

MAINE STATE LEGISLATURE

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September 13, 1965

Eben Elwell, Treasurer

Treasury

George C. West, Deputy

Attorney General

Reference is made to your letter of September 9, 1965.
You have asked the following question:

QUESTION:

Is the purchase of shares in a Savings and Loan Association within the state a legal investment for the Treasurer either under the long-term authority granted under the statutes or as a short-term investment?

ANSWER:

Yes, as qualified in the following opinion.

OPINION:

Your question is really two questions. One relates to long-term investments and the other to short-term investments. In your letter of September 8, 1965, to the President of the Maine Savings and Loan League, you indicate that actually you are dealing with short-term "deposits" vs. "investments." There is a considerable difference in the way we answer your question. For purposes of our answer we are treating the word "investment" in your question as though it were "deposit."

Under 5 M.R.S.A., § 130, you are directed to deposit all moneys received "to the credit of the State of Maine in some state depository." Section 131 authorizes departments to deposit funds directly upon being instructed by the Treasurer of State "as to what state depository may be used."

Section 135 authorizes the Treasurer of State to "deposit moneys, including trust funds of the State, in any of the banking institutions or trust companies or mutual savings banks organized under the laws of this state or in any national banks or banks located therein."

Section 138 authorizes the Treasurer of State, with the approval of named department heads, to invest permanent trust funds in certain legal obligations, "or may invest or deposit the same as provided in section 135."

Section 139 authorizes the Treasurer of State, with the approval of named department heads, to invest funds from the sale and lease of lands reserved for public uses in those investments legal for savings banks as enumerated in 9 M.R.S.A., sections 591 to 600, and section 603, subsection 1. Hence, these funds cannot be deposited in a savings and loan association.

Section 142 authorizes investment of any funds appropriated for any sinking fund in named bonds. Hence, such funds cannot be deposited in savings and loan associations.

The question then seems to boil down to whether a savings and loan association is a "banking institution" as stated in section 135. We are of the opinion that it is.

9 M.R.S.A., section 222, subsection 1, defines banking business. Without quoting the subsection, we can say that a savings and loan association is in the banking business. Also, subsection 4 defines a "Financial Institution" as including such associations. In addition, the Bank Commissioner is charged with their supervision.

It should be noted that savings and loan associations are authorized to issue 6 different types of shares. See 9 M.R.S.A., § 1702. Most of the types are not adapted to short-term deposit features. However, those shares described in subsection 5, as amended by P.L. 1965, Chapter 69, § 1., are so adapted. However, the determination of what form of shares to use is an administrative decision of the Treasurer of State.

George C. West
Deputy Attorney General

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