

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 1394

H. P. 1015

House of Representatives, March 9, 1971

Referred to Committee on Business Legislation. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Hewes of Cape Elizabeth.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT Revising the Laws Relating to Savings and Loan Associations.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 9, § 401, amended. The 2nd sentence of section 401 of Title 9 of the Revised Statutes is repealed and the following enacted in place thereof:

No person, partnership, association or corporation, bank or trust company except a mutual savings bank organized under the laws of this State, shall use as a part of its name or title the words "saving," "savings," or "savings bank," except savings and loan associations as provided in section 1591.

Sec. 2. R. S., T. 9, § 1632, sub-§ 9, amended. The 2nd sentence of subsection 9 of section 1632 of Title 9 of the Revised Statutes is amended to read as follows:

No association, without the written consent of the commissioner, shall borrow any sum or sums the aggregate of which would exceed 25% of its total assets except that any association which is a member of a Federal Home Loan Bank shall have power to secure advances in such amounts and upon such terms as may be prescribed by such Federal Home Loan Bank;

Sec. 3. R. S., T. 9, § 1632, sub-§ 11, repealed. Subsection 11 of section 1632 of Title 9 of the Revised Statutes, is repealed.

Sec. 4. R. S., T. 9, § 1661, amended. The first paragraph of section 1661 of Title 9 of the Revised Statutes is repealed and the following enacted in place thereof:

The business and affairs of every association shall be directed by a board of directors. The board shall consist of such number as the bylaws provide, but not less than 6. Each director shall be a member, a resident of the State of Maine and shall not be an officer, director or trustee of any other savings and loan association, federal savings and loan association, loan and building association, savings bank, trust company, national bank, credit union, federal credit union or industrial bank, except that any director who was an officer, director or trustee of any other institution on January 1, 1971 may continue in such capacity and remain on the board of directors of the savings and loan association. He shall have such other qualifications and meet such eligibility requirements as chapters 141 to 167 and the bylaws provide.

Sec. 5. R. S., T. 9, § 1702, repealed and replaced. Section 1702 of Title 9 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

§ 1702. Savings accounts and deposits

A savings and loan association may issue such savings accounts and deposits as its board of directors may determine, subject to the requirements of this section and may classify and differentiate among such deposits and accounts on such basis as it may determine. An association may establish minimum and maximum amounts and time requirements for deposits and classes of deposits and may refuse any deposit at their pleasure.

An association may by resolution of its board of directors require notice for withdrawal not to exceed 90 days on certain classes of deposits and such notice shall not be considered an application for withdrawal as defined in section 1751.

An association shall issue to each depositor an account book, certificate or some other evidence of the account or deposit which shall clearly indicate any time or notice requirements of the class of account or deposit.

An association whose accounts and deposits are insured by the Federal Savings and Loan Insurance Corporation may issue any type or class of savings account or deposit the issuance of which has been approved by the Federal Savings and Loan Insurance Corporation. Any association whose accounts are not insured by the Federal Savings and Loan Insurance Corporation must obtain approval of the commissioner for any type of account or deposit to be issued.

Notwithstanding this section, an association may continue to issue any type of share, account or deposit being issued on January 1, 1971.

Sec. 6. R. S., T. 9, § 1753, amended. The first sentence of section 1753 of Title 9 of the Revised Statutes is amended to read as follows:

If a borrowing member of an association or **Federal association doing business in the State** is in default on any indebtedness to such association or **federal association**, the board of directors may, after 30 days' written notice of such intention sent by mail to such borrowing member at his last known address as shown on the books of said association or **federal association**, apply

at the withdrawal value the whole or any part of any shares or sums credited on any account or deposit of such borrowing member to his indebtedness.

Sec. 7. R. S., T. 9, § 1832, sub-§ 1, ¶ C, sub-¶ (5), repealed and replaced. Subparagraph (5) of paragraph C of subsection 1 of section 1832 of Title 9 of the Revised Statutes, as enacted by section 7 of chapter 275 of the public laws of 1969, is repealed and the following enacted in place thereof:

(5) Mortgage loans not exceeding 95% of the appraised value may be made provided at least the top 20% of the loan is insured by a mortgage guaranty insurer licensed to do business in this State.

Sec. 8. R. S., T. 9, § 1832, sub-§ 1, ¶ C, sub-¶ (6), additional. Paragraph C of subsection 1 of section 1832 of Title 9 of the Revised Statutes, as amended, is further amended by adding a new subparagraph (6) to read as follows:

(6) Loans may be made in any amount not exceeding 90% of the appraised value or 90% of the purchase price of owner occupied, one-family homes, whichever amount is less, if secured by a mortgage; and

(a) The loan contract requires that in addition to interest and principal payments on the loan, the equivalent of $\frac{1}{12}$ of the estimated annual taxes, assessments and insurance premiums on the secured property be paid monthly in advance to the association; and

(b) Loans written under this subsection which exceed 80% of the appraised value shall at no time exceed 20% of the association's total assets.

Sec. 9. R. S., T. 9, § 1832, sub-§ 1, ¶¶ D-E, repealed and replaced. Paragraph D and paragraph E, as amended by section 4 of chapter 149 of the public laws of 1967, both of subsection 1 of section 1832 of Title 9 of the Revised Statutes, are repealed and the following enacted in place thereof:

D. Other mortgage loans may be made as follows:

(1) Nonamortized mortgage loans may be made in an amount not exceeding 70% of appraised value.

(2) Mortgage loans on improved real estate may be made in an amount not exceeding 80% of appraised value to be repayable in at least annual installments sufficient to amortize the loan in a period not to exceed 25 years.

(3) Mortgage loans on unimproved land which is to be developed into a building lot or lots may be made in an amount not exceeding 75% of appraised value to be repaid in a period not exceeding 15 years. Appraised value may include cost of improvements. Amortization may be monthly, quarterly, or semiannually and may be delayed for a period not to exceed 2 years from the date of the note.

E. Mortgage loans on the security of residential property of 3 living units or more or on any other type of income producing commercial property

may contain provisions for a percentage of profits participation by the association with the owner.

Sec. 10. R. S., T. 9, § 1832, sub-§ 1, ¶¶ F-G, repealed. Paragraph F, as amended by section 4 of chapter 149 of the public laws of 1967, and paragraph G, both of subsection 1 of section 1832 of Title 9 of the Revised Statutes, are repealed.

Sec. 11. R. S., T. 9, § 1832, sub-§§ 9 - 14, additional. Section 1832 of Title 9 of the Revised Statutes, as amended, is further amended by adding 6 new subsections 9 to 14 to read as follows:

9. **Collateral loans.** In loans secured by such collateral as is prudent in the judgment of the board of directors.

The aggregate of all loans made under this subsection, except for those made upon the security of obligations of the United States Government shall at no time exceed 10% of the association's total assets and not more than 1% of its total assets shall be loaned on the obligation and stock of any single corporation.

10. **Personal loans.** In loans to any individual borrower or borrowers, evidenced by note or other obligations, with or without security provided that loans to any one individual shall not exceed \$5,000 and the aggregate of all loans made under this subsection shall not exceed 10% of the total assets of the association.

11. **Federal reserve funds.** An association may loan to any bank which is a member of the Federal Reserve System an amount not to exceed 5% of total assets for periods not to exceed 3 days.

12. **Loans to municipal corporations and charities.** In loans to any municipal or quasi-municipal corporations in this State and to any religious, charitable, educational or fraternal association or corporation evidenced by note or other obligations with or without security.

13. **Mobile home loans.** An association may make loans secured by a security interest in a mobile home up to the value of the security on such terms as the board of directors may determine except that loans to dealers in mobile homes for inventory financing shall be limited to the manufacturer's invoice price of each new mobile home including any installed equipment and loans made to other than dealers in mobile homes shall be amortized on a regular basis.

14. **Other prudent loans.** An association may make such loans as the board of directors of the association consider to be sound, prudent loans the making of which would not otherwise be legal but for this subsection. Not more than 5% of the total assets of an association shall be loaned within the coverage of this subsection and not more than 1% of the total assets of an association shall be loaned under this subsection to any one borrower.

Sec. 12. R. S., T. 9, § 1833, repealed and replaced. Section 1833 of Title 9 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 1833. Repayment of loan

A borrower from an association may repay a loan at anytime upon application to the association, whereupon, on settlement of his account, he shall be charged with the full amount of the original loan together with all interest, premium and fines and any prepayment penalty or other charge which may be legally due under the terms of the loan and shall be given credit for the withdrawing value of any account pledged and transferred as security and all other sums credited to said loan, and the balance shall be received by the association in full satisfaction and discharge of said loan.

Sec. 13. R. S., T. 9, § 1834, sub-§§ 6-8, additional. Section 1834 of Title 9 of the Revised Statutes, as amended, is further amended by adding 3 new subsections 6 to 8, to read as follows:

6. Participation in term loans serviced by commercial banks. A savings and loan association may purchase participation in term loans other than real estate mortgage loans, secured or unsecured, from national banks or trust companies located in this State, the proceeds of which are to be used in the establishing or carrying on of a business venture of any kind located principally within this State, provided that:

A. No participation in any one loan shall exceed 75% of the amount of the loan;

B. The total participation in loans to any one borrower shall not exceed 1% of total assets; and

C. The aggregate outstanding balance of loans made under this subsection shall not at any one time exceed 10% of total assets;

D. Disbursement, collection, custody of documents and all other matters relating to the originating and servicing of a loan during its term may be administered in any manner agreed upon by the participants, with or without fees, provided that each loan shall be:

(1) Evidenced by a participation certificate signed by the selling bank;

(2) Supported by a warranty of the selling bank to service the loan throughout its entire term, and to maintain at all times a minimum participation of 25% of the outstanding loan balance;

(3) Supported by a comprehensive analysis, prepared by the selling bank and furnished to the purchasing bank, of balance sheets, earnings statements and surplus reconciliations covering the most recent 5 years of operations, or for the number of years in business if less than 5;

(4) Further supported by a report, prepared at least annually, of the loan, its security, if any, and the financial status of the borrower; and

(5) Be subject to a specific repayment schedule.

7. Participation loans with government agency. A savings and loan association may purchase participations in loans, in which the United States or

any instrumentality thereof participates, which qualify as a legal loan for savings and loan associations under any provision or combination of provision of this Title and in applying any limitations as to the maximum amount of a loan with reference to the appraised or market value of any security offered, a savings and loan association may deduct from the amount of the loan, as written, any portion thereof which is subordinated by the United States or any instrumentality thereof to the portions thereof loaned by said savings and loan association. Not more than 1% of the assets of the association shall be loaned within the coverage of this subsection.

8. Service corporations. An association may invest in the capital stock, obligations, or other securities of a service corporation provided that the aggregate of such investments shall not exceed 2% of its assets. For purposes of this section a service corporation shall mean an organization substantially all the activities of which consist of originating, purchasing, selling, and servicing loans and participation interests therein, or clerical, bookkeeping, accounting, statistical or similar functions related to the savings and loan or real estate business.

Sec. 14. R. S., T. 9, § 1835, sub-§ 3, additional. Section 1835 of Title 9 of the Revised Statutes, as amended by section 8 of chapter 149 of the public laws of 1967, is further amended by adding a new subsection 3 to read as follows:

3. Land development. Associations may purchase land for development as lots for real property or mobile homes to be sold to individuals after development. The total of such investment at any time including purchase price and improvements shall not exceed 5% of the association's total assets.

Sec. 15. R. S., T. 9, § 1836, amended. The first paragraph of section 1836 of Title 9 of the Revised Statutes, as amended by section 9 of chapter 275 of the public laws of 1969, is repealed and the following enacted in place thereof:

No association shall make any of the investments authorized by chapters 141 to 167, except those authorized by section 1832, subsection 2, and section 1834, subsections 1 and 2, if and so long as the sum of its cash on hand and in banks and savings and loan associations, the market value of its investments in obligations of the United States of America and the market value of investments in obligations issued by any agency or instrumentality of the United States of America and fully guaranteed as to principal and interest by said United States of America is less than 5% of its withdrawable accounts, without the approval of the commissioner.

Sec. 16. R. S., T. 9, § 1836, amended. Section 1836 of Title 9 of the Revised Statutes, as amended by section 9 of chapter 275 of the public laws of 1969, is further amended by adding at the end the following new paragraph:

This section shall not apply to associations whose accounts are insured by the Federal Savings and Loan Insurance Corporation provided the liquidity requirements of the Federal Home Loan Bank Board are being complied with.

Sec. 17. R. S., T. 9, § 1837, repealed and replaced. Section 1837 of Title 9 of the Revised Statutes is repealed and the following enacted in place thereof:

An association may pay earnings on its savings shares, accounts and deposits from net income and from surplus funds not restricted by law at such rate and at such times and for such time or notice periods as shall be determined by resolution of its board of directors. An association may classify its savings shares, accounts and deposits on such basis as its board of directors may determine and may agree in advance to pay an additional or different rate of earnings on any such class or subclass of accounts.

Notwithstanding any other provision of chapters 141 to 167 an association may, if its bylaws so provide, exclude from earnings any of the following classes of shares, deposits or accounts:

1. Those having a participation value of less than \$50;
2. Those which are issued under a plan whereby they shall be withdrawn within 24 months from the date upon which they are issued.

Sec. 18. R. S., T. 9, § 1838, amended. The last sentence of section 1838 of Title 9 of the Revised Statutes, as repealed and replaced by section 10 of chapter 275 of the public laws of 1969, is amended to read as follows:

An association insured by the Federal Savings and Loan Insurance Corporation may designate any surplus, reserve or guaranty fund as its federal insurance reserve account, and any association so insured shall be considered in compliance with this section provided it is meeting the reserve requirements of the Federal Savings and Loan Insurance Corporation.

Sec. 19. R. S., T. 9, § 1871, repealed and replaced. Section 1871 of Title 9 of the Revised Statutes, as amended by section 3 of chapter 205 of the public laws of 1969, is repealed and the following enacted in place thereof:

§ 1871. Procedure; absent members, liabilities for obligations

Pursuant to a plan adopted by the board of directors and approved by the commissioner as equitable to the members of the association, an association shall have the power to reorganize or to merge or consolidate with one or more associations organized under the laws of this State or organized under the laws of the United States, provided that the plan of such reorganization, merger or consolidation shall be approved by $\frac{2}{3}$ of the members of each association so affected. Approval may be voted at either an annual meeting or at a special meeting called to consider such action. Notice of the intention so to act shall be published each week for 3 consecutive weeks in one of the newspapers published in the county where the association's principal office is located and a copy of said notice shall be posted in a conspicuous place in each of the offices of the associations so affected. Any member not present at the meeting in person shall be regarded as having voted for the intended action and shall be counted as being among the required $\frac{2}{3}$ affirmative vote, provided notice of this fact shall be contained in the notices required herein.

In all cases, the corporate continuity of the resulting corporation shall possess the same incidents as that of an association which has converted in accordance with this section including, but not limited to, the liability for all obligations of the association or associations existing prior to such conversion. A copy of the results certified by a majority of the board of directors of each affected association shall be filed with the commissioner.

If the resulting association is a state association, the merging federal association shall also comply with all procedures required by the Federal Home Loan Bank Board.

Sec. 20. R. S., T. 9, § 2036, additional. Title 9 of the Revised Statutes is amended by adding a new section 2036 to read as follows:

§ 2036. Optional bylaw provision

An association may provide in its bylaws that in the event of voluntary or involuntary liquidation, dissolution or winding up of the association or in the event of any other situation in which the priority of savings accounts or deposits is in controversy, all savings accounts and deposits shall to the extent of their withdrawal value, have the same priority as the claims of general creditors of the association not having priority, other than any priority arising or resulting from consensual subordination, over other general creditors of the association and in addition, savings accounts and deposits shall have the right to share in the remaining assets of the association.

STATEMENT OF FACT

The purpose of these amendments to the savings and loan law is to update the present law and to permit state chartered savings and loan associations to provide a broader range of services to the public within the regulatory framework of the banking laws.