

MAINE STATE LEGISLATURE

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Irl E. Withee, Deputy Bank Commissioner

Banks and Banking

George C. West, Deputy

Attorney General

Certificates of Deposits as Legal Investments for Savings Banks

FACTS:

On April 13, 1962 this office wrote an opinion ruling that a certificate of deposit is not a "security" and hence a savings bank may not legally "invest" in such certificates.

A savings bank now asks if it may acquire such certificates under 9 M.R.S.A. § 556, the prudent man loan provision. It has been advised by its attorney that it may do so.

QUESTION:

May a savings bank acquire certificates of deposit as prudent man loans by virtue of 9 M.R.S.A. § 556?

ANSWER:

No.

OPINION:

Generally, a certificate of deposit is a negotiable promissory note. It may not be, according to its form. Such certificates are a written acknowledgement by a bank of the receipt of money on deposit. Michie, Banks and Banking. In other words, a certificate of deposit results from a deposit not a loan.

9 M.R.S.A. § 556 authorizes a savings bank to make loans considered by the trustees "to be sound, prudent loans." There are limitations as to the amount of such loans a bank can make.

In order to acquire a certificate of deposit from a bank it is necessary to deposit a sum of money in that bank. A deposit is not a loan. Hence it follows that 9 M.R.S.A. § 556 gives no basis for the acquisition of certificates of deposit by savings banks.

George C. West
Deputy Attorney General

GCW/eh