

MAINE STATE LEGISLATURE

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CHAPTER 51
INVESTMENTS

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§ 591. Authorization

Savings banks may hereafter invest their funds in securities, in addition to loans authorized under chapter 49, in accordance with this chapter.

1955, c. 380, § 1.

§ 592. United States and Canada

Savings banks may hereafter invest their funds:

1. United States. 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.

2. Canada. 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 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.

1955, c. 380, § 1.

§ 593. States

Savings banks may hereafter invest their funds: 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.

1955, c. 380, § 1.

§ 594. Provinces of Canada

Savings banks may hereafter invest their funds: 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.

1955, c. 380, § 1.

§ 595. Counties

Savings banks may hereafter invest their funds:

1. Maine counties. In the bonds or other interest-bearing obligations of any county in this State.

2. Counties in other states. 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 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.

1955, c. 380, § 1.

§ 596. Municipalities

Savings banks may hereafter invest their funds:

1. State of Maine. 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.

2. In other states. 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 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.

3. Quasi-municipal corporations. 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 eligible under subsection 2, or comprising within its limits one or more such municipalities, provided 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 payment of such obligations shall be enforceable by a direct tax levied on all the taxable property within such corporation.

4. Net debt defined. 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.

5. Limitation. 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.

1955, c. 380, § 1.

§ 597. Railroads

Savings banks may hereafter invest:

1. Maine. 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.

2. Obligations assumed or guaranteed. In the fixed interest-bearing obligations assumed or guaranteed by a corporation coming within the coverage of subsection 1 and issued by any lessor, subsidiary or affiliated corporation, provided 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.

3. In other states. 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,

A. 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.

B. Such obligations shall be secured

(1) by a first mortgage, or a mortgage or trust indenture which is in effect a first mortgage, or

(2) by a refunding mortgage providing for the retirement of all prior lien obligations outstanding at the date of issue, or

(3) by a mortgage prior to a refunding mortgage 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

(4) by a first mortgage on the property leased to a railroad corporation any of the bonds of which qualify under this section provided the bonds issued under such mortgage have a maturity prior to the expiration of the lease.

C. 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 paragraph 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 from gross operating revenues plus other income.

4. Philadelphia Plan. 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.

5. Bonds of terminal or bridge company. 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 subsection 1, 2 or 3.

6. Other obligations. 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 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.

1955, c. 380, § 1; 1957, c. 72, §§ 1, 2.

§ 598. Public utilities

Savings banks may hereafter invest:

1. Maine. In the bonds or other fixed interest-bearing obligations issued or assumed by any Maine corporation subject to the jurisdiction of the 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 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.

2. Other corporations. 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:

A. 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 su-

pervisory 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.

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 obligations shall be secured:

(1) by a first mortgage, or a mortgage or trust indenture which is in effect a first mortgage, or

(2) 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 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.

(3) by a mortgage having a lien prior to a refunding mortgage covering some part of the public utility property included under such refunding mortgage, provided the refunding mortgage contains a provision for the refunding of such prior mortgage, or

(4) 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.

F. 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 paragraph income available for fixed charges shall be determined by subtracting from the sum of gross revenue plus other income all operating expenses in-

cluding 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.

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.

1955, c. 380, § 1.

§ 599. Telephone companies

Savings banks may hereafter invest:

1. Telephone companies. 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:

A. 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.

B. 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 paragraph 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.

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.

1955, c. 380, § 1.

§ 600. Industrial bonds

Savings banks may hereafter invest: 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,

1. Not in default. 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;

2. Earnings. Such corporation shall have earned and received for a period of 5 fiscal years next preceding the investment an average income available for fixed charges of not less than 4 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 subsection 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 miscellaneous 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.

3. Funded obligations. 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:

A. All fixed funded obligations taken at par values.

B. All securities junior to those included in paragraph A 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.

1955, c. 380, § 1.

§ 601. Maine corporate bonds

Savings banks may hereafter invest: In the bonds or other interest-bearing obligations of any Maine corporation, other than those 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 one 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.

1955, c. 380, § 1.

§ 602. Maine corporate stocks

Savings banks may hereafter invest:

1. Maine. 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.

2. Limitation. 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 $\frac{1}{5}$ 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.

1955, c. 380, § 1.

§ 603. Bank stocks and obligations

Savings banks may hereafter invest:

1. Certain banks. 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.

1957, c. 78.

2. Federal Home Loan Bank. In the stock, bonds or debentures issued by any Federal Home Loan Bank.

3. Others. In obligations issued, assumed or guaranteed by the International Bank for Reconstruction and Development or the Inter-American Development Bank.

1963, c. 162, § 6-A.

4. Doing business in Maine. In the capital stock of any bank doing business within this State incorporated under the laws of this State or the United States.

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

A. Such bank shall be a member of the Federal Reserve System.

B. Such bank shall have no securities outstanding senior to the stock qualifying as legal under this section of the law.

C. 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.

1955, c. 380, § 1; 1957, c. 78; 1963, c. 162, § 6-A.

§ 604. National mortgage associations

Savings banks may hereafter invest: In the bonds or other interest-bearing obligations of national mortgage associations.

1955, c. 380, § 1.

§ 605. Mortgages Under Bankhead-Jones Farm Tenant Act

Savings banks may hereafter invest: 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.

1955, c. 380, § 1.

§ 606. Maine Development Credit Corporation

Savings banks may hereafter invest: In notes or other interest-bearing obligations issued by Development Credit Corporation of Maine in accordance with, and by virtue of, the charter and bylaws of said corporation, up to, but in no case exceeding, 2½% of the reserve funds of any such bank.

1955, c. 380, § 1.

§ 607. Insurance company stocks

Savings banks may hereafter invest:

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

A. 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 section 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 reserves 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.

2. Limitation. 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.

1955, c. 380, § 1; 1963, c. 162, §§ 7, 8.

§ 608. Preferred stock of public utilities

Savings banks may hereafter invest: 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

1. Limitations. 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;

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

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

4. Revenue. 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. Income. 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 section 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.

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.

1955, c. 380, § 1; 1963, c. 162, § 9.

§ 609. Securities approved by Bank Commissioner

Savings banks may hereafter invest: In such securities as may be approved as suitable investments for savings banks by the 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 section.

1955, c. 380, § 1.

§ 610. Securities deemed sound by bank trustees

Savings banks may hereafter invest: 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 section.

1955, c. 380, § 1; 1963, c. 162, § 10.

§ 611. List of legal securities

Within the last 15 days of September of each year the commissioner shall ascertain what securities qualify as legal investments under sections 592 to 609 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 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 chapter.

In carrying out this chapter the commissioner may make any proper or necessary expenditures including compensation to any person or persons especially employed for the purpose.

1955, c. 380, § 1; 1957, c. 72, § 3; 1963, c. 414, § 46.

§ 612. Securities not authorized by law

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

1955, c. 380, § 1; 1963, c. 162, § 11.

§ 613. Bonds of nonprofit organizations

Savings banks may hereafter invest: 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 section.

1963, c. 162, § 12.