, manufacturing, or producing materials or other property necessary for its business, and issue stock to the amount or value thereof in payment therefor, and may likewise issue stock for services rendered to the corporation. (Sec.423)

Consideration for shares

and determined by the articles of incorporation unless the articles vest authority in the board of directors to do so. (Sec. 502) In order for the board of directors to establish a series, where authority so to do is contained in the articles of incorporation, the board shall adopt a resolution setting forth the designation of the series and fixing and determining the relative rights and preferences thereof, or so much thereof as shall not be fixed and determined by the articles of incorporation. Prior to the issue of any shares of a series established by such resolution, a statement, with a copy of the resolution, is to be filed with the Secretary of State. Upon the filing of such statement, the resolution of the board of directors constitutes an amendment to the articles of incorporation. (Sec. 503)

Shares with or without a par value may be issued for such consideration expressed in dollars as shall be fixed from time to time by the board of directors unless the articles of incorporation reserve to the shareholders the right to fix the consideration. But except as otherwise permitted in the Maine Business Corporation Act, the consideration for par value shares shall not be less than the par value of such shares. (Sec. 506) Consideration for the issuance of shares shall be paid, in money or in other property, tangible or intangible, actually received by, or in labor or services actually performed for, the corporation, or in any combination thereof. (Sec. 507) The reasonable charges and expenses of organization or reorganization of a corporation, and the reasonable expenses of and compensation for the sale or underwriting of its shares, may be paid or allowed by such corporation out of the consideration received by it in payment for its shares without thereby rendering such shares assessable or not fully paid. (Sec. 510)

Valuation of consideration; conclusiveness

In the absence of actual fraud in the transaction, the judgment of the directors as to the value of the property purchased, services rendered and rights or options granted, shall be conclusive. (Sec. 423)

In the absence of fraud or bad faith in the transaction, the judgment of the board of directors or shareholders, as the case may be, as to the value of the consideration received for shares shall be conclusive. (Sec. 507)

Allocation of consideration between capital and surplus

The stockholders at a meeting duly called and held for the purpose, or the board of directors when acting under any general or special authority granted by the stockholders, may determine at the time of the issue thereof, what part of the consideration received for issued shares without par value shall be capital and when part shall be paid-in surplus. (Sec. 424)

The consideration expressed in dollars, received for par value shares shall constitute stated capital to the extent of the par value of such shares, and the excess, if any, of such consideration constitutes capital surplus. The entire consideration received for shares without par value shall constitute stated capital unless within a period of 60 days after the issuance of any shares without par value, the board of directors allocates to capital surplus a portion, but not all, of the consideration received for the issuance of such shares. No such allocation shall be made of any portion of the consideration received for shares without par value having a preference in the assets of the corporation in the event of involuntary liquidation except that part of such consideration which is in excess of such preference. (Sec. 513)

Convertible shares or securities

No specific statutory authority.

A corporation may, if authorized by the articles of incorporation: (1) Issue shares convertible, at the option of the holder only, into shares of any other class or into shares of any series of the same or any other class, except a class or any series having prior or superior rights and preferences as to dividends or distribution of assets upon liquidation. The period within which and the terms and conditions upon which shares may be converted shall be stated in the articles of incorporation, or in a resolution of the board of directors if the board of directors has authority to fix and determine that right. Shares without par value shall not be converted into

OLD LAW

-5-

NEW LAW

Convertible shares or securities – Cont'd

shares with par value, unless that part of the stated capital of the corporation represented by such shares without par value is, at the time of conversion, at least equal to the aggregate par value of the shares into which the shares without par value are to be converted; (2) Issue bonds or debentures convertible into other bonds or debentures of the corporation within such period and upon such terms and conditions as shall be fixed by the board of directors; (3) Issue bonds or debentures convertible into shares within such period and upon such conditions as shall be fixed by the board of directors. (Sec. 524)

May create and issue rights or options entitling the holders thereof to purchase from the corporation any shares of its stock, upon such conditions as the stockholders or the directors, acting under authority granted by the stockholders, may prescribe. (Sec. 423)

Warrants or options

Unless the articles of incorporation otherwise provide, a corporation, by action of its board of directors, may create and issue, whether or not in connection with the issue and sale of any of its shares or other securities, rights or options entitling the holders thereof to purchase from the corporation shares of any class or classes, whether authorized but unissued shares, treasury shares, or shares to be purchased or acquired by the corporation. (Sec. 508)

No statutory provision.

Fractional shares; scrip

A corporation may: (1) Issue a certificate for fractional shares which shall entitle the holder, in proportion to his fractional holdings, to exercise voting rights and receive dividends and other distributions; (2) Pay in cash the fair value of fractions of shares as of the time when those entitled to receive such fractions are determined; or (3) Issue scrip in registered or bearer form, exchangeable as therein provided for full shares, but such scrip shall not entitle the holder to any rights of a shareholder except as therein provided. (Sec. 512)

OLD LAW

-6-

NEW LAW

May be denied in the charter or the by-laws. (Sec. 201)

Pre-emptive rights

Except as otherwise provided in the articles of incorporation or in the Maine Business Corporation Act, the holders of shares of any class having voting rights under the articles shall, in the event of: (A) The proposed sale or exchange by the corporation of additional shares of the same class; or (B) The grant by the corporation of any options or rights to purchase shares of the same class; or (C) The proposed sale or exchange by the corporation of any securities convertible into or carrying an option to purchase shares of the same class, have the right to acquire such securities, as nearly as practicable, in proportion to their holding of shares of such class. The preemptive right shall exist whether or not the shares which are to be sold or which are subject to any options or rights are authorized but unissued shares, treasury shares, or other shares. The holders of shares of any nonvoting class may be granted the preemptive right if and to the extent that the articles of incorporation so provide. The articles of incorporation may expand without limitation, exclude or limit any or all of the above preemptive rights. A statement in the articles that "there are no preemptive rights", or any words of like import, shall be sufficient to wholly exclude the rights provided for in this section. (Sec. 623)

Retirement of preferred or special shares

The procedure for retirement is set forth herein as "Reduction of Capital". If on reduction of capital, par value shares are retired, an amount not exceeding the aggregate par value of such shares may be charged against or paid out of the capital in respect of such shares, and if shares having no par value are retired, an amount not exceeding that part of the capital represented by such shares may be charged against or paid out of the capital in respect of such shares. Stock so retired shall have the status of authorized but unissued stock. (Sec. 202)

(Maine)

The redemption or purchase by a corporation of its redeemable shares shall of itself retire such shares, which shall automatically be restored to the status of authorized but unissued shares, unless the articles of incorporation provide that such shares shall be cancelled and not reissued. (Sec. 520) Any shares of a corporation reacquired by it, other than redeemable shares redeemed or purchased, may be either held as treasury shares or may be retired or cancelled by the board of directors at the time of reacquisition or at any time thereafter. (Sec. 521) The retirement or cancellation of such

Retirement of preferred or special shares – Cont'd

shares redeemed, purchased, or otherwise reacquired shall reduce the stated capital of the corporation by that part of the stated capital which was, at the time of such action, represented by those shares. If the shares are cancelled, a statement of cancellation shall be executed and delivered for filing with the Secretary of State. (Secs. 520, 521)

Statement of relative rights on share certificates

Every certificate for shares of stock without par value must have plainly stated on its face the number of shares which it represents and each share, except as to preferences, rights, limitations, privileges and restrictions lawfully granted or imposed with respect to any stock or class thereof, shall be deemed to be equal to every other share of the same class. Preferences, rights, limitations, privileges and restrictions may be stated in dollars and cents per share. (Sec. 79)

Every certificate representing shares issued by a corporation which is authorized to issue shares of more than one class shall set forth upon the face or back of the certificate, or shall state that the corporation will furnish to any shareholder upon request and without charge, a full statement of the designations, preferences, limitations and relative rights of the shares of each class authorized to be issued and, if the corporation is authorized to issue any preferred or special class in series, the variations in the relative rights and preferences between the shares of each such series so far as the same have been fixed and determined, and the authority of the board of directors to fix and determine the relative rights and preferences of other series. (Sec. 511)

VOTING RIGHTS

Stock

Restrictions and qualifications of voting power imposed in the by-laws or by vote of stockholders shall control in all cases where any vote or consent of stockholders is required by statute, unless such statute shall provide expressly to the contrary. (Sec. 422) The number of votes to be given by stockholders may be determined by the by-laws. (Sec. 145)

Each outstanding share, regardless of class, shall entitle the holder thereof to one vote on each matter submitted to the shareholders, except as otherwise provided in the Maine Business Corporation Act or in the articles of incorporation as permitted by the Act. (Sec. 612)

OLD LAW

No direct statutory provision, but the provision of Sec. 145 that the number of votes to be given by stockholders may be determined by the by-laws, is construed as broad enough to include cumulative voting.

No statutory provision conferring voting rights on bondholders.

No statutory provision except that capital shall not be reduced by making dividends until all debts due from the corporation are paid (Sec. 378) and that the stockholders or the board of directors acting under authority given by the stockholders may determine at the time of the issue thereof what part of the consideration received for shares without par value shall be capital and what part shall be paid-in surplus available for dividends and other corporate purposes. (Sec. 424)

(Maine)

-8-

Cumulative voting

Bonds

DIVIDENDS

Source

NEW LAW

The articles of incorporation may provide that there shall be cumulative voting for directors. If the articles expressly so provide, then each holder of shares entitled to vote at an election of directors shall have the right to as many votes as shall equal the number of directors who are to be elected and for whose election he has a right to vote, multiplied by the number of shares owned by such holder. Each such shareholder may either give all of his votes, so computed, to one candidate, or he may distribute his votes on the same principle among any number of candidates. (Sec. 622)

The articles of incorporation may grant, either absolutely or conditionally to the holders of bonds, debentures or other obligations of the corporation, the power to vote on specified matters, including the election of directors. Such power shall not be terminated except upon written assent of the holders of 2/3 in aggregate face amount of the bonds or debentures. (Sec. 612)

The board of directors of a corporation may, from time to time, declare and the corporation may pay dividends on its outstanding shares in cash or property, including the shares of other corporations, except when the corporation is insolvent or when the payment of the dividend would render the corporation insolvent or when the declaration or payment thereof would be contrary to any restrictions contained in the articles of incorporation, subject always to the following limitation: Dividends may be declared and paid in cash or property only out of the unreserved and unrestricted

OLD LAW

-9-

NEW LAW

Source – Cont'd

Subject to any restrictions contained in the certificate of organization, the directors of any corporation engaged in the exploitation of wasting assets may determine the net profits derived from the exploitation of such wasting assets without taking into consideration the depletion of such assets resulting from lapse of time or from necessary consumption of such assets incidental to their exploitation. (Sec. 380)

No statutory provision.

Wasting assets corporation

earned surplus of the corporation, or out of the unreserved and unrestricted net earnings of the current fiscal year and the next preceding fiscal year taken as a single period, except as otherwise provided in this section and in the sections pertaining to dividends and distributions from capital surplus. If paid out of such net earnings, concurrently with the distribution thereof shareholders shall be given notice of the source of the dividend, and of the fact that there was no earned surplus from which it could have been paid. (Sec. 514)

Except to the extent that the articles of incorporation otherwise provide, a corporation engaged in the exploitation of natural resources or other wasting assets, may declare and pay in cash or property, dividends out of the depletion reserves of the corporation, but each such dividend shall be identified as a distribution of such reserves and the amount per share paid such reserves shall be disclosed to the shareholders receiving the same concurrently with the distribution thereof. (Sec. 514)

Stock dividends

The board of directors of a corporation may, from time to time, declare and the corporation may pay on its outstanding shares dividends in its own shares, except when the declaration or payment thereof would be contrary to any restrictions contained in the articles of incorporation, subject always to the following limitations:
A. Dividends may be declared and paid in the corporation's own authorized but unissued shares out of any unreserved and unrestricted surplus of the corporation on the following conditions: (1) If a dividend is payable in its own shares having a par value, such shares shall be issued at not less than the par value thereof, and there shall be transferred to stated capital at the time the

OLD LAW

-10-

NEW LAW

Stock dividends – Cont'd

dividend is paid an amount of surplus at least equal to the aggregate par value of the shares to be issued as a dividend. (2) If a dividend is payable in its own shares without par value, the amount of stated capital to be represented by each such share shall be fixed by the board of directors by resolution adopted at the time the dividend is declared, and there shall be transferred to stated capital at the time the dividend is paid an amount of surplus equal to the aggregate stated capital so fixed in respect of such shares.

B. Dividends may be declared and paid by the corporation in its own shares out of any treasury shares that have been reacquired by the corporation. No transfer from surplus to stated capital need be made by a corporation paying a dividend in treasury shares to holders of any class of its outstanding shares. (Sec. 515)

POWERS

Existence

No statutory provision. May be perpetual.

Perpetual. A lesser period may not be specified in the corporation's charter, but this does not limit the corporation's power to terminate its existence pursuant to law. (Sec. 202)

Indebtedness

No limitation.

No limitation.

To hold real estate

May hold and convey lands and other property. (Sec. 141) May hold, purchase, mortgage and convey real and personal property out of the state. (Sec. 142)

With respect to any property of any description, or interest therein, wherever situated, including, but not limited to, real property, the corporation may: (1) Acquire, by purchase, lease, gift, will or otherwise; (2) Own, hold, use, improve, and otherwise deal in; and (3) Sell,

(Maine)

OLD LAW

NEW LAW

To hold real estate – Cont'd

convey, encumber, mortgage, pledge, lease, exchange or otherwise dispose of all or any part of such property. (Sec. 202(1)(I))

To mortgage corporate property

No statutory provision requiring stockholders' consent for mortgaging property in the state. A corporation may mortgage real and personal property out of the state. (Sec. 142) Except as to franchises, the consent of stockholders which is required on sale of assets is not required to mortgage corporate property. (Sec. 241)

Any type of property, wherever situated, may be mortgaged by a corporation. (Sec. 202) Authorization of the board of directors is required in order to mortgage all or any part of the assets of the corporation, but shareholders' authorization is not needed unless the articles of incorporation specifically so require. (Sec. 1004)

To sell entire assets

No corporation shall sell, lease, consolidate or in any manner part with its franchises, or its entire property, or any of its property, rights or privileges essential to the conduct of its corporate business and purposes, otherwise than in the ordinary and usual course of its business, except with the consent of its stockholders at an annual or special meeting, the call for which shall give notice of the proposed sale, lease or consolidation. (Sec. 241)

The sale of all, or substantially all, the property and assets of a corporation, when made in the usual and regular course of the business of the corporation, may be made upon such terms and conditions and for such considerations, which may consist in whole or in part of money or property, real or personal, including shares of any other corporation, domestic or foreign, as shall be authorized by its board of directors. Except to the extent that the articles of incorporation otherwise provide, the consent or authorization of shareholders for such sale of corporate assets is not required. (Sec. 1002) The sale of all, or substantially all, the property and assets, with or without the good will, of a corporation, if not made in the usual and regular course of its business, may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of money or property, real or personal, including shares of any other corporation, domestic or foreign, as may be authorized by resolution adopted by the board of directors and voted upon by the shareholders at an annual or special meeting. Written notice of the meeting shall be given to each shareholder of record not less than 14 days before the meeting. Authorization shall

To sell entire assets – Cont'd

require the affirmative vote of the holders of at least a majority of the shares of the corporation entitled to vote thereon, unless any class of shares is entitled to vote as a class thereon, in which event such authorization shall require the affirmative vote of the holders of at least a majority of the shares of each class of shares entitled to vote as a class thereon and of the total outstanding shares entitled to vote thereon. After such authorization by a vote of shareholders, the board of directors nevertheless, in its discretion, may abandon such sale, lease, exchange or other disposition of assets, subject to the rights of third parties under any contracts relating thereto, without further action or approval by shareholders. (Sec. 1003)

To purchase and hold its own shares

No statutory provision. In practice, the certificate of organization may provide for such power, if such clause prohibits the corporation from reducing its capital stock thereby, except in the manner permitted by statute.

May purchase and otherwise acquire, and dispose of, its own shares. (Sec. 202 (1)(T))

To purchase and hold shares in other corporations

A corporation may purchase, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of shares of the stock of, or bonds, securities or evidences of indebtedness created by any other domestic or foreign corporations and while owners of such stock may exercise all rights, powers and privileges of ownership, including the right to vote thereon. (Sec. 143)

May purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge or otherwise use and deal in and with; (1) The shares or other interests in or obligations of, other domestic or foreign corporations, associations, partnerships or individuals; and (2) The obligations of the United States or any other government, state, territory, municipality or governmental district, or of any instrumentality thereof. (Sec. 202 (1)(O))

To indemnify officers and directors

See "DIRECTORS – Indemnification," below.

May reimburse and indemnify litigation expenses of directors, officers and employees, as provided for in Section 719 (See "DIRECTORS – Indemnification," below). (Sec. 202 (1)(S))

OLD LAW

NEW LAW

To make charitable donations

Corporations may make donations for the public welfare or for charitable, scientific or educational purposes. (Sec. 141)

May make donations irrespective of corporate benefit for any charitable, scientific, educational or welfare purpose; and contributions for political candidates, parties and issues, to the extent permitted by law. (Sec. 202(1)(G))

To enter into partnerships or joint ventures

May participate with others in any corporations, partnerships, limited partnerships, joint ventures or other association of any kind, or in any transaction, undertaking or arrangement which the participating corporation would have power to conduct by itself, whether or not such participation involves sharing or delegation of control with or to others. (Sec. 141)

May participate with others in any corporation, partnership, transaction, arrangement, operation, organization or venture which the corporation has power to conduct by itself, even if such participation involves sharing or delegation of control with or to others. (Sec. 202(1)(Q))

To establish pension plans

No statutory provision.

May establish and carry out pension plans, pension trusts, profit sharing plans, stock option plans, stock bonus plans and other incentive plans for any or all of its directors, officers and employees; and to pay pensions and similar payments to its directors, officers or employees, and their families. (Sec. 202(1)(H))

To insure lives of directors, officers, employees or others

No statutory provision.

May provide, for its benefit, insurance on the life of any of its directors, officers or employees, or on the life of any shareholder for the purpose of reacquiring at his death shares owned by such shareholder. (Sec. 202(1)(R))

Ultra vires transactions

No statutory provision.

No act of a corporation and no conveyance or transfer of real or personal property to or by a corporation shall be invalid by reason of the fact that the corporation was without capacity or power to do such act or to make or receive such conveyance or transfer. However, such

Ultra vires transactions - Cont'd

lack of capacity or power may be asserted: (1) In a proceeding by a shareholder against the corporation to enjoin the doing of any act or acts or the transfer of real or personal property by or to the corporation. (2) In a proceeding by the corporation, whether acting directly or through a receiver, trustee or other legal representative, or through shareholders in a representative suit, against the incumbent or former officers or directors of the corporation. (3) In a proceeding by the Attorney General, as provided in this Act, to dissolve the corporation, or in a proceeding by the Attorney General to enjoin the corporation from the transaction of unauthorized business. (Sec. 203)

AMENDMENTS

Amendments Permitted

May make any change or alteration that may be desired, provided such change or alteration would be proper to insert in an original certificate of organization. (Sec. 201)

May amend the articles of incorporation in any and as many respects as may be desired if the articles of incorporation, as amended, contain only such provisions as might lawfully be contained in original articles of incorporation on the effective date of such amendment. (Sec. 802)

Vote Required

An amendment may be adopted by a vote representing a majority of the voting power at any meeting the call for which shall give notice of the proposed action. If any proposed change from one kind or class of stock to another would alter the preferences by taking away any right or preference previously belonging thereto, the holders of the stock of each class so affected may vote as a class and the affirmative vote of 80% in interest of

The proposed amendment shall be adopted upon receiving the affirmative vote of the holders of at least a majority of all outstanding shares entitled to vote thereon. If any class of shares is entitled to vote thereon as a class, the proposed amendment shall be adopted only if, in addition to receiving an affirmative vote of at least a majority of all outstanding shares entitled to vote thereon, it also receives the affirmative vote of the holders of

OLD LAW

each such class so affected shall be necessary in addition to the affirmative vote of a majority of every other class entitled to vote. (Sec. 201) The location of the principal office may be changed from one county to another by the affirmative vote of a majority of the issued stock. (Sec. 205)

A corporation may reduce its capital by various specified methods by the written consent of stockholders representing a majority of the voting power on such a proposal or by resolution adopted by stockholders representing a majority of the voting power at a meeting, the notice of which contains a statement of the proposed reduction of capital. A certificate stating the consent or adoption of such resolution shall be made by the clerk and filed with the Secretary of State and on such filing the capital shall be reduced. A stockholders meeting need not be held and a certificate need not be filed in connection with reduction of capital effected by the exercise of holders of convertible stock exercising their rights to convert such stock into another class of stock. (Sec. 202)

The power to make and alter by-laws shall be in the stockholders, but the certificate of organization or an amendment thereto or the by-laws may confer that power on the directors. By-laws made by the directors under power so conferred may be altered or repealed by the directors or stockholders. (Sec. 145)

(Maine)

-15-

Vote Required - Cont'd

NEW LAW

at least a majority of the outstanding shares of each class entitled to vote thereon as a class. (Sec. 805)

REDUCTION OF CAPITAL

A reduction of stated capital may be effected by amendment of the articles (Sec. 801), by cancellation of redeemable shares by redemption or purchase and filing a statement of cancellation (Sec. 520), or by cancellation of reacquired shares, other than redeemable shares redeemed or purchased, and filing a statement of cancellation. (Sec. 521)

BY-LAWS

Adoption and amendment

Unless otherwise provided in the articles, the initial by-laws of a corporation shall be adopted by its board of directors or, if the initial directors were not named in the articles of incorporation, by the incorporator or incorporators. Thereafter, the board of directors shall have the power to alter, amend or repeal the by-laws, and to adopt new by-laws, unless such power is expressly reserved to the shareholders by the articles of incorporation. (Sec. 601)

OLD LAW

No statutory provision.

May be held outside the state if the by-laws so provide. Public utility companies whose income is principally derived from operations within the state must hold their meetings within the state. (Sec. 145)

The only statutory provision is that when all members of a corporation are present in person or by proxy at a meeting and sign a written consent on the record thereof, such meeting is legal. (Sec. 101)

(Maine)

Emergency by-laws

SHAREHOLDERS

Meetings; where held

Waiver of notice

NEW LAW

The board of directors of any corporation may adopt emergency by-laws, subject to repeal or change by action of the shareholders, which shall, notwithstanding any different provision elsewhere in the Maine Business Corporation Act or in the articles of incorporation or by-laws, be operative during any emergency in the conduct of the business of the corporation resulting from an attack on the continental United States or any nuclear or atomic disaster. The emergency by-laws may make any provision that may be practical and necessary for the circumstances of the emergency. (Sec. 602)

The articles of incorporation may provide that meetings may be held outside this State, either generally or at specified places outside this State; in the absence of any such provision in the articles, all meetings of the shareholders shall be held within this State. (Sec. 603)

Notice of a meeting of shareholders need not be given to any shareholder who signs a waiver of notice, in person or by proxy, either before or after the meeting. Unless required by the by-laws, neither the business transacted nor the purpose of the meeting need be specified in the waiver. Such signed waiver of notice shall also constitute a waiver of formal call of the meeting. (Sec. 605)

OLD LAW

-17-

NEW LAW

Quorum

The number of stockholders that constitute a quorum may be fixed by the by-laws (Sec. 145) and may be any amount.

Unless otherwise provided in the by-laws, a majority of the shares entitled to vote thereat shall constitute a quorum at a meeting of shareholders; when a specified item of business is required to be voted on by a class or classes, a majority of the shares of each such class or classes shall constitute a quorum for the transaction of such items of business. (Sec. 608)

Greater voting requirements

No statutory provision.

The articles or by-laws may require a vote greater than a majority, may require a unanimous vote, and may specify that the stipulated percentage shall be determined with reference to the total shares entitled to vote, either as to specific issues or as to all issues which may come before the shareholders. (Sec. 611)

Action by written consent without a meeting

No statutory provision.

Any action required or permitted under the Maine Business Corporation Act to be taken at a meeting of the shareholders may be taken without a meeting if written consents, setting forth the action so taken, are signed by the holders of all outstanding shares entitled to vote on such action and are filed with the clerk of the corporation as part of the corporate records. Such written consents shall have the same effect as a unanimous vote of the shareholders and may be stated as such in any certificate or document required or permitted to be filed with the Secretary of State, and in any certificate or document prepared or certified by any officer of the corporation for any purpose. (Sec. 620)

OLD LAW

-18-

NEW LAW

Closing of transfer books or fixing record date

The by-laws may provide the date as of which stockholders shall be entitled to vote at any meeting or to receive dividends or rights and whether or not stock transfer books shall be closed. (Sec. 145)

For the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment thereof, or entitled to receive payment of a dividend or other distribution, or in order to make a determination of shareholders for any other proper purpose, the board of directors may, in accordance with the by-laws or by resolution in the absence of an applicable by-law, fix in advance a record date for any such determination of shareholders. If the by-laws so provide, the directors may, in lieu of fixing a record date, close the stock transfer books for a stated period. Such record date, or such period during which the stock transfer books are closed, shall not in any case be more than 50 days and, in the case of a meeting of shareholders, not less than 10 full days (not less than 3 full days in the case of a close corporation), prior to the date on which the particular action, requiring such determination of shareholders, is to be taken. If no record date is fixed for determination of shareholders entitled to notice of or to vote at a meeting of shareholders, or shareholders entitled to receive payment of a dividend or other distribution, the day next preceding the date on which notice of the meeting is mailed, or the date next preceding the date on which the resolution of the board of directors declaring such dividend is adopted, as the case may be, shall be the record date for determination of shareholders. (Sec. 606)

Proxies; duration

Stockholders may be represented by proxies granted not more than one year before the meeting which shall be named therein. (Sec. 104)

Shareholders may vote by proxy but no proxy shall be valid after 11 months from the date of its execution, unless otherwise expressly and conspicuously provided in the proxy. (Sec. 615)

OLD LAW

-19-

NEW LAW

Shareholders' agreement

No statutory provision.

An agreement between 2 or more shareholders, if in writing and signed by the parties thereto, may provide that in exercising any voting rights of shares held by the parties, including any vote with respect to directors, such shares shall be voted as provided by the agreement, or as the parties may agree, or as determined in accordance with a procedure agreed upon by the parties including, without limitation, an arbitration procedure. When such an agreement specifies how the shares shall be voted, or provides a clear formula for ascertaining how the shares shall be voted, in case of a breach or anticipatory breach thereof by one or more parties thereto, the agreement shall, unless it specifically provides otherwise, be deemed to constitute an irrevocable proxy to the parties not in breach to vote all shares subject to the agreement in accordance with the terms of the agreement. (Sec. 617)

Voting trust

No statutory provision.

Any shareholder or shareholders may create a voting trust, revocable or irrevocable, for the purpose of conferring upon a trustee or trustees the right to vote or otherwise represent their shares, for a period not exceeding 21 years, by executing a written agreement specifying the terms and conditions of the voting trust, and by transferring the shares to such trustee or trustees for the purposes stated in the agreement. The certificates or shares so transferred may either be surrendered by the trustee to the corporation which shall thereupon cancel the shares and issue new certificates therefor to the trustee or trustees stating that they are issued under the voting trust agreement, or in lieu thereof, such certificates or shares may be retained by the trustee. In either case, the corporation shall specifically enter into its records the fact that such shares are subject

Voting trust - Cont'd

to the voting trust agreement, and trust certificates shall be issued by the trustees to the shareholders who transfer their shares in trust. One fully conformed copy of the voting trust agreement, including any amendments to or changes in the agreement, shall be deposited by the trustee at the corporation's registered office, and shall be subject to the same examination by a shareholder of the corporation as are the books and records of the corporation, and shall be subject to examination by any holder of a voting trust certificate, in person or by attorney or other agent, during normal business hours; another such copy shall be retained by the trustee at his business office, and shall be subject to examination by any holder of a voting trust certificate, in person or by attorney or other agent, during normal business hours. The holder of a voting trust certificate shall be considered to be a shareholder of the shares represented by his trust certificate with respect to his right to inspect corporate books and records. (Sec. 619)

Liabilities other than for unpaid stock subscriptions

No stockholder in a business corporation shall be liable for the corporate debts, etc. beyond any amounts withdrawn or not paid in. (Sec. 453) All sums received for dividends unlawfully paid may be recovered by any corporate creditor. (Sec. 378)

A holder of or subscriber to shares of a corporation shall be under no obligation to the corporation or its creditors with respect to such shares other than the obligation to pay to the corporation the full consideration for which such shares were issued or to be issued. (Sec. 509) Any shareholder who receives any distribution or payment from a corporation, whether by dividend, purchase or redemption of shares, by distribution in liquidation or reduction of capital, or otherwise, either at a time when the corporation is or will thereby be rendered insolvent, or when the shareholder knows or has reason to know that such distribution or payment is otherwise contrary to this Act or to the articles of incorporation, shall be liable for

Liabilities other than for unpaid stock subscriptions - Cont'd

the amount of such payment or value of such distribution which is in excess of the amount of value which could have been paid or distributed without violation of this Act or of the articles. Such liability shall inure to and may be enforced by the corporation or by any shareholder suing derivatively on behalf of the corporation, and by a receiver, liquidator or trustee in bankruptcy of the corporation. (Sec. 624)

DIRECTORS

Number and qualifications

Not less than three. (Secs. 72 and 371) May be changed by amendment of certificate of organization. Directors need not be stockholders, if the charter or by-laws so provide. (Sec. 371) Not required to be residents.

Not less than three, except that if all shares of a corporation are owned beneficially and of record by fewer than three shareholders, the number of directors may be less than three but not less than the number of shareholders. (Sec. 703) Unless the articles of incorporation or the by-laws so require, the directors need not be residents of Maine nor shareholders of the corporation. The articles of incorporation or the by-laws may prescribe other qualifications for directors. (Sec. 702) The number of directors may be increased or decreased only by: (1) Amendment of the articles of incorporation, or (2) a resolution adopted by the directors, if the articles authorize such a resolution, or (3) a resolution of the shareholders adopted at an annual or special meeting. No decrease in the number of directors shall have the effect of shortening the terms of any incumbent directors. A statement in the articles setting a maximum and a minimum number of directors shall constitute authorization for the directors to adopt resolutions increasing and decreasing the number of directors within the limits so set in the articles. (Sec. 703)

OLD LAW

The by-laws may provide for the division of the directors into classes and their election for a longer term than one year. (Sec. 371)

The by-laws may determine by whom vacancies in the board, however arising, may be filled. (Sec. 145)

Classification

Vacancies

NEW LAW

In lieu of electing the whole number of directors annually, the articles of incorporation may provide that the directors be divided into either 2 or 3 classes, each class to be as nearly equal in number as possible. The term of office of directors of the first class shall expire at the first annual meeting of shareholders after their election, that of the 2nd class shall expire at the 2nd annual meeting after their election, and that of the 3rd class, if any, shall expire at the 3rd annual meeting after their election. At each annual meeting after such classification the number of directors equal to the number of the class whose term expires at the time of such meeting shall be elected to hold office until the second succeeding annual meeting, if there be 2 classes, or until the 3rd succeeding annual meeting, if there be 3 classes. No classification of directors shall be effective prior to the first annual meeting of shareholders. If a corporation's articles of incorporation provide for cumulative voting for directors, it may not classify its directors as provided above unless: (a) The number of directors is at least six, if there are two classes, or (b) the number of directors is at least nine, if there are three classes; and there are at least three directors elected annually. (Sec. 705)

Any vacancy created by an increase in the number of directors shall be filled only by election at an annual meeting or a special meeting of shareholders called for that purpose, unless the power to fill specific newly created directorships is expressly delegated to the directors by: (1) A resolution of a regular or special meeting of the shareholders entitled to vote for the election of directors, or (2) a bylaw adopted by vote of the shareholders. Unless the articles of incorporation or the by-laws reserve to the shareholders the right to fill vacancies, any other vacancy, however occurring, in the board of directors may be filled

OLD LAW

-23-

NEW LAW

Vacancies - Cont'd

by a majority of the remaining directors, or by a sole remaining director. If a vacancy occurs with respect to a director elected by the votes of a particular class of shares, the vacancy shall be filled by the remaining director or directors elected by that class, or by the shareholders of that class. Any director elected to fill any vacancy shall be elected for the unexpired term of his predecessor.
(Sec. 706)

Removal

No statutory provision.

At a special meeting of shareholders called expressly for that purpose, the entire board of directors or any individual directors may be removed, with or without cause, by a vote of the shareholders as provided in this section. Such removal may be accomplished by the affirmative vote of 2/3 of the outstanding shares entitled to vote for directors, if the corporation does not have a board of directors so classified that different classes of shares elect different directors. If the directors are so classified that different classes of shares elect different directors, a director may be removed only by the affirmative vote of 2/3 of the outstanding shares of that class which elected him. The articles of incorporation may provide that removal, in either of the foregoing cases, may be accomplished by less than a 2/3 vote, but in no case less than a majority vote of those shares voting on the proposed removal. No director who has been elected by cumulative voting may be removed if the votes cast against his removal would be sufficient to elect him if then cumulatively voted at an election of the entire board of directors, or, if there be classes of directors, at an election of the class of directors of which he is a part. (Sec. 707)

OLD LAW

-24-

NEW LAW

Quorum

No statutory provision. By-laws usually prescribe quorum requirements.

A majority of the total number of directors then in office shall constitute a quorum for the transaction of business, unless a greater proportion is required for a quorum by the articles of incorporation or by the by-laws. If at any time there are fewer directors in office than $\frac{1}{2}$ of the number of directors fixed by the by-laws or, in the absence of a by-law fixing the number of directors, of the number stated in the articles of incorporation, the directors then in office may transact no other business than the filling of vacancies on the board of directors, in the manner and to the extent provided in section 706, until sufficient vacancies have been filled so that there are in office at least $\frac{1}{2}$ of the number of directors fixed by the by-laws or the articles. The directors present at a duly called or held meeting at which a quorum was once present may continue to do business at the meeting notwithstanding the withdrawal of enough directors to leave less than a quorum. (Sec. 710)

Action without a meeting

No statutory provision.

Unless otherwise provided by the articles of incorporation or by-laws, any action required by the Maine Business Corporation Act to be taken at a meeting of the directors of a corporation, or any action which may be taken at a meeting of the directors or of a committee of the directors, may be taken without a meeting if all of the directors, or all of the members of the committee, as the case may be, sign written consents setting forth the action taken or to be taken, at any time before or after the intended effective date of such action. Such consents shall be filed with the minutes of directors' meetings or committee meetings, as the case may be, and shall have the same effect as a unanimous vote. (Sec. 711)

OLD LAW

Directors may act through committees whose powers shall be defined in the by-laws. (Sec. 371)

Any director, who votes for or aids in the making of a dividend of profit which reduces capital before all deposits due from the corporation are paid shall be punished by fine and imprisonment. (Sec. 378)

(Maine)

NEW LAW

Committees

If the articles of incorporation or the by-laws so provide, the board of directors, by a resolution adopted by a majority of the full board of directors, may designate from among its members an executive committee and other committees, each consisting of 2 or more directors, and may delegate to such committee or committees all the authority of the board of directors. However, no such committee or committees shall have or exercise the authority of the board of directors to: (a) Amend the articles of incorporation; (b) adopt a plan of merger or consolidation; (c) recommend to the shareholders the sale or other disposition of all or substantially all of the property and assets of the corporation other than in the usual course of its business; (d) recommend to the shareholders a voluntary dissolution of the corporation or revocation of such dissolution; (e) declare corporate distributions other than dividends from earned surplus or from net earnings; or (f) amend the by-laws of the corporation. The designation of any such committee and the delegation to it of authority shall not relieve the board of directors, or any member thereof, of any responsibility imposed by law. (Sec. 713)

Liabilities

Directors, who vote for or assent, are jointly and severally liable to the corporation for: (1) improper declaration of dividends or other distribution of corporate assets; (2) for improper purchase or redemption by the corporation of its own shares; (3) for any improper distribution of corporate assets to shareholders during liquidation. A director who is present at a meeting of the directors or a committee thereof at which action on any corporate matter is authorized or taken, shall be presumed to have assented to the action taken, unless his contrary vote shall be entered in the

Liabilities - Cont'd

minutes of the meeting or unless his written dissent to such action shall be filed either during the meeting or within a reasonable time after the adjournment thereof, with the person acting as secretary of the meeting or with the clerk or the secretary of the corporation. Such right to dissent shall not apply to a director who voted in favor of such action. A director shall not be liable under subdivisions (1), (2) or (3), listed above, if, (a) he relied and acted reasonably and in good faith upon financial statements of the corporation which were either certified in writing by an independent public or certified public accountant or firm of such accountants fairly to reflect the corporation's financial condition, or reported to him to be correct by the president or by the officer of the corporation having charge of its books of accounts; or if (b) he considered reasonably and in good faith that the assets were of their book value, in determining the amount available for any such dividend, purchase, redemption or distribution. A director who is held liable under subdivisions (1), (2) or (3), listed above, and pays a claim asserted against him, shall be entitled to reimbursement from each shareholder who accepted any dividend, distribution of assets or consideration on redemption or repurchase of his shares, knowing such dividend or distribution or consideration to have been made or paid in violation of the Maine Business Corporation Act, to the extent of the amounts received by each of them respectively. Such shareholders as among themselves shall also be entitled to contribution in proportion to the amounts received by them respectively. Any director against whom a claim shall be asserted under or pursuant to any provision of the Maine Business Corporation Act, shall be entitled to contribution from the other directors who voted for or assented to the action upon which the claim is asserted, and in any action against him shall on motion be entitled to have such other directors made parties defendant. (Sec. 720)

OLD LAW

-27-

NEW LAW

Interested directors

No statutory provision.

No contract or transaction between a corporation and one or more of its directors or officers, or between a corporation and any other corporation, partnership, or association, in which one or more of its directors or officers are directors or officers or partners, or have a financial interest, shall be void or voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the board or committee thereof which approves such transaction, or because his vote is counted for such purpose, if: (1) The material facts as to his interest and as to the transaction are disclosed or are known to the board or the committee, and are noted in the minutes and the board or committee authorizes, approves or ratifies the transaction by a vote sufficient for such purpose without counting the vote of the interested director or directors; or (2) The material facts as to his interest and as to the contract or transaction are disclosed or are known to the shareholders and the transaction is specifically approved by vote of such shareholders; or (3) The transaction is fair and equitable as to the corporation at the time it is authorized or approved, and the party asserting the fairness of the transaction establishes fairness. No contract or other transaction by a corporation with any of its subsidiary, parent, or affiliated corporations, or with another corporation in which there is a common director, shall be void or voidable solely for this reason, if the contract or other transaction is fair and equitable as of the date it is authorized, approved or ratified. The party asserting the unfairness of any such contract or transaction shall establish unfairness. Common or interested directors may always be counted in determining the presence of a quorum at a meeting of the board of directors or of a committee which authorizes, approves, or ratifies a transaction. (Sec. 717)

(Maine)

OLD LAW

NEW LAW

Indemnification

Each corporation shall have power to indemnify any director or officer or former director or officer of the corporation, or any person who may have served at its request as a director or officer of another corporation in which it owns shares of capital stock or of which it is a creditor, against expenses actually and reasonably incurred by him in connection with the defense of any action, suit or proceeding in which he is made a party by reason of being or having been such director or officer except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligency or misconduct in the performance of duty to the corporation. Such indemnification shall not be deemed exclusive of any other rights to which such director or officer may be entitled, under any by-law, agreement, vote of shareholders or otherwise. (Sec. 146)

A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the corporation, by reason of the fact that he is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. (Sec. 719(1)) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the corporation or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses, including attorneys' fees, actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the corporation

Indemnification - Cont'd

unless and only to the extent that the Superior Court or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Superior Court or such other court shall deem proper. (Sec. 719(2)) To the extent that a director, officer, employee or agent of a corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Sec. 719(1) and (2), or in defense of any claim, issue or matter therein, he shall be indemnified against expenses including attorneys' fees actually and reasonably incurred by him in connection therewith. (Sec. 719(3)) A corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the corporation would have the power to indemnify him against such liability under the provisions of this section. (Sec. 719(7))

OFFICERS

Corporations shall have a president, directors, clerk, treasurer and any other desirable officers. Such officers shall be chosen annually and shall continue in office until others are chosen and qualified in their stead. There shall not be less than 3 directors, one of whom shall be by them elected president. (Sec. 371)

The officers of a corporation shall consist of a president, a treasurer, a clerk and, if the by-laws so provide, one or more vice-presidents. The officers shall be elected by the board of directors or, if the articles of incorporation expressly provide, by the shareholders, and shall hold their offices until their successors are chosen and have qualified, or until their

OLD LAW

-30-

NEW LAW

OFFICERS - Cont'd

earlier resignation or removal from office. Any two or more offices may be held by the same person. Such other officers and assistant officers and agents as may be deemed necessary may be elected or appointed by the board of directors or chosen in such other manner as may be prescribed in the by-laws. (Sec. 714)

BOOKS AND RECORDS

Where kept

Records of all stockholders meetings shall be kept at the clerk's office within the state. The corporation shall file with the clerk, at least once a year on the date set for holding the annual meeting, and at each special meeting, a record showing the true and complete list of all stockholders, their residences, and amount of stock held by each. The foregoing as to list of stockholders shall not apply to any corporation having a treasurer's office at some fixed place in the state where a stockbook is kept which includes the names, residences and amount of stock of each stockholder. (Sec. 373)

Each corporation shall keep at its principal place of business or at the office of its clerk or of its transfer agent or registrar, a record of its shareholders, giving the name and address of each shareholder, and the number and class of the shares held by each. If the original record of its shareholders is maintained outside this State, the corporation shall maintain at one of the foregoing offices within this State a list of shareholders containing the required information. If the corporation maintains its stockholder records by means of electronic data processing equipment it may, at its option, in lieu of keeping the foregoing record or list in Maine, keep at the places mentioned in the State a written undertaking of its president and secretary to produce at those places a current list of shareholders containing the information required above, within 5 working days after demand therefor by any proper person. (Sec. 625)

(Maine)

OLD LAW

NEW LAW

Inspection

Such records and list of stockholders shall be open at all reasonable hours to the inspection of any person who is and shall have been a stockholder of record in such corporation for at least 6 months immediately preceding his demand, or who is the actual owner, free from encumbrance, of 5% of all the outstanding shares of the corporation. Such person may make copies and minutes therefrom for any proper purpose. (Sec. 373)

The following persons shall have the right to inspect during normal business hours, for any proper purpose, the corporation's books and records of account, minutes of meetings, and list or record of shareholders, and to copy them or make extracts therefrom: (a) Any person who shall have been a holder of record of shares of any class, or of voting certificates representing such shares, for at least 6 months immediately preceding his demand for inspection; or (b) any person who shall be the holder of record of, or any persons whose aggregate holdings of record shall equal, at least 10% of the outstanding shares of any class regardless of when they were acquired; or (c) any person or persons who hold voting trust certificates representing shares aggregating at least 10% of the outstanding shares of that class; or (d) an attorney, accountant or other agent of any of the foregoing persons. Irrespective of the period of time that a person may have been a shareholder of record or holder of voting trust certificates, and irrespective of the number of shares or voting trust certificates held by him, upon written demand of any shareholder of a corporation which is not a close corporation, the corporation shall mail to him a copy of the most recent balance sheet and profit and loss statement prepared pursuant to the Maine Business Corporation Act. (Sec. 626)

MERGER OR CONSOLIDATION

Mergers authorized

Two or more domestic corporations.
Merger of foreign into domestic corporation.
Merger of domestic into foreign corporation. (Secs. 242 and 245)

Two or more domestic corporations. (Sec. 901)
Merger of foreign into domestic corporation. (Sec. 906)
Merger of domestic into foreign corporation. (Sec. 906)
Merger of subsidiary into parent corporation. (Sec. 904)

OLD LAW

-32-

NEW LAW

Consolidations authorized

Two or more domestic corporations.
Domestic and foreign to form new domestic corporation.
Domestic and foreign to form new foreign corporation.
(Secs. 242 and 245)

Two or more domestic corporations. (Sec. 901)
Domestic and foreign to form new domestic corporation.
(Sec. 906)
Domestic and foreign to form new foreign corporation.
(Sec. 906)

VOLUNTARY DISSOLUTION

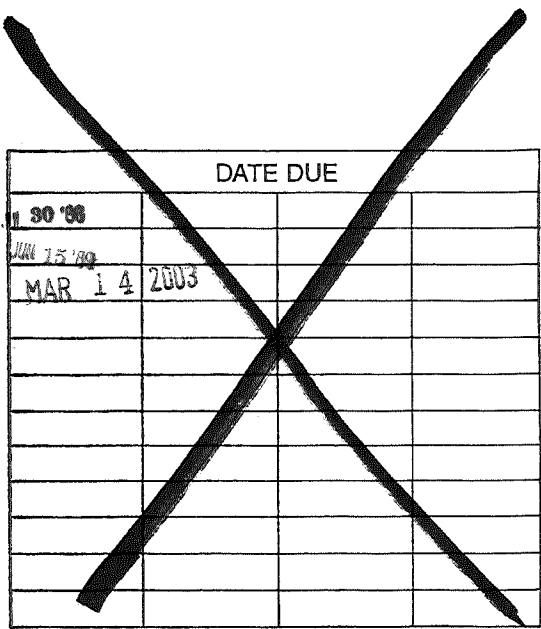
Whenever at any meeting of its stockholders, legally called therefor, the stockholders vote to dissolve such corporation, any officer, stockholder or creditor of the corporation may commence a civil action against the corporation seeking the dissolution thereof. The action shall be brought in the county in which the corporation has an established place of business or in which it held its last stockholders' meeting. Notice of the action shall be given by the clerk of courts to the Attorney General and such notice shall be given to such others as may be ordered by the court. Upon proof that there are no existing liabilities against said corporation and no existing assets thereof requiring distribution among the stockholders, the court may enter judgment dissolving the corporation without the appointment of trustees or receivers. (Sec. 549)

May be authorized: (1) by the incorporators before commencing business and before issuance of any shares (Sec. 1101); (2) by written consent of all its shareholders (Sec. 1102); (3) by resolution recommended by the directors, or by written proposal of shareholders owning at least 20% of all the outstanding shares of the corporation entitled to vote on a proposed dissolution, and authorized by the affirmative vote of the holders of at least two-thirds of the shares, unless any class of shares is entitled to vote as a class thereon, in which event the resolution shall require for its adoption the affirmative vote of the holders of at least two-thirds of the outstanding shares of each class of shares entitled to vote as a class thereon, and of the total outstanding shares. (Sec. 1103) See also "Shareholders - greater voting requirements". A statement of intent to dissolve is required to be filed with the Secretary of State whether dissolution is authorized by written consent of shareholders or by act of the corporation. (Secs. 1102, 1103)

When all debts, liabilities and obligations of the corporation have been paid and discharged or adequate provision made therefore, and all the remaining property and assets of the

.Z99
M222
1971

9/87 p. 32 is last
page of our copy.
Neither Cleaves nor
Law School has
additional pages.



DATE DUE			
NOV 30 '86			
JUN 15 '89			
MAR 14 2003			

LIBRARY USE ONLY

LAW & LEGISLATIVE REFERENCE LIBRARY
KF304 .Z99 M222 1971
Maine
E 5082 00002039 E

