

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1961 - 1962

October 24, 1961

To: Leslie G. Hilton, Examiner III Banks and Banking

Re: Articles of Incorporation of Waterville Savings and Loan Association

We have your request of September 26 for an opinion with regard to the capital stock of the Waterville Savings and Loan Association.

As we understand your question you have asked: 1) Whether or not the limitation placed upon the capital stock of this association has automatically been removed by the provisions of Chapter 59, Revised Statutes as amended by the 100th Maine Legislature. 2) If the answer to question number 1 is in the negative, what procedure must be followed by the Waterville Savings and Loan Association in order to remove the capital stock restriction.

We have examined the amended statutes relating to savings and loan associations and have determined that these provisions permit associations to adopt or amend charters so as to eliminate any limitation whatsoever upon the amount of their capital stock. We have found nothing, however, which would indicate a legislative intent to make such elimination of limitation mandatory. Section 157-Z-36, states that associations established prior to the enactment of this new legislation shall enjoy all the privileges and be subject to all the requirements imposed upon an association organized subsequent to the enactment of this legislation. The difficulty is, however, that nowhere in this new act is there any requirement that an association have unlimited capital stock. Therefore, it is our opinion that this new legislation allows an association to adopt a charter which contains no limits with regard to capital stock, but does not impose any requirement forbidding such a limitation. For this reason, the charter of the Waterville Savings and Loan Association is not automatically amended by Revised Statutes, Chapter 59.

The second question which you ask is what steps must be taken by the Waterville Savings and Loan Association in light of the negative answer which we have given to your first question. As the Bank Commissioner under the provisions of this new legislation has no power to approve or in any way affect amendments to charters of savings and loan associations, there is no necessity or opportunity for action by the State in this matter. For this reason, and because we are limited by law so that we may give advice and opinions only to the Governor and Council, the respective branches of the legislature, and to department heads on questions of law that affect the State, we feel that the method by which the Waterville Savings and Loan Association must amend its charter should be left to the determination of the attorneys for that association.

It is our conclusion, therefore, that the limitation contained in the charter of the Waterville Savings and Loan Association is not eliminated automatically by Revised Statutes, Chapter 59, sections 157-A through 157-Z-36.

THOMAS W. TAVENNER

Assistant Attorney General