

# MAINE STATE LEGISLATURE

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## STATE OF MAINE

Inter-Departmental Memorandum Date September 21, 1976To Frank M. Hogerty, Jr., Superintendent Dept. Bureau of InsuranceFrom S. Kirk Studstrup, Assistant Dept. Attorney GeneralSubject Administration of Deposits - 24-A M.R.S.A. Chapter 15

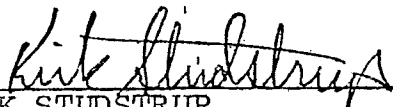
Your memorandum of January 16, 1976, requested advice concerning approval by the Superintendent of a custodial agreement between the York Mutual Insurance Company and the Casco Bank and Trust Company. Certain domestic insurance companies are required by 24-A M.R.S.A. § 412 to make and maintain a specified deposit with the Superintendent of Insurance. This deposit is subject to the provisions of 24-A M.R.S.A. Chapter 15 (Administration of Deposits), which includes the proviso that:

" . . . the superintendent may in his discretion permit the insurer to make and maintain the deposit under custodial arrangements with the trust department of an established bank located in Maine."  
(24-A M.R.S.A. § 1256,2; emphasis provided)

If the Superintendent grants this authority, he is required to prescribe or approve the form and terms of all such custodial arrangements. 24-A M.R.S.A. § 1256,4.

The custodial agreement between the York Mutual Insurance Company and Casco Bank and Trust Company contains two parts or "schedules." Those securities included in "schedule A" are to be held in satisfaction of the deposit requirement of § 412. Those securities being held in "schedule B" are not designated as part of this deposit. It is my understanding that the securities included in "schedule A" are sufficient to satisfy the deposit requirements of § 412, and the agreement appears to satisfy the requirements in this regard. The agreement also specifically provides that those securities listed in "schedule B" will not be subject to the provisions of § 412 or Chapter 15 of Title 24-A. This contractual proviso would not exclude these securities from any other provisions of Title 24-A, such as the Superintendent's seizure power under § 4405. Therefore, the agreement does not appear to cause any problems in this regard.

The decision as to whether to approve any specific form for a custodial arrangement is placed by statute within the discretion of the Superintendent. However, on the basis of the foregoing, I would suggest that approval be limited to deposits made pursuant to § 412. As an alternative, you might require custodial agreements made with regard to § 412 deposits be separate and distinct from custodial agreements for any other assets. This second alternative has the advantage of leaving no question as to what it is the Superintendent is approving.

  
S. KIRK STUDSTRUP  
Assistant Attorney General