

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 1254

S. P. 415

In Senate, March 7, 1973

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

HARRY N. STARBRANCH, Secretary

Presented by Senator Joly of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

**AN ACT to Differentiate and Set Apart Industrial Banks
from Industrial Loan Companies.**

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

R. S., T. 9, Part 5-A, additional. Title 9 of the Revised Statutes is amended by adding a new Part 5-A to read as follows:

PART 5-A

INDUSTRIAL BANKS

CHAPTER 211

GENERAL PROVISIONS

§ 2401. Industrial banks defined

The term "industrial banks" means any corporation organized under and subject to chapters 211 to 215. Every corporation so organized shall be known as an industrial bank and may use said expression as a part of its corporate title.

§ 2402. Authority of commissioner

The Bank Commissioner shall at all times have the same authority over every corporation organized under section 2341 that he has over savings banks, and shall perform in reference to such corporation, the same duties as are required of him in reference to savings banks. Section 402, subsections 1 and 2, section 473, subsection 3 and sections 691 to 696 shall apply to industrial banks.

CHAPTER 213

ORGANIZATION AND MANAGEMENT

§ 2411. Government

Except as otherwise provided, such corporations shall be governed and conducted in the manner provided by law for corporations generally insofar as not inconsistent with chapters 211 to 215.

§ 2412. Powers

In addition to the powers conferred upon corporations by the general corporation law, every industrial bank shall have the following powers:

1. To borrow and lend money; maximum rate of interest. To borrow money, to lend money and discount notes and bills of exchange, including trade acceptances and retail installment contracts and to charge interest thereon at a rate no greater than an annual percentage rate of 18% calculated according to the actuarial method. The 16% simple interest limitation contained in section 229 applies only to that portion of the loan with a cash advance of over \$2,000. Such loan contracts and evidence of indebtedness shall be payable in equal or unequal monthly installments. No person shall be allowed to become directly or indirectly obligated on one or more loans with a cash advance totaling more than \$2,000 unless the direct or indirect obligation which exceeds \$2,000 is contracted at not more than 16% per year. This provision shall not apply to direct or indirect obligations on retail installment contracts;

2. Documentary fees. To allow industrial banks to collect documentary fees. "Documentary fees" means fees and charges prescribed by law which will be paid to public officials for determining the existence or for perfecting or releasing or satisfying and security related to the transactions;

3. Delinquency and collection charges. An installment loan contract or evidence of indebtedness may provide for a delinquent or collection charge for default in the payment of any such contracts or any installment thereof, if such default continues for a period of 10 days. Such charges shall not exceed 5% of the amount of the installment in default and may be collected in cash or charged to the borrower's account. The delinquency charge for any one installment shall not be charged or collected more than once;

4. Extension of contract. At the request of the customer of an industrial bank, the holder of a retail installment contract or an installment loan contract, the bank may extend the scheduled due date of all or a part of any installment or installments and in consideration thereof may contract for and receive from the customer a credit charge, computed on the sums extended for the period of the extension, at an effective annual rate not in excess of that charged in the original contract, plus documentary fees expended incidental to the extension and the cost of continuing over the period of the extension insurance coverage and other benefits provided in the original contract:

5. Attorney fees. The installment loan contract or evidence of indebtedness may also provide for the payment of reasonable attorneys' fees plus the court costs, if it is referred to an attorney for collection but not a salaried employee;

6. Prepayment without penalty. Notwithstanding any installment loan contracts to the contrary, any customer may pay in full at any time before maturity, the balance of any installment loan or retail contract and in so paying such balance shall receive a refund credit thereon for such anticipation of payments calculated in accordance with the rule of 78's. In computing refunds, time elapsed shall be figured to the nearest number of whole months, with up to 15 days being considered one month. Sixteen days and over shall be considered an additional month. The exception will be retail installment contracts from which an acquisition cost will be deducted from the finance charge prior to such computation, as provided by law. Refunds of less than \$1 shall not be made;

7. To sell credit life and health insurance. To sell credit life and health insurance in accordance with Title 24-A, section 2170, when customer so desires such insurance but that it must not be a requisite for the granting of a loan;

8. To purchase securities. To purchase, invest in, hold and sell such notes, bonds and securities as are legal for investments of deposits in savings banks;

9. To make loans insured under National Housing Act. To make such loans as are eligible for insurance pursuant to the National Housing Act, Title 1, and to apply for and obtain insurance on said loans pursuant to said Act.

CHAPTER 215 PROHIBITIONS

§ 2421. Unlawful acts

No industrial bank shall:

1. Loan limitations, rates of loan to capital and surplus. Hold at any one time the direct obligation or obligations of any one person, firm or corporation for more than 4% of the amount of capital and surplus of such industrial bank or the indirect obligation or obligations of any one person, firm or corporation for more than 15% of the amount of capital and surplus of such industrial bank. Nothing in this subsection shall be construed to limit the holdings of an industrial bank in the obligations of the United States or the State of Maine, and in amounts authorized by a vote of a majority of the directors or the executive committee. For the purpose of this subsection, bills of exchange, including trade acceptances, shall be deemed to be the direct obligations of the acceptors thereof, and the indirect obligations of the drawers thereof;

2. Loan limitations, 5-year limit. Make any loan for a longer period than 5 years from the date thereof, except in the case of loans that are eligible for insurance under the National Housing Act and for the insurance

of which under that Act seasonable application is made pursuant to the National Housing Act, Title 1;

3. Deposit of funds in other banks. Deposit any of its funds with any other moneyed corporation unless such corporation has been designated as such depository by a vote of a majority of the directors or of the executive committee, exclusive of any director who is an officer, director or trustee of the depository so designated;

4. Borrowing limitations. Be at any time indebted for borrowed money to an amount in excess of its capital, surplus and undivided profits, except that by vote of a majority of its entire board of directors or executive committee setting forth the reasons therefor, and upon receiving the written consent of the commissioner thereto, it may borrow money to redeem its certificates of investment or prevent loss by sale of assets, and may rediscount notes, or pledge bonds, notes or other securities as collateral therefor. Copies of all votes authorizing such excess borrowing shall be promptly forwarded by the secretary to the commissioner. Rediscount shall be considered as borrowed money for the purpose of this subsection.

§ 2422. Prohibition of use of name "industrial bank"

After the effective date of this Act, no person, firm or corporation shall use, hold itself out as being, or advertise with the name "industrial bank," except that industrial banks which were properly authorized and doing business on or before June 1, 1967 may use such name at and in connection with their principal office and any branches which were so authorized and doing business on or before said date and may continue to sell certificates of investment, either fixed or uncertain and to receive payments in installments or otherwise, with or without an allowance of interest upon such installments, if doing business in such certificates on or before said date.

STATEMENT OF FACT

The purpose of this bill is to clarify interest rates and protect the public savings in the form of investment certificates.