

# MAINE STATE LEGISLATURE

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**PART 1**  
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**CHAPTER 1**  
**ORGANIZATION; COMMISSIONER AND EMPLOYEES; POWERS AND DUTIES**

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**§ 1. Department; 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 as-

sociations 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 indebtedness is outstanding.

1961, c. 385, § 1.

## § 2. 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 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 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 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 commissioner shall forthwith notify said financial institutions of such assessments. The assessments so made shall be paid semiannually to the Treasurer of 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 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.

### § 3. Information and records

No information derived by or communicated to the commissioner or any employee of the department shall be disclosed except to:

**1. Certain state officials.** The Governor, Attorney General or Treasurer of State;

**2. 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;

1963, c. 141, § 1.

**3. 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;

**4. Statutory provisions.** Comply with this Title relating to disclosure or publication of certain information;

**5. 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.

#### § 4. Reports

The commissioner shall report to the Governor biennially as of June 30th. 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.

#### § 5. Fees

The 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:

**1. Foreign corporation.** For a license authorizing a foreign banking corporation to conduct its business in this State, and each renewal thereof, \$20;

**2. 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;

**3. Application, dealer in securities.** For filing application for registration as a dealer in securities, \$50;

**4. Registration, dealer in securities.** For registration or renewal of dealers in securities, \$50, which shall be returned if registration or renewal is not granted;

**5. Copy of dealer's certificate.** For certified copy of dealer's certificate, 50¢;

**6. Registration, salesman in securities.** For registration or renewal of registration of salesman or agent of dealer in securities, \$10.

1961, c. 385, § 1.

## § 6. Powers of commissioner

In addition to other powers conferred by the law, the commissioner shall have the following powers:

**1. Rules.** To promulgate rules to govern internal organization and procedures, the procedure of administrative hearings and other administrative matters;

**2. 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;

**3. 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;

**4. 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 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 designated in section 3 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;

**5. 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;

**6. Participation in public agencies.** To authorize, by regulation as provided in subsection 4, 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;

**7. 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 692 to 698 shall apply;

**8. 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, c. 385, § 1.

**§ 7. Orders of 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.