

MAINE STATE LEGISLATURE

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September 12, 1969

Elmer W. Campbell, Commissioner

Banks and Banking

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Attorney General

Legal Loans for Savings Banks

SYLLABUS:

A particular loan falling within a category established by 9 M.R.S.A. §§ 561 through 567 that does not meet the qualifications of such category may not be made under the authority of the prudent man section (9 M.R.S.A. § 568).

FACTS:

Title 9 M.R.S.A. Ch. 50, enacted by Public Laws, 1969, Ch. 401, controls the loans that Maine savings banks may make.

Title 9 M.R.S.A. § 568, the prudent man section, which is included in the aforementioned Chapter 50, provides that:

"§ 568. Other prudent loans

"A savings bank may hereafter make such loans as the trustees of the bank consider to be sound prudent loans, the making of which would not otherwise be legal but for this section. Not more than 3% of the deposits of a bank shall be loaned within the coverage of this section. Not more than 1% of the deposits of a bank shall be loaned under this section to any one borrower."

QUESTION:

May a particular loan falling within a category established by 9 M.R.S.A. §§ 561 through 567, but not meeting the qualifications of such category, be made under the authority of the prudent man section?

ANSWER:

No.

REASON:

The following wording contained in 9 M.R.S.A. § 568, to wit: "the making of which would not otherwise be legal but for this section" is a reference to loans other than those falling within the categories established by 9 M.R.S.A. §§ 561 through 567. If a loan falls within such a category, it must qualify under that specific section.

This department has previously issued an opinion on May 19, 1967 where the wording "in other securities" was contained in the statute in question, and an opinion on September 3, 1969 where the wording "the making of which would not otherwise be legal but for this section" was contained in the statute in question. The reasoning of those opinions are hereby adopted by this opinion as the issues are essentially the same.

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