

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1959 - 1960

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September 22, 1959

To: Carleton L. Bradbury, Commissioner of Banks and Banking

Re: Bank Records — Minimum Period of Retention

We have examined the proposed rules and regulations drawn pursuant to Chapter 59, section 197-A, Revised Statutes 1954, as enacted by Chapter 87, Public Laws of 1959, by which the Banking Commissioner is authorized to promulgate rules and regulations classifying and prescribing the minimum period for which bank records shall be retained.

We are of the opinion that enabling legislation is adequate authority for the promulgation of the proposed rules and regulations.

Our examination of the schedule does not reveal any periods of retention which do violence to our laws, but it may be that in such a comprehensive schedule of records, dealing with a specialized business, a particular period of retention is in error. Experience gained with the passage of time will correct such errors.

JAMES GLYNN FROST

Deputy Attorney General

September 22, 1959

To: Carleton L. Bradbury, Commissioner of Banks and Banking

Re: Rules and Regulations re Banks and Trust Companies (Form and Procedure)

We have your memo of August 31, 1959, in which you ask for advice concerning section 2-A of Chapter 59, Revised Statutes of 1954 as enacted by section 2 of Chapter 178, Public Laws of 1959. The said section 2-A reads as follows:

“Sec. 2-A. Department regulations. The Bank Commissioner, with the advice and joint consent of the advisory committees of the savings banks and trust companies, as provided for in section 1, may from time to time make and shall enforce rules and regulations relating to said banks and trust companies, subject to the provisions of this chapter.”

You state you would appreciate advice as to the Maine statutory law or common law relative to the form in which regulations must be published, formal notification to officials such as the Secretary of State, records of meetings wherein regulations are adopted and any other formalities that should be adopted.

Ordinarily, the statute granting rule making power also sets forth a procedure which must be followed in order for the rules to become effective; hearing on the rules, notice of the hearing, publication of the rules, and perhaps a filing with the Secretary of State, but usually no such filing is required.

Occasionally, the enabling act is as brief as the one in your chapter.

Other than the law directly providing for such rules, this state does not have any general law establishing the form of the rules or the procedure to be followed when an administrative agency promulgates a rule.