

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TENTH LEGISLATURE
4

5 **Legislative Document**

No. 1928

7
8 S. P. 825 In Senate, February 4, 1982
Approved for introduction by the Legislative Council pursuant to
Joint Rule 26.

9 Referred to the Committee on Business Legislation and and or-
dered printed. Sent down for concurrence.

MAY M. ROSS, Secretary of the Senate
Presented by Senator Clark of Cumberland.

10
11 STATE OF MAINE
12

13 IN THE YEAR OF OUR LORD
14 NINETEEN HUNDRED AND EIGHTY-TWO
15

16 **AN ACT to Amend the Banking Code Regarding**
17 **the Investment and Lending Powers of Thrift**
18 **Institutions and Regarding Service**
19 **Corporations.**
20

21 Be it enacted by the People of the State of Maine as follows:

22 **Sec. 1. 9-B MRSA §131, sub-§37, as amended by PL 1981,**
23 **c. 352, §1, is further amended to read:**

24 **37. Service Corporation.** "Service Corporation" means
25 a corporation substantially all the activities of which con-
26 sist of originating, purchasing, selling and servicing loans
27 and participation interests therein; or clerical, bookkeep-
28 ing, accounting and statistical or similar functions related
29 to a financial institution or real estate activities; or
30 management, personnel, marketing or investment counseling

1 related to a financial institution or real estate activi-
2 ties; or establishing or operating one or more satellite
3 facilities or any activity authorized by the superintendent
4 by regulation which activity has been authorized under fed-
5 eral law for service corporations owned or controlled by
6 federally-chartered savings and loan associations or,
7 federally-chartered savings banks. The purpose of authoriz-
8 ing any such activity is to maintain competitive equality
9 between federally and state chartered institutions.

10 Sec. 2. 9-B MRSA §535, sub-§1, first sentence, as
11 amended by PL 1977, c. 152, §5-A, is further amended to
12 read:

13 A savings bank may purchase a participation interest in any
14 loan, other than a real estate mortgage loan, originated by
15 a commercial bank authorized to do business in this State,
16 subject to the restrictions set forth in subsections 2 and
17 3.

18 Sec. 3. 9-B MRSA §537, sub-§2, as enacted by PL 1975,
19 c. 500, §1, is amended to read:

20 2. Change in loan limitations. The superintendent may
21 by regulation adjust the percentage limitations contained in
22 sections 534, 535 and , 536 and 538, subsection 5; provided
23 that at no time shall may the total loans outstanding under
24 sections 534, 535 and , 536 and 538, subsection 5 exceed 30%
25 50% of the deposits of a savings bank.

26 Sec. 4. 9-B MRSA §538, sub-§5 is enacted to read:

27 5. Commercial loans. Commercial loans to an amount
28 within the discretion of the board of directors provided
29 that the aggregate amount of the loans shall not exceed 10%
30 of the deposits of the bank.

31 Sec. 5. 9-B MRSA §542, sub-§1, as amended by PL 1979,
32 c. 663, §45, is further amended to read:

33 1. Limitations. In addition to real estate owned for
34 offices and facilities pursuant to section 337, a savings
35 bank may invest in or otherwise hold real estate located
36 anywhere within the State the book value of which acquire
37 real estate or interests in real estate which is located
38 within the State by mortgage foreclosure, purchase or by any
39 other means, and may hold the same for investment purposes
40 and may improve, develop, lease, contract, convey and other-
41 wise deal with the same, so long as the book value of the
42 real estate, together with real estate invested in pursuant

1 to section 337, shall not exceed 60% of its total capital
2 and reserves in the case of a bank organized pursuant to
3 chapter 31, or 60% of its surplus account in a bank organ-
4 ized pursuant to chapter 32; provided that the superinten-
5 dent may approve in writing an additional percentage. The
6 percentage limitations in this subsection are cumulative to
7 the percentage limitations in section 445, subsection 2.

8 **Sec. 6. 9-B MRSA §554, sub-§2, as amended by PL 1975,**
9 **c. 666, §24, is further amended to read:**

10 **2. Limitations.** An institution shall not acquire or
11 hold stock and obligations described in subsection 1 both by
12 way of investment and as security for loans in excess of 10%
13 30% of its deposits; nor shall it acquire or hold stock and
14 obligations of any one bank or holding company not operating
15 in this State in excess of 1% 5% of its deposits; nor shall
16 it acquire or hold such stock in excess of 10% of the capi-
17 tal stock of any one bank or holding company; provided, how-
18 ever, that nothing in this section shall be construed to
19 prohibit the acquisition or holding of shares pursuant to
20 chapters 35 and 101.

21 **Sec. 7. 9-B MRSA §556, as enacted by PL 1975, c. 500,**
22 **§1, is amended by adding at the end the following new sen-**
23 **tence:**

24 This section does not limit the authority of savings banks
25 and savings and loan associations to invest in securities
26 specifically regulated by this chapter, rather, this section
27 gives additional authority to invest 10% in any type of prudent
28 security.

29 **Sec. 8. 9-B MRSA §735, sub-§1, as enacted by PL 1975,**
30 **c. 500, §1, is amended to read:**

31 **1. Authorization.** A savings and loan association may
32 purchase a participation interest in any loan ~~originated by~~
33 ~~a commercial bank authorized to do business in this State,~~
34 subject to the restrictions set forth in subsections 2 and
35 3.

36 **Sec. 9. 9-B MRSA §737, sub-§2, as enacted by PL 1975,**
37 **c. 500, §1, is amended to read:**

38 **2. Change in loan limitations.** The superintendent may
39 by regulation adjust the percentage limitations contained in
40 sections 734, 735 and , 736 and 738, subsection 4; provided
41 that at no time shall ~~may~~ the total loans outstanding under
42 sections 734, 735 and , 736 and 738, subsection 4 exceed

1 30% 50% of the deposits of a savings and loan association.

2 **Sec. 10. 9-B MRSA §738, sub-§4 is enacted to read:**

3 4. Commercial loans. Commercial loans to an amount
4 within the discretion of the board of directors provided
5 that the aggregate amount does not exceed 10% of the depos-
6 its of the bank.

7 **Sec. 11. 9-B MRSA §742, as enacted by PL 1975, c. 500,**
8 **§1, is repealed and the following enacted in its place:**

9 §742 Real estate other than for offices

10 Savings and loan associations may hereafter own real
11 estate other than for offices in accordance with section
12 542.

13 STATEMENT OF FACT

14 The purpose of this bill is to assure competitive
15 equality between federally and state-chartered institutions
16 by authorizing the superintendent to allow state insti-
17 tutions to engage in activities which have been authorized
18 under federal law for service corporations.

19 The bill allows savings banks to participate in any
20 loan regardless of origination.

21 The bill increases the aggregate level of loans to
22 allow for the new lending authority described in section 4
23 of the bill.

24 The bill gives savings banks the authority to make com-
25 mercial loans not to exceed 10% of deposits.

26 The bill amends the Banking Code by increasing the per-
27 centage of deposits a savings bank or a savings and loan
28 association could invest in out-of-state banks from 1% to 5%
29 of its deposits. This change is necessary to give these
30 banks needed flexibility. Deposit amounts may change sig-
31 nificantly within 24 hours placing banks in inadvertent
32 violation. This change gives the banks flexibility but
33 limits the amount of funds concentrated in any one out-
34 of-state bank. Also, under the prudent man rule, these
35 banks are authorized to invest up to 10% in foreign banks.
36 Investment in insured out-of-state banks is an equally sound
37 investment. The bill also increases the amount of stock or

1 obligations a bank may acquire or hold from 10% to 30%. This
2 gives banks the ability to decide the most prudent or favor-
3 able mix of securities and other investments.

4 The bill amends the Banking Code by making it clear
5 that the authority to make "prudent man" investments are in
6 addition to the investment authority given in other sec-
7 tions. Under section 556 of the bill, the banking superin-
8 tendent has limited the prudent man investments by not
9 allowing that 10% investment to be made in other securities
10 specifically regulated. For example, if a bank invested 10%
11 of its deposits in the preferred stock of utilities specifi-
12 cally authorized under the superintendent's interpretation,
13 the bank could not invest an additional 10% under the pru-
14 dent man section regardless of how safe, prudent or produc-
15 tive that investment would be. This bill allows these banks
16 to invest 10% of its deposits in any security even those
17 specifically regulated.

18 The bill amends the investment and lending powers of
19 savings and loan associations to be consistent with the
20 powers given to the savings banks mentioned in this bill.

21 The bill gives savings banks expanded powers to deal
22 with and own real estate and clarifies that certain percent-
23 age limitations are cumulative and not limiting. The bill
24 also gives these expanded powers to savings and loan associ-
25 ations.

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