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At the request of Mr. Bateman of Winchester, petition of Charles M. Rogerson relative to foreign corporations acting as fiduciaries in the Commonwealth, was taken from the files of the preceding year. Banks and Banking. Nov. 30, 1926.

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## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Twenty-Seven.

An Act relative to Foreign Corporations acting as Fiduciaries in this Commonwealth.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section one of chapter one hundred and  
2 sixty-seven of the General Laws is hereby amended by  
3 adding thereto the following:—

4 “Foreign fiduciary.” A trust company or a bank  
5 incorporated under the laws of, or a national banking  
6 association doing business in, any state other than this  
7 commonwealth or any territory or the District of Colum-  
8 bia and authorized to act as a domestic fiduciary therein.

9 “Domestic fiduciary.” Any trust company or any  
10 bank incorporated under the laws of, or any national  
11 banking association doing business in, this commonwealth  
12 and authorized to act as a fiduciary in this common-  
13 wealth, so that said section one shall read as follows:—

14 *Section 1.* In this chapter, unless the context otherwise  
15 requires, the following words shall have the following  
16 meanings:—

17 “Bank.” A savings bank, co-operative bank, trust  
18 company, or any person, partnership, association or cor-

19 poration, incorporated or doing a banking business in the  
20 commonwealth, subject to the supervision of the com-  
21 missioner of banks.

22 “Commissioner.” The commissioner of banks.

23 “Foreign fiduciary.” A trust company or a bank in-  
24 corporated under the laws of, or a national banking  
25 association doing business in, any state other than this  
26 commonwealth or any territory or the District of Colum-  
27 bia and authorized to act as a domestic fiduciary therein.

28 “Domestic fiduciary.” Any trust company or any  
29 bank incorporated under the laws of, or any national  
30 banking association doing business in, this commonwealth  
31 and authorized to act as a fiduciary in this common-  
32 wealth.

1 SECTION 2. The first sentence of section thirty-seven  
2 of chapter one hundred and sixty-seven of the General  
3 Laws is hereby amended by striking out the whole of  
4 said sentence and substituting therefor the following:—

5 No foreign banking corporation or association or for-  
6 eign trust company shall transact business in this com-  
7 monwealth except as provided in section forty-eight of  
8 this chapter, until it has received a certificate from the  
9 board of bank incorporation authorizing it so to do.

1 SECTION 3. Chapter one hundred and sixty-seven of  
2 the General Laws is hereby amended by adding thereto  
3 the following new sections, forty-eight and forty-nine:—

4 *Section 48.* Any foreign fiduciary may act in this  
5 commonwealth in the following fiduciary capacities upon  
6 the following terms and conditions:—

7 (a) As executor or trustee under the will of any person  
8 whether or not an inhabitant of this commonwealth.

9 (b) As administrator of the estate, administrator with  
10 the will annexed or administrator with the will annexed  
11 of the estate not already administered of any person not  
12 an inhabitant of this commonwealth.

13 (c) As guardian or conservator of the property of any  
14 person not an inhabitant of this commonwealth.

15 (d) As trustee under any deed or other written instru-  
16 ment of any person or corporation whether or not a  
17 resident of or incorporated under the laws of this  
18 commonwealth.

19 (e) Any foreign fiduciary may act in any of the fore-  
20 going capacities under the same circumstances, in the  
21 same manner and subject to the same control by the  
22 court having jurisdiction as a legally qualified individual  
23 with the following exceptions: —

24 (1) No such foreign fiduciary shall be required to give  
25 bond or any surety on a bond if it is exempt therefrom  
26 under the will or other written instrument or would be  
27 so exempt in accordance with the law of the state, terri-  
28 tory or district in which such corporation is organized or  
29 does business, provided that the court making an ap-  
30 pointment hereunder other than that of a trustee may,  
31 upon application of an interested person, require the  
32 corporation so appointed to give such security as the  
33 court may consider proper, and upon failure of such  
34 corporation to give the security required, may revoke  
35 such appointment and remove such corporation.

36 (2) No such foreign fiduciary shall act in any of the  
37 foregoing capacities until it shall have filed with the  
38 register or clerk or other similar officer of any court  
39 which shall have appointed it to act in any of such  
40 capacities proper designation of an agent as provided in  
41 section eight, chapter one hundred and ninety-five.

42 (3) No such foreign fiduciary shall be subject to the  
43 supervision of the commissioner.

44 (f) This section shall authorize such a foreign fiduciary  
45 to act only in that one or more of the foregoing capacities  
46 in which a domestic fiduciary is permitted to act by the  
47 laws of the state, territory or district in which such for-  
48 eign fiduciary is incorporated or does business.

49 (g) The provisions of this section shall not permit any such  
50 foreign fiduciary to establish or maintain directly or indi-  
51 rectly any branch office or agency in this commonwealth.  
52 No foreign fiduciary shall in any way in this common-  
53 wealth solicit directly or indirectly any business in this  
54 commonwealth in any of the foregoing capacities. Any  
55 foreign fiduciary which violates the provisions of this  
56 clause shall not thereafter be appointed to any of such  
57 capacities.

58 (h) This act shall not affect the validity of any mort-  
59 gage heretofore given to secure an issue of bonds and  
60 such mortgage shall be enforceable in accordance with the  
61 laws of this commonwealth against any property covered  
62 thereby within this commonwealth.

63 *Section 49.* The provisions of sections thirty-seven to  
64 forty, inclusive, shall not apply to a foreign fiduciary  
65 acting as a fiduciary in accordance with the provisions of  
66 section forty-eight, nor shall any excise, duty, fee or other  
67 tax be laid upon such foreign fiduciary for the reason  
68 that it acts as a fiduciary in accordance with the provi-  
69 sions of section forty-eight, provided that the property  
70 held by any such foreign fiduciary in a fiduciary capacity  
71 shall be taxed in the same manner and to the same extent  
72 as if such property were held by a legally qualified  
73 individual.