REVISED STATUTES

OF THE

STATE OF MAINE

1954

1963 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 2

Discard Previous Supplement

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1963

27 to recognizance with sufficient sureties to appear at the next term of the superior court and, in default thereof, shall commit them. (R. S. c. 54, § 38. 1963, c. 402, § 95.)

Effect of amendment.—The 1963 amendment divided the section into two sentences, substituted "this chapter" for "the provisions hereof" at the end of the present first sentence and substituted "Judges of the district court" for "provided that judges of municipal courts and trial justices" at the beginning of what is now the second sentence.

Application of amending act.—See note to § 14.

Chapter 59.

Banks and Banking.

The Bank Commissioner. Deputy.

Sec. 1. Repealed by Public Laws 1961, c. 385, § 2.

The Bank Commissioner. Organization. Powers.

Sec. 1-A. Declaration of policy.—It is declared to be the policy of the state that the business of all financial institutions shall be supervised by the department of banks and banking in a manner to maintain and promote safe and sound financial practices; the strength, stability and efficiency of financial institutions; the security of deposit and share funds; reasonable and orderly competition; and the development and expansion of financial services advantageous to the public welfare. (1961, c. 385, § 1.)

The doctrine of noninterference by a state with the operations of a national bank protects the bank only from such legislation as tends to impair its utility as an instrumentality of the federal government. A national bank is subject to the laws of the state in which it is located in respect of its affairs if such laws do not interfere with the purpose of its creation, tend to impair or destroy its efficiency as a federal agency, conflict with the paramount laws of the United States, or discriminate against such national bank. State Trailer Sales, Inc. v. First Nat. Bank of Pittsfield, 158 Me. 481, 186 A. (2d) 370.

Sec. 1-B. Definitions.—The following words and phrases used in this chapter, unless a different meaning is plainly required by the context, shall have the following meanings:

I. Banking business. "Banking business" means

A. The soliciting, receiving or accepting of money or its equivalent on deposit as a regular business by any person, copartnership, association or corporation whether such deposit is made subject to check or is evidenced by a certificate of deposit, a passbook, a note, a receipt or other writing; provided that nothing herein shall apply to or include money left with an agent, pending investment in real estate or securities for or on account of his principal; or

B. The loan of money for profit by a corporation except as a reasonable incident to the transaction of other corporate business or when necessary to prevent corporate funds from being unproductive.

II. Commissioner. "Commissioner" means the bank commissioner.
III. Department. "Department" or "banking department" means the department of banks and banking.
IV. Financial institution. "Financial institution" means a trust company, savings bank, trust and banking company, institution for savings, loan and building association, savings and loan association or industrial bank organized under the laws of this state.
V. Industrial bank. "Industrial bank" means a company organized under section 201 or having the general powers possessed by companies so organized.
VI. Person. "Person" means an individual, corporation, partnership, joint venture, trust, estate or unincorporated association.
VII. Public convenience and advantage. "Public convenience and advantage" means those factors which bear on the public interest in financial institutions which include the financial history and condition of the financial institution, the adequacy of its capital structure, its future earnings prospects, the general character of its management, the convenience and needs of the community it serves or proposes to serve and the effect of the proposed transaction on competition.
VIII. Savings and loan association. "Savings and loan association" or "loan and building association" means a company organized under section 157-B or having the general powers possessed by companies so organized.
IX. Savings bank. "Savings bank" or "savings institution" means a company organized under section 19-B or having the general powers possessed by companies so organized.
X. Trust company. "Trust company" or "trust and banking company" means a company organized under section 90 or having the general powers possessed by companies so organized.
XI. Unsafe and unsound practices. "Unsafe and unsound practices" means those policies, practices, acts or omissions which expose, or tend to expose, the strength and stability of financial institutions or the security of deposit or share funds to substantial injury. (1961, c. 385, § 1; c. 417, § 149.)

Effect of amendment. — The 1961 amendment substituted "section 157-B" for "section 158" in subsection VIII.

Sec. 1-C. Department of banks and banking; bank commissioner and employees.—The activities of the department of banks and banking shall be directed by a bank commissioner, as heretofore appointed, who shall be appointed by the governor, with the advice and consent of the council, and who shall hold his office for 6 years or until his successor is appointed and qualified, and who may be removed from office by the governor and council for cause. No person shall be eligible for said office unless he shall have had at the time of his appointment at least 7 years practical experience in one or more of the following capacities, as an executive officer, director or trustee of a bank or loan and building association doing business in Maine, or as an employee in the banking department of this or some other state, or as an employee of a federal examining authority charged with examining financial institutions. He shall engage in no other business or profession. He shall receive an annual salary to be determined by the governor and confirmed by the council and his actual traveling expenses incurred in the performance of his duties.

The bank commissioner may employ, subject to the personnel law, one or more deputy bank commissioners and as many examiners, assistant examiners and such other employees and clerks as the business of the department may require. The commissioner may employ or engage such expert, professional or other assistance as may be necessary or appropriate to assist the department in carrying out its functions. The commissioner may train his employees or

have them trained in such manner as he deems desirable, at the expense of the department. All employees of the department shall receive their actual expenses incurred in the performance of official duties. A deputy bank commissioner designated by the commissioner shall perform the duties of the commissioner whenever the latter shall be absent from the state, or whenever he shall be directed by the commissioner, or whenever there shall be a vacancy in the office of the commissioner.

During his term of office the commissioner or any employee of the department shall not be an officer, director, trustee, attorney, stockholder or partner in any financial institution or national bank, federal savings and loan association, or federal or state credit union located in this state or receive, directly or indirectly, any payment or gratuity from any such institution or engage in the negotiation of loans for others with any such institution. This provision shall not prohibit being a depositor, or shareholder in the case of state or federal savings and loan associations or credit unions, on the same terms as are available to the public generally or being indebted, provided that such indebtedness is made known in writing to the commissioner and a record of such indebtedness is retained on file in the department so long as such indebtedess is outstanding. (1961, c. 385, § 1.)

Sec. 1-D. Department revenues and expenses.—The expenses of the department necessarily incurred in the examination of financial institutions under its supervision shall be chargeable to such financial institutions. Every financial institution shall be assessed for the actual expenses incurred by the department in connection with any examination, investigation or verification of depositors' books, whether regular or special, such assessments to include the proportionate part of the salaries of the examiners and assistant examiners while engaged at such institutions and the reasonable board, room and hotel expenses of such persons while away from home, but to exclude their transportation expenses. Such assessment shall be made by the bank commissioner within 30 days after the close of such examination, investigation or verification and notice thereof shall forthwith be sent to such institution. All assessments so made shall be paid to the treasurer of the state by such institutions within 30 days following such notice.

To provide for the balance of the expense of the department, including overhead, transportation, and general office and administrative expenses, the bank commissioner shall assess semiannually each savings bank and trust company at the rate of 7c for each $1,000 of average deposits, excluding deposits of other financial institutions, and of the United States government, and shall assess semiannually each loan and building association and industrial bank at the annual rate of 7c for each $1,000 of average total resources as defined by the commissioner. In no event shall the semiannual assessment be less than $10. For the period ending the last day of June in each year the assessment shall be made on or before the first day of August next following and for the period ending the last day of December in each year the assessment shall be made on or before the first day of February next following. The bank commissioner shall forthwith notify said financial institutions of such assessments. The assessments so made shall be paid semiannually to the treasurer of the state within 10 days next following the first days of August and February in each year. The aggregate of payments provided for by this section is appropriated for the use of the banking department. Any balance of said funds shall not lapse but shall be carried forward to be expended for the same purposes in the following fiscal year.

All organizations other than those listed in the preceding paragraph and credit unions subject to examination by the department shall, on or before the first day of January, pay to the treasurer of the state a sum equivalent to $2.50 for each $100,000 or major portion thereof of resources of such organization as

shown by its books to have existed on the first day of December preceding. All payments hereunder shall be added to the aforesaid fund.

Any financial institution which shall fail to make such payments within the time specified shall be subject to a penalty of not more than $25 per day for each day it is in violation of this section, which penalty, together with the amount due under the foregoing provisions of this section, may be recovered in a civil action in the name of the state. (1961, c. 385, § 1.)

Sec. 1-E. Department information and records.—No information derived by or communicated to the bank commissioner or any employee of the department shall be disclosed except to:

I. Certain state officials. The governor, attorney general or treasurer of the state;

II. Advisory committees. The following advisory committees provided that such information so communicated shall be held by each member thereof in strict confidence:

A. An advisory committee to be made up of mutual savings bank executive officials or trustees, or both, chosen by the savings banks association of Maine.

B. An advisory committee made up of state chartered trust company officials or directors, or both, chosen by the Maine bankers association.

C. An advisory committee made up of state chartered savings and loan association officials or directors, or both, chosen by the Maine savings and loan league.

D. An advisory committee made up of state chartered credit union officials or directors, or both, chosen by the Maine credit union league.

E. An advisory committee made up of licensed small loan agency officials or directors or both, chosen by the Maine consumer finance association.

III. Other persons. Such other persons who, in the opinion of the commissioner, require such information to facilitate the general conduct of the supervisory activities of the department.

IV. Statutory provisions. Comply with this chapter relating to disclosure or publication of certain information.

V. Court of law. A court of law and then only with the consent of the commissioner or pursuant to special order of court.

Whoever violates this section shall be punished by a fine of not more than $1,000 or by imprisonment for not more than 6 months, or by both. (1961, c. 385, § 1. 1963, c. 141, § 1.)

Effect of amendment. — The 1963 amendment added paragraph E to subsection II.

Sec. 1-F. Department reports. — The commissioner shall report to the governor biennially beginning as of June 30, 1962, His report shall include the texts of all regulations of the department of general application adopted or altered since his last previous report; a statement of the status and remaining assets and liabilities of all financial institutions in receivership; a summary of all changes occurring since his last previous report by reason of opening of new financial institutions, mergers and conversions; a statement of condition of each financial institution as of the date of the most recent report of condition rendered to the commissioner; such other information as the commissioner believes to be of value. Copies of the biennial reports not previously submitted shall be submitted to the legislature at the opening of the regular session following the publication of the report. (1961, c. 385, § 1.)

Sec. 1-G. Miscellaneous fees collected.—The bank commissioner shall collect the following fees and account for and pay over the same to the treasurer of state forthwith for deposit in the general fund:

I. Foreign corporation. For a license authorizing a foreign banking corporation to conduct its business in this state, and each renewal thereof, $20.
II. Service of process. For receiving service of process against such corporation or against a foreign corporation acting as trustee of a mortgage given by a domestic corporation, $2, which shall be paid by the plaintiff at the time of such service, and shall be recovered by him as a part of his taxable cost, if he prevails in the civil action.
III. Application, dealer in securities. For filing application for registration as a dealer in securities, $50.
IV. Registration, dealer in securities. For registration or renewal of dealers in securities, $50, which shall be returned if registration or renewal is not granted.
V. Copy of dealer's certificate. For certified copy of dealer's certificate, 50c.
VI. Registration, salesman in securities. For registration or renewal of registration of salesman or agent of dealer in securities, $10. (1961, c. 385, § 1.)

Sec. 1-H. Powers of the commissioner.—In addition to other powers conferred by the law, the commissioner shall have the following powers:
I. Rules. To promulgate rules to govern internal organization and procedures, the procedure of administrative hearings and other administrative matters.
II. Examination. To examine each financial institution subject to his supervision whenever and as often as he deems expedient but at least once in every year. He shall have full access to the vaults, books and papers and may make such inquiries as are necessary to ascertain the condition of such institution and its ability to fulfill all engagements and to ascertain whether it has complied with the law and its directors, trustees, officers, employees and agents shall furnish him with statements and full information related to the condition and standing of the institution and all matters pertaining to its business affairs and management.
III. Reports and information. To require of financial institutions subject to his supervision reports and information at such times and in such forms as he deems appropriate to the proper supervision of such institutions.
IV. Regulations. To implement by regulation any provision of law relating to the supervision of financial institutions or to amend or repeal such regulations provided that:
A. Public notice of a hearing to consider the proposed regulations amendment or repeal shall be given at least 30 days prior to the hearing date, concurrent written notice to be given the commissioner's advisory committee designated in section 1-E to represent the affected classification of institution, namely, trust companies, savings banks, savings and loan associations or credit unions.
B. After such notice and hearing, the proposed regulation, amendment or repeal as finally formulated shall be submitted to said advisory committee.
C. Such regulation, amendment or repeal may be issued, and shall become effective on issue, not less than 60 days after submitted to the advisory committee unless said advisory committee disapproves the proposed regulation by majority vote of its entire membership submitted to the commissioner in writing within the 60-day period stating the reasons for its disapproval.
V. Summons. To summon persons and subpoena witnesses, compel their attendance, require the production of evidence, administer oaths and examine any person under oath in connection with any subject related to the supervision and regulation of financial institutions. Any summons or subpoena may

be served by registered mail with return receipt. These powers may be enforced by the superior court.

VI. Participation in public agencies. To authorize, by regulation as provided in subsection IV, financial institutions until 90 days after the close of the next regular session of the legislature to participate in a public agency hereafter created under the laws of this state or of the United States, the purpose of which is to afford advantages or safeguards to financial institutions or to depositors or shareholders and to comply with all requirements and conditions imposed upon such participants; and to engage in any activity in which financial institutions subject to the jurisdiction of the federal government may hereafter be authorized by federal legislation to engage.

VII. Receiver. To apply to one of the justices of the supreme judicial court or of the superior court to appoint a receiver to take possession of the property and effects of a financial institution if he is of the opinion that it is insolvent or that its proceedings are hazardous to the public or to those having funds in its custody. Procedure before the court shall be as directed by statute, except that in the absence of specific provision sections 71 to 77 shall apply.

VIII. Orders. To order:

A. Any person to cease violating any provision of statutes relating to the supervision of financial institutions.

B. Any person to cease violating any lawful regulation issued by the commissioner.

C. Any person subject to his supervision to cease engaging in any unsafe and unsound financial practice.

D. Restriction of the withdrawal of funds from all or one or more financial institutions where, in the opinion of the commissioner, extraordinary circumstances make such restriction appropriate for the protection of depositors, shareholders or the public. (1961, 385, § 1.)

Sec. 1-I. Orders of the commissioner; notice and hearing; review. —Orders issued by the commissioner shall be enforced by the superior court.

Notice and hearing shall be provided in advance of any order issued by the commissioner except when, in the opinion of the commissioner, immediate action is required to protect the public interest or interests of depositors or shareholders. In such cases, immediate action may be taken but the commissioner shall promptly afford a subsequent hearing upon application to rescind the action taken. No person shall be subjected to any civil or criminal liability for any act or omission to act in good faith in reliance upon a subsisting order, regulation or definition of the commissioner notwithstanding a subsequent decision by a court invalidating the order, regulation or definition.

Any person aggrieved and directly affected by an order of the commissioner may appeal to the commissioner's advisory committee representing the person or institution affected within 30 days after the issuance of the order. The committee, on affirmative vote to review by a majority of its entire membership may, in executive session, make such review and investigation as it deems appropriate and the commissioner shall produce such records and testimony requested by the committee. The committee may, after review, on affirmative vote of the majority, preserving the confidential nature of information furnished by the department, render a written advisory opinion to the commissioner and the person or institution affected. Advisory committee members bringing appeals or who are directors, trustees, officers, employees or agents of the appellant shall not participate in the committee's vote to review, review or advisory opinion. The filing of an appeal shall not stay enforcement of an order.

Any person aggrieved and directly affected by an order of the commissioner may appeal to the superior court within 30 days after issuance of the order. The validity of an order may be tested only by such an appeal and may not be

placed in issue in an action to enforce it or in a prosecution for its violation. The filing of an appeal shall not stay enforcement of an order, but the court may order a stay on such terms as it deems proper.

The court may affirm the order of the commissioner, may direct the commissioner to take action unlawfully withheld, or may reverse or modify the order of the commissioner if it was issued pursuant to an unconstitutional statutory provision, was in excess of statutory authority, was issued upon unlawful procedure, or is not supported by substantial evidence in the record. A copy of an advisory opinion, if any, which is related to an appeal to the court shall be furnished to the court by the commissioner and shall be made a part of the record. (1961, c. 385, § 1.)

Sec. 1-J. Prohibited practices.—It shall be unlawful for:

I. Orders. Any person to violate any legal order of the commissioner, served upon him.

II. Unauthorized business. Any person to engage in the business authorized for any financial institution unless he is properly authorized, or to represent that he is acting as such a financial institution, or to use an artificial or corporate name which purports to be or suggests that it is such a financial institution. Financial institutions organized under the laws of the United States are not subject to this provision.

III. Procure loans, etc. An officer, director, trustee, employee, agent or attorney of any financial institution to stipulate for or receive or consent or agree to receive any fee, commission, gift or thing of value, from any person, firm or corporation, for procuring or endeavoring to procure for such person, firm or corporation, or for any other person, firm or corporation, from any such financial institution, any loan or extension or renewal of loan or substitution of security, or the purchase or discount or acceptance of any paper, note, draft, check or bill of exchange by any such financial institution. Nothing contained in this section shall be construed to refer to the expenses of examining titles, drafting conveyances and mortgages and the performance of other purely legal services.

IV. Concealment. An officer, director, trustee, employee or agent of a financial institution to conceal or endeavor to conceal any transaction of the financial institution from any officer, director, trustee or employee of the institution or any official or employee of the banking department to whom it should be properly disclosed.

V. Unlawful acts. An officer, director, trustee, employee or agent of a financial institution to maintain or authorize the maintenance of any account of the financial institution in a manner which, to his knowledge, does not conform to the requirements prescribed by statutes applicable to the supervision of financial institutions or regulations issued thereunder; with intent to deceive, make any false or misleading statement or entry or omit any statement or entry that should be made in any book, account, report or statement of the institutions; obstruct or endeavor to obstruct a lawful examination or investigation of the institution or any of its affairs by an official or employee of the banking department. (1961, c. 385, § 1.)

Sec. 1-K. Criminal sanctions.—Any person responsible for an act or omission expressly declared to be a criminal offense by statutes pertaining to the supervision of financial institutions and for which no other penalty has been provided by statute shall be guilty of a misdemeanor and shall be punished by imprisonment for not more than 11 months or by a fine of not more than $5,000, or by both. If the act or omission was intended to defraud, such person shall be guilty of a felony and shall be punished by a fine of not more than $10,000 or by imprisonment for not more than 5 years, or by both.

An officer, director, trustee, employee or agent of a financial institution shall

be responsible for an act or omission of the institution declared to be a criminal offense against statutes pertaining to the supervision of financial institutions whenever, knowing that such act or omission is unlawful, he participates in authorizing, executing, ratifying or concealing such act, or in authorizing or ratifying such omission, or, having a duty to take the required action, omits to do so. (1961, c. 385, § 1. 1963, c. 35.)

Effect of amendment. — The 1963 amendment inserted "a fine of not more than $10,000 or by" following "punished by" in the second sentence of the first paragraph and deleted "or by a fine of not more than $10,000" near the end of such sentence. It also deleted the former second sentence of the second paragraph and the former third paragraph, providing that a director or trustee should be deemed to participate in any action of which he had knowledge unless he notified the commissioner of his dissent and that it should be no defense that the defendant did not know the facts establishing the criminal character of the act or omission charged if he should reasonably have known such facts.

Sec. 1-L. Banking emergency.—Whenever it shall appear to the governor that the welfare of the state or any section thereof, or the welfare and security of financial institutions under the supervision of the bank commissioner or their depositors or shareholders require, the governor may proclaim that a banking emergency exists and that any such financial institution shall be subject to special regulation as provided until the governor, by like proclamation, declares the period of such emergency to have terminated. The governor may declare such emergency banking holidays as in his judgment may be required.

During the period of any banking emergency declared, the bank commissioner, in addition to all other powers conferred upon him, shall have authority to order one or more financial institutions to restrict all or any part of their business and to limit or postpone for any length of time the payment of any amount or proportion of deposits or shares in any of the departments thereof as he may deem necessary or expedient and may regulate further payments therefrom as to time and amount as the interest of the public or of such financial institutions or depositors or shareholders thereof may require, and any order or orders made by him may be amended, changed, extended or revoked, in whole or in part whenever in his judgment circumstances warrant or require. After the termination of any such banking emergency, any such order may be continued in effect as to any particular financial institution if in the judgment of the commissioner circumstances warrant or require and the governor approves.

The commissioner may by order authorize financial institutions during such emergency and thereafter to receive new deposits or share funds, as the case may be, and such new funds shall be special deposits or shares, as the case may be, and so designated and segregated from all other such deposits or shares and may be invested only in assets approved by the commissioner as being sufficiently liquid to be available when needed to meet withdrawals on new deposits or shares, as the case may be. Such assets shall not be merged with other assets but shall be held in trust for the security and payment of new funds except that income from such assets may to the extent authorized by the commissioner be used for other purposes of the institution. Withdrawal of such new deposits or shares shall not be subject in any respect to restrictions or limitations made applicable to previously existing accounts under this section.

In determining the action to be taken under this section, the bank commission may place such fair value on the assets of any financial institution as in his discretion seems proper under the conditions prevailing and circumstances relating thereto. (1961, c. 385, § 1.)

Sec. 1-M. Deposits and shares exempt from taxation.—All interest-bearing deposits in savings banks, institutions for savings, trust companies and all capital dues of loan and building associations in the state are exempt from

municipal taxation to said institutions and to the depositors of said institutions and to the shareholders of said loan and building association. (1961, c. 385, § 1.)

Sec. 1-N. Transactions during banking holidays.—Chapter 188, section 194, shall apply to all said banking holidays already or hereafter declared by the governor or by the president of the United States of America. (1961, c. 385, § 1.)

Sec. 1-O. Inactive accounts in national banks paid to state.—All moneys in savings and demand accounts in national banks, to which no deposit has been made and from which no part of the deposit or dividends has been withdrawn for a period of more than 22 years shall be deemed presumptively abandoned and shall be paid into the state treasury, and credited to the general fund for the use of the state. Thereafter no action shall be maintained in any court in this state by any depositor or his heirs, successors or assigns for any deposit so paid against any bank making such payments. Thereafter any lawful claimant may petition the governor and council for payment of such moneys to the claimant. In his petition the claimant shall state fully the facts showing the basis of his right, title and interest in such deposit. The governor and council, after a hearing, shall determine who are lawful claimants and shall authorize payment by the treasurer of state from the general fund to such claimants.

This section shall not apply to the deposits of persons known to the cashiers of national banks to be living, or to a deposit the deposit book of which has during the 22-year period been brought into the bank to be compared or to have the dividends added. (1961, c. 385, § 1.)

Sec. 1-P. Investment in, and use of, service facilities.—Any financial institution may purchase the capital stock or obligations or otherwise invest or participate in or utilize the service of any organization performing necessary clearing, bookkeeping, statistical and related services for the institution or other financial institutions, which services would otherwise necessarily be provided on an individual institution basis. Such investments, together with investments in real estate held for banking purposes, shall not exceed limitations prescribed for real estate held for banking purposes.

Any information derived from banking records or sources by personnel of such service organizations shall not be disclosed except in the regular course of business. Whoever violates this paragraph shall be punished by a fine of not more than $1,000 or by imprisonment for not more than 6 months, or by both. (1961, c. 385, § 1. 1963, c. 15.)

Effect of amendment. — The 1963 amendment deleted "operated primarily for the purpose of" formerly following "organization" near the middle of the first sentence.

Secs. 2, 2-A. Repealed by Public Laws 1961, c. 385, § 2.

Editor's note.—Section 2-A of this chapter, relative to department regulations, repealed by P. L. 1961, c. 385, § 2, derived from P. L. 1959, c. 178, § 2.

General Provisions.

Secs. 3-19. Repealed by Public Laws 1961, c. 385, § 2.

Editor's note. — Section 18-A of this chapter, relative to receipt of commissions or gifts for procuring loans, repealed by P. L. 1961, c. 385, § 2, derived from P. L. 1955, c. 117.

Savings Banks.

Sec. 19-A. Definition; use of term "saving", etc., in name or title. —Whenever the words "savings banks" or "savings bank" shall appear they shall

be held to mean also "institutions for savings" or "institution for savings." No person, partnership, association or corporation, bank or trust company, except a mutual savings bank organized under the laws of this state, shall use as a part of its name or title the word or words "saving," "savings" or "savings bank," except that loan and building associations legally organized under the laws of this state may use the name or style "savings and loan association," provided in all written use of the name or style "savings and loan association" a loan and building association shall give equal emphasis to the word "savings" and the word "loan." This restriction shall not apply to any business being conducted under such name or style prior to the 23rd day of April, 1905, nor to any bank or trust company using such word or words prior to the first day of January, 1929. (1955, c. 380, § 1. 1961, c. 385, § 3.)

Effect of amendment.—The 1961 amendment added the second and third sentences to this section.

Sec. 19-B. Organization.—

I. Any number of persons, not less than 20, may associate themselves for the purpose of organizing a savings bank in accordance with the provisions of this chapter. All incorporators shall be residents of the state.

II. Persons so associating themselves shall execute triplicate certificates, to be sent to the bank commissioner, in which shall be set forth:

A. The name of the proposed bank.

B. The proposed location of such bank.

C. The names, residences and occupations of the proposed incorporators.

D. The reasons why such a bank is needed in that location.

III. A notice of intention to organize such savings bank signed by all the corporators, shall be published once a week for 3 consecutive weeks in some newspaper published in the county where said bank is to be located, if any; otherwise, in some newspaper published in an adjoining county. The bank commissioner shall cause such other notice to be given to banks located within the area to be served by such proposed bank as in his judgment may be necessary.

IV. When any such certificate of incorporation, in proper form, shall have been filed, the bank commissioner shall thereupon ascertain, by such investigation as he may deem necessary, with or without a public hearing:

A. Whether the character, responsibility and general fitness of the persons named in such certificate are such as to command the confidence of the community and to warrant belief that the business of the proposed corporation will be honestly and efficiently conducted.

B. That public convenience and advantage will be promoted by the organization of such bank.

C. That such bank has reasonable promise of sufficient volume of deposits for successful operation.

V. After making such determination, the bank commissioner shall, within 60 days after the filing of the certificate of incorporation, endorse upon each certificate, over his official signature, the word "Approved" or "Disapproved" as the case may be, and shall forthwith notify the proposed incorporators. In the case of approval, one of the triplicate certificates shall be filed by the bank commissioner in his own office, another with the secretary of state, and the third shall be returned to the incorporators after they have complied with the provisions of the following section. Such certificate so returned shall constitute the authorization to commence business.

In case of disapproval, the application may be renewed in the manner provided above after a period of not less than one year.

VI. The incorporators shall deposit to the credit of the savings bank in cash, as an initial surplus fund, such sum, not less than $50,000, as the bank commissioner may require. If the population of the town or city in which such bank

is authorized to begin business is in excess of 20,000, the amount of such required surplus shall be not less than $150,000, and if such population is in excess of 30,000, it shall be not less than $200,000. The bank commissioner, in ascertaining the number of inhabitants of such town or city for the purpose of determining the sufficiency of such surplus, may require such proof in addition to the last preceding United States census as he may deem necessary; but no charter, once granted, shall ever be deemed void for any error in computing the population.

Such contributions and such dividends as may be subsequently declared thereon may be returned to the corporators, or their heirs, executors, administrators or assigns, upon the conditions and in the manner hereinafter provided.

VII. Any corporation which shall not commence business within 6 months after the date on which its approved certificate of organization is issued shall forfeit its rights and privileges as a corporation, and its corporate powers shall cease, which fact the commissioner shall certify to the secretary of state, provided that the commissioner may, for satisfactory cause to him shown, extend by order for not more than one year the time within which business may be commenced, such order to be so certified and filed as in the case of the organization certificate. (1955, c. 380, § 1.)

Sec. 19-C. Branch offices.—

I. Branches. No savings bank shall establish or operate a branch or agency until 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 thereby. The commissioner may require such notice on an application for a branch or agency as he deems proper. No savings bank shall be permitted to establish or operate a branch or agency except within the county of its main office or a county adjoining that of its main office. This limitation shall not prevent a savings bank from establishing or operating a branch or agency in any municipality where there is no bank regularly transacting customary banking business or where a unit bank or branch is taken over. If granted, the commissioner shall issue his warrant in duplicate, one copy to be delivered to the bank and the other to the secretary of state for record. Within 10 days after opening a branch or agency, the bank shall file with the commissioner a certificate thereof signed by its president or treasurer. The right to open a branch or agency 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 or agency shall not be acted upon until the petitioning bank shall have paid to the treasurer of state the sum of $200, to be credited and used as provided in section 1-D. This section shall not apply to branches or agencies authorized and in existence on September 16, 1961.

II. Relocation and closing. No branch, agency or main office may be moved to a new location without the prior written consent of the commissioner who shall give such consent if he finds that the proposed move does not create hazardous competitive conditions for existing financial institutions. Any branch or agency may be closed or discontinued with the consent of the commissioner after such public notice, as in his judgment, the public interest may require. (1955, c. 380, § 1. 1961, c. 379, § 1; c. 417, § 150. 1963, c. 162, § 1.)

Effect of amendments. — The first 1961 amendment rewrote this section, dividing the same into subsection I and II. The second 1961 amendment substituted "section 1-D" for "section 4" at the end of the present eighth sentence of subsection I.

The 1963 amendment inserted the present fourth sentence in subsection I.

Sec. 19-C-1. Merger.—Any 2 or more savings banks organized under the laws of this state may consolidate into one savings bank, or any savings bank may

transfer its engagements, funds and property to any other savings bank, under such terms as shall be mutually agreed upon by the trustees of such savings banks when approved by ⅔ of all the corporators of each savings bank, after notice of such intention shall have been sent by mail to each corporator and after such notice shall have been published once a week for 3 successive weeks in one of the newspapers, if any, published in the municipalities where the savings banks' principal offices are located, otherwise in such newspapers as the bank commissioner may order, the last notice published and the notices by mail to be sent at least 7 days prior to the date of the meeting named in the call. Such transfer or consolidation shall not prejudice the right of any creditor of any savings bank to have payment of his debt out of the assets thereof, nor shall any creditor be thereby deprived of, or prejudiced in any right of action then existing against the officers or trustees of said savings bank for any neglect or misconduct. The reorganized savings bank shall be liable for all obligations of the savings banks existing prior to such consolidation, and no consolidation or transfer as provided shall take effect until the terms and conditions have been approved by the bank commissioner, and until a copy of the resolution, certified by a majority of the board of trustees of each savings bank, shall be filed with the commissioner. (1963, c. 162, § 2.)

Sec. 19-D. Powers.—

I. Each savings bank, lawfully organized, shall be subject, except as herein otherwise provided, to the provisions of the laws of Maine regulating corporations in general. The powers, privileges, duties and restrictions conferred and imposed upon any savings bank, by whatever name known, in its charter or act of incorporation, are so far abridged, enlarged or modified, that every such charter or act shall conform to the provisions of this chapter; and every such corporation possesses the powers, rights and privileges, and is subject to the duties, restrictions and liabilities herein conferred and imposed, anything in their respective charters or acts of incorporation to the contrary notwithstanding.

II. Every savings bank, subject to the restrictions and limitations contained in this chapter, shall have the following powers:

A. To have perpetual succession by its corporation name.

B. To sue and to be sued, complain and defend, in any court;

C. To adopt and use a common seal.

D. To make and amend by-laws consistent with law for the management of its property and the conduct of its business. Within 10 days of the adoption of any by-laws or amendments thereto, the clerk shall file with the bank commissioner a copy thereof.

E. To receive and repay deposits, to lend and invest the same in the manner and upon the conditions prescribed in sections 19-A to 19-L, inclusive, to declare dividends in the manner hereinafter prescribed, and to exercise by its board of trustees or duly authorized officers or agents, subject to law, all such powers as are reasonably incidental to the business of a mutual savings bank.

F. To hold real estate in the cities or towns in which such bank or any branches thereof are located, to a total amount not exceeding 5% of its deposits or to an amount not exceeding its reserve fund; but these limitations shall not apply to real estate acquired by the foreclosure of mortgages thereon, or upon judgments for debts or in settlements to secure debts.

G. To borow money within or without the state, when in the judgment of the trustees such action is desirable, subject to such limitations on borrowing as may be prescribed by regulation of the bank commissioner in accordance with procedure provided in this chapter for making regulations.

H. To collect promissory notes or bills of exchange.

I. To deposit on call in banks or banking associations incorporated under the authority of this state, or the laws of the United States, or in any bank of

the federal reserve system located anywhere in the United States; and to deposit, subject to the approval of the bank commissioner, with such banks or banking associations, any securities received as collateral for loans made to any person or corporation without the state.

J. To act as agent for the sale of travelers' checks.

K. To participate with other lending institutions in the making of loans which savings banks can lawfully make under the provisions of this chapter, to service such loans for themselves and other participants, and to agree to the servicing thereof by any other such participating institutions.

L. Any savings bank may, from time to time, issue capital notes or debentures upon such terms and conditions as its trustees may upon a majority vote prescribe, and sell the same to any officer, board, commission, corporation or body created by the federal government, or pledge any such capital notes or debentures as security for any loan or loans of money from any such officer, board, commission, corporation or body, and may, from time to time, extend, refund or renew any such capital notes or debentures; provided that such capital notes or debentures may, in whole or in part or to any degree, be subordinated to claims of the depositors or other creditors of any such savings bank, or be made prior to the claims or interests of depositors in and to the surplus of any such savings bank; provided further, that no such capital notes or debentures shall be so issued, sold or pledged without the approval of the bank commissioner; and provided further, that nothing in this section contained shall be deemed or construed to require the approval by the bank commissioner of the acceptance by any such savings bank of such loans, secured or unsecured, from any such officer, board, commission, corporation or body, or other source, as it may from time to time require in the transaction of its business in the usual course.

M. To provide for, and rent to its depositors and other persons, safe deposit boxes or other receptacles for the safekeeping or storage of personal property, subject to general laws and regulations applicable to safe deposit boxes.

N. To become a member of the federal reserve bank of the district in which such bank is located, to purchase and hold so much of the stock of, and assume and discharge such obligations to, such federal reserve bank as may be necessary for that purpose, and to have and exercise all powers, not in conflict with the laws of this state, which may be required of member banks of that system. Such savings bank and its trustees and officers shall, however, continue to be subject to all liabilities and duties imposed upon them by the laws of this state and the provisions of this chapter relating to savings banks.

O. To assume and discharge such obligations due to the federal deposit insurance corporation as may be necessary or required for the purpose of maintaining deposit insurance in such corporation, without otherwise limiting or impairing in any way the authority conferred upon the bank commissioner under the laws of this state.

P. To become a member of the federal home loan bank and to purchase and hold the stocks, bonds, debentures and other securities of such bank; to comply with any condition of membership therein, and to have and exercise all rights, powers and privileges, not in conflict with the laws of this state, which are or may be conferred upon any member or borrower by the federal home loan bank act and amendments and supplements thereto. Such savings bank and its trustees and officers shall continue to be subject, however, to all liabilities and duties imposed upon them by the laws of this state and all the provisions of this chapter relating to savings banks.

Q. To contribute to community funds, or to charitable, philanthropic, educational or benevolent instrumentalities conducive to public welfare, or civic betterment or the economic advantage of the community, such sums as a majority of the board of trustees may deem expedient.

R. To act as collection agent and to receive and transmit payments made on accounts of quasi-municipal corporations, public utility corporations or nonprofit hospital or medical service corporations, subject to such regulations as the bank commissioner may prescribe. (1955, c. 380, § 1. 1959, c. 5. 1961, c. 179, § 1. 1963, c. 414, § 44.)

Effect of amendments. — The 1959 amendment added paragraph R to subsection II of this section.

The 1961 amendment rewrote paragraph G of subsection II of this section.

The 1963 amendment deleted "of law or equity" at the end of paragraph B of subsection II.

Sec. 19-E. Management.—

I. Corporators.

A. The persons named in the original certificate of organization shall constitute the original board of corporators of a savings bank. Membership on such board shall continue until terminated by death, resignation or disqualification as hereinafter provided.

B. The number of corporators may be fixed or altered by the by-laws of the bank. Vacancies may be filled by election at any annual meeting.

C. No person shall continue to be a member after ceasing to be a resident of the state of Maine. Any member failing to attend the annual meeting of the corporation for 2 successive years ceases to be a member, unless re-elected by vote of the corporation.

D. The corporators shall hold regular annual meetings at a time to be fixed by the by-laws of the bank. At least 7 days notice of such meetings shall be given by public advertisement in some newspaper published within the county where the bank is located, if any; otherwise, in a newspaper published in an adjoining county. Similar notice shall be sent by mail to each corporator at his last known address. Special meetings of the board of corporators may be called at any time by the president, on 7 days notice by mail to each corporator, stating therein the purpose of the meeting. The president shall preside at all meetings of the corporation.

II. Trustees.

A. The management and control of the affairs of a savings bank shall be vested in a board of not less than 5 trustees, to be elected by the board of corporators at each annual meeting. Vacancies occurring during the official year in the membership of the board of trustees may be filled by that board until the next annual meeting of the board of corporators, and shall be immediately filled whenever the number of trustees shall fall below the minimum required by law or by the by-laws of the bank. The persons named as trustees in the original certificate of incorporation shall constitute the first board of trustees.

B. No person shall be a trustee of a savings bank if he is not a resident of this state, or is a trustee, officer or employee of any other savings bank. Not more than 2 of said trustees shall be directors of any one national bank, trust company or other banking institution.

C. Each trustee shall annually take an oath, to be recorded in the records of its meetings, that he will, so far as it devolves upon him, diligently and honestly administer the affairs of the bank, and will not knowingly violate, or willingly permit to be violated, any of the provisions of law applicable to such bank.

D. Trustees shall hold regular meetings at least monthly, at a time fixed by the by-laws of the bank, and shall cause full and complete records of their proceedings to be kept.

A quorum at any meeting shall consist of not less than a majority of the board, but less than a quorum shall have power to adjourn from time to time until the next regular meeting.

E. The trustees shall see to the proper investment of available funds of the

bank in the manner hereinafter prescribed. No loan shall be made directly or indirectly to any trustee, or to any partnership of which he is a member. The trustees, in their discretion, may appoint an investment board to have charge of the loans and investments of the bank, but all doings of such board shall be reported to the trustees at their next regular meeting, and incorporated in the records of such meetings.

F. Provisions for securing continuity of tenure on the board of trustees, or for establishing rotation in office, may be made in the by-laws of the bank, with the written approval of the bank commissioner.

G. Trustees may receive such compensation for services performed by them in their capacity as may be fixed by the corporation at any legal meeting thereof, or as may be fixed by the board of trustees and approved by the bank commissioner in writing.

H. The board of trustees of a savings bank may, from time to time, make and amend by-laws, rules and regulations, not inconsistent with law, for transacting, managing and directing the affairs of a savings bank. A copy of such by-laws, rules and regulations and amendments thereto shall be promptly transmitted by the clerk, upon their adoption, to the bank commissioner.

I. The trustees of each savings bank 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 bank, who shall be solely responsible to the trustees.

Said auditor or auditors shall examine and analyze the books, accounts, notes, mortgages, securities and operating systems of the bank at such times and in such manner as in their judgment is necessary and appropriate, or as the trustees may direct, for the protection of depositors and the efficient operation of the bank, 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 bank 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 trustees, 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 19-L so far as applicable to said savings bank; and shall relieve said bank of the expense of such verification by the banking department which might otherwise have been assessed against it.

In lieu of the employment, election or appointment of an auditor or auditors in the manner hereinbefore provided, the bank 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 bank. Such arrangement may be terminated by either party on at least 30 days notice in writing.

Whenever the trustees of a savings bank shall have provided for such audit by either of the methods above prescribed, and, in the case 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 personally liable for any loss suffered by such bank, due to any subsequent wrongdoing by any officer or employee of the bank, in the absence of other facts indicating negligence on the part of said trustees.

III. Officers.

A. The board of trustees shall annually elect, from their membership or otherwise, a president, one or more vice presidents, clerk, treasurer, one or more assistant treasurers, and such other officers as they may deem advisable, may determine their respective duties and functions when not fixed by law or the by-laws of the bank, and may fix their compensation. All officers shall retain their official responsibilities until their successors are elected and qualified.

Any such officer may be removed by the board whenever in its judgment the best interests of the savings bank will be served thereby, but the removal shall be without prejudice to the contract rights, if any, of the person so removed.

B. The trustees of every savings bank shall require security for the fidelity and faithful performance of duties of its officers, employees and agents in such amount as the trustees shall deem necessary or the bank commissioner may require. Such security shall consist of a bond executed by one or more surety companies authorized to transact business in this state. The bank commissioner may increase such amount from time to time as circumstances may require. The expense of such bond shall be assumed by the bank.

C. No president, treasurer, clerk or employee of any savings bank shall act as agent or representative of any corporation engaged in the business of selling or negotiating any stocks, bonds, mortgages, notes or other securities, nor receive directly or indirectly any fee, commission, bonus, or other compensation for the sale or transfer of any security. No treasurer or assistant treasurer shall, directly or indirectly, engage in any other business or occupation without the consent of the majority of the trustees evidenced by duly recorded resolution. No loan shall be made directly or indirectly to any officer of the corporation or to any partnership of which such officer is a member. No gift, fee, commission or brokerage shall be received by any officer of a savings bank, on account of any transaction to which the bank is a party; provided, however, that nothing herein contained shall be held to prohibit the payment of attorneys' fees for examining titles, drafting conveyances and mortgages, and the performance of other purely legal services. No cashier of a national bank or treasurer of a trust company shall be treasurer of any savings bank.

D. If any office becomes vacant during the year the trustees may immediately fill the same for the period intervening until the next annual meeting.

E. All conveyances, leases, assignments, releases, transfers of stock certificates and registered bonds, and all other written instruments authorized or required by law or vote of the trustees, may be executed by the president or treasurer, or by any other official authorized and empowered by the by-laws of the bank or duly recorded vote of the trustees.

F. The president of the bank shall be president of the board of corporators, and when present shall preside at all meetings of the board. In the absence of a contrary provision in the by-laws, he shall preside, when present, at all meetings of the board of trustees. He shall exercise such other powers and functions as may be required by the by-laws of the bank.

G. The vice president, or if there be more than one the senior available vice president, shall exercise the powers and functions of the president in his

absence, and such other powers and functions as may devolve upon him under the by-laws of the bank or vote of the trustees.

H. The clerk shall record or cause to be recorded the proceedings and actions of all meetings of the corporators and trustees, and give or cause to be given all notices required by law or action of the trustees for which no other provision is made. If no other person is elected to this office, the treasurer, or in his absence the assistant treasurer, or the senior available assistant treasurer if there be more than one, shall be ex officio clerk of the corporation and of the trustees.

Within 30 days after the annual meeting the clerk shall cause to be published in some local newspaper, if any, otherwise in the nearest newspaper, a list of the officers and corporators thereof. He shall also return a copy of such list of officers and corporators to the bank commissioner within said 30 days which shall be kept on file in his office for public inspection. (1955, c. 380, § 1. 1961, c. 385, § 4.)

Effect of amendment.—The 1961 amendment deleted "under the provisions of section 2" formerly appearing at the end of the fourth paragraph of paragraph I of subsection II of this section.

Sec. 19-F. Segregation and location of assets.—

I. All coins, bills, notes, bonds, securities and other evidences of debt, comprising the assets of any savings bank, and all books, accounts and records of such bank shall be at all times kept separate and apart from the assets or property of any other bank, of any corporation, partnership or individual.

II. All securities owned or held by savings banks shall be kept within the state except as provided in paragraphs G and I of subsection II of section 19-D, and except that for greater security and for the purpose of facilitating the sale or exchange of securities, they may be deposited without the state; and the place of their deposit shall be selected with reference to securing their safekeeping. Provided, however, that the approval of the bank commissioner before such deposit for safekeeping is made shall be obtained; and provided further, that said depository shall maintain adequate insurance against loss. (1955, c. 380, § 1.)

Sec. 19-G. Deposits.—

I. General provisions. A bank, savings bank or trust company may receive on deposit, for the use and benefit of depositors, all sums of money offered for that purpose, and may classify and differentiate among deposits on such bases as it may determine. The by-laws of the bank, or the trustees or directors by duly recorded vote, may establish minimum and maximum amounts which may be received. The trustees or directors may refuse any deposit at their pleasure.

II. Notice before withdrawal. A savings bank may at any time, by resolution of its board of trustees, require a written notice by the depositor of not more than 90 days of repaying deposits, or may require a similar notice before repaying deposits in excess of a specified amount, in which event no such deposit shall be due or payable during the required period after the notice shall have been given; and such deposits, if not withdrawn within 15 days after the expiration of the required period after notice, shall not be due and payable under that notice. The bank may, however, receive any deposit or deposits before the expiration of the required period, subject to such regulations as may be imposed by the bank commissioner.

III. Minor's deposits. Money deposited in the name of a minor is his or her property, and the corporation may, in the discretion of the officer making or authorizing the payment, pay the same to such minor or to his or her order or his or her guardian. The receipt of such minor, or his or her guardian, for any such payment is a valid release and shall discharge the bank.

IV. Deposits of trustees. Whenever a deposit is made in trust, the name

and residence of the person for whom it is made, or the purpose for which the trust is created, shall be disclosed in writing to the bank, and the deposit shall be credited to the depositor as trustee for such person or purpose; and if no other notice of the existence and terms of a trust has been given in writing to the corporation, the deposit, with the interest thereon may, in the event of the death of the trustee, be paid to the person for whom such deposit was made, or to his legal representative, or to some trustee appointed by the court for that purpose.

V. Deposits or loan and building shares in 2 or more names.

A. When a deposit has been made or shall hereafter be made in any bank, savings bank or trust company, or shares have been already issued or shall be hereafter issued in any loan and building association transacting business in this state, in the names of 2 or more persons, payable to either, or payable to either or the survivor, such deposit, or any part thereof, or the interest or dividends thereon may be paid to any or either of said persons, whether the other or others be living or not, or to the legal representative of the survivor of said persons, and the receipt or acquittance of the persons to whom said payment is so made shall be a valid and sufficient release and discharge to such bank, savings bank, trust company or loan and building association for any payment so made.

B. All such accounts, whenever opened, or such shares and accounts in loan and building associations whenever issued, payable to either of 2 or more or the survivor, who are husband and wife, parent and child, grandparent and grandchild, or brothers and sisters, up to, but not exceeding an aggregate value of $5,000, including interest and dividends, in the name of the same persons in all banks, savings banks, loan and building associations or trust companies within this state shall, in the absence of fraud or undue influence, upon the death of any such persons, become the sole and absolute property of the survivor or survivors, even though the intention of all or any one of the parties be in whole, or in part, testamentary and through a technical joint tenancy be not in law or fact created. The said amount which so becomes the sole and absolute property of the survivor or survivors pursuant to provisions of this paragraph shall be exclusive of, and in addition to, any amounts to which such survivor or survivors are entitled under common law as contributors to such account or accounts, share or shares.

C-F. Repealed by Public Laws 1963, c. 328, § 2. (1957, c. 39, § 1; c. 413; c. 429, § 51. 1963, c. 328, §§ 1, 2)

VI. Payments of accounts of deceased persons. If any depositor shall die, leaving in a bank, savings bank or trust company a savings or other account on which the balance due him shall not exceed $1,000 and no executor of his will or administrator of his estate shall be appointed, the bank, savings bank or trust company 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 bank, savings bank or trust company 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. (1959, c. 45. 1963, c. 162, § 3)

VII. Loss of pass-book. If a savings bank or trust company receives a notice in writing that a book of deposit in its savings department is lost, together with a request that a duplicate book of deposit be issued, such notice and request being signed by the appropriate person or persons as hereinafter provided, said bank or trust company at the expiration of a period of 10 days from the receipt of such notice, if the missing book is not sooner

presented, may issue a duplicate book of deposit to the persons signing said notice and request, and the delivery of such duplicate book relieves said savings bank or trust company from all liability on account of the missing original book of deposit. Such notice and request shall be signed:

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

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

VIII. Payment of orders. Any bank, savings bank or trust company may pay any order drawn by any person who has funds on deposit in its savings department to meet the same, notwithstanding the death of the drawer in the interval of time between signing such order and its presentation for payment, when said presentation is made within 30 days after the date of such order; and at any subsequent period, provided the corporation has not received actual notice of the death of the drawer.

IX. Inactive accounts. The treasurer of every savings bank shall hereafter on or before the first day of November cause to be published in a newspaper in the place where the bank is located, if any, otherwise in a newspaper published in the nearest place thereto, a statement containing the name, the amount standing to his credit, the last known place of residence or post office address, and the fact of death, if known, of every depositor in said bank who shall not have made a deposit therein or withdrawn therefrom any part of his deposit, or any part of the dividends thereon, for a period of more than 20 years next preceding. This section shall not apply to the deposits of persons known to the treasurer to be living, to a deposit the deposit book of which has during such period been brought into the bank to be verified or to have the dividends added, or to a deposit which with the accumulations thereon shall be less than $50. Such publication, in addition to the above required information, shall state that 2 years after the date of publication, all moneys in such inactive accounts shall be paid into the state treasury. Said treasurer shall also transmit a copy of such statement to the bank commissioner, to be placed on file in his office for public inspection. Any treasurer neglecting to comply with the provisions of this section shall be punished by a fine of $50. Two years after the date of such publication, all moneys in such inactive accounts shall be deemed presumptively abandoned and shall be paid into the state treasury and credited to the general fund for the use of the state, and there shall also be paid into the state treasury, and so credited at the end of 20 years after the last deposit, all deposits, inactive as aforesaid, which with accumulations thereon shall be less than $50. After payment into the state treasury of such deposits, no civil action shall be maintained in any court in this state by any depositor or his heirs, successors or assigns against any bank making such payments. Thereafter any lawful claimants may petition the governor and council for payment of such moneys to the claimants. In his petition the claimant shall state fully the facts showing the basis of his right, title and interest in such deposit. The governor and council, after a hearing, shall determine who are lawful claimants and shall authorize payment by the treasurer of state from the general funds to such claimants. (1955, c. 380, § 1. 1957, c. 39, § 1; c. 413; c. 429, § 51. 1959, c. 45. 1961, c. 179, §§ 2, 3. 1963, c. 162, § 3; c. 328, §§ 1, 2; c. 362, § 10; c. 414, § 45.)

Effect of amendments.—The first 1957 amendment added the words "and shares acquired" in two places in the first sentence of paragraph F of subsection V. The second 1957 amendment, which did not refer to or give effect to the first amendment, inserted provisions pertaining to grandparents and grandchildren

in paragraph F of subsection V. The third 1957 amendment, however, referred to and gave effect to the 1955 and first two 1957 amendments in re-enacting paragraph F of subsection V, as amended, without further change.

The 1959 amendment rewrote subsection VI of this section, which formerly applied only to savings banks and savings accounts.

The 1961 amendment added the language following "purpose" at the end of the first sentence of subsection I of this section, divided the first sentence of subsection IX in two sentences and substituted "$50" for "$10" at the end thereof. It also substituted "$50" for "$10" at the end of the fifth sentence of such subsection.

The first 1963 amendment substituted "$1,000" for "$500" near the middle of the first sentence of subsection VI. The second 1963 amendment, effective January 1, 1964, rewrote paragraph B of subsection V, which formally related to accounts opened on or after August 1, 1929, not exceeding $3,000, and deleted former paragraphs C, D, E and F of that subsection. The third 1963 amendment, effective December 31, 1964, inserted "in its savings department" following "on deposit" near the beginning of subsection VIII. The fourth 1963 amendment divided the seventh sentence of subsection IX into two sentences and substituted "civil action" for "action at law, or in equity" in the present seventh sentence.

Editor's note.—Chapter 328, P. L. 1963, effective January 1, 1964, and amending this section, provides in § 3 thereof that the laws in effect prior to January 1, 1964, shall remain in full force and effect with respect to all property passing from persons who die before January 1, 1964.

Effective date.—P. L. 1957, c. 429, became effective on its approval, October 31, 1957.

Sec. 19-H. Loans.—Savings banks may hereafter invest their funds in loans to individuals, partnerships and corporations, on the following terms and conditions:

I. Mortgage loans.

A savings bank may make loans to individuals or corporations, to be secured by a first mortgage of real estate located in any of the New England states, upon the following conditions and within the following limitations, viz:

A. In an amount not exceeding 66⅔% of its appraisal of the market value of such real estate.

B. In an amount not exceeding 75% of its appraisal of the market value, providing the note or other obligation evidencing the loan shall require monthly payment of the interest and principal thereon at a rate of regular amortization sufficient to repay the entire loan within a period not exceeding 25 years, or shall require full payment of such loan within a period of 3 years. No such loan of 3 years or less shall be renewed for any sum in excess of 66⅔% of the then existing market value.

C. Without regard to any other law, savings banks of this state are authorized to make or buy and sell any loan, secured or unsecured, or any real estate installment sale contract, which is insured or guaranteed in any manner in part or in full by the United States or any instrumentality thereof, or by this state or any instrumentality thereof, or for which there is a commitment to so insure or guarantee, or for which a conditional guarantee has been issued. The disability of minority of any person otherwise eligible for a loan, or guaranty or insurance of a loan, pursuant to the act of the congress of the United States entitled the servicemen's readjustment act of 1944, as heretofore or hereafter amended, and of the minor spouse of any eligible veteran, in connection with any transaction entered into pursuant to said act of the congress of the United States, as heretofore or hereafter amended, shall not affect the binding effect of any obligation incurred by such eligible person or spouse as an incident to any such transaction, including incurring of indebtedness and acquiring, encumbering, selling, releasing or conveying property, or any interest therein, if all or part of any such obligation be guaranteed or insured by the government or the administrator of veterans' affairs pursuant to said act and amendments thereto; or if the administra-

tor be the creditor, by reason of a loan or a sale pursuant to said act and amendments. The provisions of this section shall not create, or render enforceable, any other greater rights or liabilities than would exist if neither such person nor such spouse were a minor.

D. A savings bank may make loans to individuals secured by first mortgage of real estate in any state in the United States, to an amount not in excess of the market value thereof, or purchase such notes, bonds or other obligations secured by such a mortgage, if such loans have been guaranteed or insured by the federal housing administration, or if the federal housing administration has made a commitment to guarantee or insure them, all such loans to conform to the provisions of federal legislation pertaining thereto and to regulations established thereunder.

E. No savings bank shall have more than 70% of its deposits invested in real estate mortgages; except that it may invest up to 85% therein, provided that the excess over 70% of its deposits is invested in real estate mortgages that are guaranteed or insured by the federal housing administration, or by the federal government under title III, sections 500 to 505, of the servicemen's readjustment act of 1944, as enacted or subsequently amended, or by the Maine industrial building authority.

F. Any interest in real property which may now be mortgaged to a savings bank under the provisions of paragraphs A to E, inclusive, 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 and as of the time the mortgage is filed for record as provided by law, be secured by such mortgage and have 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 to the extent the aggregate amount outstanding at any one time of such debts, obligations and future advances shall not exceed the total amount stated in the mortgage; except that:

1. 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

2. The priority of such debts, obligations and future advances shall not include any future optional advances secured by such mortgage made by such bank after any such person, in addition to acquiring such subsequent right or lien, sends the bank by registered mail or delivers to an officer of the bank and secures a receipt therefor express written notice stating that any such optional advances thereafter made will be junior to such person's mortgage or lien upon or rights in such real estate.

"Future advances" referred to in this paragraph F shall include only those made to recipients designated in the mortgage.

The provisions of this paragraph F shall apply to all banks and trust companies. (1957, c. 245. 1959, c. 211.)

G. A savings bank may make loans to individuals or corporations, secured by first mortgage of real estate to any amount not in excess of the purchase price thereof, if such loans are made to enable the mortgagor to purchase from the bank real estate by it acquired through foreclosure or by deed in lieu of foreclosure. (1959, c. 7.)

I-A. Loans on property at eastern slope regional airport. A savings bank may make loans to be secured by mortgages, pledges or collateral assign-

ment of leasehold interests of property located on the eastern slope regional airport in Fryeburg, Oxford county, to the same extent as if such banks were loaning upon the security of mortgages on property owned by the mortgagor in fee simple.

II. Collateral loans.

A. A savings bank may make loans to individuals or corporations, to be secured by collateral other than a first mortgage on real estate, upon the following conditions and within the following limitations, viz:

1. The note or other obligation evidencing the loan shall be secured by a pledge of any securities which the institution itself may lawfully purchase under the provisions of section 19-I provided the amount of the loan does not exceed 90% of the market value of such securities.

2. The note or other obligation shall be secured with a pledge as collateral of any savings deposit book issued by any savings bank, trust company or national bank in any New England state or the state of New York, or of a passbook or share certificate issued by any loan and building association, savings and loan association, or cooperative bank in any New England state or the state of New York, to such an amount, not in excess of the book value thereof, as in the judgment of the trustees will afford an ample margin of security.

3. The note or other obligation evidencing the loan shall be secured by war veterans' compensation certificates issued in accordance with the provisions of any adjusted compensation act of the United States, now existing or hereafter enacted, to an amount not in excess of the value of such certificates at the time of the loan, according to the United States table of values as stated in said certificates.

4. The note or other obligation shall be secured by a pledge as collateral of insurance policies on the life of the borrower, issued by any life insurance company licensed to do business in the state of Maine, having a present cash or loan value in excess of the amount of the loan.

5. The note or other obligation shall be secured by a pledge of collateral of such other obligations, individual or corporate, or such corporate stocks as in the judgment of the trustees it is safe and for the interests of the bank to accept, to an amount not exceeding 80% of the market value thereof.

6. The aggregate of all collateral loans made by any savings bank, other than those secured by obligations of the United States government, shall at no time exceed 10% of its deposits and not more than 1% of its deposits shall be loaned on the obligations and stock of any single corporation.

III. Unsecured loans.

A. A savings bank may make loans to individuals or corporations without the security of a real estate mortgage or pledge of collateral enumerated in subsection II upon the following conditions and within the following limitations:

1. To any municipal or quasi-municipal corporation in this state when duly authorized by such municipality or corporation.

2. To any religious, charitable, educational or fraternal association.

3. To any responsible individual borrower or borrowers, evidenced by their notes or other obligations upon the following conditions:

a. To an amount not exceeding $2,500 for any one individual provided that the note or other obligation will be paid in full in one year or that the note or other obligation requires monthly or quarterly amortization of the principal within a period not exceeding 5 years from date. The aggregate of all loans made under this division shall not exceed 7% of the deposits of the bank;

b. To an amount within the discretion of the trustees, providing the loan is eligible for insurance under the national housing act and seasonable application is made under title I of that act;

c. To an amount within the discretion of the trustees, providing the loan is made to assist the borrower to further his higher education and is guaranteed in full or in part by the New England higher education assistance foundation.

IV. Participation loans, other than real estate.

A. A savings bank may purchase participations in term loans other than real estate, secured or unsecured, from national banks or trust companies located in this state, the proceeds of which are to be used in the establishing or carrying on of a business venture of any kind located principally within this state, provided that:

1. No participation in any one loan shall exceed 75% of the amount of the loan;

2. The total participations in loans to any one borrower shall not exceed 1% of total deposits; and

3. The aggregate outstanding balance of loans made under this subsection shall not at any one time exceed 10% of total deposits.

B. Disbursement, collection, custody of documents and all other matters relating to the originating and servicing of a loan during its term may be administered in any manner agreed upon by the participants with or without fees, provided that each loan shall be:

1. Evidenced by a participation certificate signed by the selling bank;

2. Supported by a warranty of the selling bank to service the loan throughout its entire term, and to maintain at all times a minimum participation of 25% of the outstanding loan balance;

3. Supported by a comprehensive analysis, prepared by the selling bank and furnished to the purchasing bank, of balance sheets, earnings statements and surplus reconciliations covering the most recent 5 years of operations, or for the number of years in business if less than 5; and

4. Further supported by a report, prepared at least annually, of the loan, its security, if any, and the financial status of the borrower.

C. All loans under this subsection shall be made subject to a specific repayment schedule. (1955, c. 380, § 1. 1957, c. 245. 1959, cc. 7, 26, 55, 211. 1961, c. 179, §§ 4, 6. 1963, c. 84; c. 111; c. 162, §§ 4-6.)

Effect of amendments. — The 1957 amendment rewrote the opening statement of paragraph F of subsection I and moved the sentence as to the application of the paragraph to the end of such paragraph, following rather than preceding exception subparagraphs 1 and 2.

This section was amended four times by the 1959 legislature. The first 1959 amendment added paragraph G to subsection I of this section. The second 1959 amendment added division d to subparagraph 3 of paragraph A of subsection III. The third 1959 amendment rewrote divisions a and b of subparagraph 3 of paragraph A of subsection III, increasing the amounts of the limitations in both divisions. The fourth 1959 amendment rewrote subparagraph 2 of paragraph F of subsection I and added the definition of "future advances" to paragraph F.

The 1961 amendment rewrote paragraphs A, B and E of subsection I of this section and added division e of subparagraph 3 of paragraph A of subsection III.

The first 1963 amendment added subsection IV. The second 1963 amendment inserted subsection I-A. The third 1963 amendment deleted "provision of" formally preceding "law" near the beginning of paragraph C of subsection I, inserted "or any real estate installment sale contract" in the first sentence of such paragraph, substituted "70%" for "66⅔%" and "85%" for "80%" in paragraph E of subsection I and made other minor changes in such paragraph, inserted "enumerated in subsection II" near the beginning of paragraph A of subsection III, deleted "viz" at the end of subparagraph 3 of such paragraph, and deleted former divisions a to e of subparagraph 3 of such paragraph A, substituting therefor present divisions a to c.

The provisions of subsection I, paragraph E, are regulatory in their nature. State Trailer Sales, Inc. v. First Nat. Bank of Pittsfield, 158 Me. 481, 186 A. (2d) 370.

They apply to national banks. State Trailer Sales, Inc. v. First Nat. Bank of Pittsfield, 158 Me. 481, 186 A. (2d) 370.

And are constitutional.—When the provisions of paragraph E, subsection I, are applied to the operation of a national bank they do not impair or destroy the efficiency of the bank nor are they in conflict with the laws of the United States affecting national banks. State Trailer Sales, Inc. v. First Nat. Bank of Pittsfield, 158 Me. 481, 186 A. (2d) 370.

Agreement between mortgagees barred recovery of amount paid over stated amount of mortgage.—Where, because of the divergent views of the applicability of subsection I, paragraph E, a prior and subsequent mortgagee could not agree on the amount due the prior mortgagee on a contemplated assignment of the mortgage, and as a result the prior mortgagee received more than the total amount stated in the mortgage, the subsequent mortgagee could not recover the amount paid over the stated amount of the mortgage. The subsequent mortgagee's redress was through the mechanics of c. 177, § 24, but by accepting the prior mortgagee's terms, he became bound by his contractual undertaking. State Trailer Sales, Inc. v. First Nat. Bank of Pittsfield, 158 Me. 481, 186 A. (2d) 370.

Sec. 19-I. Investments.—Savings banks may hereafter invest their funds in securities, in addition to loans authorized under the provisions of section 19-H, in accordance with the following provisions, viz:

I. Government obligations.

A. In the bonds and other interest-bearing obligations of the United States; and in the interest-bearing obligations of any debtor or promisor for the payment of the principal and interest of which the faith and credit of the United States government are pledged.

B. In bonds and other interest-bearing obligations of the dominion of Canada and in the interest-bearing obligations of any body politic or corporation in Canada the payment of the principal and interest of which are unconditionally guaranteed by the dominion of Canada; provided that the principal and interest of all the obligations of Canadian origin that may be brought under the authority of this section are payable in the United States at not less than their face value in United States funds.

II. Obligations of states.

In the fixed interest-bearing bonds and other obligations of any state in the United States and in the fixed interest-bearing obligations of any body politic or instrumentality of such state for the payment of the principal and interest of which the full faith and credit of the state are pledged provided such state is not in default on any of its outstanding funded obligations.

III. Obligations of provinces of Canada.

In the fixed interest-bearing bonds or other obligations of any province of the dominion of Canada and in the fixed interest-bearing obligations of any body politic or instrumentality of such province for the payment of the principal and interest of which the full faith and credit of the province is pledged, provided the province is not in default on any of its outstanding funded obligations and that principal and interest of such obligations are payable at not less than their face value in United States funds.

IV. Obligations of counties.

A. In the bonds or other interest-bearing obligations of any county in this state.

B. In the bonds or other interest-bearing obligations of any county in any other state in the United States which at the date of the investment has more than 50,000 inhabitants and the net debt of which does not exceed 3% of the last preceding valuation of the taxable property therein; provided, however, that such county shall not have defaulted for more than 90 days in payment of principal or interest of any funded obligation within a period

of 5 years immediately preceding the investment, and that the principal and interest are payable from a direct tax to be levied on all the taxable property within such county.

The term "net debt" shall be construed to include all bonds which are a direct obligation of the county, less the amount of any sinking fund available for the reduction of such debt.

V. Municipal obligations.

A. In the bonds or other interest-bearing obligations of any municipal or quasi-municipal corporation of this state not in default on any of its outstanding funded obligations.

B. In the bonds or other interest-bearing obligations of any city or town in any other state in the United States, incorporated at least 25 years prior to the date of investment, and having according to each of the last 2 censuses of the federal government, a population of not less than 10,000; provided that within a period of 10 years immediately preceding the investment such municipality shall not have been in default for more than 90 days in the payment of principal or interest of any outstanding funded obligations and that the net debt of any such municipality whose population is less than 500,000 shall not exceed 5% of the assessed valuation of the taxable property therein, and that the net debt of any such municipality whose population is in excess of 500,000 shall not exceed 8% of the assessed valuation of the taxable property therein.

C. In the bonds or other interest-bearing obligations of any quasi-municipal corporation, other than an irrigation or drainage district, within the territorial limits of any city or town whose obligations are eligibile under the provisions of paragraph B of this subsection, or comprising within its limits one or more such municipalities; provided, however, that such corporation shall not be in default on any of its outstanding funded obligations and that the population and valuation of any such quasi-municipal corporation incorporated within a single city or town shall be at least 75% of the population and valuation of the city or town in which it is located; and provided further, that payment of such obligations shall be enforceable by a direct tax levied on all the taxable property within such corporation.

D. The term "net debt" as applied to a municipality shall be construed to include not only all bonds which are a direct obligation of the municipality, but also all bonds of quasi-municipal corporations within the same, exclusive of any such debt created for providing a water supply and exclusive of the amount of any sinking funds available for the reduction of such debt.

E. The securities of any municipality or quasi-municipal corporation shall not be held to be a direct obligation on all the taxable property thereof within the meaning of the foregoing provisions in any state which by statute or constitutional provision prevents the levying of sufficient taxes to meet such obligations.

VI. Obligation of railroads.

A. In the bonds and other fixed interest-bearing obligations of any Maine corporation owning and operating a railroad located principally within this state having a mileage of not less than 500 miles of road, exclusive of sidings, provided such corporation shall not be in default of any of its outstanding funded obligations.

B. In the fixed interest-bearing obligations assumed or guaranteed by a corporation coming within the coverage of paragraph A hereof and issued by any lessor, subsidiary, or affiliated corporation, provided that the assumption or guarantee thereof shall have been authorized and approved in the manner and to the extent required by state or federal law at the time of such assumption or guaranty.

C. In the bonds and other fixed interest-bearing obligations issued, or

assumed, by any railroad corporation organized under the laws of any other state in the United States; provided such corporation is not in default on any of its outstanding funded obligations and that,

1. Such corporation shall own in fee not less than 500 miles of standard gauge railroad, exclusive of sidings, within the United States, or shall own not less than 100 miles and have received each year for a period of 5 successive years next preceding the investment gross revenue plus other income of not less than $10,000,000.

2. Such obligations shall be secured

a. by a first mortgage, or a mortgage or trust indenture which is in effect a first mortgage, or

b. by a refunding mortgage providing for the retirement of all prior lien obligations outstanding at the date of issue, or

c. by a mortgage prior to a refunding mortgage above described covering some part of the railroad property included under such refunding mortgage, if the refunding mortgage contains a provision for the refunding of bonds issued under such prior mortgage, or

d. by a first mortgage on the property leased to a railroad corporation any of the bonds of which qualify under this subsection provided that the bonds issued under such mortgage have a maturity prior to the expiration of the lease.

3. Such corporation shall have earned and received in the 3 successive fiscal years next preceding the investment an average annual income available for fixed charges equal to not less than twice the current annual fixed charges and during the same period have had an average of net income after fixed charges, but before such taxes as may be computed upon the basis of incomes or profits, of not less than 10% of the sum of average gross revenue plus other income.

For the purposes of this subparagraph income available for fixed charges shall be determined by deducting from the sum of gross revenues plus other income all operating expenses including maintenance, depreciation, joint facility and equipment rents, railway, but not income or excess profits, taxes and miscellaneous rents and charges; fixed charges shall include any rents for leased property not properly included in operating expenses, net interest charges and amortization of debt discount and expense; net income shall be computed by deducting operating expenses and fixed charges as defined herein from gross operating revenues plus other income.

D. In equipment trust certificates or other instruments issued under the Philadelphia plan, so called, in connection with the acquisition of standard railroad equipment by any railroad corporation in the United States not in default on any of its outstanding funded obligations, provided the amount of such securities outstanding shall at no time exceed 80% of the cost of the equipment by which they are secured.

E. In the first mortgage bonds of any terminal company or bridge company guaranteed as to principal and interest by any railroad corporation, any of the mortgage obligations of which are eligible under the provisions of paragraph A, B or C of this subsection.

F. In such other obligations issued, assumed or guaranteed by any railroad corporation organized under the laws of any state in the United States, secured by a mortgage, or trust indenture which is in effect a mortgage, on standard gauge railroad operated by such corporation or a lessee corporation as the bank commissioner may deem suitable investments for savings banks provided he has received the written recommendation of such obligations from a special committee of the savings banks association of Maine appointed or elected for such purpose.

Not more than 30% of the deposits of any one bank shall be invested in obligations of railroads and not more than 2% of such deposits shall be invested in the obligations of any single railroad corporation the mileage of which is located principally outside this state. (1957, c. 72, §§ 1, 2)

VII. Public utility obligations.

A. In the bonds or other fixed interest-bearing obligations issued or assumed by any Maine corporation subject to the jurisdiction of the Maine public utilities commission, and not in default on any of its outstanding funded obligations, carrying on in this state the business for which it was organized; provided, however, that issuance of such securities shall first have been authorized by said commission under the laws of this state, if at the time of their issuance such authorization was required by law.

B. In the bonds, or other fixed interest-bearing obligations issued or assumed by any corporation at least 75% of the gross revenue of which is derived from the sale of electric light and power, gas or water, or a combination of such service; provided:

1. Such corporation shall not be in default on any of its outstanding funded obligations, shall be subject to the jurisdiction of a public utilities commission, public service commission, or some other governmental agency exercising supervisory or regulatory functions, ordinarily incident to the duties of such a commission, and the issuance of the securities in question shall have been authorized by such commission, if at the time of their issuance such authorization was required by law.

2. At least 51% of the corporation's property shall be located in, and 51% of its business transacted within, the United States.

3. Such corporation shall own in fee not less than 51% of the property used by it in the carrying on of its business.

4. Such corporation shall have earned and received average gross revenue plus other income of at least $500,000 per year in the 3 fiscal years, next preceding investment.

5. Such obligations shall be secured:

a. by a first mortgage, or a mortgage or trust indenture which is in effect a first mortgage, or

b. by a refunding mortgage providing for the retirement of all prior liens outstanding at the date of investment and covering at least 75% of the property owned in fee by said corporation; provided, however, that all obligations secured by said refunding mortgage shall mature at a date later than the maturity of any bond which it is given to refund.

c. by a mortgage having a lien prior to a refunding mortgage above described covering some part of the public utility property included under such refunding mortgage provided that the refunding mortgage contains a provision for the refunding of such prior mortgage, or

d. by a first mortgage on property leased to a public utility corporation and forming a substantial portion of the system of the operating company provided the bonds secured by such mortgage mature prior to the expiration of the lease.

6. Such corporation shall have earned and received for a period of the 3 fiscal years next preceding such investment an average annual income available for fixed charges of not less than twice its current annual fixed charges and have had for the same period average net income after fixed charges of not less than 10% of gross revenue plus other income.

For the purposes of this subparagraph income available for fixed charges shall be determined by subtracting from the sum of gross revenue plus other income all operating expenses including maintenance, depreciation and taxes, except such taxes as are computed on the basis of net incomes

or profits; fixed charges shall include rents for leased property, other miscellaneous rents not properly included in operating expenses, net interest charges and amortization of debt discount and expense; net income shall be computed by subtracting the fixed charges from the income available for fixed charges, both as defined herein.

Not more than 45% of the deposits of any one bank shall be invested in the obligations of public utility corporations and not more than 2% of such deposits shall be invested in the obligations of any one such corporation, the business of which is transacted principally outside this state.

VIII. Obligations of telephone companies.

A. In the bonds and other fixed interest-bearing obligations issued, assumed or guaranteed as to principal and interest by any company incorporated under the laws of any state of the United States or of Canada the principal business of which is the supplying of telephone service and at least 51% of the property of which is located in the United States or Canada; provided:

1. Such corporation shall have received average gross revenue of at least $5,000,000 per year in each of its 5 fiscal years next preceding the investment.

2. Such corporation shall have earned and received for a period of the 3 fiscal years next preceding such investment average annual income available for fixed charges of not less than twice its current annual fixed charges and have had for the same period average net income after fixed charges not less than 10% of gross revenue plus other income.

For the purposes of this subparagraph income available for fixed charges shall be determined by subtracting from the gross revenue plus other income all operating expenses including maintenance, depreciation and taxes, except such taxes as are computed on the basis of net incomes or profits; fixed charges shall include rents for leased property, other miscellaneous rents not properly included in operating expense, net interest charges and amortization of debt discount and expense; net income shall be computed by subtracting the fixed charges from the income available for fixed charges, both as defined herein.

Not more than 15% of the deposits of any bank shall be invested in obligations of telephone companies, and not more than 2% of the deposits may be invested in the obligations of any single telephone company.

IX. Industrial bonds. In the bonds or other fixed interest-bearing obligations of any corporation the property of which is located principally within the United States and which is primarily engaged in the production, manufacture and distribution of products in the United States or is engaged in any combination of such of these activities as are usually incident to the operation of an industrial company provided,

A. Such corporation shall not be in default as to any of its outstanding obligations and shall have had average gross annual revenues during the last 5 years of not less than $100,000,000.

B. Such corporation shall have earned and received for a period of 5 fiscal years next preceding the investment and average income available for fixed charges of not less than four times the current fixed charges and shall have had for the same period an average net income after such fixed charges equal to not less than 10% of gross revenue plus other income.

For the purposes of this paragraph income available for fixed charges shall be determined by subtracting from the sum of gross revenue plus other income all operating expenses including maintenance, depreciation and taxes, except such taxes as are computed on the basis of net income or profits; fixed charges shall include rents for leased property, other mis-

cellaneous rents not properly included in operating expenses, net interest charges and amortization of debt discount and expense; net income after fixed charges shall be computed by subtracting the fixed charges from the income available for fixed charges all as defined herein.

C. Such corporation shall not have outstanding at the time of the investment total funded obligations in excess of 50% of the total of the following items:

1. All fixed funded obligations taken at par values.

2. All securities junior to those included in subparagraph 1 including all shares of preferred or preference stock taken at par values and other classifications of stock taken at fair market values, all as of the date of the last year-end balance sheet.

Not more than 10% of the deposits of a bank shall be invested in the bonds or obligations of industrial corporations and not more than 1% of the deposits of a bank shall be invested in the bonds or obligations of any one such corporation.

X. Bonds of Maine corporations. In the bonds or other interest-bearing obligations of any Maine corporation, other than those hereinbefore specifically mentioned, actually conducting in this state the business for which such corporation was created, which for a period of 3 successive fiscal years, or 3 nearer periods of 1 year, next preceding the investment, has earned and received an average net income of not less than twice the interest on the obligations in question and all prior liens. Not more than 25% of the deposits of any one bank shall be invested in the obligations of such corporations and not more than 2% of such deposits in the obligations of any single corporation.

XI. Stock of Maine corporations.

A. In the stock of any Maine corporation other than a banking corporation actually conducting in this state the business for which such corporation was created, provided such corporation has for a period of 3 years next preceding the investment earned and received an average net income equivalent to at least 6% upon the entire outstanding issue of the stock in question.

B. Not more than 5% of the deposits of a bank shall be invested in stocks of Maine corporations and not more than 1% of the deposits of such bank shall be invested in the stock of any single corporation. No such bank shall hold by way of investment or as security for loans, or both, more than 1/5 of the capital stock of any corporation; but this limitation shall not apply to assets acquired in good faith upon judgments for debts or in settlements to secure debts, nor to any of such capital stock acquired subsequent to the making of the original loan in good faith for the sole purpose of improving the security for such loan.

XII. Bank stocks and obligations.

A. In the bonds, including consolidated bonds, issued by federal land banks, the debentures, including consolidated debentures, issued by the federal intermediate credit banks, and the debentures, including consolidated debentures, issued by the banks for cooperatives organized under the laws of the United States.

B. In the stock, bonds or debentures issued by any federal home loan bank.

C. In obligations issued, assumed or guaranteed by the international bank for reconstruction and development or the inter-American development bank.

D. In the capital stock of any bank doing business within this state incorporated under the laws of this state or the United States.

E. In the capital stock of any bank doing business within the continental United States provided:

1. Such bank shall be a member of the federal reserve system.
2. Such bank shall have no securities outstanding senior to the stock qualifying as legal under this subsection of the law.
3. Such bank shall have capital funds including capital stock, surplus, undivided profits and reserves of not less than $10,000,000 and not less than 6% of the deposit liability of the bank.

Savings banks shall not hereafter acquire bank stock both by way of investment and as security for loans, which, together with its holdings, shall be in excess of 10% of its deposits; nor shall hereafter acquire stock of any one bank which, together with its present holdings, shall have a book value of more than 1% of its deposits; nor shall hereafter acquire bank stock which, together with its present holdings, shall exceed 10% of the capital stock of any bank. (1957, c. 78)

XIII. National mortgage associations.
In the bonds or other interest-bearing obligations of national mortgage associations.

XIV. Mortgages under Bankhead-Jones farm tenant act.
In obligations secured by mortgages insured, or with respect to which commitments to insure have been made, under title I of the Bankhead-Jones farm tenant act.

XV. Obligations of development credit corporation of Maine.
In notes or other interest-bearing obligations issued by development credit corporation of Maine in accordance with, and by virtue of, the charter and by-laws of said corporation, up to, but in no case exceeding, 2½% of the reserve funds of any such bank.

XVI. Insurance company stocks.

A. In the capital stock of any fire and casualty insurance company authorized to conduct business in this state, provided:

1. At the end of the fiscal year immediately preceding the date of investment, the combined total of capital stock and surplus of the company plus the voluntary reserves, as the latter term is hereinafter defined of the company and its insurance subsidiaries shall be at least 80% of the sum of all of the unearned premiums. For the purpose of this subsection a subsidiary shall be construed to mean any insurance company 50% or more of the capital stock of which is owned by said insurance company or any subsidiary thereof. As used herein the term voluntary reserve shall be construed to mean all sums allocated to reserve accounts other than unearned premium and loss reserves required by the existing laws and regulations relating to insurance companies doing business in this state.

B. Not more than 10% of the deposits of a mutual savings bank may be invested in stocks of fire and casualty insurance companies and not over 1% of the deposits of a mutual savings bank may be invested in the stock of any one insurance company or subsidiary thereof.

XVII. Preferred stock of public utilities. In the fully cumulative preferred stock of any corporation at least 75% of the gross revenue of which is derived from the sale of electric light and power, gas, water or telephone service, or a combination of such services provided:

A. Such corporation shall not be in arrears as to dividends on any preferred stock outstanding, shall be subject to the jurisdiction of a public utilities commission or some other governmental agency exercising supervisory or regulatory functions ordinarily incident to the duties of such a commission and the issuance of the securities in question shall have been duly authorized by such commission, if at the time of their issuance such authorization was required by law.

B. At least 51% of the corporation's property shall be located in, and 51% of its business transacted within the United States.

C. Such corporation shall own in fee not less than 51% of the property used by it in the carrying on of its business.

D. Such corporation shall have earned and received average gross revenue plus other income of at least $500,000 per year in the 3 fiscal years, next preceding investment.

E. Such corporation shall have earned and received for a period of 3 fiscal years next preceding such investment average annual income available for fixed charges and preferred dividend accruals of not less than twice such current annual fixed charges and preferred dividend accruals and have had for the same period an average balance available after such fixed charges and preferred dividend accruals of not less than 10% of the gross revenue plus other income.

For the purposes of this subsection income available for fixed charges and preferred dividend accruals shall be determined by subtracting from the sum of gross revenue plus other income all operating expenses including maintenance, depreciation and all taxes including taxes computed on the basis of net income; fixed charges shall include rents for leased property, other miscellaneous rents not properly included in operating expense, net interest charges and amortization of debt discount and expense; accruals of preferred dividends shall include dividend accruals on all preferred stocks outstanding; balance after fixed charges and preferred dividend accruals shall be computed by subtracting fixed charges and preferred dividend accruals from the income available for fixed charges and preferred dividend accruals, all as defined herein.

Not more than 10% of the deposits of a bank shall be invested in preferred stocks of public utilities and not more than 1% of such deposits shall be invested in the preferred stocks of any one company.

XVIII. Securities approved by bank commissioner. In such securities as may be approved as suitable investments for savings banks by the bank commissioner provided he has received a written recommendation of such securities from a special committee of the savings banks association of Maine appointed or elected for such purpose.

Not more than 5% of the deposits of a bank shall be invested in securities coming within the coverage of this subsection.

XIX. Other securities. In such other securities as the trustees of a bank may consider to be sound prudent investments.

Not more than 5% of the deposits of a bank shall be invested in securities within the coverage of this subsection.

XX. Department certificates of legality. Within the last 15 days of September of each year the bank commissioner shall ascertain what securities qualify as legal investments under subsections I to XVIII, inclusive, and shall publish for distribution to all savings banks and other interested parties a list of such securities. Such findings may be based upon information derived from any source which the bank commissioner deems reliable and need not include information furnished directly by officers of the company issuing or assuming the obligations or other securities included in the list. The publication of such a list shall be prima facie evidence of the legality of such securities and shall so continue until the issuance of another list by the commissioner or issuance of an intermediate certificate correcting or changing the list. Any person or corporation financially interested in any such finding of the commissioner may take an appeal therefrom to the superior court, which, after such notice and hearing as it deems proper, may inquire into and render a judgment whether such security is a legal investment for savings banks under this section.

In carrying out the provisions of this section the bank commissioner may make any proper or necessary expenditures including compensation to any person or persons especially employed for the purpose. (1957, c. 72, § 3. 1963, c. 414, § 46)

XXI. When savings banks, etc., may acquire and hold securities not authorized by law. Savings banks, loan and building associations and trusts companies organized under the provisions of this chapter may acquire and hold securities not authorized by law but which have been acquired in settlements, reorganizations, recapitalizations, mergers, consolidations, by receipt of stock dividends or by the exercise of rights applicable to securities held by said banks, associations and trust companies and may continue to hold such securities at the discretion of the trustees or the directors of such savings banks, loan and building associations and trust companies.

Savings banks, loan and building associations and trust companies organized under this chapter may continue to hold at the discretion of their trustees or directors securities acquired under authorization of law.

XXII. Bonds of nonprofit organizations. In the bonds or other interest-bearing obligations of any religious, charitable, educational or fraternal association.

Not more than 1% of the deposits of a bank shall be invested in securities coming within the coverage of this subsection. (1955, c. 280, § 1. 1957, c. 72, §§ 1-3, c. 78. 1963, c. 162, §§ 6-A to 12; c. 414, § 46.)

Effect of amendments.—Sections 1 to 3 of the first 1957 amendment made changes in subparagraph 3 of paragraph C and in paragraph D of subsection VI, and also made changes in the first sentence of subsection XX. Section 4 of such amendment provided for the issuance within the last fifteen days of September, 1958, of the first list to be published after the effective date of the act. The second 1957 amendment rewrote paragraph A of subsection XII.

The first 1963 amendment added "or the inter-American development bank" at the end of paragraph C of subsection XII, rewrote paragraph A of subsection XVI, inserted "and casualty" in paragraph B of subsection XVI, substituted "1%" for "one-half of 1%" in the last paragraph of subsection XVII, substituted "5%" for "3%" in the second paragraph of subsection XIX, added the second paragraph of subsection XXI, and added subsection XXII. The second 1963 amendment deleted "bank" preceding "commissioner" in the fourth sentence of the first paragraph of subsection XX, substituted "the superior court, which, after such notice and hearing as it" for "any justice of the superior court, who, after such notice and hearing as he" in such sentence, and deleted "the provisions of" preceding "this section" at the end of such sentence.

Sec. 19-J. Accounting, surplus and dividends.—

I. The treasurer of every savings bank, or such other officer as may be designated by by-laws or by duly recorded vote of its trustees, shall cause the books and accounts of the bank to be kept in such manner and form as will most accurately and promptly reflect its condition and earnings. The bank commissioner may prescribe the manner and form of keeping such books and accounts, which, however, need not be uniform. The treasurer shall, annually, and as much oftener as the bank commissioner may require, make return of the condition and standing of the bank at such time as the bank commissioner designates, which return shall be made to said commissioner within 15 days after the day designated in the blank form of such return to be furnished by the commissioner.

II. No item of assets shall be entered on the books of the bank at a figure in excess of its actual cost to the bank; nor shall the book value of any such item be thereafter increased, except upon the written authorization of the bank commissioner, or as may be provided in the following paragraph:

The trustees in their discretion may authorize the carrying of any item of assets of the bank at a value less than its cost to the bank, may authorize such provision for depreciation of physical assets as in their judgment may be required, and may provide for systematic amortization of premiums or discounts of bonds or other obligations acquired at a cost other than the par value thereof.

III. The bank commissioner may require any item of the assets of a savings bank to be charged down to such sum as in his judgment represents its fair value.

IV. Every savings bank shall close its books, for the purpose of computing its net earnings, at the end of the period for which a dividend is to be paid, and in no event less frequently than semiannually.

The treasurer shall cause such net earnings to be computed in a manner to reflect most accurately and completely, and in accordance with the best available methods and systems, the actual income and expenditures of the bank. Such accounting may be either upon the cash or accrual basis. All such accounting shall be subject to the direction and control of the bank commissioner.

V. Every savings bank shall establish and maintain a surplus, reserve or guaranty fund, which at all times shall exceed 5% of its existing deposits. The fund shall be kept constantly on hand as a security against losses and contingencies, and all losses not otherwise absorbed shall be charged against it. Should this fund become impaired and fall below 5% of the bank's deposits, it shall be restored by setting aside from current net income an amount which together with other amounts so set aside for this purpose during the year shall be equal to at least ½ of 1% of its deposits, until the fund is restored to the required amount.

Contributions of corporators to the surplus fund, together with dividends declared thereon, may be repaid pro rata to them or their heirs, executors, administrators or assigns, in such amounts as will not reduce the surplus fund below 5% of the amount due depositors, provided the written approval of the bank commissioner shall be required before any such repayments can be made. In case of the liquidation of the bank before such contributions have been repaid, any portion of such contributions not needed for the repayment of the expenses of liquidation and the payment of depositors and creditors in full may be repaid pro rata.

VI. After passing to the surplus, reserve or guaranty fund that part of the income required in the preceding paragraph, if any, the trustees may declare such dividends as in their judgment should be declared in the light of the bank's condition and earning power, and as may be permitted or required by their by-laws, provided:

A. That the surplus, reserve or guaranty fund may be established and maintained at such figure in excess of 5% of the deposits of the bank as their judgment may indicate.

B. That no dividend may be declared at a rate of more than 5% per annum.

C. That no dividend may be declared in an amount greater than the income and realized capital gains of the current or immediately preceding dividend period, except that the trustees may create a special reserve and may from time to time allocate thereto income and realized capital gains, and may by express vote use additional funds from such reserve for the purpose of maintaining a current dividend rate.

VII. The trustees, in their discretion, when in their opinion the accumulated surplus of the bank is more than adequate for the protection of its depositors, may declare an extra dividend, payable from any surplus, reserve or undivided profits account of the bank.

Such action shall not become effective until formal approval thereof has been given by the bank commissioner. The clerk shall promptly notify said commissioner of such contemplated action by sending a copy of such vote of the trustees, duly certified by him, by registered mail. Within 10 days after the receipt thereof, the commissioner shall notify the trustees, through the clerk, of his approval or disapproval of such action.

VIII. Dividends may be declared, and credited and paid to depositors, only

as authorized by a vote of the board of trustees, entered upon their records whereon shall be recorded the yeas and nays upon such vote.

IX. The treasurer of every savings bank shall, within 60 days after a dividend is declared, and as much earlier as possible, credit the same to the deposit account.

In computing dividends on deposits in banks, savings banks and trust companies, interest shall be figured on the balance that has remained on deposit for the full dividend period, with additions for all deposits, less withdrawals, remaining in the bank from their respective monthly dates to the dividend date. Withdrawals shall be deducted from the last deposit made in each case. Deposits made on other than the 1st day of each month may draw interest on the 1st or last day of the month or from date of deposit, as the trustees or directors may determine.

X. The amounts contributed by corporators to the surplus fund shall be credited with dividends at the same rate as those credited to accounts of depositors.

XI. Savings banks may contract, on terms to be agreed upon, for the deposit at intervals within a period of 12 months, of sums of money and for the payment of interest on the same at a rate not more than the rate of their last regular dividends on savings deposits; or for the receipt of such deposits without the right to dividends thereon. A savings bank may pay a different rate of dividend on different classes or types of deposit, but it shall regulate the dividend in such manner that each depositor shall receive the same ratable portion of dividends as every other depositor of his class. (1955, c. 380, § 1. 1961, c. 179, § 5. 1963, c. 162, § 13.)

Effect of amendments. — The 1961 amendment added the second sentence to subsection XI of this section. The 1963 amendment rewrote paragraph C of subsection VI.

Sec. 19-K. Retirement allowances and other benefits for officers and employees.—

I. A savings bank, by vote of its trustees, may retire any officer or employee who shall have given his whole time to the service of the bank and shall have been continuously in receipt of a regular salary from the bank for 20 or more years and shall have arrived at the age of 65 years or has been continuously in the employ of the bank for not less than 15 years and has become incapacitated for any cause for further service in his office or position; or at any time, if he shall become so incapacitated by reason of injuries suffered by him in the discharge of his duties to the bank. The trustees may pay to him during the remainder of his life, in equal monthly installments, a yearly allowance of such amount as shall be deemed reasonable, based on the character and length of service rendered and other relevant circumstances. If the trustees decide to pay such allowances entirely from the bank's funds, they shall immediately set aside from the reserve fund or other surplus earnings, a special fund sufficient in amount, according to actuarial standards, to meet the cost thereof for any member or members of the bank's staff whose time for retirement has arrived or is near; and yearly, or oftener thereafter, shall appropriate from the current earnings and credit to such special fund amounts sufficient to create, as soon as may be, and maintain, for the payment of the allowances to the other members of the bank's staff, a fund sufficient therefor according to said standards; or, if the trustees prefer, they may enter into an agreement with an insurance company for the setting up of such reserves and the payment of the pensions or may carry out the foregoing provisions by means of an agreement with a trustee which may permit combination with funds similarly held for other banking and trust institutions all as approved by the bank commissioner. The trustees may also, subject to the approval of the bank commissioner, set up a

retirement plan, by means of an agreement with a trustee which may permit combination with funds similarly held for other banking and trust institutions, for the payment of retirement benefits to employees, irrespective of the period of service of such employees, which plan may also permit the employee to elect to receive an optional form of annuity which provides for actuarially reduced monthly payments commencing at retirement date of the employee and continuing during the employee's lifetime, and for the continuance of such payments, or a specified percentage thereof, to a provisional payee, if living, after the employee's death.

II. The trustees may also insure the lives of those officers and employees who give their whole time to the service of the bank. Such insurance shall be placed with a life insurance company and shall be for such an amount for each beneficiary thereof as the trustees may decide.

III. The cost of such allowances or insurance may be paid wholly by the bank; or the trustees may adopt a plan which will provide that some part thereof shall be contributed by the beneficiaries.

IV. The plan adopted by the trustees and the insurance company selected to cooperate in its administration shall be subject to the approval of the bank commissioner.

V. The benefits conferred upon any recipient of such allowances or upon the beneficiary of such insurance shall not be subject to trustee process, or brought into suit by his creditors or otherwise; nor may he assign or alienate them.

VI. Rights a preferred claim. If, in the case of a sale of the assets of the bank, or of its merger with another bank, or if its standing and condition shall induce or oblige the commissioner or the trustees to have recourse to any of the proceedings provided by sections 1-H, subsection VII, 69, 71 to 75, any rights to accrued or future retirement allowances vested in any officer or employee under action taken by the trustees of any savings bank under subsection I, or under any agreement with an insurance company then in force, shall be a preferred claim upon the assets of the bank, unless such special fund is in the hands of a trustee for the benefit of such officer or employee.

VII. Provided, however, that where an insurance or pension plan is underwritten by one or more life insurance companies, as authorized by this section, by a contract for the purpose made either with an individual bank or with an association duly empowered so to act for and on behalf of the individual banks in the association, the rights of such bank or association and of any individual member or beneficiary of such plan as against the insurance company or companies and the obligations of such insurance company or companies shall, in the situations enumerated in subsection VI, be determined by and limited to the rights and obligations of the respective parties as set forth in the insurance or pension contract by which the plan was underwritten.

VIII. The trustees may also make such provision for the payment of medical, surgical and hospital expenses of officers, trustees and employees, due to accident or illness, as in their judgment is reasonable. (1955, c. 380, § 1. 1959, c. 8. 1961, c. 385, § 5.)

Effect of amendments. — The 1959 amendment added the word "trustees" after the word "officers" and before the word "and", and substituted the word "reasonable" for the words "reasonably required", formerly appearing at the end of subsection VIII.

The 1961 amendment substituted "sections 1-H, subsection VII, 69, 71 to 75" for "sections 69, 70, 71 72, 73, 74 and 75" and deleted "the provisions of" formerly preceding "subsection I" in subsection VI of this section.

Sec. 19-L. Supervision.—

I. Verification of deposits. The bank commissioner, at least once in every 3 years, shall cause the books of the savings depositors in savings banks and

in every trust company to be verified by such methods and under such rules as he may prescribe.

The bank commissioner, deputy bank commissioner and all examiners and employees of the department acting under the foregoing provisions shall have full access to every part of the savings bank or trust company under examination, and to all books, papers, vouchers, resources and all other records and property belonging to said savings bank or trust company, whether in its immediate possession or otherwise, for the purpose of facilitating such verification.

If any representative of the banking department designated to make such audit or verification as herein specified shall communicate or impart to any person or persons, except to said bank commissioner or as witness in court, any information obtained by said audit or verification, he shall be punished by a fine of not more than $1,000, or by imprisonment for not more than 11 months, or by both such fine and imprisonment.

II. Publication of statement. Each savings bank shall publish a statement of condition as prepared by the commissioner at his regular examination immediately after such examination in a newspaper in the place where it is established, if any, otherwise in a newspaper published in the nearest place thereto. (1955, c. 380, § 1. 1961, c. 385, § 6.)

Effect of amendment.—The 1961 amendment rewrote subsection II of this section.

Organization of Savings Banks.

Secs. 20-27. Repealed by Public Laws 1955, c. 380, § 2.

Cross reference.—For present provisions re savings banks, see §§ 19-A to 19-L.

Management of Savings Banks.

Secs. 28-68. Repealed by Public Laws 1955, c. 380, § 2.

Cross reference.—For present provisions re savings banks, see §§ 19-A to 19-L.

Sec. 69. Voluntary liquidation; jurisdiction of court; proceedings. —Whenever, in the opinion of the commissioner and a majority of the trustees of any savings bank, it is inexpedient for any reason for said bank to continue the further prosecution of its business, said trustees may join with the commissioner in an application to the superior court for the liquidation of the affairs of such corporation. Upon presentation of such application, such court may issue an injunction wholly or partially restraining further payment of deposits until further order of court. If, after notice and hearing on such application, such court is of the opinion that it is inexpedient for said bank to continue the further prosecution of its business, it may make such orders and decrees in the premises as seem proper for liquidating the affairs of said bank, the distribution of its assets and the protection of its depositors. Further proceedings on such application may be in the manner provided for the liquidation of an insolvent savings bank; or such court may authorize the president and trustees of such bank then in office to liquidate its affairs under the direction of the court. Section 77 is made applicable to such applications. (R. S. c. 55, § 65. 1963, c. 414, § 47.)

Effect of amendment. — The 1963 amendment deleted "bank" preceding "commissioner" twice in the first sentence, deleted "any justice of the supreme judicial court or of" preceding "the superior court" in such sentence, substituted "court" for "justice" in the second, third and fourth sentences, substituted "it" for "he" in the third sentence, and substituted "Section 77 is" for "The provisions of section 77 are" at the beginning of the last sentence.

Sec. 70. Repealed by Public Laws 1961, c. 385, § 7.

Sec. 71. Injunction to restrain insolvent corporation; receivers appointed.—If, upon examination of any savings bank, the commissioner is of the opinion that it is insolvent or that its condition is such as to render its further proceedings hazardous to the public or to those having funds in its custody, he may apply to the superior court to issue an injunction to restrain such corporation in whole or in part from proceeding further with its business until a hearing can be had. Such court may forthwith issue process for such purpose and, after a full hearing of the corporation, may dissolve or modify the injunction or make the same permanent, and make such orders and decrees to suspend, restrain or prohibit the further prosecution of its business as may be needful in the premises, according to the course of proceedings in which equitable relief is sought. The court may appoint one or more receivers or trustees to take possession of its property and effects, subject to such rules and orders as are from time to time prescribed by the superior court. (R. S. c. 55, § 67. 1961, c. 385, § 8. 1963, c. 414, § 48.)

Effect of amendments. — The 1961 amendment deleted "bank" formerly preceding "commissioner" and deleted "he shall apply, or if, upon such examination, he is of the opinion that it has exceeded its powers or fails to comply with any of the rules, restrictions or conditions provided by law" formerly following "custody" in the first sentence of this section; divided the former second sentence into two sentences; and substituted "absolute" for "perpetual" and "which equitable relief is sought" for "equity" in the present second sentence. It also deleted "in vacation" formerly appearing at the end of the section.

The 1963 amendment deleted "one of the justices of the supreme judicial court or of" formerly preceding "the superior court" in the first sentence, substituted "court" for "justice" near the beginning of the second sentence, substituted "permanent" for "absolute" near the middle of such sentence, substituted "The court" for "He" at the beginning of the third sentence, and substituted "the superior court" for "the supreme judicial court or the superior court or by any justice thereof" at the end of the section.

Sec. 72. Receivers; duties and powers; reports; duties of bank commissioner and attorney general.—Upon taking possession of the property and business of a savings bank, the receiver may collect moneys due to the corporation and do all acts necessary to conserve its assets and business and shall proceed to liquidate its affairs as hereinafter provided. He shall collect all debts due and claims belonging to it, and upon the order or decree of the superior court, may sell or compound all bad or doubtful debts, and on like order or decree may sell for cash or other consideration or as provided by law all or any part of the real and personal property of the corporation on such terms as the court shall direct; and, in the name of such corporation, may take a mortgage on such real property from a bona fide purchaser to secure the whole or part of the purchase price, upon such terms and for such periods as the court shall direct; and on like order or decree he may borrow money and issue evidence of indebtedness therefor, and to secure the repayment of the same may mortgage, pledge, transfer in trust or hypothecate any or all of the property of such institution, whether real, personal or mixed, superior to any charge thereon for expenses of liquidation. Such receivers shall have all the rights and powers given to conservators by the provisions of sections 130 to 143, inclusive. Such receivers or trustees shall annually, in May, and at such other times as the bank commissioner requires, make a report to him of the progress made in the settlement of the affairs of said corporation; and the commissioner shall seasonably give notice of the time and furnish blanks for the report. The court in its discretion may appoint the bank commissioner or deputy bank commissioner receiver for such purpose, in which case no commission, fee or other perquisite shall be allowed such official for his services in said capacity, but his expenses incurred in the

performance of his duty as said receiver shall be chargeable against the assets of the institution and allowed in his account as receiver. The attorney general shall render such legal services in connection with such receivership as the commissioner or deputy bank commissioner may require, without additional compensation. (R. S. c. 55, § 68. 1961, c. 317, § 162.)

Effect of amendment.—The 1961 amendment substituted "of the superior court" for "of the supreme judicial or of the superior court, or any justice thereof in term time or vacation" in the second sentence of this section.

Sec. 73. After decree of sequestration, commissioners appointed; duties and powers; payment of claims.—After a decree of sequestration is passed as provided in section 71, the court shall appoint commissioners who shall give such notice of the times and places of their sessions as the court orders; receive and decide upon all claims against the institution, and make report to the court at such time as the court orders of the claims allowed and disallowed and of the amount due each depositor, which shall be subject to objections and amendment as reports of masters in chancery. On application of any person interested, the court may extend the time for hearing claims by the commissioners as justice may require. When the amount due each person is established, the court shall cause others than depositors to be paid in full, and after deducting expenses the balance to be ratably distributed among depositors. When it appears upon the settlement of the account of the receiver of such an institution that there is remaining in his hands funds due depositors who cannot be found and whose heirs or legal representatives are unknown, the court may order such unclaimed funds to be paid into the state treasury, together with a statement giving the names of such depositors and the amount due each, the same to be held in trust for 20 years thereafter to be paid to the person or persons having established a lawful right thereto when made to appear upon proper proceedings instituted in the court ordering such disposition of such unclaimed funds. Whenever any such unclaimed fund is in an amount less than $200, the claimant thereto may make application to the superior court which may, after identification to it satisfactory, issue an order under the seal of the superior court directing the treasurer of state to pay said fund to the claimant therein named; and said fund shall be paid as directed. Any income earned on such funds shall be paid into the general fund as compensation for administration. (R. S. c. 55, § 69. 1959, c. 77; c. 317, § 28. 1963, c. 414, § 49.)

Effect of amendments. — This section was amended twice by the 1959 legislature. The first 1959 amendment added the last sentence. The second 1959 amendment deleted the references to "justice", formerly appearing in two places in the first clause of the first sentence, and substituted the word "objections" for the word "exception", formerly appearing near the end of the first sentence.

The 1963 amendment divided the fourth sentence into two sentences, substituted "the superior court which" for "any justice of the supreme judicial court or of the superior court who" in the present fifth sentence, substituted "it" for "him" in such sentence, and deleted "supreme judicial court or of the" in such sentence.

Effective date and applicability of Public Laws 1959, c. 317. — Section 420, chapter 317, Public Laws 1959, provides as follows: "This act shall become effective December 1, 1959. It shall apply to all actions brought after December 1, 1959 and also to all further proceedings in actions at law or suits in equity then pending, except to the extent that in the opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail."

Sec. 74. Attachments dissolved and actions discontinued; judgment recovered, added to claims.—All attachments of the property of the savings bank shall be dissolved by the decree of sequestration, and all pending actions discontinued and the claim presented to the commissioners, unless the superior court, on application of the plaintiff within 3 months from said decree,

passes an order allowing the receiver to be made a party to the action and that the same may be prosecuted to final judgment. After a decree of sequestration, no action shall be maintained on any claim against the bank unless the superior court, on application therefor within the time named, authorizes it, and in such case the receiver shall be made a party. Any judgment recovered shall be added to the claim against the bank. (R. S. c. 55, § 70. 1961, c. 317, § 163.)

Effect of amendment.—The 1961 amendment rewrote this section and divided the former second sentence thereof into two sentences.

Sec. 76. Court may reduce deposit accounts.—Whenever a savings bank is insolvent by reason of loss on or depreciation in the value of any of its assets without the fault of its trustees, the superior court shall, on complaint in writing of a majority of the trustees and the commissioner setting forth the facts, appoint a time for the examination of the affairs of such corporation, and cause notice thereof to be given to all parties interested, in such manner as may be prescribed. If upon examination of its assets and liabilities and from other evidence, he is satisfied of the facts set forth in said complaint and that the corporation has not exceeded its powers nor failed to comply with any of the rules, restrictions and conditions provided by law, he may, if he deems it for the interest of the depositors and the public, by proper decree reduce the deposit account of each depositor so as to divide such loss pro rata among the depositors, thereby rendering the corporation solvent so that its further proceedings will not be hazardous to the public or those having or placing funds in its custody. The depositors shall not draw from such corporation a larger sum than is thus fixed by the court, except as authorized. Its treasurer shall keep an accurate account of all sums received for such assets of the corporation held by it at the time of filing such complaint. If a larger sum is realized therefrom than the value estimated by the court, he shall, at such times as the court prescribes, render to the court a true account thereof, and thereupon the court, after due notice to all parties interested, shall declare a pro rata dividend of such excess among the depositors at the time of filing the complaint. Such dividend may be declared by the court, whenever the court deems it for the interest of the depositors and the public, whether all or only a portion of such assets has been reduced to money. Any such dividend may at any time, in the discretion of the court, be declared to be a final one. No deposit shall be paid or received by such corporation after the filing of the complaint until the decree of the court, reducing the deposits. If the complaint is denied, the commissioner shall proceed to wind up the affairs of the corporation as provided in section 72. (R. S. c. 55, § 72. 1961, c. 317, § 164.)

Effect of amendment.—The 1961 amendment rewrote this section, dividing the former first sentence into the present first and second sentences, the former second sentence into the present third, fourth and fifth sentences, and the former third sentence into the present sixth and seventh sentences.

Sec. 77. Court may restrain payment to preserve assets or to protect depositors; order revoked or modified.—Whenever it may become necessary to preserve the assets or protect depositors in a savings bank, the superior court, on application of the commissioner or trustees of such bank may, after due notice, make an order restraining the bank from paying out its funds or any portion thereof or from declaring or paying any dividends or deposits for such time as the court shall deem advisable. The court may at any time revoke or modify the original order and authorize the bank to pay dividends upon its deposits, or pay any portion of its deposits to such as may desire to withdraw the same or make any other or further order that may be necessary to protect the depositors in such institution. Nothing in this section shall be construed to take away the rights of the parties in interest to proceed under the provisions of sections 71, 72 and 76. (R. S. c. 55, § 73. 1961, c. 317, § 165.)

Effect of amendment.—The 1961 amendment substituted "the superior court" for "the supreme judicial court or the superior court in equity" and deleted "bank" formerly preceding "commissioner" in the first sentence of this section.

Sec. 78. Repealed by Public Laws 1961, c. 385, § 9.

Sec. 89. Appeal.—Any person aggrieved by anything done or omitted to be done under sections 81 to 89 may appeal by filing a complaint in the superior court seeking an order annulling, altering or amending such act, or enjoining the performance thereof, or requiring action to be taken under any provision of said sections, within 10 days after he shall have had notice of such act or failure to act, in person or by publication of a certificate thereof signed by the commissioner or by the president or treasurer of the corporation in one issue of a newspaper of general circulation printed and published in the city or town in which the corporation is located, if any, otherwise in the same county. (R. S. c. 55, § 85. 1961, c. 317, § 166.)

Effect of amendment.—The 1961 amendment deleted "the provisions of" formerly preceding "sections 81 to 89", substituted "appeal by filing a complaint in the superior court seeking" for "petition any justice of the superior or supreme judicial court sitting in equity for", and deleted "bank" formerly preceding "commissioner" in the first sentence of this section and deleted the former second sentence.

Trust Companies.

Sec. 90. Organization of trust companies; powers.

XI. To contribute to community funds, or to charitable, philanthropic, educational or benevolent instrumentalities conducive to public welfare, or civic betterment or the economic advantage of the community, such sums as a majority of the board of directors may deem expedient. [1955, c. 140] (R. S. c. 55, § 86. 1943, c. 360. 1945, c. 72, § 2. 1951, c. 157, § 6. 1955, c. 140.)

Effect of amendment.—The 1955 amendment added the above subsection XI to this section. As the rest of the section was not changed, only the subsection added by the amendment is set out.

Sec. 92. Application of laws affecting trust companies; use of word "bank", etc., in name or title.—All laws affecting trust companies shall apply to corporations organized and doing business as trust and banking companies. No person, unless duly authorized under the laws of this state or the United States to conduct the business of a bank or trust company, shall use as a part of the name or title under which such business is conducted or as designating such business, the word or words "bank," "banker," "trust company," "banking" or "trust and banking company" or the plural of any such word or words or any abbreviation thereof in or in connection with any other business than that of a bank or trust company duly authorized as aforesaid. This restriction shall not apply to any such person conducting business under such name or style prior to the 23rd day of April, 1905. (R. S. c. 55, § 87. 1961, c. 385, § 10.)

Effect of amendment.—The 1961 amendment added the second and third sentences to this section.

Sec. 100. Articles of agreement; submitted to bank commissioner and attorney general and filed in office of secretary of state; certificate; has force and effect of special charter; evidence of existence of corporation.

Cited in McGary v. Barrows, 156 Me. 250, 163 A. (2d) 747.

Sec. 103. Minimum amount of capital stock authorized to begin business; par value of shares.—The minimum amount of paid-in capital stock

on which a trust company may be authorized to begin business shall be $50,000 for a town or city of not more than 5,000 inhabitants, $75,000 for a town or city having from 5,000 to 10,000 inhabitants, $100,000 for a town or city having from 10,000 to 20,000 inhabitants, $150,000 for a town or city having from 20,000 to 30,000 inhabitants and $200,000 for a town or city of more than 30,000 inhabitants. The bank commissioner, in ascertaining the number of inhabitants of such town or city for the purpose of determining the sufficiency of the capital stock, may require such proof in addition to the last preceding United States census as he may deem necessary; but no charter once granted shall ever be deemed void for any error in computing the population. The par value of the shares of stock shall be not less than $10 each and not more than $100 each and may be changed at any time by vote of the stockholders with the approval of the bank commissioner. (R. S. c. 55, § 98. 1957, c. 99.)

Effect of amendment. — The 1957 amendment changed the minimum par value of shares of stock from $25 to $10 in the last sentence.

Sec. 107. Board of directors; executive committees; vacancies among directors; election of president, clerk and treasurer; false return; bonds of officials.—All the corporate powers of any trust company shall be exercised by a board of not less than 5 directors, 2/3 of whom shall be residents of this state, whose number and term of office shall be determined and who shall be elected by a vote of the stockholders at the 1st meeting held by the incorporators and at each annual meeting thereafter. Directors shall hold a regular meeting at least once each month. The stockholders at any annual meeting may elect from the full board of directors an executive committee of not less than 5 members, ⅔ of whom shall be residents of this state, and delegate to such committee the powers of the directors in regard to the ordinary operations of the business of the company; such powers to be exercised by such committee at all times when said board of directors is not in session; subject always, however, to any specific vote of said board of directors. All such committees shall keep full minutes of all business transacted by them and shall make such reports of their transactions at each monthly meeting of the board as said board or the bank commissioner may require. The directors shall be annually sworn to the proper discharge of their duties, and they shall hold office until others are elected and qualified in their stead. If any vacancy occurs in the board of directors or executive committee through death, resignation or otherwise, the remaining directors may elect a person to fill the vacancy until the next annual meeting of the corporation. The oath of office of any director shall be taken within 30 days of his election or his office shall become vacant. The clerk of such company shall, within 10 days, notify such directors of their election and within 30 days shall publish the list of all persons who have taken the oath of office as directors. The removal of any director from this state shall immediately vacate his office if such removal leaves less than 2/3 of the membership resident in the state. The board of directors shall elect a president from its number, a clerk who shall be sworn to the faithful performance of his duties, a treasurer and such other officers as they may deem necessary. Any officer or employee of any trust company who shall willfully or knowingly make a false return to the bank commissioner in response to any call for information issued by said commissioner or by the deputy bank commissioner, or upon making or filing of any regular or special report, shall be punished by a fine of not more than $500 or by imprisonment for not more than 11 months, or by both such fine and imprisonment. The president, treasurer, assistant treasurer and all other officials and employees having access to moneys or securities shall be bonded as in the case of similar officials in savings banks, and the provisions of paragraph B of subsection III of section 19-E, so far as applicable, shall apply to the bonds of trust company officials and employees. (R. S. c. 55, § 102. 1955, c. 380, § 4.)

Effect of amendment.—The 1955 amendment substituted the reference to paragraph B of subsection III of § 19-E for a reference to § 33 in the last sentence.

Sec. 109. Qualification of director.—No person shall be eligible to the position of a director of any trust company unless he is actual owner of stock amounting to $1,000 par value, or is a nominee of a registered bank holding company holding stock in such trust company in such an amount. (R. S. c. 55, § 104. 1963, c. 404.)

Effect of amendment. — The 1963 amendment substituted "unless he is" for "who is not the" and also substituted "or is a nominee of a registered bank holding company holding stock in such trust company in such an amount" for "free from encumbrance" at the end of this section.

Sec. 111. Administrators, etc., may deposit.—An administrator, executor, assignee, guardian, conservator, receiver or trustee, any court, including courts of probate and insolvency, officers and treasurers of towns, cities, counties and savings banks of the state may deposit any moneys, bonds, stocks, evidences of debt or of ownership in property or any personal property with said corporation, and any of said courts may direct any person deriving authority therefrom to so deposit the same. (R. S. c. 55, § 106. 1961, c. 317, § 167.)

Effect of amendment.—The 1961 amendment deleted "of law or equity" formerly following "court" near the beginning of this section.

Sec. 112. Regulations of loans. — No trust company shall loan to any person, firm, business syndicate or corporation, an amount or amounts, at any time outstanding in excess of 10% of its total capital, unimpaired surplus and net undivided profits, except on the approval of a majority of its entire board of directors or executive committee, unless secured by collateral which shall be of value equal to the excess of said loans above said 10%, and the total amount of loans to any person, firm, business syndicate or corporation shall at no time exceed 20% of said total capital, unimpaired surplus and net undivided profits; provided that in determining said amount, every person, firm, syndicate or corporation appearing on any loan as indorser, guarantor or surety shall be regarded as an original promisor; but the discount of bills of exchange drawn in good faith against actually existing values, and the discount of commercial or business paper actually owned by the person negotiating the same, and the renewal or renewals in whole or in part of such commercial or business paper so discounted for periods not exceeding in all 3 years for any such paper, shall not be considered as money borrowed. Loans to municipal corporations located within the state upon their bonds or notes shall not be affected by the provisions hereof; nor shall the limitations and restrictions of this section apply to any loan or loans to the extent that they are secured or covered by guaranties or by commitments or agreements to take over to purchase the same, made by any federal reserve bank or by the United States or any department, bureau, board, commission or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States. In all cases where loans in excess of said 10% are granted, without collateral, the records of the company shall show who voted in favor thereof, and said records and those required by section 113 shall constitute prima facie evidence of the truth of all facts stated therein in prosecutions and civil actions to enforce the several provisions and penalties enumerated in section 114. (R. S. c. 55, § 107. 1945, c. 82. 1963, c. 414, § 50.)

Effect of amendment. — The 1963 amendment substituted "civil actions" for "suits" near the end of this section.

Sec. 113. Loans to officers; approval of loan recorded; records to show vote of directors; credit expires in 6 months.—No trust company shall make any loan to any of its directors, officers, agents or to any other person

in its employ, or on which any such director, officer, agent or employee is an indorser, guarantor or surety, or to any firm or business syndicate of which such director, officer, agent or employee is a member, or any person or on the indorsement or guaranty of any person who is a partner of, or member of a business syndicate with such director, officer, agent or employee, or to any corporation of which any such director, officer, agent or employee is a director, officer, superintendent or manager, until the proposition to make such loan shall have been submitted by the person desiring the same to the board of directors of such company, or to the executive committee thereof, if any, and accepted and approved by a majority of the entire membership of such board or committee; provided, however, that no director of such company who is interested in said loan in any of the above capacities or who is connected or associated with the borrower in any of the above ways shall be regarded as voting in the affirmative on such loan. For the purposes of this section each renewal shall be considered as an original loan. Such approval, if the loan is made, shall be spread upon the records of the company; and this record shall, in every instance, give the names of the directors authorizing the loan. Nothing in this section or section 112 shall make it unlawful for a trust company to give any person, firm, syndicate or corporation a line of credit to an amount not exceeding 20% of its total capital, unimpaired surplus and net undivided profits, subject to the several restrictions as to percentage of entire board and right of interested persons to vote on same contained in said sections. The records of the company shall show how every director voted on the same, and when such line of credit is given, the treasurer or other authorized officer may pay out loans in accordance therewith without further approval. A line of credit so given shall expire in 6 months unless renewed in the same manner in which it is originally given. (R. S. c. 55, § 108. 1961, c. 103.)

Effect of amendment.—The 1961 amendment deleted the last sentence of this section.

Sec. 114. Directors and officers personally responsible and guilty of misdemeanor for violation of §§ 112, 113. — Every director, officer, agent and employee of a trust company, who authorizes or assists in procuring, granting or causing the granting of a loan in violation of the provisions of section 112, or pays or willfully permits the payment of any funds of the company on such loan, and every director of a company who votes on a loan in violation of any of the provisions of section 113, and every director, officer, agent or employee who willfully and knowingly permits or causes the same to be done shall be personally responsible for the payment thereof and shall be guilty of a misdemeanor. All loans granted in violation of either of said sections shall be due and payable immediately and without demand, whether they appear on their face to be time loans or otherwise. When the bank commissioner shall find any loans outstanding in violation of either of said sections, he shall notify the president or treasurer of the company to cause the same to be paid forthwith. If they are not paid within 30 days or such further time as said commissioner shall determine, he shall report the facts to the attorney general, who shall commence a civil action in the name and for the benefit of such company for the collection of the same. The attorney general may employ special counsel to prosecute said civil action, and said company shall pay all expenses thereof, to be recovered in a civil action in the name of the state. (R. S. c. 55, § 109. 1961, c. 317, § 168.)

Effect of amendment.—The 1961 amendment deleted "bank" formerly preceding "commissioner" in the fourth sentence of this section, substituted "a civil action" for "suit" in such fourth sentence, substituted "civil action" for "suit" in the last sentence and substituted "a civil action" for "an action of debt" in such last sentence.

Sec. 119. Repealed by Public Laws 1961, c. 385, § 11.

Sec. 120. Treasurer to annually publish statement of inactive accounts; payment to state.—The treasurer of every trust company shall on or before the first day of November cause to be published in a newspaper in the place where the bank is located, if any, otherwise in a newspaper published in the nearest place thereto, a statement containing the name, the amount standing to his credit, the last known place of residence or post-office address and the fact of death, if known, of every savings or demand depositor in said bank who shall not have made a deposit therein or withdrawn therefrom any part of his deposit, or any part of the dividends thereon, for a period of more than 20 years next preceding. This section shall not apply to the deposits of persons known to the treasurer to be living, to a deposit the deposit book of which has during such period been brought into the bank to be verified or to have the dividends added or to a deposit which, with the accumulations thereon, shall be less than $50. Such publication, in addition to the above-required information, shall state that 2 years after the date of publication all moneys in such inactive accounts shall be paid into the state treasury. Said treasurer shall also transmit a copy of such statement to the bank commissioner, to be placed on file in his office for public inspection. Any treasurer neglecting to comply with this section shall be punished by a fine of $50. Two years after the date of such publication, all moneys in such inactive accounts shall be deemed presumptively abandoned and shall be paid into the state treasury and credited to the general fund for the use of the state, and there shall also be paid into the state treasury, and so credited at the end of 20 years after the last deposit, all deposits, inactive as aforesaid, which with accumulations thereon shall be less than $50. After payment into the state treasury of such deposits, no action shall be maintained in any court in this state by any depositor or his heirs, successors or assigns against any bank making such payments. Thereafter any lawful claimants may petition the governor and council for payment of such moneys to the claimants. In his petition the claimant shall state fully the facts showing the basis of his right, title and interest in such deposit. The governor and council, after a hearing, shall determine who are lawful claimants and shall authorize payment by the treasurer of state from the general fund to such claimants. (R. S. c. 55, § 115. 1949, c. 44, § 3. 1959, c. 29, § 2. 1961, c. 317, § 169; c. 417, § 151)

Effect of amendments. — The 1959 amendment rewrote this section, which formerly applied only to savings depositors and savings deposits, dividing the first and former sixth sentences each into two sentences and increasing the maximum balances in the second and sixth sentences from $10 to $50.

The first 1961 amendment deleted "at law or in equity" formerly following "no action" in the seventh sentence of this section. The second 1961 amendment substituted "this section" for "the provisions of this or section 119" in the fifth sentence.

Sec. 121. Authority of commissioner over trust companies. — The commissioner shall at all times have the same authority over all trust companies incorporated under the laws of this state that he has over savings banks, and shall perform, in reference to such companies, the same duties as are required of him in reference to savings banks. Section 19-L, subsection II, and sections 71 to 76 shall apply to trust companies, excepting so much as relates to the distribution of assets after a decree of sequestration, as provided in section 73. Such distribution of assets of trust companies shall be made under order of the court. (R. S. c. 55, § 116. 1955, c. 380, § 5. 1961, c. 385, § 12.)

Effect of amendments. — The 1955 amendment substituted the reference to subsection II of § 19-L for a reference to § 68 in the next to last sentence.

The 1961 amendment deleted the former second and third sentences of this section, rewrote the reference at the beginning of the present second sentence, and made other minor changes in the section.

Sec. 122. Affairs of the company examined annually.—Two of the directors, at least, of a trust company shall once in each year thoroughly examine

the affairs of the company, settle the treasurer's account and report under oath to the bank commissioner the standing of the company, the situation of its funds and all other matters which the said commissioner requires, in the manner and according to the form that he prescribes, and publish an abstract thereof, if required. The said commissioner shall seasonably give notice of the time and furnish blanks for said examination and report. In lieu of an examination by said directors, a trust company may either employ an independent public accounting firm approved by the commissioner to perform said examination and render said report or may use an internal audit program approved by the commissioner. (R. S. c. 55, § 117. 1959, c. 159.)

Effect of amendment.—The 1959 amendment added the last sentence to this section.

Sec. 124. Establishment of branches.—No trust company shall establish or operate a branch or agency until 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 thereby. The commissioner may require such notice on an application for a branch or agency as he deems proper. No trust company shall be permitted to establish or operate a branch or agency except within the county of its main office or a county adjoining that of its main office; provided, however, that this limitation shall not prevent a trust company from establishing or operating a branch or agency in any city, town or village where there is no bank regularly transacting customary banking business or where a unit bank or branch of a bank is taken over. If granted, the commissioner shall issue his warrant in duplicate, one copy to be delivered to the trust company and the other to the secretary of state for record. Within 10 days after opening a branch or agency, the trust company shall file with the commissioner a certificate thereof signed by its president or treasurer. The right to open a branch or agency 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 or agency shall not be acted upon until the petitioning trust company shall have paid to the treasurer of state the sum of $200 to be credited and used as provided in section 1-D. This section shall not apply to branches or agencies authorized and in existence on September 16, 1961. (R. S. c. 55, § 119. 1961, c. 379, § 2; c. 417, § 152.)

Effect of amendments. — The first 1961 amendment rewrote this section. The second 1961 amendment substituted "section 1-D" for "section 4" at the end of the next to last sentence.

Sec. 124-A. Relocation of branch, agency or main office; closing branch or agency.—No branch, agency or main office may be moved to a new location without the prior written consent of the commissioner who shall give such consent if he finds that the proposed move does not create hazardous competitive conditions for existing financial institutions. Any branch or agency may be closed or discontinued with consent of the commissioner after such public notice, as in his judgment, the public interest may require. (1961, c. 379, § 3.)

Sec. 127. Proceedings when capital stock impaired.—When the capital stock of a trust company shall become impaired by losses or otherwise, the bank commissioner may ascertain and determine the facts and give notice in writing to such company to make good the deficiency so appearing, within such time as he may order. The directors of such trust company, unless they shall by proper vote otherwise determine, shall forthwith levy an assessment upon the stock thereof sufficient to make good such deficiency and shall forthwith notify each stockholder of such requisition by giving him in hand or mailing to him at

his last known address, postage prepaid, a written or printed notice which shall state the amount of assessment to be paid by him and the time within which it shall be paid, which time shall not be less than 60 days from the date of such notice. Such assessment shall be due and payable by each stockholder within the time specified in said notice and if any stockholder shall fail to pay the assessment specified in said notice within the time fixed therein as aforesaid, the directors of said trust company shall have the right to sell at public auction to the highest bidder the stock of each delinquent stockholder, after giving previous notice of such sale by publication thereof at least once a week for 3 successive weeks in some newspaper of general circulation in the county where the principal place of business of said trust company is located. A copy of such notice of sale shall also be given in hand to such delinquent stockholder or mailed to him at his last known address, postage prepaid, at least 10 days before the date fixed for said sale; or such stock may be sold at private sale and without such notice; provided, however, that before making such private sale thereof, an offer in writing to purchase said stock shall first be obtained and a copy thereof served upon the owner of record of the stock sought to be sold, either personally by giving him in hand a copy of such offer or mailing the same to him at his last known address, postage prepaid, and if after service of such offer, such owner shall still refuse or neglect to pay such assessment within 2 weeks from the time of the service of such offer, the said directors may accept such offer and sell such stock to the person making such offer or to any other person or persons making a larger offer than the amount named in the offer submitted to the stockholder; but such stock shall in no event be sold for a smaller sum than the valuation put on it by the bank commissioner in his determination and requisition as to said assessment, nor for less than the amount of said assessment so called for and the expense of the sale. Out of the avails of the stock so sold, the directors shall pay the amount of assessment levied thereon, and the necessary cost of sale; and the balance, if any, shall be paid to the person or persons whose stock has been thus sold. A sale of stock as herein provided shall effect an absolute cancellation of the outstanding certificate or certificates evidencing the stock so sold and shall make the same null and void and a new certificate shall be issued by the company to the purchaser thereof. Any stockholder aggrieved by any action of the commissioner or the directors of such company under the foregoing provisions may, within 10 days after receiving notice thereof, apply by appropriate proceedings to the superior court whose decision, after due hearing, shall be final in the matters complained of. In the event that the directors of any trust company upon notification by the commissioner shall not vote within 10 days after receipt of said notification to make an assessment upon the stock under the foregoing provisions, the commissioner or the directors of such company may file a complaint in the superior court, setting forth the fact that such capital stock is impaired and asking said court to order an assessment upon the capital stock sufficient to meet the impairment and make the corporation solvent. After giving due notice and hearing to all parties interested, the court shall, if it finds the capital stock to be impaired as aforesaid, order an assessment to be made upon such stock. Such assessment, when made, shall be due and payable by each stockholder to the treasurer of said company on order of said court within 60 days from the time such order is made. If any stockholder or stockholders of said company shall neglect or refuse, after due notice, to pay the assessment ordered as aforesaid within the time specified, a sufficient amount of the capital stock of such stockholder or stockholders may, after due notice given, be sold under the direction of the court to pay such assessment and the costs of sale. After paying the assessment and costs aforesaid from the proceeds of such sale, the balance, if any, shall be returned to the delinquent stockholder or stockholders. If no bidder can be found who will pay for such stock the amount of the assessment due thereon and the costs of the advertisement and sale, the amount previously paid by such stock-

holder or stockholders and said stock shall be forfeited to the company; and shall be sold by said company as the directors shall order, within 6 months from the time of said forfeiture. (R. S. c. 55, § 122. 1961, c. 317, § 170.)

Effect of amendment.—The 1961 amendment rewrote the seventh and eighth sentences of this section.

Sec. 130. Examination and revaluation.—Whenever, in the opinion of a majority of the directors or the executive committee of any trust company, organized under the laws of the state, and the commissioner, it will be for the benefit of the depositors and the public for the assets of the trust company to be revalued, the bank reorganized and put in sound condition, the superior court shall, on a complaint by the commissioner setting forth the facts, appoint a time for the examination of the affairs of such trust company and cause notice thereof to be given to all parties interested in such manner as may be prescribed and, upon examination of its assets and liabilities he may, if he deems it for the benefit of the public and the depositors, issue decrees necessary to carry out sections 130 to 143. In such examination of assets there shall be included the liability of stockholders to assessment. (R. S. c. 55, § 125. 1961, c. 317, § 171.)

Effect of amendment.—The 1961 amendment deleted "bank" formerly preceding "commissioner" in two places, substituted "the superior court" for "any justice of the supreme judicial court", substituted "a complaint" for "petition in equity" and deleted "the provisions of" formerly preceding "sections 130 to 143" in the first sentence of this section.

Sec. 132. Negotiable certificates.—The trust company described in section 130 shall issue to each depositor a certificate showing the amount of the deficit charged to his account, which said certificate shall be negotiable and shall bear no interest. No dividend or profit shall thereafter be made in liquidation of common stock until said certificate shall have been paid in full with interest compounded at the rate of 3% per year; otherwise, said certificate shall not be deemed to be a liability of the corporation. The holder of said certificate, the commissioner or the corporation shall be entitled to file a complaint with the court, after one year from the date thereof, for an order of distribution whenever the condition of the corporation, taking into account the rights of creditors and preferred stockholders, warrants such payment. (R. S. c. 55, § 127. 1961, c. 317, § 172.)

Effect of amendment.—The 1961 amendment divided the former last sentence of this section into two sentences, substituted "file a complaint with" for "petition" and made other minor changes therein.

Sec. 133. Conservators; appointment; powers.—The court may on a complaint filed by the commissioner appoint one or more conservators for such trust company described in section 130 and require such bond as the court deems proper. Such conservator shall have all the rights, powers and privileges now possessed by or hereafter given receivers of banks and trust companies in this state including the right and power to enforce stockholders' liability and is specifically authorized to borrow money and pledge assets when so ordered by the court. Such conservatorships may be terminated at any time by order of the court. While such trust company is in the hands of the conservator, he may set aside and make available for withdrawal by depositors and payments to other creditors on a ratable basis such amounts as in the opinion of the court may safely be used for this purpose; and he may be permitted to receive deposits, but deposits so received shall not be subject to any limitation as to payment or withdrawal and shall be segregated and shall not be used to liquidate any indebtedness of such trust company existing at the time that a conservator was appointed for it or any subsequent indebtedness incurred for the purpose of liquidating any indebtedness of such bank existing at the time the conservator was appointed. Such

deposits, received while the bank is in the hands of the conservator, shall be kept on hand in cash or invested in the direct obligations of the United States or deposited with a federal reserve bank or member of the federal reserve system. (R. S. c. 55, § 128. 1961, c. 317, § 173.)

Effect of amendment.—The 1961 amendment substituted "a complaint filed" for "petition" and deleted "bank" formerly preceding "commissioner" in the first sentence of this section.

Sec. 136. Dissolution of attachments.—The court may dissolve all attachments on the property of the trust company made within 4 months before the filing of the complaint; cancel leases, contracts and all other claims as in receivership proceedings, discontinue all actions pending against said trust company and fix the rights of said claimants, and adjudicate and fix the time and mode of payment of all claims, accounts and deposits having priority. (R. S. c. 55, § 131. 1961, c. 317, § 174.)

Effect of amendment.—The 1961 amendment substituted "filing of the complaint" for "filing of the petition" and "actions" for "suits" in this section.

Sec. 137. Authority of court in safeguarding rights of depositors. —The relief sought in the complaint described in section 130 filed by the commissioner shall not be granted without hearing. It shall not be granted if objected to in writing by the time and demand depositors of said trust company who are credited with the majority in amount of the trust and demand deposits. The court shall appoint immediately upon the filing of such complaint a conservator with authority to act pending hearing. Any depositor may be permitted to intervene as party plaintiff in any complaint filed hereunder and may be heard thereon. Any depositor or party in interest may present in writing a plan of reorganization. The bank commissioner may file his plan of reorganization. The depositors, who are credited with the majority in amount of the trusts and demand deposits, may present in writing to said court a plan of reorganization and if said plan is the most feasible, it shall be adopted. Final decree of reorganization shall be made by said court after submission of plans and hearing thereon. The right of appeal is granted. (R. S. c. 55, § 132. 1961, c. 317, § 175. 1963, c. 414, § 51.)

Effect of amendments. — The 1961 amendment substituted "relief sought in the complaint" for "petition" and "commissioner" for "bank commissioner addressed to any justice of the supreme judicial court" in the first sentence of this section, substituted "court" for "justice" and "such complaint" for "said petition" in the third sentence, and substituted "complaint filed" for "bill in equity filed" in the fourth sentence.

The 1963 amendment substituted "court" for "justice" in the seventh and eighth sentences.

Sec. 140. Receivers of trust companies; certain duties and powers. —Upon taking possession of the property and business of a trust company the receiver may collect moneys due to the corporation, and do all acts necessary to conserve its assets and business and shall proceed to liquidate its affairs. He shall collect all debts due and claims belonging to it and, upon the order or decree of the superior court, may sell or compound all bad or doubtful debts, and on like order or decree may sell for cash or other consideration or as provided by law all or any part of the real and personal property of the corporation on such terms as the court shall direct; and, in the name of such corporation, may take a mortgage on such real property from a bona fide purchaser to secure the whole or part of the purchase price, upon such terms and for such periods as the court shall direct; and on like order or decree he may borrow money and issue evidence of indebtedness therefor and to secure the repayment of the same may mortgage, pledge, transfer in trust or hypothecate any or all of the property of such institution, whether real, personal or mixed, superior to any charge thereon for expenses of liquidation. Such receivers shall have all the rights and powers

given to conservators by sections 130 to 143. (R. S. c. 55, § 135. 1963, c. 414, § 52.)

Effect of amendment.—The 1963 amendment deleted "as hereinafter provided" formerly appearing at the end of the first sentence, substituted "superior court" for "supreme judicial or of the superior court, or any justice thereof in term time or vacation" in the second sentence, and deleted "the provisions of" near the end of the section.

Mergers.

Sec. 146-A. Written consent required for acquisition of assets and assumption of deposits; exception.—Other than by merger as provided for in section 146 and elsewhere, no trust company shall, either directly or indirectly, acquire all or substantially all of the assets of, or assume liability to pay any deposits of, any other trust company, savings bank or national bank without the prior written consent of the bank commissioner who shall give his consent when satisfied that the public convenience and advantage will be promoted by the proposed transaction. The commissioner may require such notice, information and publication as he deems proper. (1961, c. 379, § 4.)

Sec. 146-B. Approval of banking monopolies having undue concentrations of banking assets.—No merger, consolidation, acquisition of assets or assumption of deposit liabilities shall be approved by the commissioner which would promote a banking monopoly having an undue concentration of banking assets, unless approval is necessary or advisable in the public interest. (1961, c. 379, § 5.)

Sec. 149. Effective date of merger; filing of approved agreement; certificate of merger as evidence.

Quoted in McGary v. Barrows, 156 Me. 250, 163 A. (2d) 747.

Mutual Trust Investment Company Act.

Sec. 154-A. Definition.—As used in sections 154-A to 154-G, the term "mutual trust investment company" means a corporation which is:

I. An investment company as defined by an Act of Congress entitled "Investment Company Act of 1940" approved August 22, 1940, as amended; and

II. Incorporated in compliance with sections 154-A to 154-G to constitute a medium for the common investment of trust funds held in a fiduciary capacity and for true fiduciary purposes, either alone or with one or more cofiduciaries, by state banks with trust powers, trust companies and national banks with trust powers which are located in this state. (1959, c. 322, § 1.)

Sec. 154-B. Authority to incorporate.—Any 5 or more state banks with trust powers, trust companies and national banks with trust powers located in this state are authorized, subject to the approval of the bank commissioner and subject to such regulations as he may from time to time prescribe, to cause a mutual trust investment company to be organized and incorporated. (1959, c. 322, § 1.)

Sec. 154-C. Application of general corporation law; articles of incorporation.—Such a mutual trust investment company shall be incorporated under and be subject to the general corporation laws of this state except as otherwise provided in sections 154-A to 154-G. The incorporators subscribing and acknowledging the articles of incorporation shall consist of 5 or more persons who are officers or directors of the banks and trust companies causing such mutual trust investment company to be incorporated. (1959, c. 322, § 1.)

Sec. 154-D. Corporate powers; ownership of stock.—

I. The stock of a mutual trust investment company shall be owned only by state banks with trust powers, trust companies and national banks with trust powers located in this state, acting as fiduciaries, and their individual co-fiduciaries, if any, but may be registered in the name of their nominee or nominees.

II. The stock of a mutual trust investment company shall not be subject to transfer or assignment except to the mutual trust investment company or to a fiduciary or co-fiduciary which becomes successor to the stockholder or its nominee provided such successor fiduciary or co-fiduciary or its nominee is qualified to hold such stock under subsection I.

III. A mutual trust investment company shall have not less than 5 directors who need not be stockholders but shall be officers or directors of banks or trust companies located in this state.

IV. A mutual trust investment company may invest its assets only in those investments in which a trustee may invest under the laws of this state and its assets shall constitute personal property held in trust within the meaning of chapter 91-A, section 9, subsection VI.

In addition to the foregoing restriction it shall make no investment in:

A. The note of an individual or individuals, whether or not it is secured;

B. The note, bond or other obligation of any firm, corporation or other issuer if the total original issue of such notes, bonds or other obligations is less than $500,000;

C. Any stocks, bonds or other obligations issued or guaranteed by any one firm, corporation or other issuer in excess of 10% of the total assets of the mutual trust investment company as increased by the proposed investment, provided that this limitation shall not apply to obligations of the United States, or for the payment of the principal and interest of which the full faith and credit of the United States is pledged;

D. Shares of stock of any one corporation which would cause the total number of such shares held by the mutual trust investment company to exceed 10% of the number of such shares outstanding.

V. A mutual trust investment company may acquire, purchase or redeem its own stock and shall by means of contract or of its by-laws, bind itself to acquire, purchase or redeem its own stock, but it shall not vote upon shares of its own stock.

VI. A mutual trust investment company shall not be responsible for ascertaining the investment powers of any fiduciary who may purchase its stock and shall not be liable for accepting funds from a fiduciary in violation of the restrictions of the will, trust indenture or other instrument under which such fiduciary is acting in the absence of actual knowledge of such violation, and shall be accountable only to the bank commissioner and the fiduciaries who are the owners of its stock. (1959, c. 322, § 1.)

Sec. 154-E. Purchase of stock by fiduciaries; authority and restrictions.—

I. State banks with trust powers, trust companies and national banks with trust powers located in this state, acting in a fiduciary capacity and for true fiduciary purposes, either alone or with one or more individual co-fiduciaries, may, if exercising the care of a prudent investor and with the consent of such individual co-fiduciary or co-fiduciaries, if any, invest and reinvest funds held in such fiduciary capacity in the shares of stock of a mutual trust investment company except where the will, trust indenture or other instrument under which such fiduciary is acting prohibits such investment. No investment in the stock of a mutual trust investment company may be made by any bank or trust company which operates its own common trust fund under the laws of this state. The stock shall not be subject to sections 228 to 242.

II. No funds of any estate, trust or fund shall be invested in the stock of a mutual trust investment company in an amount which would result in any bank or trust company having an aggregate holding in excess of 25% of the total issued and outstanding stock of such mutual trust investment company as increased by the amount of the proposed investment. In the event that by reason of reduction of the holdings of stock by other banks or trust companies, mergers of banks or trust companies, or for other reasons the aggregate holding of stock in the mutual trust investment company by any bank or trust company shall become greater than 25% of the total issued and outstanding stock, such bank or trust company may retain the stock then held by it but may not make further investments in such stock until its aggregate holdings have become less than such 25%.

III. A mutual trust investment company shall be permitted to rely on the written statement of any bank or trust company purchasing its stock, that the purchase complies with the foregoing requirements except that the mutual trust investment company shall be responsible to see that the limit on the holding of stock by any one bank or trust company as provided in subsection II is not exceeded. (1959, c. 322, § 1.)

Sec. 154-F. Powers of the bank commissioner.—

I. The bank commissioner shall have authority to adopt and issue reasonable and uniform rules and regulations to govern the conduct and management of all mutual trust investment companies formed pursuant to sections 154-A to 154-G and to prescribe, among other things:

A. The records and accounts to be kept by the mutual trust investment company;

B. The methods and standards to be employed in establishing the value of the shares of stock in the mutual trust investment company and of its assets;

C. The procedure to be followed in the sale and redemption of its stock.

II. The bank commissioner shall at least once in each calendar year, and whenever he deems it necessary or expedient, examine every such mutual trust investment company. On every such examination of a mutual trust investment company the bank commissioner shall make inquiry as to its financial condition, the policies of its management, whether it is complying with the laws of this state and such other matters as the bank commissioner may prescribe. The reasonable expenses of each examination of a mutual trust investment company pursuant to this section shall be borne and paid for by such company.

III. In the enforcement of sections 154-A to 154-G and the fulfillment of his responsibilities hereunder, the bank commissioner shall have the same powers and authorities over and with respect to mutual trust investment companies and their directors, officers and employees, including the power to compel the attendance of witnesses and the production of books, records, documents and testimony, the power to require the submission to him of reports and information in such form and at such times as he may prescribe, the power to direct the discontinuation of any practice which he may consider illegal, unauthorized or unsafe, and all other powers and authorities, whether or not specifically mentioned herein, as are given the bank commissioner by the laws of this state with respect to banks and trust companies, in the same manner and with like effect as if mutual trust investment companies were expressly named therein. (1959, c. 322, § 1.)

Sec. 154-G. Short title.—Sections 154-A to 154-G may be cited as the "Mutual Trust Investment Company Act." (1959, c. 322, § 1.)

Editor's note.—P. L. 1959, c. 322, adding sections 154-A to 154-G, provided in section 2 thereof as follows:

"Sec. 2. Severability. If any provision of

this act or the application of such provision to any person, corporation or circumstance shall be held invalid, the remainder of this act or the application of such provisions to persons, corporations or circumstances other than those as to which it is held invalid, shall not be affected thereby."

Bank Holidays. Saturday Closing.

Sec. 155. Bank holidays.—Any day of public thanksgiving, appointed by the governor or by the President of the United States, the first day of January, the 22nd day of February, the 19th day of April, the 30th day of May, the 4th day of July, the first Monday of September, Veterans Day, November 11th, and the 25th day of December are declared to be bank holidays. If a bank holiday falls on Sunday, the following Monday shall be deemed a bank holiday for the purposes of this chapter. (R. S. c. 55, § 140. 1955, c. 405, § 35. 1959, c. 230, § 2. 1961, c. 395, § 28. 1963, c. 414, § 53.)

Effect of amendments.—The 1955 amendment substituted "Veterans Day" for "Armistice Day."

The 1959 amendment substituted "2nd Monday of September" for "1st Monday of September" in the first sentence.

The 1961 amendment, effective upon its approval, June 17, 1961, substituted "first Monday of September" for "2nd Monday of September" in the first sentence, restoring the language of the section as it was prior to the 1959 amendment.

The 1963 amendment deleted "and council" following "governor" near the beginning of this section.

Effective date. — P. L. 1959, c. 230, amending this section, provided in section 5 thereof as follows: "This act shall take effect on January 1, 1961, provided that on or before said date the majority of the following states, Massachusetts, New Hampshire, Vermont, Rhode Island, Connecticut, New York, New Jersey and Pennsylvania, shall have provided by legislation or otherwise for the observance of Labor Day on the same day as provided in this act and provided further that on or before January 1, 1961 the Governor, after determining that a majority of the above-named states has provided for the observance of Labor Day on the same day as provided in this act, shall by proclamation proclaim that this act is effective."

Sec. 157. Saturday closing. — Any savings bank, trust company, industrial bank, loan and building association, savings and loan association or credit union organized under the laws of the state, also any national banking association, federal savings and loan association, federal credit union or licensed small loan agency doing business in the state, may remain closed, open, or may open for limited functions only, on any Saturdays as it may determine from time to time. Any Saturday on which such institution remains closed or open for limited functions only, shall be, with respect to such institution, a holiday and not a business day.

Any act authorized, required or permitted to be performed at or by, or with respect to, any such institution on a Saturday on which the institution is closed or open for limited functions only may be so performed on the next succeeding business day, and no liability or loss of rights of any kind shall result from such delay.

Nothing in any law of this state shall in any manner whatsoever affect the validity of, or render void or voidable, the payment, certification or acceptance of a check or other negotiable instrument or any other transaction by a bank or trust company in this state, because done or performed on a Saturday. (1947, c. 345. 1951, c. 215. 1957, c. 109.)

Effect of amendment. — The 1957 amendment added the provisions as to opening or opening for limited functions only in the first and second paragraphs and added the third paragraph.

Savings and Loan Associations.

Definitions

Sec. 157-A. Definitions.—The following words and phrases used in sections 157-A to 157-Z-36, unless a different meaning is plainly required by the context, shall have the following meaning:

I. Association. "Association" shall mean any savings and loan, loan and building, building and loan association or any corporation, however named, now or hereafter operating pursuant to sections 157-A to 157-Z-36.

II. Commissioner. "Commissioner" shall mean the bank commissioner of the state of Maine, or such other official as may hereafter be charged by law with the supervision of savings and loan associations.

III. Federal association. "Federal association" shall mean a savings and loan association organized pursuant to an act of Congress approved June 30, 1933, entitled "Home Owners' Loan Act of 1933" or any subsequent act of congress.

IV. Surplus funds. "Surplus funds" shall mean the net assets of an association in excess of all liabilities and withdrawable accounts.

V. Withdrawable account. "Withdrawable account" shall mean the amount credited to a member's shares or accounts, less lawful deductions therefrom, as shown by the records of the association. (1961, c. 198, § 1.)

Organization and Incorporation

Sec. 157-B. Organization.—Any number of persons, not less than 20, all of whom shall be residents of this state, may associate themselves in organizing an association in accordance with sections 157-A to 157-Z-36 for the purpose of promoting thrift and home building and ownership. Associations formed in accordance with sections 157-A to 157-Z-36 shall be known as savings and loan associations, and the name of every association so formed shall contain as part thereof the words "Savings and Loan" or "Loan and Building". (1961, c. 198, § 1.)

Sec. 157-C. Incorporation; capital reserve; dividends on capital reserve; forfeiture of certificate for failure to commence business.—Persons associating themselves as provided in section 157-B shall execute quadruplicate certificates, to be sent to the commissioner, in which shall be set forth:

I. The name of the proposed association;

II. The proposed location of such association;

III. The names, residences and occupations of the proposed incorporators;

IV. The reasons why such an association is needed in that location.

A notice of intention in form prescribed by the commissioner to organize such association, signed by all the incorporators, shall be published once a week for 3 consecutive weeks in some newspaper published in the municipality where said association is to be located, if any, otherwise in such newspaper as the commissioner may order. The commissioner shall cause such notice to be given to associations within the area to be served by such proposed association and to any other person or corporation as in his judgment may be necessary.

When any such certificate of incorporation, in proper form, shall have been filed with the commissioner and the sum of $500 shall have been paid to the treasurer of state for deposit for use of the banking department as provided in section 1-D, the commissioner shall thereupon ascertain, by such special investigation as he may deem necessary, with or without public hearing: whether the character, responsibility and general fitness of the person named in such certificate are such as to command the confidence of the community and to warrant belief that the business of the proposed association will be honestly and efficiently

conducted; that public convenience and advantage will be promoted by the organization of such association and that such association has reasonable promise of sufficient volume of business for successful operation.

After making such determination, the commissioner shall, within 6 months after the filing of the certificate of incorporation, endorse upon each certificate, over his official signature, the word "Approved" or "Disapproved" as the case may be, and shall forthwith notify the proposed incorporators. In the case of approval, one of the quadruplicate certificates shall be filed by the commissioner in his own office, the 2nd with the secretary of state, the 3rd with the register of deeds in the county where the association will have its principal place of business and the 4th shall be returned to the incorporators. Such certificate so returned shall constitute the authorization to commence business.

In case of disapproval, the application may be renewed in the manner provided above after the period of not less than one year.

As a condition precedent to the approval of any application the incorporators shall execute an agreement to subscribe to and upon the commencement of business pay into an account of the association to be known as the "capital reserve" such amount as the commissioner may require but not less than $25,000. The form of such agreement shall be approved by the commissioner. Such capital reserve shall be subordinate to the shares and accounts of the members. It shall be used as a guarantee against the impairment of the capital of the association and to the extent that it may be necessary for that purpose, losses and expenses of the association shall be charged to it. The account shall not be released to the owners thereof in less than 3 years from the date upon which payment was made into the account. If, thereafter, the commissioner finds that the guaranty fund of the association exceeds the initial contribution or an amount equal to 5% of the association's withdrawal accounts, whichever is greater, he shall permit the excess to be released to the owners thereof as provided, proportionate to the holdings.

The amount paid in by each subscriber to the capital reserve, shall be recorded on the books of the association in his name, and shall be evidenced by a certificate in a form approved by the commissioner. The amount standing to the credit of any person in such account may be transferred to another person subject to the conditions of the account. Dividends may be declared upon the amounts standing to the credit of each owner of a proportionate interest in the capital reserve, in accordance with the terms of the association's aforementioned agreement, but not in excess of the maximum rate of dividends paid on members' shares or accounts in the association for the same period. Each owner of a proportionate interest in such capital reserve shall have one vote at any annual or special meeting of the association. Upon release, the amount released may be transferred to shares and accounts in the association in the name of the owner, who shall thereupon be entitled to all the rights and privileges and shall be subject to all the duties and liabilities of membership.

Any association which shall not commence business within 6 months after the date on which its approved certificate of organization is issued shall forfeit its rights and privileges as an association, and its corporate powers shall cease, which fact the commissioner shall certify to the secretary of state, provided that the commissioner may, for satisfactory cause to him shown, extend by order for not more than one year the time within which business may be commenced, such order to be so certified and filed as in the case of the organization certificate. (1961, c. 198, § 1; c. 417, § 153.)

Effect of amendment. — The 1961 amendment substituted "banking" for "bank" and "section 1-D" for "section 2" in the first sentence of the third paragraph.

Sec. 157-D. Branch offices.—No savings and loan associations shall establish or operate a branch or agency until 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 thereby. The commissioner may require such notice on an application for a branch or agency as he deems proper. No savings and loan association shall be permitted to establish or operate a branch or agency except within the county of its main office or a county adjoining that of its main office. 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 or agency, the association shall file with the commissioner a certificate thereof signed by its president or treasurer. The right to open a branch or agency 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 or agency shall not be acted upon until the petitioning association shall have paid to the treasurer of state the sum of $200, to be credited and used as provided in section 1-D. This section shall not apply to branches or agencies authorized and in existence on September 16, 1961. (1961, c. 198, § 1; c. 417, § 154.)

Effect of amendment. — The 1961 amendment substituted "section 1-D" for "section 2" at the end of the next to last sentence.

Sec. 157-E. By-laws.—Each association shall adopt such by-laws as may be required by section 157-A to 157-Z-36 and as it may deem necessary or desirable for the regulation of its business and affairs and for the attainment of its purposes, consistent with sections 157-A to 157-Z-36 and may change the same from time to time. The original by-laws of any association hereafter incorporated shall be adopted by the incorporators. Changes in the by-laws of an association may be adopted by its board of directors or by its members and upon such notice and in such form as the by-laws shall provide. Within 10 days of the adoption of any by-laws or amendments thereto, the secretary shall file with the commissioner a copy thereof. (1961, c. 198, § 1.)

Sec. 157-F. Relocation of branch, agency or main office; closing branch or agency.—No branch, agency or main office may be moved to a new location without the prior written consent of the commissioner who shall give such consent if he finds that the proposed move does not create hazardous competitive conditions for existing financial instituions. Any branch or agency may be closed or discontinued after such public notice, as in the judgment of the commissioner, the public interest may require. (1961, c. 198, § 1.)

Sec. 157-G. Change of name.—An association may, with the approval of the commissioner, change its name by a vote of its members or by ⅔ vote of its board of directors if the by-laws of the association permit a change of by-laws by the directors. A certificate signed by the president and secretary setting forth the former name and the new name and that it was so adopted by a vote of the members or the board at a meeting held at a date specified in the certificate shall be filed with the commissioner, the secretary of state and the register of deeds in the county where the principal office is located. The name so certified shall from the time of filing the certificate with the secretary of state be the corporate title of the association. All deeds, mortgages, contracts, actions, judgments, transactions, proceedings and records made, received, entered into, carried on, or done by an association before the adoption of the certification of a change of name, but wherein the association is called by the name so subsequently adopted, shall be as valid as if the association were called therein by the name set forth in its original certificate of incorporation. (1961, c. 198, § 1.)

Powers

Sec. 157-H. General powers.—Every association now existing or hereafter created shall have all of the powers conferred by sections 157-A to 157-Z-36, both expressed and implied, and such others as are incidental thereto, and incidental or necessary to the operation of its business and the attainment of its purposes. Such powers shall be exercised in conformity with sections 157-A to 157-Z-36. (1961, c. 198, § 1.)

Sec. 157-I. Specific powers.—Without in any way limiting the general powers provided in section 157-H, every association shall have power to:

I. Perpetual succession. Have perpetual succession by its corporate name unless otherwise limited by its certificate of incorporation.

II. Sue and be sued. Sue and be sued, complain and defend, in any court of law.

III. Seal. Adopt and use a common seal and alter the same.

IV. Hold property. Purchase and otherwise acquire, hold, manage, mortgage, pledge, lease, exchange, sell, convey and otherwise dispose of, any real and personal property, necessary or incidental to its operations and consistent with its powers and purposes.

V. Insurance. Insure its members' accounts with the federal savings and loan insurance corporation or any other firm, association or corporation approved by the commissioner, and comply with conditions necessary to obtain such insurance.

VI. Member of federal home loan bank. Become a member of or a stockholder in a federal home loan bank and to that end comply with all conditions of membership therein.

VII. Cooperative league. Join any cooperative league organized for the purpose of protecting and promoting the welfare of associations and their members and comply with all conditions of membership therein.

VIII. Donations. Make donations for the public welfare or for charitable, scientific or educational purposes.

IX. Borrowing. Borrow money from any source in or out of the State, on the note, bond and mortgage or other obligation of the association upon such terms and conditions as the board of directors may from time to time prescribe by resolution adopted by at least a majority of all the members of the board and duly recorded on the minutes and to pledge, assign or transfer mortgages owned by the association and the obligations secured by such mortgages, together with the shares, if any, pledged as collateral security therefor, or any real or other personal property, as security for the repayment of money so borrowed. No association, without the written consent of the commissioner, shall borrow any sum or sums the aggregate of which would exceed 25% of its total assets.

X. Expenses; service charge. Take from its members all expenses incurred in connection with the consummation of a loan and in addition thereto, a service charge, premium or fee for priority or privilege of loan or acquisition of real estate and no such expense, service charge, premium or fee so taken shall be deemed usurious.

XI. Fines. Impose fines or charges upon a member for failure to make any payment to the association when due, but such fine or charge shall not exceed 2% a month on each dollar in arrears. None of such charges shall be deemed usurious.

XII. Agent. Act as agent for any person where such agency will further the interests of the association and its members, subject to such limitations as may be prescribed by the commissioner.

XIII. Retirement benefits. Adopt, alter, contract for or rescind a plan or plans providing for the retirement of its officers, employees and their de-

pendents and the payment to them for life or for a period certain such retirement benefits as may be set forth in a plan or plans adopted by the board of directors.

XIV. Loans and investments. Make loans and investments as authorized in sections 157-A to 157-Z-36.

XV. Rate of interest. Determine the rate of interest to be charged on loans made by the association as authorized in sections 157-A to 157-Z-36.

XVI. Indemnify against judgments. Indemnify every officer, director or employee, his heirs, executors and administrators, against judgments resulting from and the expenses reasonably incurred by him in connection with any action to which he may be made a party by reason of his being an officer, director or employee, including any action based upon any alleged act or omission on his part as an officer, director or employee, except in relation to matters as to which he shall be finally adjudged in such action to be liable for his negligence or misconduct, and except that, in the event of a settlement, indemnification shall be provided only in connection with such matters covered by the settlement as to which the association is advised by counsel that in the opinion of counsel the person to be indemnified was not liable for such negligence or misconduct. The foregoing right of indemnification shall not be exclusive of other rights to which such officers, directors or employees may be entitled. (1961, c. 198, § 1.)

Management

Sec. 157-J. Number of directors; qualifications of directors; meetings; quorum; powers.—The business and affairs of every association shall be managed and directed by a board of directors. The board shall consist of such number as the by-laws provide, but not less than 6. Each director shall be a member, a resident of the state of Maine, and shall not be an officer or director of any other association. He shall have such other qualifications and meet such eligibility requirements, as sections 157-A to 157-Z-36 and the by-laws provide.

The board of directors shall hold regular meetings at least monthly, at a time fixed by the by-laws of the association, and shall cause full and complete records of their proceedings to be kept.

A quorum at any meeting of the board of directors shall consist of not less than a majority of the board, but less than a quorum shall have power to adjourn from time to time until the next regular meeting.

The board may exercise any and all powers of an association not expressly reserved to the members of the association by sections 157-A to 157-Z-36 and the by-laws. If the by-laws so provide, and insofar as it is not inconsistent with the faithful performance of its duties, the board may delegate any of its powers to any committee composed of members of the board, and the board may employ or authorize any officer to employ any persons necessary for the conduct of the business of the association. (1961, c. 198, § 1.)

Sec. 157-K. Election of directors; vacancies on board; term of office for directors.—The directors shall be elected by the members of the association by ballot at the annual meeting, for such term, not exceeding 3 years, as the by-laws provide. Where the term is for more than one year, the by-laws shall establish terms of office so that an equal number of directors, so far as possible, shall be elected each year. A vacancy in the board may be filled by the board until the next annual meeting of the association, when it shall be filled by the members of the association for the remainder of the unexpired term. Each director shall hold office for the term for which he is elected and until his successor shall be chosen and qualified. (1961, c. 198, § 1.)

Sec. 157-L. Officers.—The officers of every association shall be a president, a secretary and a treasurer and such other officers as the by-laws may provide. They shall be elected by the board, unless otherwise provided for in the by-laws and shall serve for a term of not more than one year, but shall continue in office until the election and qualification of their successor. Any 2 offices, except the offices of president and vice-president, may be held by one person. A vacancy in any office may be filled by the board for the unexpired term. The compensation of the officers of an association shall be fixed by the board of directors. The compensation of the directors may be fixed by the members at any annual or special meeting thereof, or as may be fixed by the board of directors and approved by the commissioner in writing. (1961, c. 198, § 1.)

Sec. 157-M. Officer's powers.—Each officer, in addition to such powers and duties as usually pertain to his office, shall have such powers and duties as the by-laws may provide or as may be delegated to him by the board. (1961, c. 198, § 1.)

Sec. 157-N. Oath of office of directors and officers; penalty for violating oath of office.—Each officer and director shall, before entering upon the duties of his office, take and subscribe the following oath of office:

Oath of Office
State of Maine

....., ss. 19

Personally appeared .....

of the ..... Savings and Loan Association, and being duly sworn according to law made oath that he would faithfully and impartially perform the duties of his office.

Before me,

.....
Notary Public

All oaths of office shall be filed with the secretary. If any officer or director shall fail within a reasonable time after his election to take and subscribe the oath required by this section, the board may declare his office vacant. If any officer or director shall violate the provisions of his oath, the board, after affording him an opportunity to be heard, may declare his office vacant by a vote of ⅔ of the directors present at any meeting of the board, of which meeting notice shall have been given to each director. (1961, c. 198, § 1.)

Sec. 157-O. Bonds of officers and employees. — The board of directors of every association shall require security for the fidelity of such of its officers, employees and agents and in such form and amount as the board shall deem necessary or the commissioner may require. Such security shall consist of a bond executed by one or more surety companies authorized to transact business in this state. The commissioner may direct an increase in such amount from time to time as circumstances may require. The expense of any bond or bonds shall be assumed by the association. (1961, c. 198, § 1.)

Membership, Accounts, Shares

Sec. 157-P. Membership generally. — The members of an association shall be those in whose names accounts are established, and persons borrowing from or assuming or obligated upon a loan held by an association or purchasing property and assuming the secured loan held by an association. A joint and survivorship relationship and a successor relationship whether investors or borrowers, shall constitute a single membership. (1961, c. 198, § 1. 1963, c. 85, § 2.)

Effect of amendment. — The 1963 amendment substituted "and assuming the secured loan" for "securing a loan" in the first sentence.

Sec. 157-Q. Shares and accounts.—Membership in an association shall be evidenced by a share certificate, an account book or some other evidence of the account. An association may issue the following types of shares or accounts:

I. Serial shares. Serial shares having an ultimate value of $200 may be issued quarterly, semiannually or annually, but no share of a prior series shall be issued after the opening of a new series.

II. Full paid income shares or matured shares. Full paid income shares or matured shares may be issued to members whose shares have reached maturity value.

III. Permanent plan monthly installment shares. Permanent plan monthly installment shares may be issued but shall have no maturity.

IV. Prepaid and investment shares and accounts. Prepaid and investment shares and accounts may be issued in units of $200 or multiples thereof.

V. Savings shares and accounts. Savings shares and accounts may be issued upon which payments and withdrawals may be made at the option of the members.

VI. Advance payment shares. Advance payment shares which with the addition of dividends will mature them to the value of $200. (1961, c. 198, § 1. 1963, c. 85, § 3.)

Effective amendment.—The 1963 amendment rewrote this section, which formerly related to non-share and share membership plans.

Sec. 157-R. Limitation upon accounts.—The board or any person duly authorized by it may refuse to accept any account and may limit the amount of payments which may be received on any account, except as otherwise provided.

By its by-laws or resolution of its board of directors, an association may limit the aggegrate participation value of any member, provided that such limitation shall not apply:

I. To an account which is pledged as security for the repayment of money due such association; or

II. To an account which exceeds the aforesaid limitation at the time of enactment of this statute, but no additions other than dividends shall be made thereto; or

III. When such excess results from the addition of dividends to any such account, or from the acquisition of an account by gift, will or inheritance; or from the acquisition of an account previously held as collateral security for the payment of an obligation; or from the acquisition by one association of the assets of another association; or

IV. When such excess results from a reduction in the capital of the association. (1961, c. 198, § 1.)

Sec. 157-S. Minors.—Minors may hold shares or accounts in associations and the value of such shares or accounts shall be paid to the person in whose name the shares or accounts have been issued if such person is over the age of 15 years, and if not to his or her parent or guardian and the receipt or acquittance of such minor over 15 years of age or the parent or guardian of such minor less than 15 years of age shall be a valid and sufficient release and discharge of such association. (1961, c. 198, § 1.)

Sec. 157-T. Payment of shares of deceased members.—If any member shall die leaving in an association shares or accounts of a value not exceeding $500 and no executor of his will or administrator of his estate has been appointed, the association may pay the balance of his or her shares or accounts to the surviving spouse, next of kin, funeral director or other preferred creditor or creditors who may appear 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 payment. (1961, c. 198, § 1.)

Sec. 157-U. Shares and accounts as legal investments and as security for bonds.—Subject to the application of the prudent man rule, administrators, executors, custodians, guardians, conservators, trustees and other fiduciaries of every kind and nature, insurance companies, business and manufacturing companies, banks, credit unions and all other types of financial institutions, charitable, educational, eleemosynary and public corporations and organizations, and municipalities and other public corporations and bodies, and public officials are specifically authorized and empowered to invest funds held by them in shares or accounts of any association operating pursuant to sections 157-A to 157-Z-36. With respect to investments by custodians, associations hereby are deemed to be "banks" within the meaning of that term as used in the uniform gift to minors act of this state.

Whenever, under the laws of this state or otherwise, a deposit of securities is required for any purpose, the securities made legal investments by this section shall be acceptable for such deposits, and whenever, under the laws of this state or otherwise a bond is required with security such bond may be furnished, and the securities made legal investments by this section in the amount of such bond, when deposited therewith, shall be accepted as security without other security.

The provisions of this section are supplemental to any and all other laws relating to and declaring what shall be legal investments for the persons, corporations, organizations and officials referred to in this section and the laws relating to the deposit of securities and the making and filing of bonds for any purpose. (1961, c. 198, § 1.)

Sec. 157-V. Fiduciaries.—Whenever shares or accounts are held by a person designated on the records of an association as a fiduciary, it shall be conclusively presumed, in all dealings between the association and the fiduciary or any other persons, with respect to such shares or accounts, that a fiduciary relationship in fact exists, and that such fiduciary has power to invest money in the association, and to withdraw the same or any part thereof, and to transfer his membership to any other person. The receipt or acquittance of such fiduciary shall fully exonerate and discharge the association from all liability to any person having any interest in such shares or accounts and the association shall not be under any duty to see to the proper application of the trust property.

Upon the death or disability of any fiduciary, the value of his shares or accounts may be paid, at the option of the association, either to the executor, administrator, conservator or guardian of such fiduciary, or to any substituted fiduciary, or to the person, if any, who is designated on the records of the association as the beneficiary of such shares or accounts, if of the age of 15 years or upwards, or to the guardian or parent or person standing in loco parentis to such person if under the age of 15 years. The receipt or acquittance of any such person shall fully exonerate and discharge the association from all liability to any person having any interest in such shares or accounts, and the association shall not be under any duty to see to the proper application of the trust property. (1961, c. 198, § 1.)

Sec. 157-W. Powers of attorney on accounts.—Any association may continue to recognize the authority of an attorney authorized in writing to manage or to make withdrawals either in whole or in part from the account of a member until it receives written notice of the revocation of his authority. For the purposes of this section, written notice of the death or adjudication of incompetency of such member shall constitute written notice of revocation of the au-

thority of his attorney. No association shall be liable for damages by reason of any payment made pursuant to this section. (1961, c. 198, § 1.)

Sec. 157-X. Joint membership.—A single membership in an association may be held by 2 or more persons and shall be subject to the provisions of section 19-G, subsection V, as now or hereafter may be amended, and shall apply to all types of shares and accounts authorized for savings and loan associations. (1961, c. 198, § 1.)

Sec. 157-Y. Pledge of accounts in joint tenancy.—The pledge of all or part of an account in joint tenancy signed by that person or those persons who are authorized in writing to make withdrawals from the account shall, unless the terms of the account provide specifically to the contrary, be a valid pledge and transfer of that part of the account pledged, and shall not operate to sever or terminate the joint and survivorship ownership of all or any part of the account. (1961, c. 198, § 1. 1963, c. 85, § 4.)

Effect of amendment. — The 1963 amendment deleted "to any association" following "pledge" near the beginning of this section and also deleted "to the association" following "transfer" near the end of the section.

Sec. 157-Z. Transfer of membership.—A member may transfer, absolutely or conditionally, his membership to any other person, subject to sections 157-A to 157-Z-36, by a written assignment on form approved by the association accompanied by delivery of the evidence of the account. The evidence of the account shall mean the membership certificate, share certificate, account book or any other evidence of the account which may have been issued in connection with such membership. Every such transfer of membership shall be deemed to include the account and the evidence of the account issued in connection therewith. No such absolute transfer shall be effective against an association until such written assignment and the accompanying evidence of the account shall be delivered to the association with a request that it complete such transfer upon its records. No such conditional transfer shall be effective against an association unless and until it actually receives notices thereof in writing. (1961, c. 198, § 1.)

Sec. 157-Z-1. Lost certificates and account books.—If an association receives a notice in writing that an account book or certificate of shares is lost, together with a request that a duplicate account book or certificate be issued, such notice and request being signed by the appropriate person or persons as provided, the 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 the association from all liability on account of the missing original account book or certificate. Such notice and request shall be signed:

I. If issued to member. If the book or certificate was issued to a member, then by him, an officer in the event of a corporation, or by a guardian, conservator, trustee, executor or administrator.

II. If issued to 2 or more members. If the book or certificate was issued to 2 or more members, then by all such members then surviving, or by the last survivor of such members; provided that a guardian or conservator shall sign for any of the foregoing persons respecting whom he has been appointed. (1961, c. 198, § 1.)

Sec. 157-Z-2. Termination of membership. — Membership shall terminate when the amount of a member's shares or accounts has been paid in full to him or when the transfer of his membership to another person has been recorded on the books of the association, or when his status as a borrower from the association terminates. (1961, c. 198, § 1.)

Withdrawals, Retirements, Applications and Inactive Accounts

Sec. 157-Z-3. Withdrawals.—Any member may at any time present a written application for withdrawal of all or any part of his shares or accounts. No member shall have on file in any one association more than one application at a time. Every application shall request immediate withdrawal of a stated amount in accordance with this section. Any member may cancel his application at any time in whole or in part by a writing. Every association shall pay or number, date and file in the order of actual receipt every withdrawal application. Withdrawals shall be made in the order of actual receipt of applications, except as provided in this section. Upon withdrawal, an association shall pay the value of any shares or accounts, as determined by the board of directors, but not in excess of the withdrawal value thereof. If an association so elects, it may at any time pay in full each and every application as presented. It shall not pay some in full, unless it pays every application on file in full, except by paying all applications on file on the rotation plan prescribed in this section. The board of directors shall have an absolute right to pay upon any application not exceeding $200 to any member in any one month in any order. No association can obligate itself to pay withdrawals on any plan other than as provided in sections 157-A to 157-Z-36. Members who have filed written application for withdrawal shall remain members. No dividends shall be declared upon that portion of an account which has been noticed for withdrawal, which for dividend purposes is required to be deducted from the latest previous additions to such account, so long as such application is on file. The rotation plan of payment of withdrawals is as follows: On the first day of each month, each application which has been on file since the first day of the preceding month and which is reached in order shall be paid $1,000 on account, or in full if the amount noticed for withdrawal or the unpaid balance of such application is less than $1,000. Each such application for more than $1,000 so paid shall be deemed refiled as if filed on that day. Such limited payment on the first day of each month and such renumbering shall take place on the first day of each subsequent month as long as there are applications unpaid. At least 1/3 of the receipts of an association from its members during the preceding calendar month shall be applied on the first day of each month to the payment of applications which have been on file since the first day of the preceding month. Any association may apply to withdrawals an amount larger than 1/3 of such receipts, but cannot obligate itself to do so. When an application to withdraw is reached for payment as provided, a written notice shall be sent to the applicant by mail at his last address recorded on the books, and unless the applicant shall apply in person or in writing for such withdrawal within 30 days from the date of such notice, no payment on account of such application shall be made and such application shall be cancelled. (1961, c. 198, § 1.)

Sec. 157-Z-4. Retirements.—At any time after 4 years from the date of issue, the board of directors may, under rules made by them, retire unpledged shares or accounts by enforcing their withdrawal. The members whose shares or accounts are to be retired shall be determined by lot, and they shall be paid the full value of their shares or accounts less all fines, if any, and a proportionate part of any unadjusted profit or loss. (1961, c. 198, § 1.)

Sec. 157-Z-5. Application of withdrawal value to indebtedness.—If a borrowing member of an association is in default on any indebtedness to such association, the board of directors may, after 30 days' written notice of such intention sent by mail to such borrowing member at his last known address as shown on the books of said association, apply at the withdrawal value the whole or any part of any shares or sums credited on any account of such borrowing member to his indebtedness. Shares credited to the indebtedness of a borrowing mem-

ber shall be cancelled and any balance remaining shall be held for his account.

If a non-borrowing member of an association is in default on any payment to such association for a period of 90 days or more, the board of directors may, after 30 days' written notice of such intention sent by mail to such member at his last known address as shown on the books of said association, forfeit the account of such member and the value thereof, after deducting all fines and legal charges, shall be transferred to the credit of the defaulting member to an account to be designated forfeited accounts. Said members shall be entitled upon 30 days' notice, to receive the balance so transferred without dividends or other accruals from the time of such transfer.

Nothing in this section shall prevent an association from applying and crediting at any time the full withdrawal value of any account pledged with it as security for the payment of any debt, toward the payment of such debt. (1961, c. 198, § 1.)

Sec. 157-Z-6. Inactive accounts.—Every association shall on or before the first day of November each year beginning with the first day of November, 1963, cause to be published, in some newspaper published in the municipality where the principal office of the association is located, if any, otherwise in such newspaper as the commissioner may order, the amount standing to his credit, the last known place of residence or post office address, and the fact of death, if known, of every member of the association who shall not have made an addition to or withdrawal from his account, or any part of the dividends thereon or brought his account book to the association to be verified or to have the dividends entered thereon, for a period of more than 20 years next preceding. This section shall not apply to the accounts of persons known to the association to be living or to an account which with the accumulations thereon shall be less than $50.

Such publication, in addition to the above required information, shall state that 2 years after the date of publication, all moneys in such inactive accounts shall be paid into the state treasury.

Said association shall also transmit a copy of such statement to the bank commissioner to be placed on file in his office for public inspection. Any association failing to comply with the provisons of this section shall be punished by a fine of $50.

Two years after the date of such publication, all moneys in such inactive accounts shall be deemed presumptively abandoned and shall be paid into the state treasury and credited to the general fund for the use of the state, and there shall be paid into the state treasury, and so credited at the end of 20 years after the last addition, all accounts inactive as aforesaid, which with accumulations thereon shall be less than $50.

After payment into the state treasury of such accounts, no action shall be maintained in any court in this state by any member or his heirs, successors or assigns against any association making such payments, provided that thereafter any lawful claimant may petition the governor and council for payment of such moneys to the claimants. In his petition the claimant shall state fully the facts showing the basis of his right, title and interest in such account. The governor and council, after a hearing, shall determine who are lawful claimants and shall authorize payment by the treasurer of state from the general fund to such claimants. (1961, c. 198, § 1.)

Members' Meetings and Voting Rights

Sec. 157-Z-7. Meetings.—

I. First. The certificate of incorporation issued by the commissioner for an association shall provide the method of calling the first meeting of the association.

II. Annual. The members shall meet at least once in each year as provided in the by-laws of the association, for the election of directors and the transaction of any other business which may properly be brought before such meeting, upon not less than 7 days' notice, such notice to appear in a newspaper published in the municipality where the principal office of the association is located, if any, otherwise in such newspaper as the commissioner may order.
III. Special. Special meetings of the members may be called in the same manner as the calling of the annual meeting or as may be required in the by-laws and the notice of such meeting shall state the purposes for which it is called. (1961, c. 198, § 1.)

Sec. 157-Z-8. Quorum.—The by-laws may prescribe the number of members which shall constitute a quorum at an annual or special meeting of the members. In the absence of any provision in the by-laws, any number of members, but not less than 6, present at any meeting shall constitute a quorum. (1961, c. 198, § 1.)

Sec. 157-Z-9. Meeting place.—Members' meetings shall be held at the association's principal office or at such other place within the municipality where the association has its principal place of business as the board may designate. (1961, c. 198, § 1.)

Sec. 157-Z-10. Voting rights.—Each member 21 years of age or over shall be entitled to one vote at any meeting of the association, regardless of the number of shares or accounts standing in his name, provided that only one vote shall be allowed on an account held by 2 or more persons; and no member shall vote by proxy at any meeting. The by-laws may prohibit voting by persons who have become members within 6 months of the date when the vote is cast. When accounts or shares are pledged, the pledgor may vote thereon. (1961, c. 198, § 1.)

Investments

Sec. 157-Z-11. Investments authorized.—The funds of every association shall be invested in accordance with sections 157-A to 157-Z-36. (1961, c. 198, § 1.)

Sec. 157-Z-12. Loans.—Investments in loans may be made as follows:
I. Mortgage loans. In any loan evidenced by a note and secured by a mortgage which shall be a first lien on real estate, subject to the following limitations and requirements:

A. Prior to approval of any loan every association shall appraise or cause to be appraised each parcel of real estate in one or more of the following ways:

1. By an independent qualified appraiser designated by the board of directors; or

2. By the association's appraisal committee appointed by the board of directors; or

3. In the case of an insured or guaranteed loan, by an appraiser appointed by any lending, insuring or guaranteeing agency of the United States or the state of Maine, which shall insure or guarantee such loan, wholly or in part.

B. Each appraisal shall be in writing with a certificate signed by the appraiser or appraisers, which appraisal shall be filed and preserved by the association.

C. Direct reduction loans shall be repayable in weekly or monthly instalments. All payments made upon such loans shall be applied first to interest and other charges and the remainder to the reduction of the principal of

the loan. Loans made under this subsection shall be subject to the following limitations or requirements:

1. To an amount not exceeding 80% of the appraised value of one to 4-family residential property or combination residential and business property, repayable in a period not exceeding 25 years;

2. To an amount not exceeding 70% of the appraised value of any other type of improved real estate, repayable in a period not exceeding 20 years;

3. Principal payments on any loan may be waived from time to time for good cause by an authorized officer whose action is confirmed by the board of directors.

4. Principal payments on construction loans may be postponed for a maximum of one year from the date of the note, providing the final maturity date of the loan does not exceed the limits as established in subparagraphs 1 or 2.

D. Non-amortizing real estate loans may be made subject to the following terms:

1. Interest must be payable at least semiannually.

2. No loan may have a maturity exceeding 5 years.

3. No loan may exceed 66⅔% of appraised value.

E. Loans written under paragraph C, subparagraph 2 and paragraph D, together with loans on properties located more than 50 miles from an association's place of business and loans in excess of $25,000 or 10% of surplus funds, whichever is larger, shall not in aggregate, exceed 20% of total assets.

F. No association shall make a loan secured by any one property which exceeds $25,000 or 10% of surplus funds, whichever is the larger; nor shall the total loans to any one borrower or group of associated borrowers exceed $35,000 or 20% of surplus funds, whichever is the larger.

G. After January 1, 1963 the aggregate total of all loans made by any association under this section shall not exceed 100% of withdrawable accounts and surplus funds as determined by the commissioner, unless the commissioner shall, for good cause shown, on application therefor approve an amount in excess of said amount subject to such conditions as the commissioner may approve.

H. Real estate loans may be made on the sinking fund plan in amounts not exceeding the limits hereinbefore specified in this section. Any shares pledged for real estate loans, known as sinking fund shares, may be cancelled and the full amount of these shares, including dividend credit thereon, less all monthly installments of interest, fines, taxes and any other legal charges in arrears, may be endorsed on the mortgage note and future payments handled in the same manner as with direct reduction loans, with the written agreement of the borrower. When such agreement for transfer is entered into, a copy of the agreement shall be placed in the association files and copy given to the borrower.

I. Additional loans upon the same real estate or a portion thereof may be made provided any mortgage securing such loan shall contain a provision to the effect that the premises described are subject to such prior mortgage or mortgages to the mortgagee and provided further that there shall be no intervening mortgage or encumbrance other than those held by the association concerned.

II. Account loans. In loans secured by a pledge of a member's account, no such loan shall exceed the withdrawal value of the pledged account, less interest thereon for a period of 6 months.

III. Guaranteed loans. In loans guaranteed or insured in whole or in part by the United States of America or the state of Maine, any instrumentality or agency of either of them, or for which a commitment to so guarantee or

insure has been made. Such loans shall not be subject to the restrictions of sections 157-A to 157-Z-36, but shall be made in accordance with the terms and conditions permitted by the agency guaranteeing or insuring such loans, notwithstanding any other provisions of law limiting interest or other charges or prescribing terms and conditions. Such loans shall include only those which are made for the purchase or improvement of real estate, or for the construction, alteration, repair or improvement of buildings erected thereon; or those which may be made for any other purpose provided they be secured by a mortgage on real estate.

IV. Real estate improvement loans. In real estate improvement loans to any member, evidenced by a note without the security of a real estate mortgage or pledge of collateral upon the following conditions:

A. To an amount not exceeding $2,500, directly or indirectly, provided that the association is the holder of a first mortgage upon the property to be improved, that each such loan is evidenced by one or more negotiable notes, and that each loan is repayable in regular monthly installments within the period of 5 years;

B. To an amount within the discretion of the directors, providing the loan is eligible for insurance under the national housing act and seasonable application is made under title I of that act;

C. The aggregate of all loans made under subsection IV, paragraph A, shall not exceed 5% of the withdrawable accounts of the association.

V. Open end mortgages. Any interest in real property which may be mortgaged to an association 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:

A. The mortgagor or his successor in title is 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

B. The priority of such debts, obligations and future advances shall not include any future optional advances secured by such mortgage made by such association after such person, in addition to acquiring such subsequent right or lien, sends the association by certified mail or delivers to an office of the association and secures a receipt therefor express written notice stating that any such optional advances thereafter made will be junior to such person's mortgage or lien upon or rights in such real estate.

C. "Future advances" referred to in this subsection shall include only those made to recipients designated in the mortgage.

VI. Minority of borrower. The disability of minority of any person otherwise eligible for a loan, or guaranty or insurance of a loan, pursuant to the act of the congress of the United States entitled the servicemen's readjustment act of 1944, 58 Stat. 284, as heretofore or hereafter amended, 38 U. S. C. 693 et seq., and of the minor spouse of any eligible veteran, in connection with any transaction entered into pursuant to said act of the congress of the United States, as heretofore or hereafter amended, shall not affect the binding effect

of any obligation incurred by such eligible person or spouse as an incident to any such transaction, including incurring of indebtedness and acquiring, encumbering, selling, releasing or conveying property, or any interest therein, if all or part of any such obligation be guaranteed or insured for the government by the administrator of veterans' affairs pursuant to said act and amendments thereto; or if the administrator be the creditor, by reason of a loan or a sale pursuant to said act and amendments. This section shall not create or render enforceable any other or greater rights or liabilities than would exist if neither such person nor such spouse were a minor. (1961, c. 198, § 1.)

Sec. 157-Z-13. Repayment of loan. — A borrower from an association may repay a loan at any time upon application to the association, whereupon, on settlement of his account, he shall be charged with the full amount of the original loan, together with all monthly installments of interest, premium and fines in arrears, and shall be given credit for the withdrawing value of any account pledged and transferred as security and all other sums credited to said loan, and the balance shall be received by the association in full satisfaction and discharge of said loan. (1961, c. 198, § 1.)

Sec. 157-Z-14. Other investments.—An association may invest as follows:

I. Obligations of the United States. In obligations of or guaranteed as to principal and interest by the United States of America or the state of Maine.

II. Federal home loan bank obligations. In bonds, notes, debentures, or other securities or time deposits or obligations issued by any federal home loan bank of the United States or by the federal home loan bank system.

III. Participating in mortgage loans. In the investment in participating interests in mortgage loans. The mortgage which secures payment of any such participating interest shall be a first lien upon real estate and shall conform with the limitations, conditions and requirements set forth in sections 157-A to 157-Z-36. Such participating interest shall entitle the association to share all money and other benefits derived from such mortgage loan, or incidental thereto, pro rata with, or with preference and priority over, the holder of any other participating interests therein. The total amount invested in such participating interests by any association shall not exceed 10% of its withdrawable accounts at the time any such investment is made.

IV. Accounts of other associations. In accounts of any insured association of this state and of any federal association whose principal office is located in this state, provided that no such investment in any association shall be in excess of the amount insured by the federal savings and loan insurance corporation.

V. Investments. In securities which are or may hereafter be made legal for savings banks of Maine and within the limits permissible for such banks, and such other investments as are or which shall hereafter be authorized by any law of this state for associations regulated by sections 157-A to 157-Z-36. (1961, c. 198, § 1.)

Sec. 157-Z-15. Real estate. — Investments may be made in real estate as follows:

I. Office building for transaction of association's business. In the purchase of improved or unimproved real estate and in the erection or improvement of buildings thereon together with fixtures and equipment for the purpose of providing offices for the transaction of an association's business. Such buildings may also include space for rental purposes. The cost to the association of such lands, buildings, fixtures and equipment shall not exceed 50% of the sum of such association's surplus funds at the time such investment is made,

unless the commissioner shall, for good cause shown, on application therefor approve an amount in excess of said amount subject to such conditions as the commissioner may approve.

II. Other real estate. In the acquisition by purchase or otherwise of any real estate upon which the association may have a mortgage, judgment, lien or other encumbrance, or in which it may have an interest for the purpose of protecting and conserving such interest. The association may sell, convey, contract to sell, lease or mortgage at pleasure, the real estate so acquired, to any person or persons whatsoever. Any real estate so acquired may be sold and such association in the discretion of its board of directors may accept the note of the purchasers, secured by a first mortgage, upon such terms and conditions as the directors may determine. (1961, c. 198, § 1.)

Sec. 157-Z-16. Restrictions on investments. — No association shall make any of the investments authorized by sections 157-A to 157-Z-36, except those authorized by section 157-Z-12, subsection II, and section 157-Z-14, subsections I and II, if and so long as the sum of its cash on hand and in banks and savings and loan associations and the market value of its investments in obligations of the United States of America is less than 5% of its withdrawable accounts.

No association shall make any of the investments authorized by sections 157-A to 157-Z-36 except investments authorized by section 157-Z-14, subsections I and II, at any time when any application for withdrawal remains unpaid in whole or in part, 6 months after the date of the filing thereof. (1961, c. 198, § 1. 1963, c. 85, § 5.)

Effect of amendment. — The 1963 amendment inserted "and savings and loan associations" in the first paragraph.

Sec. 157-Z-17. Dividend participation.—

I. Rate of dividend. At least annually and after determination of the net income for the dividend period and the establishment of reserves required or permitted by law, the board of each association shall determine by resolution the rate or rates of dividend if any, which shall be declared for each class of shares or accounts. Such dividends shall be taken only from the net income, or from other surplus funds not otherwise restricted by law.

II. Exclusion from dividends. Notwithstanding any other provisions of sections 157-A to 157-Z-36, an association may, if its by-laws so provide, exclude from dividends, either or both of the following classes of shares or accounts:

A. Those having a participation value of less than $50;

B. Those which are issued under a plan whereby they will be withdrawn within 24 months from the date upon which they are issued, or it may credit dividends to such shares or accounts according to a schedule which it may establish, provided that such schedule shall not result in the crediting of dividends to any of such shares or accounts at a rate greater than that applicable to any class of shares or accounts, other than those described in subsection II. (1961, c. 198, § 1.)

Sec. 157-Z-18. Guaranty fund. — Every association shall establish and maintain a guaranty fund as hereinafter set forth. Before declaring dividends, the board of directors shall set aside a sum at a rate not less than 10% per year of the net income accruing since the last dividend declaration, until such guaranty fund amounts to 5% of the association's withdrawable accounts and thereafter such sums as from time to time shall be voted by the board of directors. The fund shall be kept constantly on hand as a security against losses and contingencies, except that any portion of the guaranty fund in excess of 5% of the

association's withdrawable accounts shall be available and may be used for dividends or such other purposes as the directors may deem appropriate. Should this fund be less than 5% of withdrawable accounts at the effective date of this act or should it later become impaired and fall below 5% of the association's withdrawable accounts, it shall be restored by setting aside from current net income an amount which together with other amounts so set aside for this purpose during the fiscal year shall be equal to at least ½ of 1% of its withdrawable accounts until the fund is restored to the required amount.

An association insured with the federal savings and loan insurance corporation may designate its guaranty fund as its federal insurance reserve account. (1961, c. 198, § 1.)

Merger

Sec. 157-Z-19. Merger. — Any 2 or more associations organized under the laws of this state may consolidate into one association, or any savings and loan association may transfer its engagements, funds and property to any other such association, under such terms as shall be mutually agreed upon by the directors of such associations when approved by ⅔ of all the members of each association, after notice of such intention shall have been sent by mail to each member of the associations involved to his, her or its last known address, as shown on the books of each association, and after such notice shall have been published once a week for 3 successive weeks in one of the newspapers published in the municipalities where the associations' principal offices are located, if any, otherwise in such newspapers as the commissioner may order, the last notice published and the notices by mail to be sent at least 14 days prior to the date of the meeting named in the call. Any shareholder not present at the meeting in person shall be regarded as having voted for the transfer or consolidation and shall be counted as being among the required ⅔ affirmative vote, provided notice of this fact shall be contained in the notices so mailed and in the publications so published; but such transfer or consolidation shall not prejudice the right of any creditor of any association to have payment of his debt out of the assets thereof, nor shall any creditor be thereby deprived of, or prejudiced in any right of action then existing against the officers or directors of said association for any neglect or misconduct. The reorganized association shall be liable for all obligations of the associations existing prior to such consolidation, and no consolidation or transfer as provided shall take effect until the terms and conditions have been approved by the commissioner, and until a copy of the resolution, certified by a majority of the board of directors of each association, shall be filed with the commissioner. (1961, c. 198, § 1.)

Business of Savings and Loan Associations Restricted

Sec. 157-Z-20. Business of savings and loan associations restricted. —No person, association or corporation shall carry on the business of accumulating and loaning or investing the accounts of its members or of other persons in the manner of savings and loan associations, or carry on any business similar thereto within this state unless incorporated under the laws thereof for such purposes, but this section shall not prevent such association, corporation or institution incorporated under the laws of another state from loaning money upon mortgages of real estate located within this state.

Federal savings and loan associations, incorporated pursuant to the home owners' loan act of 1933, as now or hereafter amended, shall not be deemed foreign corporations under this section. Insofar as sections 157-A to 157-Z-36 are not inconsistent with federal law, such sections shall apply to federal savings and loan associations whose home offices are located in this state, and to the members thereof.

This section may on complaint of the commissioner be enforced by injunction, and any violation thereof may be punished by a fine of not more than $1,000. (1961, c. 198, § 1.)

Insurance of Accounts by Federal Savings and Loan Insurance Corporations

Sec. 157-Z-21. Insurance of accounts.—

I. With federal savings and loan insurance corporation. An association may insure accounts with the federal savings and loan insurance corporation or any successor or assigns of said federal savings and loan insurance corporation or any other firm, association or corporation approved by the commissioner. Each association which applies for the insurance of its accounts by the federal savings and loan insurance corporation shall file with the commissioner within one week after its adoption, a certified copy of the resolution applying for such insurance adopted by its board or its members, and shall, within one week of the receipt of notice of acceptance or rejection by such corporation of such application, file a statement of such acceptance or rejection with the commissioner.

II. Termination. No association shall terminate such insurance except after 30 days' prior written notice thereof to the commissioner, unless the commissioner shall have waived such notice in writing.

III. Application. Nothing contained in this section shall be construed as repealing, modifying or impairing any powers, duties, rights or responsibilites of the commissioner in respect to any association organized under sections 157-A to 157-Z-36. (1961, c. 198, § 1.)

Conversion into Federal or State Savings and Loan Associations

Sec. 157-Z-22. Conversion into federal savings and loan associations.—

I. Conversion authorized. Any association may convert itself into a federal association in accordance with section 5 of the federal home owners' loan act of 1933, as now or hereafter amended, upon a vote of 51% or more of the votes of the members present and voting at an annual meeting or at a special meeting called to consider such action. Notice of such meeting to vote on conversion shall be mailed at least 20 and not more than 30 days prior to the date of the meeting to each member of record at his last known address as shown on the books of the association. A copy of the minutes of the proceedings of such meeting of the members, verified by the affidavit of the secretary or an assistant secretary, shall be filed in the office of the commissioner within 10 days after the date of such meeting. Such certified copy of the proceedings of such meeting, when so filed, shall be presumptive evidence of the holding and action of such meeting. Within 3 months after the date of such meeting, the association shall take such action in the manner prescribed and authorized by the laws of the United States as shall make it a federal savings and loan association.

II. Filing of charter. There shall be filed with the commissioner a copy of the charter issued to such federal savings and loan association by the federal home loan bank board or a certificate showing the organization of such association as a federal association, certified by the secretary or assistant secretary of the federal home loan bank board. A copy of the charter, or of such certificate, shall be filed by the association with the commissioner and the secretary of state. Any failure to file any such instruments as aforesaid shall not affect the validity of such conversion. Upon the granting to any association of a charter by the federal home loan bank board, the association re-

ceiving such charter shall cease to be an association incorporated under sections 157-A to 157-Z-36 and shall no longer be subject to the supervision and control of the commissioner.

III. Corporate existence continued. Upon the conversion of any association into a federal association, the corporate existence of such association shall not terminate, but such federal association shall be deemed to be a continuation of the entity of the association so converted and all property of the converted association, including its rights, titles, and interests in and to all property of whatsoever kind, whether real, personal or mixed, and things in action, and every right, privilege, interest and asset of any conceivable value or benefit then existing, or pertaining to it or which would inure to it, shall immediately by act of law and without any conveyance or transfer and without any further act or deed remain and be vested in and continue and be the property of such federal association into which the state association has converted itself, and such federal association shall have, hold and enjoy the same in its own right as fully and to the same extent as the same was possessed, held and enjoyed by the converting association, and such federal association as of the time of the taking effect of such conversion and shall continue to have and succeed to all the rights, obligations and relations of the converting association. All pending actions and other judicial proceedings to which the converting state association is a party shall not be deemed to have been abated or to have been discontinued by reason of such conversion, but may be prosecuted to final judgment, order or decree in the same manner as if such conversion into such federal association had not been made and such federal association resulting from such conversion may continue such action in its corporate name as a federal association, and any judgment, order or decree may be rendered for or against it, which might have been rendered for or against the converting state association theretofore involved in such judicial proceedings. (1961, c. 198, § 1.)

Sec. 157-Z-23. Conversion into state associations.—

I. Conversion into state associations. Any federal savings and loan association may convert itself into a savings and loan association under section 157-A to 157-Z-36 upon a vote of 51% or more votes of members of such federal savings and loan association present and voting at an annual meeting or at any special meeting called to consider such action provided the approval of the commissioner is obtained thereafter. Notice of such meeting to vote on conversion shall be mailed at least 20 and not more than 30 days prior to the date of the meeting to each member of record at his last address as shown on the books of the association. Before giving his approval, the commissioner shall ascertain by such investigation as he shall deem necessary, with or without a public hearing, that public convenience and advantage will be promoted by conversion into a state association.

II. Filing of minutes. Copies of the minutes of the proceedings of such meeting of members verified by the affidavit of the secretary or any assistant secretary and copies of the approval of the commissioner shall be filed in the office of the commissioner and mailed to the federal home loan bank board, Washington, D. C., within 10 days after such approval. Such verified copies of the proceedings of the meeting when so filed shall be presumptive evidence of the holding and action of such meeting. At the meeting at which conversion is voted upon, the members shall vote upon the directors who shall be the directors of the state-chartered association after conversion takes effect. Such directors shall then execute 4 copies of a certificate of incorporation upon which the commissioner shall endorse his approval and the certificate will be distributed as provided for in section 157-C. The directors chosen for the association shall all sign and acknowledge the articles of agreement as subscribers thereto.

III. Applicability of statute to converted association. Sections 157-A to 157-Z-36 shall, so far as applicable, apply to such conversion.

IV. Regulations. The commissioner may provide, by regulation, for the procedure to be followed by any such federal savings and loan association converting into a state savings and loan association.

V. Federal conversion. Upon the conversion of a federal savings and loan association into a state association, the corporate existence of such association shall not terminate, but such state association shall be deemed to be a continuation of the entity of the association so converted and all property of the converted association, including its rights, titles and interests in and to all property of whatsoever kind, whether real, personal or mixed, and things in action, and every right, privilege, interest and asset of any conceivable value or benefit then existing, or pertaining to it, or which would inure to it, shall immediately by act of law and without any conveyance or transfer and without any further act or deed remain and be vested in and continue and be the property of such state association into which the federal association has converted itself and such state association shall have, hold and enjoy the same in its own right as fully and to the same extent as the same was possessed, held and enjoyed by the converting association, and such state association as of the time of the taking effect of such conversion shall continue to have and succeed to all the rights, obligations and relations of the converting association. All pending actions and other judicial proceedings to which the converting federal association is a party shall not be deemed to have been abated or to have been discontinued by reason of such conversion, but may be prosecuted to final judgment, order or decree in the same manner as if such conversion had not been made and such state association resulting from such conversion may continue such action in its corporate name as a state association, and any judgment, order or decree may be rendered for or against it, which might have been rendered for or against the converting federal association theretofore involved in such judicial proceedings. (1961, c. 198, § 1.)

Liquidation, Conservatorship, Receivership

Sec. 157-Z-24. Voluntary liquidation. — Whenever in the opinion of the commissioner and a majority of the directors of any association, it is inexpedient for any reason for that savings and loan association to continue the further prosecution of its business, the directors may join with the commissioner in an application to the superior court for the liquidation of the affairs of such association. If, after notice and hearing on such application, the court is of the opinion that it is inexpedient for that savings and loan association to continue the further prosecution of its business, it may make such orders and decrees in the premises as seem proper for liquidating the affairs of that association, the distribution of its assets and the protection of its members. (1961, c. 198, § 1. 1963, c. 414, § 54.)

Effect of amendment. — The 1963 amendment deleted "justice of such" preceding "court" near the beginning of the second sentence and also substituted "it" for "he" in such sentence.

Sec. 157-Z-25. Conservatorship.—

I. Commissioner may order association to discontinue any unsafe or illegal practice. If the commissioner, as a result of any examination or from any report made to him, shall find that any association is violating the provisions of its certificate of incorporation, by-laws or the laws of this state or of the United States, or any lawful order of the commissioner, he shall, by a formal written order delivered to the association as aforesaid, state any alleged violation therein, together with a statement of the facts alleged to be such violation, and direct discontinuance of such violation and conformance with all requirements of law.

II. Conservator. If within a reasonable time satisfactory corrective action has not been taken pursuant to subsection I, the commissioner, if he believes that the public interest may be served by the appointment of a conservator, is authorized, acting through the attorney general, to apply to the superior court in the county where such association has its principal office for the appointment of a conservator. Such court is authorized to appoint a conservator if it finds that such association is in an impaired condition; is in substantial violation of any valid and applicable law or regulation; or is concealing any of its assets, books or records. The commissioner or his deputy or another person may be appointed by the court as conservator, and a certified copy of the order of the court making such appointment shall be evidence thereof, and such conservator shall have the power and authority provided in sections 157-A to 157-Z-36 and such other power and authority as may be expressed in the order of the court. Such conservator shall endeavor promptly to remedy the situations complained of in the petition for his appointment. Within 6 months of the date of such appointment, or within 12 months if the court shall extend such 6 months' period, such association shall be returned to its board of directors and thereafter shall be managed and operated as if no conservator had been appointed, or a receiver shall be appointed as hereinafter provided. If the commissioner or his deputy is appointed conservator, he shall receive no additional compensation, but if another person is appointed, then the compensation of the conservator, as determined by the court, shall be paid by the association. A certified copy of the order of the court discharging such conservator and returning such association to its directors shall be sufficient evidence thereof.

III. Conservator possesses all powers of directors, officers and members. Any conservator appointed shall have all the rights, powers and privileges possessed by the officers, board of directors and members of the association.

IV. Conservator, with approval of court, may remove any officer or director. The directors and officers shall remain in office and the employees shall remain in their respective positions, but the conservator may remove any director, officer or employee, provided the order of removal of a director or officer shall be approved in writing by the court.

V. Under conservator, association may be operated as a "going concern." While the association is in the charge of a conservator, members of such association shall continue to make payments to the association in accordance with the terms and conditions of their contracts, and the conservator, in his discretion, may permit shareholders to withdraw their accounts from the association pursuant to sections 157-A to 157-Z-36 or under and subject to such rules and regulations as the commissioner may prescribe. The conservator shall have power to accept share accounts, but any such amounts received by the conservator may be segregated if the commissioner shall so order in writing. If so ordered, such amounts shall not be subject to offset and shall not be used to liquidate any indebtedness of such association existing at the time the conservator was appointed for it or any subsequent indebtedness incurred for the purposes of liquidating the indebtedness of any such association existing at the time such conservator was appointed. All expenses of the association during such conservatorship shall be paid by the association. (1961, c. 198, § 1.)

Sec. 157-Z-26. Receivership. — If irregularities complained of in an order of the commissioner are not corrected, or if any irregularities complained of in a petition for the appointment of a conservator are not corrected, or in the case of any emergency, the commissioner may, if in his judgment the public interest requires it, acting through the attorney general, apply to the superior court in the county of the principal office of any association for the appoint-

ment of a receiver. Such court is authorized to appoint a receiver if it finds that such association is in an impaired condition; is in substantial violation of any valid and applicable law or regulation; or is concealing any of its assets, books or records. The commissioner or his deputy or other person may be appointed by the court as receiver, and a certified copy of the order of the court making such appointment shall be evidence thereof, and such receiver shall have the power and authority provided in sections 157-A to 157-Z-36 and such other power and authority as may be expressed in the order of the court. If the commissioner or his deputy is appointed receiver, he shall receive no additional compensation, but if another person is appointed, then the compensation of the receiver, as determined by the court, shall be paid from the assets of the association. (1961, c. 198, § 1.)

Sec. 157-Z-27. Correction of wrongdoings by solvent institution. —No conservator or receiver shall be appointed, or private property seized, with respect to an association which is solvent in that its assets are equal to or more than its obligations to its creditors, including the members and others, if the alleged wrongdoing can be otherwise corrected as is provided in sections 157-A to 157-Z-36 or otherwise as provided by law. (1961, c. 198, § 1.)

Sec. 157-Z-28. Status of members' shares and accounts as to assets of association.—The owners of all classes of shares and accounts shall have the same status as to the assets of the association, and in the case of liquidation, one class of shares or accounts shall not have preference over any other class of shares or accounts. (1961, c. 198, § 1.)

Reports, Audits and Examinations

Sec. 157-Z-29. Financial report to members. — Every association shall make available to its members annually a report of its financial condition by publishing a statement of its assets and liabilities as determined by its annual examination in form prescribed by the commissioner at least once in some newspaper published in the municipality where the principal office of the association is located, if any, otherwise in such newspaper as the commissioner may order. (1961, c. 198, § 1.)

Sec. 157-Z-30. Audits.—The directors of each association shall at least annually employ an independent public accountant or accountants, who shall examine and analyze the books, accounts, notes, mortgages, securities and operating systems of the association, in such manner as in their judgment is necessary and appropriate in accordance with generally accepted accounting standards for the protection of members and the efficient operation of the association, and shall make written report of the condition of the association to the president, for the board, in such manner and to such extent as said accountant or accountants may deem necessary or proper.

The 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 accountant or accountants to determine its adequacy for the purposes 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 members which, if deemed adequate by the commissioner, shall relieve him from all responsibility for such verification imposed upon him by section 157-Z-31, 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 section 1-D.

In lieu of the employment, election or appointment of an accountant or accountants in the manner provided, the association may enter into an arrangement with the commissioner, approved by the directors by duly recorded vote, and by the commissioner in writing, under which the auditing function may be assumed and discharged by the 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 accountant or accountants 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 accountant or accountants and shall have complied with all reasonable recommendations of the commissioner relative thereto within the time hereinbefore prescribed, they shall not be personally 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. (1961, c. 198, § 1; c. 417, § 155.)

Effect of amendment. — The 1961 amendment substituted "section 1-D" for "section 2" at the end of the third paragraph.

Sec. 157-Z-31. Verification of accounts.—The commissioner, at least once in every 3 years, shall cause the accounts of members in savings and loan associations to be verified by such methods and under such rules as he may prescribe.

The commissioner, deputy commissioner and all examiners and employees of the banking department acting under sections 157-A to 157-Z-36 shall have full access to every part of the association under examination, and to all books, papers, vouchers, resources and all other records and property belonging to said association, whether in its immediate possession or otherwise, for the purpose of facilitating such verification.

If any representative of the banking department designated to make such audit or verification shall communicate or impart to any person or persons, except as authorized by law, any information obtained by said audit or verification, he shall be punished by a fine of not more than $1,000, or by imprisonment for not more than 6 months, or by both. (1961, c. 198, § 1.)

Sec. 157-Z-32. Examinations by commissioner. — Associations are under the charge of the commissioner for the purposes of examination. He shall visit or cause a visit to be made to every association, incorporated by authority of the state, once in every year and as much oftener as he deems expedient. At such visits he shall have free access to the vaults, books and papers, and thoroughly inspect and examine all the affairs of each association, and make such inquiries as are necessary to ascertain its condition and ability to fulfill all its engagements, and whether it has complied with the law, and its officers shall, whenever required to do so by the commissioner, furnish him with statements and full information relating to the condition and standing of their institution, and of all matters pertaining to its business affairs and management. He shall preserve, in a permanent form, a full record of his proceedings, including a statement of the condition of each association, a copy of which statement shall be published by the association immediately after its examination, in some newspaper published in the municipality where the principal office ot the association is located, if any, otherwise, in such newspaper as the commissioner may order. When possible, the examinations to be made by the commissioner shall be coordinated with the examination to be made by federal agencies in order to avoid duplication of work and expense. (1961, c. 198, § 1.)

Miscellaneous

Sec. 157-Z-33. Holidays.—Any association may remain closed, open or may open for limited functions only on any Saturdays as its board may determine from time to time. Any Saturday on which such association remains closed or open for limited functions only, shall be with respect to such association a holiday and not a business day. The normal working hours of an association during weekdays may be as determined by its board of directors. Holidays, as such, will be the same holidays as designated for savings banks. (1961, c. 198, § 1.)

Sec. 157-Z-34. Department regulations. — The commissioner may implement by regulation any provision of law relating to the supervision of savings and loan associations or amend or repeal such regulations, provided that:

I. Public notice. Public notice of a hearing to consider the proposed regulation, amendment or repeal shall be given at least 30 days prior to the hearing date, concurrent written notice to be given the commissioner's advisory committee.

II. Submitted to advisory committee. After such notice and hearing, the proposed regulation, amendment or repeal as finally formulated shall be submitted to said advisory committee.

III. Effective date. Such regulation, amendment or repeal may be issued, and shall become effective on issue, not less than 60 days after submitted to the advisory committee unless said advisory committee disapproves the proposed regulation, amendment or repeal by majority vote of its entire membership submitted to the commissioner in writing within the 60-day period stating the reasons for its disapproval. (1961, c. 198, § 1.)

Sec. 157-Z-35. Judicial review of order or decision of commissioner.—Unless otherwise provided for, any order or decision of the commissioner affecting savings and loan associations shall be subject to review by the superior court by a proceeding taken within 30 days after the date of such order or decision in the superior court in and for the county of Kennebec at the insistence of any party in interest who is aggrieved by said order or decision. The court may order a stay of any order or decision of the commissioner pending the final determination of such proceedings and may impose such terms and conditions as may be deemed proper. An appeal may be taken to the law court from any decision of the superior court. (1961, c. 198, § 1; c. 417, § 156.)

Effect of amendment. — The 1961 amendment deleted "a justice of" preceding "the superior court" near the beginning of the first sentence.

Sec. 157-Z-36. Existing associations. — Associations established prior to the enactment of sections 157-A to 157-Z-136 shall enjoy all of the privileges and be subject to sections 157-A to 157-Z-36 as if organized thereunder. (1961, c. 198, § 1.)

Loan and Building Associations.

Secs. 158-188. Repealed by Public Laws 1961, c. 198, § 2.

Protection of Banks in Particular Transactions.

Sec. 189. Repealed by Public Laws 1963, c. 362, § 11.

Effective date.—Section 43, c. 362, P. L. 1963, makes the act effective December 31, 1964.

Sec. 190. Limitation of actions to recover money paid on forged signatures.—No civil action to recover money by any depositor shall be maintained against any bank, savings bank or trust company, if the depositor denies

the authority of the signature or the authority of an indorsement on any order drawn on any savings bank, or savings deposit or certificates of deposit in any bank or trust company, or on any receipt for payment by such bank, savings bank or trust company, unless such action is begun and service made thereon within 3 years from the date when the depositor reports the unauthorized signature or the unauthorized indorsement to the bank. In case of any conflict between this section and chapter 190, section 4-406, section 4-406 shall control. (R. S. c. 55, § 173. 1947, c. 11. 1961, c. 317, § 176. 1963, c. 362, § 12.)

Effect of amendments. — The 1961 amendment substituted "civil action" for "action at law or in equity" near the beginning of this section.

The 1963 amendment, effective December 31, 1964, substituted "the authority of the signature or the authority of an indorsement" for "the signature" near the middle of the first sentence, substituted "when the depositor reports the unauthorized signature or the unauthorized indorsement to the bank" for "of such payment" at the end of the first sentence, and added the second sentence.

Secs. 191-194. Repealed by Public Laws 1963, c. 362, § 13.

Effective date.—Section 43, c. 362, P. L. 1963, makes the act effective December 31, 1964.

Sec. 197-A. Retention of bank records.—All records of institutions subject to supervision by the banking department, and of national banks insofar as this section does not contravene paramount federal law, shall be retained for such minimum periods as the bank commissioner may prescribe.

The bank commissioner may from time to time issue regulations classifying all records kept by these institutions and prescribing the minimum period for which these records shall be retained. Such periods may be permanent or for a lesser term. Such regulations may from time to time be amended or repealed, but any amendment or repeal shall not affect any action taken prior to such amendment or repeal. Prior to issuing any such regulations the commissioner shall consider:

I. Court and administrative proceedings in which the production of these records might be necessary or desirable;

II. State and federal statutes of limitation applicable to such proceedings;

III. The availability of information from other sources; and

IV. Such other matters as the bank commissioner shall deem pertinent in order that the regulations will require retention of records for as short a period as is commensurate with the interest of customers, depositors, stockholders and the people of this state in having such records available.

Reproductions, as defined by chapter 113, section 146 shall be deemed acceptable in lieu of the originals for purposes of the prescribed periods for which records shall be retained.

Institutions may dispose of any record which has been retained for the minimum period prescribed by the bank commissioner. (1959, c. 87.)

Sec. 198. Repealed by Public Laws 1963, c. 362, § 13.

Effective date.—Section 43, c. 362, P. L. 1963, makes the act effective December 31, 1964.

Sec. 199. Fiduciary's transactions by check, personal and as fiduciary.—If a check drawn or endorsed by a fiduciary is received by a drawee bank or other bank, including a check for payment in cash or for the personal credit of such fiduciary, such bank may assume, without inquiry, that the fiduciary has acted within the scope of his authority.

I. Fiduciary includes a trustee under any trust, express, implied, resulting or constructive, executor, administrator, guardian, conservator, receiver, trus-

tee in bankruptcy, assignee for the benefit of creditors, partner, agent, officer of a corporation, public or private, public officer or any other person acting in a fiduciary capacity for any person, trust or estate.

II. Person includes a corporation, partnership or other association, and 2 or more persons having a common interest.

III. For the purposes of this section, such bank may rely upon, though it need not require, any writing certified by the clerk or secretary of the corporation as to such officer.

Nothing contained in this section shall be deemed to modify or otherwise affect chapter 190, section 1-201, subsection (25) or section 3-304, nor to relieve such bank from any liability imposed upon it by law to the extent of any payment or amount which such bank may receive for its benefit from any of such checks or funds represented thereby. (1949, c. 277. 1959, c. 201. 1963, c. 362, § 14.)

Effect of amendments. — The 1959 amendment rewrote this section.

The 1963 amendment, effective December 31, 1964, substituted "chapter 190, section 1-201, subsection (25) or section 3-304" for "chapter 188, section 56" in the last paragraph.

Sale of Negotiable Checks or Money Orders.

Sec. 199-A. Sale of negotiable checks and money orders.—Financial institutions as defined by section 1-B, subsection IV, and national banking associations may engage directly in the business of selling, issuing or registering checks or money orders. No person other than the foregoing shall engage in such business directly or indirectly unless he files with the commissioner on or before January 15th in each year a sworn statement setting forth his name and address, the names and business addresses of his agents, other than a financial institution or national banking association, authorized to receive money and transact such business on his behalf, and shall deposit and maintain with the treasurer of state a surety bond with such sureties as the commissioner shall approve or cash or securities, in a sum of not less than $25,000 nor more than $100,000 as the commissioner shall deem to be necessary for the protection of the public. Any such bond or deposit shall be held as security for the payment of checks or money orders sold by such person or his agents, and the commissioner may make such rules and regulations as may be necessary for the enforcement of this section, including an investigation relative to reputation and integrity, the cost of which investigation shall be chargeable to such person.

Each person to whom a certificate to engage in such business has been issued shall on or before the 15th day of April, July and October of each year notify the commissioner of any change in the list of agents contained in the annual statement, and shall file with him the name of any additional agent appointed or of any agent whose authority has been revoked.

There shall be a fee of $100 for the filing of such annual statement payable to the commissioner and $3 for each agent listed in the annual statement or in any addition thereto, provided that the total annual fee shall not exceed $300 and such fees shall be credited and used as provided in section 1-D.

The commissioner may issue a certificate to engage in such business to any person who in his judgment has complied with this section, but he may at any time revoke such certificate for failure to comply with this section, or of any rule or regulation promulgated by him, or for failure to pay any check or money order upon presentation for payment.

Whoever violates any provision of this section or any rule or regulation established hereunder shall be punished by a fine of not more than $100 for each day during which such violation continues. (1963, c. 176, § 1.)

Effective date.—Section 2, c. 176, P. L. 1963, makes the act effective January 1, 1964.

Industrial or Morris Plan Banks.

Sec. 203. Capital stock and shares.—The capital stock of an industrial bank shall not be less than $50,000 in any town or city having a population of less than 50,000 inhabitants, and shall not be less than $100,000 in any town or city having 50,000 or more inhabitants and less than 150,000 inhabitants, and shall not be less than $200,000 in any town or city having 150,000 inhabitants or more, according to the last official census. The capital stock of every such corporation shall be divided into shares of the par value of $100 each, at least 25% of which shall be paid into the treasury of the corporation in cash before such corporation shall be authorized to transact any business other than such as relates to its formation and organization, and such payment shall be certified to the bank commissioner under oath by the president and manager of said corporation. The balance of the capital stock shall be paid to the corporation in cash at the rate of not less than 10% per month following the initial payment. No corporation organized under the provisions of sections 200 to 208, inclusive, shall create more than 1 class of stock. (R. S. c. 55, § 183. 1963, c. 83.)

Effect of amendment. — The 1963 amendment substituted "$50,000" for "$25,000," "$100,000" for "50,000," and "$200,000" for "$100,000" in the first sentence.

Sec. 208. Under supervision and control of bank commissioner.—The bank commissioner shall at all times have the same authority over every corporation organized under section 201 that he has over savings banks, and shall perform, in reference to such corporation, the same duties as are required of him in reference to savings banks. Section 19-E, subsection III, paragraph C, section 19-L, subsections I and II, and section 69 to 75 shall apply to industrial banks. (R. S. c. 55, § 188. 1955, c. 92; c. 380, § 6. 1961, c. 385, § 13.)

Effect of amendments.—P. L. 1955, c. 92, added a second sentence to this section relative to expenses of the banking department and semiannual assessments therefor. P. L. 1955, c. 380, inserted references to §§ 19-E and 19-L and substituted "69" for "64" in the former first sentence.

The 1961 amendment divided the first sentence of this section, as amended in 1955, into two sentences, rewriting the first portion of such sentence which appears as the present first sentence and deleted the former second sentence which had been added by P. L. 1955, c. 92.

Licensed Small Loan Agencies.

Sec. 214. Investigations by bank commissioner; rules, regulations and findings.

The bank commissioner is authorized and empowered to make such general rules and regulations, and such specific rulings, demands and findings as may be necessary for the proper conduct of the business authorized and licensed under and for the enforcement of sections 210 to 227 in addition hereto and not inconsistent herewith. Regulations shall be made in the manner prescribed in section 1-H, subsection IV. (R. S. c. 55, § 194. 1963, c. 141, § 2.)

Effect of amendment. — The 1963 amendment added the second paragraph.

As the first paragraph was not affected by the amendment, it is not set out.

Sec. 215. Reports.—Every person, copartnership or corporation licensed under sections 210 to 227 shall annually on or before the 15th day of April file with the bank commissioner a report for the preceding calendar year, or for such portion of the preceding calendar year during which said person, copartnership or corporation has been licensed under sections 210 to 227. Such report shall give information with respect to the financial condition of such licensee and shall include: the name and address of the licensee; balance sheets at the end of the accounting period; a statement of income and expenses for said period; a reconciliation of surplus or net earnings with the balance sheets; a schedule

of assets used and useful in the small loan business; an analysis of charges, size of loans and types of security on loans of $2,500 or less; an analysis of delinquent accounts; an analysis of suits, repossessions and sales of chattels and such other relevant information as the bank commissioner may reasonably require concerning the business and operations during the preceding calendar year for each licensed place of business conducted by such licensee within the state. Such report shall be made under oath and shall be in the form prescribed by the bank commissioner who shall make and publish biennially an analysis and summary of such reports. In the event any person or corporation holds more than one license in the state, a composite annual report, covering all such licensed offices, may be filed.

In addition to the foregoing report, the bank commissioner may require reports from licensees at any time, containing such information as he deems necessary to the proper supervision of licensees under this section.

Each licensee shall keep such books and records as may be prescribed by the commissioner and shall preserve books and records used in such business for a period of at least 2 years after making the final entry of, or relative to any loan recorded therein. (R. S. c. 55, § 195. 1959, c. 111.)

Effect of amendment.—The 1959 amendment rewrote this section.

Sec. 218. Interest; additional charges except lawful fees prohibited. —Interest, consideration or charges for the use of money payable under sections 210 to 227 shall not be deducted or received in advance and shall be computed on unpaid principal balances. Such interest, consideration or charges shall not be compounded; provided that, if part or all of the principal amount of any loan contract is the unpaid principal balance of a prior loan, the unpaid interest, consideration or charges for the use of money on such prior loan which have accrued within 60 days before the making of such loan contract may be incorporated as interest bearing principal in the principal amount of such loan contract, and for the purposes of this paragraph any such new loan shall be deemed a separate loan transaction. In addition to the interest provided for, no further or other charge or amount whatsoever for any examination, service, brokerage, commission or other thing, or otherwise, shall be directly or indirectly charged, contracted for or received, except insurance premiums and any gain or return to the licensee therefrom, and lawful fees, if any, actually and necessarily paid out by the licensee to any public officer for filing or recording in any public office any instrument securing the loan, which fees may be collected when the loan is made, or at any time thereafter. If interest or charges in excess of those permitted by sections 217 and 218 shall be charged, contracted for or received, the contract of loan shall be void and the licensee shall have no right to collect or receive any principal, interest or charges whatsoever. (R. S. c. 55, § 198. 1963, c. 141, §§ 3, 3-A, 4.)

Effect of amendment. — The 1963 amendment rewrote the first sentence, inserted the present second sentence, deleted "herein" near the beginning of the present third sentence, and inserted "insurance premiums and any gain or return to the licensee therefrom, and" near the middle of such third sentence.

Sec. 224. Loans in violation of sections 210 to 227, wherever made, not enforceable in this state; exception.—No loan of the amount of $2,500 or less, for which a greater rate of interest, consideration or charges than is permitted by sections 210 to 227, has been charged, contracted for, or received, wherever made, shall be enforced in this state. Every person in anywise participating therein in this state shall be subject to sections 210 to 227. The foregoing shall not apply to loans legally made in any state to a person who is at that time a resident of that state, which has in effect a regulatory small loan law similar in principle to sections 210 to 227. (R. S. c. 55, § 204. 1963, c. 141, § 5.)

Effect of amendment. — The 1963 amendment rewrote this section.

Registration of Dealers in Securities.

Sec. 229. Application; nonresident dealers to file power of attorney; notice and proceedings on application; issue of certificate.

Before granting registration to any dealer, the commissioner shall require the filing with the department of a bond in favor of the state in such form and with such sureties as the commissioner may approve, or in lieu thereof, furnish proof satisfactory to said commissioner of said dealer's financial responsibility, such bond to be in an amount not exceeding $10,000. Such bond shall be conditioned that the dealer or any licensed salesman of the dealer shall pay, satisfy and discharge any judgment or decree that may be rendered against him in a court of competent jurisdiction in an action brought by a purchaser of securities in which it shall be found or adjudged that such purchaser was defrauded in the sale of such securities. Any person claiming to have been damaged by fraudulent misrepresentations in the sale of any security by such dealer or salesman may maintain a civil action against the dealer or salesman making such fraudulent misrepresentations; or against both the dealer and salesman, where the salesman makes such fraudulent representations; and may join as parties defendant the sureties on the bonds. Such bond may be drawn to cover the original license or any renewal or renewals thereof, and the commissioner may, in his discretion, require a dealer to execute a bond in an amount not exceeding $10,000 for each particular year's transactions. The commissioner may prescribe regulations respecting the qualifications of sureties, release of sureties, surrender of bonds, substitution of bonds and other matters relating to bonds.

(1963, c. 414, § 55.)

Effect of amendment. — The 1963 amendment deleted "bank" preceding "commissioner" near the beginning of the sixth paragraph, substituted "an action" for "a suit or action" in the second sentence of such paragraph, substituted "a civil action" for "an action at law" in the third sentence of such paragraph, and deleted "hereinabove provided for" at the end of such third sentence.

As the rest of this section was not affected by the amendment, only the sixth paragraph is set out.

Sec. 239. Appeals.—Appeals may be taken by any person aggrieved by any decision of the commissioner under sections 228 to 239 to the superior court, by filing a complaint with that court, stating the decision complained of. No such appeal from a refusal to grant registration shall lie until after formal hearing, which formal hearing the commissioner in his discretion may waive for the purpose of expediting the appeal. Upon such complaint, citation shall be issued to the commissioner, who shall answer to the complaint, stating therein his reasons for the decision. The court may, in its discretion, after hearing the commissioner or his representative, suspend the order of the commissioner, pending the determination of the complaint upon its merits, and may, after final hearing thereon, make such decree in connection with the matter complained of as justice may require. The court shall make provision for summary hearing and determination of such complaints so far as in its discretion seems desirable. (R. S. c. 55, § 219. 1961, c. 317, § 177.)

Effect of amendment.—Prior to the 1961 amendment, the appeal provided for in this section was "to a justice of the superior court by petition addressed to that court". The term "complaint" has also been substituted for "petition" throughout.

Sec. 240. Penalties; violations enjoined. — Any dealer or any person violating any provision of sections 228 to 239, inclusive, or knowingly filing with the commissioner or furnishing to him any false or misleading statements or information, shall be punished upon conviction thereof by a fine of not more than $1,000 or by imprisonment for not more than 60 days, or by both. The district court shall have original and concurrent jurisdiction with the superior court. The

foregoing penalties shall be in addition to, and not a substitute for, any civil or criminal liability now or hereafter existing. Jurisdiction is conferred upon the superior court to enjoin, upon a complaint filed by the commissioner or any party in interest, any violation or threatened violation of any of the provisions of this chapter. (R. S. c. 55, § 220. 1961, c. 317, § 178. 1963, c. 402, § 96.)

Effect of amendments. — The 1961 amendment rewrote the last sentence of this section.

The 1963 amendment divided the former first sentence into two sentences, deleted "such fine and imprisonment" at the end of the present first sentence and substituted "The district court" for "and municipal courts" at the beginning of what is now the second sentence.

Application of amending act.—Section 280 of c. 402, P. L. 1963, provides that the act shall apply only to the district court when established in a district and that the laws in effect prior to the effective date of the act shall apply to all municipal and trial justice courts.

Sec. 241-A. Information to be disclosed by bank commissioner to advisory committee.—Information derived by or communicated to the bank commissioner, deputy bank commissioner or any examiner or employee of the department in the course of official duty may be disclosed by the commissioner:

I. To an advisory committee to be made up of not more than 5 officials or directors, or both, of firms which are registered dealers in securities chosen by the Maine investment dealers association, so far as such information may relate to the conditions, policies and practices of securities dealers and salesmen under his supervision and in such manner and to such extent as in the judgment of the commissioner will tend to assist him in the discharge of his obligations under this chapter. Any information so communicated to such advisory board shall be held by each member thereof in strict confidence. (1961, c. 93.)

Common Trust Funds.

Sec. 244. Court accountings.—Unless ordered by decree of the superior court, the bank or trust company operating such common trust funds is not required to render a court accounting with regard to such funds; but it, as accountant, may by petition to the superior court or the probate court, in the county where the accountant has its principal place of business, secure approval of such accounting on such conditions as the court may establish. Whenever a petition for the allowance of such an account is presented, the court having jurisdiction thereof shall assign a time and place for hearing and shall cause public notice thereof to be given, meaning thereby notice published 3 weeks successively in a newspaper published in the county whose court has jurisdiction. In addition thereto said court shall, except to such extent as the several instruments creating the trusts participating in such common trust fund provide otherwise, order personal notice upon all known beneficiaries of the participating trust estates who have a place of residence known to the accountant. Personal notice to known beneficiaries having a place of residence known to the accountant shall denote service by a written notice deposited in the mails addressed to each such known beneficiary at such known place of residence at least 14 days before the time of hearing, or by a written notice either in hand or left at such known place of residence 14 days at least before the time of hearing; the method of service and the form of such notice to be as the court shall order. "Place of residence known to the accountant" as used in this section shall include only place of residence actually known to the accountant, and shall not include residences which could be discovered upon investigation but which do not in the due course of business come to the actual knowledge of the accountant. The allowance of such an account shall be conclusive as to all matters shown therein upon all persons then or thereafter interested in the funds invested in said common trust funds. (1951, c. 358, § 1. 1961, c. 317, § 179.)

Effect of amendment.—The 1961 amendment substituted "the superior court" for "the supreme judicial court or of the superior court in equity" and deleted "the supreme judicial court" formerly following "petition to" in the first sentence of this section. It also divided the former second sentence into two sentences, deleted "the judge of" formerly preceding "the court" in the present second sentence and substituted "court" for "judge" in the present third sentence.

Nominees.

Sec. 246. Investments registered.—Any state or national bank or trust company, when acting in this state as a fiduciary or a co-fiduciary with others, may with the consent of its co-fiduciary or co-fiduciaries, if any, who are hereby authorized to give such consent, cause any investment held in any such capacity to be registered and held in the name of a nominee or nominees of such bank or trust company. Such bank or trust company shall be liable for the acts of any such nominee with respect to any investment so registered. The term "fiduciary" as used in this section shall include, but shall not be limited to, executors, administrators, guardians, conservators, trustees, agents, custodians and each of them. (1955, c. 90. 1957, c. 240.)

Effect of amendment. — The 1957 amendment added the last sentence.

Sec. 247. Investment kept separate; records.—The records of such bank or trust company shall at all times show the ownership of any such investment, which investment shall be in the possession and control of such bank or trust company and be kept separate and apart from the assets of such bank or trust company. (1955, c. 90.)

Sec. 248. Application.—The provisions of sections 246 to 248, inclusive, shall govern fiduciaries and co-fiduciaries acting under wills, agreements, court orders and other instruments now existing or hereafter made, provided that nothing contained in sections 246 to 248, inclusive, shall be construed as authorizing any departure from or variation of the express words or limitations set forth in any will, agreement, court order or other instrument creating or defining the fiduciary's duties and powers. (1955, c. 90.)

Motor Vehicle Sales Finance Act.

Effective date.—The act inserting this subheading provided in section 3 thereof that the act should become effective January 1, 1958.

Sec. 249. Definition of terms.—In sections 249 to 259, inclusive, unless the context or subject matter otherwise requires:

"Cash sale price" means the price stated in a retail instalment contract for which the seller would have sold to the buyer, and the buyer would have bought from the seller, the motor vehicle which is the subject matter of the retail instalment contract, if such sale had been a sale for cash instead of a retail instalment transaction. The cash sale price may include any taxes, registration, license and other fees and charges for accessories and their installation and for delivery, servicing, repairing or improving the motor vehicle.

"Documentary fees" mean the fees for filing, recording or investigating, perfecting and releasing or satisfying a security interest created by a retail installment contract, and shall not exceed $10 in the case of consumer goods as defined in chapter 190, section 9-109.

"Finance charge" means the amount agreed upon between the buyer and the seller, as limited in sections 249 to 259, inclusive, to be added to the cash sale price, the amount, if any, included for insurance and other benefits, if a separate charge is made therefor, and documentary fees, in determining the time price.

The "holder" of a retail instalment contract means the retail seller of the motor vehicle under or subject to the contract or, if the contract is purchased by a sales finance company or other assignee, the sales finance company or other assignee.

"Motor vehicle" means any device propelled or drawn by any power other than muscular power upon or by which any person or property may be transported or drawn upon a highway, excepting agricultural machinery, house trailers and any such devices which do not constitute consumer goods, as defined in chapter 190, section 9-109(1).

"Person" means an individual, partnership, corporation, association and any other group however organized.

"Retail buyer" or "buyer" means a person who buys a motor vehicle from a retail seller and who executes a retail instalment contract in connection therewith. He is the debtor under the security agreement embodied in the retail installment contract.

"Retail installment contract" or "contract" means a security agreement, entered into in this state, pursuant to which a purchase money security interest in the motor vehicle, which is the subject matter of a retail installment transaction, is retained or taken by a retail seller from a retail buyer in order to secure, in whole or in part, the buyer's obligation.

"Retail instalment transaction" means any transaction evidenced by a retail instalment contract entered into between a retail buyer and a retail seller wherein the retail buyer buys a motor vehicle from the retail seller at a time price payable in one or more deferred instalments for purposes other than resale. The cash sale price of the motor vehicle, the amount included for insurance and other benefits if a separate charge is made therefor, documentary fees and the finance charge, which may include insurance and other benefits, shall together constitute the time price.

"Retail seller" or "seller" means a person who sells a motor vehicle to a retail buyer under or subject to a retail installment contract. He is the secured party under the security agreement embodied in the retail installment contract.

"Sales finance company" means a person engaged, in whole or in part, in the business of purchasing retail instalment contracts from one or more retail sellers. The term includes but is not limited to a bank, trust company, finance company, lending agency, industrial bank or investment company, if so engaged. The term also includes a retail seller engaged in whole or in part in the business of holding retail instalment contracts which in the aggregate exceed the sum of $25,000 in any one calendar year. The term does not include the pledgee of an aggregate number of such contracts to secure a bona fide loan thereon.

"Security agreement," "security interest," "purchase money security interest," "secured party" and "debtor" shall have the same meanings as they have in chapter 190. (1957, c. 386, § 1. 1963, c. 362, §§ 15-19.)

Effect of amendment.—The 1963 amendment, effective December 31, 1964, substituted "security interest" for "retained title or a lien" in the definition of "documentary fees" and substituted "$10 in the case of consumer goods as defined in chapter 190, section 9-109" for "$4" at the end of such definition; rewrote the definition of "motor vehicle," which formerly expressly excepted power shovels, road machinery and buses; added the second sentence of the definition of "retail buyer" or "buyer"; rewrote the first sentence of the definition of "retail installment contract" or "contract" and deleted the former second sentence of such definition, relating to chattel mortgages, conditional sales contracts, Holmes notes and bailments or leases; added the second sentence of the definition of "retail seller" or "seller"; and added the last paragraph.

Sec. 250. Licensing of sales finance companies and retail sellers required.—

I. No person shall engage in the business of a sales finance company or re-

tail seller in this state without a license therefor as provided in sections 249 to 259, inclusive. No bank, trust company or industrial bank shall be required to obtain such a license but shall comply with all of the other provisions of sections 249 to 259, inclusive.

II. The application for such license shall be in writing, under oath and in the form prescribed by the bank commissioner. The application shall contain the name of the applicant; date of incorporation, if incorporated; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the name and resident address of the owner or partners or, if a corporation or association, of the directors, trustees and principal officers, the trade name, if any, under which the applicant proposes to conduct such business, and such other pertinent information as the bank commissioner may require.

III. The license fee for each calendar year or part thereof shall be as follows:

A. For a retail seller, the sum of $10 for the principal place of business of the licensee within this state and the sum of $5 for each branch of such licensee maintained in this state.

B. For a sales finance company, the sum of $100 for the principal place of business of the licensee within this state, and the sum of $25 for each branch of such licensee maintained in this state. A person required to obtain a license under the provisions of paragraph B shall not be required to obtain a license as a retail seller.

IV. Each license shall specify the location of the office or branch and must be conspicuously displayed there. In case such location be changed, the bank commissioner shall endorse the change of location on the license without charge.

V. Upon the filing of such application and the payment of said fee, the bank commissioner shall issue a license to the applicant to engage in the business of a sales finance company under and in accordance with the provisions of sections 249 to 259, inclusive, for a period which shall expire the last day of December next following the date of its issuance. Such license shall not be transferable or assignable. No licensee shall transact any business provided for by sections 249 to 259, inclusive, under any other trade names unless he shall have a separate license therefor. (1957, c. 386, § 1.)

Sec. 251. Suspension or revocation of licenses.—

I. A license may be suspended or revoked by the bank commissioner on the following grounds:

A. Material misstatement in application for license;

B. Wilful failure to comply with any provision of sections 249 to 259, inclusive, relating to retail instalment contracts;

C. Fraudulent misrepresentation, circumvention or concealment by the licensee through whatever subterfuge or device of any of the material particulars or the nature thereof required to be stated or furnished to the retail buyer under the provisions of sections 249 to 259, inclusive.

II. If a licensee is a partnership, association or corporation, it shall be sufficient cause for the suspension or revocation of a license that any officer, director or trustee of a licensed association or corporation or any member of a licensed partnership, has so acted or failed to act in behalf of said licensee as would be cause for suspending or revoking a license to such party as an individual. Each licensee shall be responsible for the acts of any or all of his employees while acting as his agent, if such licensee after actual knowledge of said acts retained the benefits, proceeds, profits or advantages accruing from said acts or otherwise ratified said acts.

III. No license shall be suspended or revoked except after hearing thereon. The bank commissioner shall give the licensee at least 10 days' written no-

tice, in the form of an order to show cause, of the time and place of such hearing by registered mail addressed to the principal place of business in this state of such licensee. The said notice shall specify the grounds of complaint against the licensee and the hearing shall be confined thereto. Any order suspending or revoking such license shall recite the grounds upon which the same is based. The order shall be entered upon the records of the bank commissioner and shall not be effective until after 30 days' written notice thereof given after such entry forwarded by registered or certified mail to the licensee at such principal place of business. No revocation, suspension or surrender of any license shall impair or affect the obligation of any lawful retail instalment contract acquired previously thereto by the licensee.

IV. Within 30 days after receipt of notice of any such suspension or revocation of a license, the person aggrieved may appeal therefrom to the superior court by filing a complaint therefor. The court shall fix a time and place for hearing and cause notice thereof to be given to the commissioner. After hearing, the court may affirm or reverse the decision of the commissioner. Either party may appeal from the decisions and rulings of the court upon matters of law arising upon the trial, in the same manner and with the same effect as is allowed in the superior court in the trial of cases without a jury, without specifically reserving such right. Pending final judgment of the court, the license shall remain in effect. (1957, c. 386, § 1. 1959, c. 317, § 29. 1961, c. 317, § 180.)

Effect of amendments. — The 1959 amendment rewrote the present fourth sentence of subsection IV.

The 1961 amendment rewrote the first sentence of subsection IV, and also rewrote the former second sentence of such subsection, which appears as the present second and third sentences of such subsection.

Effective date and applicability of Public Laws 1959, c. 317. — Section 420, chapter 317, Public Laws 1959, provides as follows: "This act shall become effective December 1, 1959. It shall apply to all actions brought after December 1, 1959 and also to all further proceedings in actions at law or suits in equity then pending, except to the extent that in the opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail."

Sec. 252. Filing of complaints.—Any retail buyer having reason to believe that the provisions of sections 249 to 259, inclusive, relating to his retail instalment contract has been violated may file with the bank commissioner a written complaint setting forth the details of such alleged violation and the bank commissioner, upon receipt of such complaint, may inspect the pertinent books, records, letters and contracts of the licensee and of the retail seller involved, relating to such specific written complaint. Said commissioner may also make inspections of the records of sales finance companies without the receipt of a specific complaint for any reasonable cause. (1957, c. 386, § 1.)

Sec. 253. Powers of bank commissioner.—The bank commissioner shall have the power to issue subpoena to compel the attendance of witnesses and the production of documents, papers, books, records and other evidence before him in any matter over which he has jurisdiction, control or supervision pertaining to the provisions of sections 249 to 259, inclusive. He shall have the power to administer oaths and affirmation to any person whose testimony is required.

If any person shall refuse to obey any such subpoena or to give testimony or to produce evidence as required thereby, the superior court may, upon application and proof of such refusal, order the issuance of a subpoena, or subpoena duces tecum, out of the superior court, for the witness to appear before the superior court to give testimony, and to produce evidence as required thereby. Upon filing such order in the office of the clerk of the superior court, the clerk shall issue such

subpoena, as directed, requiring the person to whom it is directed, to appear at the time and place therein designated.

If any person served with any such subpoena shall refuse to obey the same, and to give testimony, and to produce evidence as required thereby, the commissioner may apply to the superior court for a proof of such refusal, shall issue such citation, directed to any sheriff, for the arrest of such person, and upon his being brought before such court, proceed to a hearing of the case. The court shall have power to enforce obedience to such subpoena, and the answering of any question, and the production of any evidence, that may be proper, by a fine not exceeding $100 or by imprisonment in the county jail, or by both.

For the enforcement of the provisions of sections 249 to 259, inclusive, the bank commissioner is authorized to appoint, subject to the provisions of the personnel law, such personnel as are necessary. The salary, traveling expenses and all expenses of administration and enforcement of the provisions of sections 249 to 259, inclusive, shall be paid out of such amounts as the legislature may appropriate. Fees received from licenses issued under the provisions of sections 249 to 259, inclusive, shall be paid to the treasurer of state for deposit in the general fund. (1957, c. 386, § 1. 1963, c. 414, § 56.)

Effect of amendment.—The 1963 amendment deleted "any justice of" preceding "the superior court" near the beginning of the second paragraph and near the beginning of the third paragraph, deleted "bank" preceding "commissioner" in the third paragraph, and substituted "court" for "justice" twice in such paragraph.

Sec. 254. Requirements and prohibitions as to retail instalment contracts.—

I.

A. A retail instalment contract shall be in writing, shall be signed by both the buyer and the seller and shall be completed as to all essential provisions or by memorandum as provided in subsection VI prior to the signing of the contract by the buyer.

B. The printed portion of the contract, other than instructions for completion, shall be in at least 8 point type. The contract shall contain in a size equal to at least 10 point bold type:

1. A specific statement that liability insurance coverage for bodily injury and property damage caused to others is not included, if that is the case; and

2. The following notice: "Notice to the Buyer: 1. Read this contract before signing. 2. You are entitled to an exact copy of the contract you sign."

C. The seller shall deliver to the buyer or mail to him at his address shown on the contract, a copy of the contract signed by the seller. Until the seller does so, a buyer who has not received delivery of the motor vehicle shall have the right to rescind his agreement and to receive a refund of all payments made and return of all goods traded in to the seller on account of or in contemplation of the contract, or if such goods cannot be returned, the value thereof. Any acknowledgment by the buyer of delivery of a copy of the contract shall be in a size equal to at least 10 point bold type and, if contained in the contract, shall appear directly above the buyer's signature.

D. The contract shall contain the names of the seller and the buyer, the place of business of the seller, the legal residence or place of business of the buyer as specified by the buyer and a description of the motor vehicle including its make, year model, model and identification numbers or marks.

II. The contract shall contain the following:

A. The cash sale price of the motor vehicle;

B. The amount of the buyer's down payment, and whether made in money or goods, or partly in money and partly in goods;

C. The difference between items A and B;

D. The amount, if any, included for insurance and other benefits specifying the types of coverage and benefits, unless such amount is included in the finance charge;

E. The amount of documentary fees;

F. The principal balance, which is the sum of paragraph C, paragraph D and paragraph E;

G. The amount of the finance charge and specification of the type of insurance coverage and benefits, if included therein;

H. The time balance, which is the sum of paragraphs F and G, payable in instalments by the buyer to the seller, the number of instalments, the amount of each instalment and the due date or period thereof.

The above paragraphs in subsection II need not be stated in the sequence or order set forth. Additional paragraphs may be included to explain the calculations involved in determining the stated time balance to be paid by the buyer.

III. The amount, if any, included for insurance, which may be purchased by the holder of the retail instalment contract, shall not exceed the applicable premiums chargeable in accordance with the rates filed with the insurance commissioner. If dual interest insurance on the motor vehicle is purchased by the holder he shall, within 30 days after execution of the retail instalment contract, send or cause to be sent to the buyer a policy or policies or certificate of insurance, written by an insurance company authorized to do business in this state, clearly setting forth the amount of the premium, the kind or kinds of insurance, the coverages and all the terms, exceptions, limitations, restrictions and conditions of the contract or contracts of insurance. The buyer shall have the privilege of purchasing such insurance from an agent or broker of his own selection and of selecting an insurance company acceptable to the holder, but in such case the inclusion of the insurance premium in the retail instalment contract shall be optional with the seller.

IV. If any insurance is cancelled, unearned insurance premium refunds received by the holder shall be credited to the final maturing instalments of the contract except to the extent applied toward payment for similar insurance protecting the interests of the buyer and the holder or either of them.

V. The holder may, if the contract so provides, collect a delinquency and collection charge on each instalment in default for a period not less than 10 days in an amount not in excess of 5% of each instalment or 6% per annum on the total unpaid balance, whichever is greater. In addition to such delinquency and collection charge, the contract may provide for the payment of reasonable attorneys' fees where such contract is referred for collection to an attorney not a salaried employee of the holder of the contract plus the court costs.

VI. No retail instalment contract shall be signed by any party thereto when it contains blank spaces to be filled in after it has been signed except that, if delivery of the motor vehicle is not made at the time of the execution of the contract, the identifying numbers or marks of the motor vehicle or similar information, and the due date of the first instalment may be inserted in the contract after its execution; and except that said contract may be so signed provided the buyer is given at the time of such execution a bill of sale, invoice or similar memorandum clearly indicating the sales price, down payment, type or types of insurance coverage and the number, period and amount of payments; and provided said contract when completed conforms with said bill of sale, invoice or memorandum, and a copy of said contract is delivered to said buyer. The instrument for recording purposes shall be the financing statement, as provided by chapter 190, section 9-402. The buyer's written acknowledgment, conforming to the requirements of paragraph C of subsection I, of delivery of a copy of a contract shall be conclusive proof of such delivery, that the contract when signed did not contain any blank spaces except as provided,

and of compliance with this section in any action or proceeding by or against the seller or the holder of the contract.

VII. Upon written request from the buyer at reasonable intervals, the holder of a retail instalment contract shall give or forward to the buyer a written statement of the dates and amounts of payments and the total amount unpaid under such contract. A buyer shall be given a written or stamped receipt for any payment when made in cash.

VIII. No provision in a retail instalment contract relieving the seller from liability for any legal remedies which the buyer may have under the provisions of sections 249 to 259, inclusive, against the seller under the contract, or any separate instrument executed in connection therewith, shall be enforceable. (1957, c. 386, § 1. 1963, c. 362, § 20.)

Effect of amendment.—The 1963 amendment, effective December 31, 1964, substituted "financing statement, as provided by chapter 190, section 9-402" for "contract, or a memorandum thereof, as provided by the recording provisions of the Revised Statutes" at the end of the second sentence of subsection VI.

Sec. 255. Finance charge limitation.—

I. Notwithstanding the provisions of any other law, the finance charge shall not exceed the following rates:

Group 1. Any new motor vehicle designated by the manufacturer by a year model not earlier than the year in which the sale is made, $7 per $100 per year.

Group 2. Any new motor vehicle not in class 1 and any used motor vehicle designated by the manufacturer by a year model of the same or not more than 3 years prior to the year in which the sale is made, $11 per $100 per year.

Group 3. Any used motor vehicle not in class 2, $13 per $100 per year.

II. Such finance charge shall be computed on the principal balance as determined under subsection II of section 254 on contracts payable in successive monthly payments substantially equal in amount. Such finance charge may be computed on the basis of a full month for any fractional month period in excess of 10 days. A minimum finance charge of $25 may be charged on any retail instalment transaction.

III. When a retail instalment contract provides for unequal or irregular instalment payments, the finance charge may be at the effective rates permitted in subsection I, having due regard for the schedule of payments.

IV. Purchase of contracts by sales finance companies. Nothing in this section shall be deemed to regulate the terms and conditions of any purchase, acquisition or agreement to purchase or acquire or any sales contract by any sales finance company from any seller. (1957, c. 386, § 1. 1963, c. 362, § 21.)

Effect of amendment.—The 1963 amendment, effective December 31, 1964, rewrote subsection IV, which formerly authorized the purchase of contracts by sales finance companies and regulated the validity and priority of assignments and payments by the buyer after assignment.

Sec. 256. Credit upon anticipation of payments. — Notwithstanding the provisions of any retail instalment contract to the contrary, any buyer may pay in full at any time before maturity the debt of any retail instalment contract and in so paying such debt shall receive a refund credit thereon for such anticipation of payments. The amount of such refund shall represent at least as great a proportion of the finance charge after first deducting from such finance charge an acquisition cost of $25, as the sum of the monthly time balances after the month in which prepayment is made, bears to the sum of all the monthly time balances under the schedule of payments in the contract. Where the amount of credit is less than $1 no refund need be made. (1957, c. 386, § 1.)

Sec. 257. Extending retail installment contract.—At the request of the buyer, the holder of a retail installment contract may extend the scheduled due date of all or a part of any installment or installments and in consideration thereof may contract for and receive from the buyer a finance charge, computed on the sums extended for the period of the extension, at an effective annual rate not in excess of that charged in the original contract, plus documentary fees expended incidental to the extension and the cost of continuing over the period of the extension insurance coverage and other benefits provided in the original contract.

If the extension is made by agreement to refinance the unpaid balance of the original contract and provide a new schedule of payments, the holder may contract for and receive from the buyer in consideration thereof a finance charge, at an annual effective rate not in excess of that charged in the original contract, computed on the sum of the unpaid time balance of the original contract, plus delinquency and collection charges accrued, documentary fees expended incidental to the extension and the cost of continuing over the period of the extension insurance coverage and other benefits provided in the original contract; but after deduction of a refund credit on the original contract of not less than that to which the buyer would be entitled under section 256 had he prepaid in full, except that the holder shall not be allowed the acquisition cost of $25. The buyer shall be furnished a copy of such an agreement, signed by the parties thereto, containing the description and amount of each item above used in the computation of the new time balance, the new time balance and the new schedule of payments. (1957, c. 386, § 1. 1959, c. 79.)

Effect of amendment.—The 1959 amendment rewrote this section.

Sec. 258. Penalties.—

I. Any person who shall willfully and intentionally violate any provisions of sections 249 to 259, inclusive, or engage in the business of a sales finance company in this state without a license therefor as provided in sections 249 to 259, inclusive, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding $500.

II. Any person willfully violating the provisions of sections 254 to 255 shall be barred from recovering any finance charge, delinquency or collection charge on the contract. (1957, c. 386, § 1.)

Sec. 259. Waiver.—Any waiver of the provisions of sections 249 to 259, inclusive, shall be unenforceable and void. (1957, c. 386, § 1.)

Sec. 260. Short title.—Sections 249 to 259, inclusive, may be cited as "The Motor Vehicle Sales Finance Act." (1957, c. 386, § 1.)