

# MAINE STATE LEGISLATURE

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N I N E T Y - S E V E N T H   L E G I S L A T U R E

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**Legislative Document**

**No. 1064**

S. P. 368

In Senate, March 1, 1955.

Referred to Committee on Judiciary. Sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary.

Presented by Senator Martin of Kennebec.

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**STATE OF MAINE**

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-FIVE

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**AN ACT to Revise the Laws Relating to Loan and Building Associations.**

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

**Sec. 1. R. S., c. 59, § 173, amended.** Section 173 of chapter 59 of the revised statutes is hereby amended by adding the following paragraph:

‘Any interest in real property capable of being transferred may be mortgaged to secure existing debts or obligations, to secure debts or obligations created simultaneously with the execution of the mortgage, to secure future advances necessary to protect the security and to secure future advances to be made at the option of the parties up to a total amount stated in the mortgage, and all such debts, obligations, and future advances shall, from the time the mortgage is filed for record as provided by law, be secured by such mortgage equally with, and have the same priority over the rights of all persons who subsequent to the recording of such mortgage acquire any rights in or liens upon the mortgaged real estate, as the debts and obligations secured thereby at the time of the filing of the mortgage for record; except that:

I. The mortgagor or his successor in title is hereby authorized to file for record, and the same shall be recorded in the same recording office as the original mortgage, notice limiting the amount of optional future advances secured by such mortgage to not less than the amount actually advanced at the time of such filing, provided a copy of such filing is also filed with the mortgagee, and

II. If any optional future advance shall be made by the mortgagee to the mortgagor or his successor in title after written notice is received by the mort-

gagee of any mortgage, lien or claim against such real property which is junior to such mortgage, then the amount of such advance shall be junior to such mortgage, lien or claim of which such written notice was given.'

**Sec. 2. R. S., c. 59, § 177, amended.** Section 177 of chapter 59 of the revised statutes is hereby amended by adding the following paragraph:

'If any depositor shall die, leaving in an association an account on which the balance due him shall not exceed \$500, and no executor of his will or administrator of his estate shall be appointed, the association may pay the balance of his or her account to the surviving spouse, next of kin, funeral director or other preferred creditor or creditors who may appear to be entitled thereto. For any payment so made the association shall not be held liable to the decedent's executor or administrator thereafter appointed, unless the payment shall have been made within 6 months after the decedent's death and an action to recover the amount shall have been commenced within one year after the date of the payment.'

**Sec. 3. R. S., c. 59, § 179, amended.** The fifth sentence of section 179 of chapter 59 of the revised statutes is hereby amended to read as follows:

'At each periodical distribution of profits, before declaring dividends, the directors shall reserve as a guaranty fund a sum not less than 3% ~~not more than 10%~~ of the net income accruing since the last adjustment, until such fund amounts to 5% of the capital dues including advance payments, and all other classes of shares issued by such association, which fund shall thereafter be maintained and held, and said fund shall be at all times available to meet losses in the business of the association from depreciation in its securities or otherwise.'

**Sec. 4. R. S., c. 59, § 180, amended.** Section 180 of chapter 59 of the revised statutes is hereby amended by adding the following paragraph:

'An association may open and conduct branches in the city or town where its main business is located and in other cities or towns in the county of its location, or the adjoining counties; provided that before opening a branch in any other city or town, it shall have received a warrant to do so from the Bank Commissioner, who shall issue such warrant only when satisfied that public convenience and advantage will be promoted by the establishment of such a branch. He may require such notice on an application for a branch as he deems proper. If granted, the Commissioner shall issue his warrant in duplicate, one copy to be delivered to the association and the other to the Secretary of State for record. Within 10 days after opening a branch, the association shall file with the Commissioner a certificate thereof signed by its president and treasurer. The right to open a branch shall lapse at the end of one year from the date of filing the Commissioner's warrant with the Secretary of State, unless it shall have been opened and business actually begun in good faith. An application for permission to open a branch shall not be acted upon until the petitioning association shall have paid to the Treasurer of State the sum of \$50 for the benefit of the State, to be credited and used as provided in section 102. Any such branch may be closed or discontinued with the consent of the Commissioner, after such notice and hearing, if any, as in his judgment the public interest may require.'

**Sec. 5. R. S., c. 59, § 181, repealed and replaced.** Section 181 of chapter 59 of the revised statutes is hereby repealed and the following enacted in place thereof:

**‘Sec. 181. Audit.** The directors of each association shall annually employ an auditor or auditors, who may be either an independent public accountant or accountants, or an elected or appointed official of the association, who shall be solely responsible to the directors.

Said auditor or auditors shall examine and analyse the books, accounts, notes, mortgages, securities and operating systems of the association, at such times and in such manner as in their judgment is necessary and appropriate, or as the directors may direct, for the protection of depositors and the efficient operation of the association, and shall make written report of the condition of the bank to the president, for the board, at such time, in such manner, and to such extent as the board may require, or as said auditor or auditors may deem necessary or proper, but at least once each year.

The Bank Commissioner, in the course of his regular official examination of the association shall, and at such other times as he deems advisable, may, investigate the work of such auditor or auditors to determine its adequacy for the purposes above set forth, and in case he deems it inadequate he shall forthwith report his findings, with recommendations, in writing to the directors, who shall, within 30 days thereafter, give full consideration to such findings and recommendations, and take such steps relative thereto as in their judgment the situation requires.

Such audit may include a verification of accounts of depositors, which, if deemed adequate by the Commissioner, shall relieve him from all responsibility for such verification imposed upon him by section 182 of chapter 59 of the revised statutes, so far as applicable to said association; and shall relieve said association of the expense of such verification by the Banking Department which might otherwise have been assessed against it under the provisions of section 2 of said chapter 59.

In lieu of the employment, election or appointment of an auditor or auditors in the manner hereinbefore provided, the association may enter into an arrangement with the Bank Commissioner, approved by the trustees by duly recorded vote, and by the Commissioner in writing, under which the auditing function may be assumed and discharged by the Bank Commissioner, who, unless otherwise stipulated in the agreement, shall have sole responsibility for its supervision and operation. The expense of such audit shall be chargeable to and paid by the association. Such arrangement may be terminated by either party on at least 30 days notice in writing.

Whenever the directors of an association shall have provided for such audit by either of the methods above prescribed, and, in the cases of the employment, election or appointments of an auditor or auditors by them, shall have taken such action to remedy conditions as may reasonably be deemed necessary in the light of information disclosed by any report of said auditor or auditors, and shall have complied with all reasonable recommendations of the Commissioner relative thereto within the time hereinbefore prescribed, they shall not be per-

sonally liable for any loss suffered by such association, due to any subsequent wrongdoing by any officer or employee of the association, in the absence of other facts indicating negligence on the part of said directors.

Sec. 6. R. S., c. 59, § 187, repealed and replaced. Section 187 of chapter 59 of the revised statutes is hereby repealed and the following enacted in place thereof:

‘Sec. 187. Loss of passbook or certificate. If an association receives a notice in writing that a book of deposit or certificate of shares is lost, together with a request that a duplicate book of deposit or certificate be issued, such notice and request being signed by the appropriate person or persons as hereinafter provided, said association at the expiration of a period of 10 days from the receipt of such notice, if the missing book or certificate is not sooner presented, may issue a duplicate book of deposit or certificate to the persons signing said notice and request, and the delivery of such duplicate book or certificate relieves said association from all liability on account of the missing original book of deposit or certificate. Such notice and request shall be signed:

I. If the book or certificate was issued to a single depositor or shareholder, then by him, or by his guardian, conservator, executor or administrator.

II. If the book or certificate was issued to 2 or more depositors, then by all such depositors or shareholders then surviving, or by the last survivor or the executor or administrator of the last survivor of such depositors or shareholders; provided, however, that a guardian or conservator shall sign for any of the foregoing persons respecting whom he has been appointed.’