

MAINE STATE LEGISLATURE

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August 18, 1972

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Banks and Banking

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Validity of Connecticut Bank and Trust Company "Save-For-College Plan"
under Maine Banking Laws.

In your memo of August 2, 1972 you inquired as to whether the offering in this State by mail of a plan, such as the Connecticut Bank and Trust Company's "Plan-For-College Plan" described in the attached letter, would be in violation of subsection 2 of section 171 of the Maine Banking Laws (Title 9, Maine Revised Statutes).

Section 171, subsection 2 provides, as follows:

"§ 171 Prohibited practices

It shall be unlawful for:

2. Unauthorized business. Any person to engage in the business authorized for any financial institution unless he is properly authorized, or to represent that he is acting as such a financial institution, or to use an artificial or corporate name which purports to be or suggests that it is such a financial institution. Financial institutions organized under the laws of the United States are not subject to this provision." (Emphasis supplied).

Furthermore, under subsection 6 of section 222 of the Banking Laws, the word "person" is defined as meaning,

"... an individual, corporation, partnership, joint venture, trust, estate or unincorporated association."

and the term "financial institution" is defined by subsection 4 of that section as meaning,

"... a trust company, savings bank, trust and banking company, institution for savings, loan and building association, savings and loan association or industrial bank organized under the laws of this State." (Emphasis supplied).

Finally, the term "banking business" is defined in subsection 1 of section 222, as follows:

"1. Banking business." Banking business means

A. The soliciting, receiving or accepting of money or its equivalent on deposit as a regular

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business by any person, copartnership, association or corporation whether such deposit is made subject to check or is evidenced by a certificate of deposit, a passbook, a note, a receipt or other writing; provided that nothing herein shall apply to or include money left with an agent, pending investment in real estate or securities for or on account of his principal; or

B. The loan of money for profit by a corporation except as a reasonable incident to the transaction of other corporate business or when necessary to prevent corporate funds from being unproductive."

It would appear that, when the foregoing pertinent provisions of the Maine Banking Laws are read together, they indicate that, by offering in this State by mail its "Plan-For-College Plan," the Connecticut Bank and Trust Company would be violating the provisions of subsection 2 of section 171 of the Maine Banking Laws by engaging in "banking business" which, under the Maine Banking Laws, is authorized only for those financial institutions organized under the laws of the State of Maine.

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