

# MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 1969

H. P. 1526 House of Representatives, January 24, 1972  
Committee on Business Legislation suggested.  
BERTHA W. JOHNSON, Clerk  
Presented by Mr. Simpson of Standish.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-TWO

AN ACT Relating to the Powers of Savings Banks.

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

Sec. 1. R. S., T. 9, § 573, additional. Title 9 of the Revised Statutes is amended by adding a new section 573 to read as follows:

§ 573. Prohibitions

No savings bank may accept any equity participation in consideration of the making of any loan or otherwise require a borrower to give or assign equity participation.

Any savings bank which acquires an equity participation from a borrower in violation of this section shall, upon demand, assign all its right, title and interest therein to the borrower and in addition be liable to the borrower in an amount equal to twice the fair market value of the equity participation at the time of its creation or at the time of demand, whichever is greater, and shall in addition be liable to the borrower for a reasonable attorney's fees and costs of suit.

1. Equity participation. "Equity participation," as used in this section, means:

A. An ownership interest in any property or enterprise; or

B. Any right to any payment or credit which is proportionate to or contingent upon the net or gross income from any property or enterprise including, but not limited to, a share in the profits, income or earnings from a business enterprise of the borrower; warrants entitling the savings bank to purchase stock of the borrower at certain prices or warrants entitling

the savings bank to compensation based upon changes in the market price of the borrower's stock over a specified period.

#### STATEMENT OF FACT

This legislation is intended to clarify the law so as to clearly indicate that the above described actions are prohibited by existing law.

There is a basic conflict of interest when savings banks give up their traditional role as banks and participate in the ownership of income-producing property as a condition precedent to the granting of loans. Not only does this practice inhibit the construction of such property as badly needed low or middle income housing, but it makes the bank a silent partner in the business venture. Traditionally, the function of savings banks has been to provide funds for the purchase and construction of low and middle income housing, but recent trends have found savings banks straying from the role and engaging in more speculative ventures and emerging as part-owners of projects. This legislation would reverse such trends.