

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1413

S. P. 450

In Senate, March 22, 1979

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

Presented by Senator Clark of Cumberland.

MAY M. ROSS, Secretary of Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

**AN ACT to Amend Financial Institutions and Credit Union Laws.**

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

**Sec. 1. 9-B MRSA § 222, sub-§ 2**, as enacted by PL 1975, c. 500, § 1, is amended by adding at the end the following new sentence:

**Once a person has been designated as the chief executive officer, it is not necessary to submit a notice of reelection or redesignation after each annual meeting.**

**Sec. 2. 9-B MRSA § 222, sub-§ 3, ¶ A, 4th sentence**, as enacted by PL 1975, c. 500, § 1, is repealed as follows:

~~The correctness of the report shall be attested by the signatures of at least three of the institution's directors other than the officer making such declaration, together with a declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct~~

**Sec. 3. 9-B MRSA § 223, sub-§ 1**, as amended by PL 1975, c. 666, § 6, is further amended by adding at the end the following new sentences:

**The annual publication of the balance sheet and income statement prepared for federal authorities shall be acceptable for fulfilling the requirements of this**

**section. It is preferred that these compilations be published simultaneously and in adjoining spaces in the newspaper selected.**

**Sec. 4. 9-B MRSA § 232, sub-§ 5, ¶A**, as enacted by PL 1975, c. 500, § 1, is amended to read:

**A.** The superintendent shall hold a hearing at the time and place specified in the notice required under subsection 2, such hearing to be ~~conducted in accordance with section 254~~ **governed by the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.**

**Sec. 5. 9-B MRSA § 232, sub-§ 5, ¶D**, as enacted by PL 1975, c. 500, § 1, is amended to read:

**D.** Notwithstanding any provision to the contrary ~~in section 254~~, **as prescribed by the Maine Administrative Procedure Act, Title 5, subchapter IV**, such order shall be issued not later than 30 days after the close of the hearing if any, held pursuant to this section.

**Sec. 6. 9-B MRSA § 327, sub-§ 6**, as enacted by PL 1975, c. 500, § 1, is repealed and the following enacted in its place:

**6. Removal of officers or employees.** Any officer or employee may be removed by a senior officer who has authority to hire or has direct supervision over that person or by a vote of 2/3 of the directors present at a duly called meeting whenever in the judgment of the senior officer or the board the best interest of the institution will be served thereby, but the removal shall be without prejudice to the contract rights, if any, of the person so removed. Any person removed under this section by a senior officer shall have the right to appeal the dismissal to a regular meeting of the directors held within 60 days of the removal.

**Sec. 7. 9-B MRSA § 337, sub-§§ 1 and 2**, as enacted by PL 1975, c. 500, § 1, are amended to read:

**1. Authority.** A financial institution may invest in improved or unimproved real estate, and in the erection or improvement of buildings thereon, together with, **furniture, fixtures, equipment and capitalized leases on any fixed asset items** for the purpose of providing offices or facilities for transaction of the institution's authorized business; and such buildings may include space for rental purposes.

**2. Limitations.** Real estate investments, **furniture, fixtures, equipment and capitalized leases, combined, made** pursuant to subsection 1 shall not exceed ~~50%~~ **60%** of its total capital and reserves in the case of an institution organized pursuant to chapter 31, or ~~50%~~ **60%** of its surplus account in the case of an institution organized pursuant to chapter 32; provided that the superintendent may approve in writing, upon application by an institution and for good cause shown, a greater percentage.

**Sec. 8. 9-B MRSA § 339, sub-§ 1, 2nd sentence**, as enacted by PL 1977, c. 152,

§ 2, is amended to read:

The use of a bank employee to transport deposits from an elementary or secondary school to a financial institution or the use of a bonded carrier to transport a commercial deposit from a ~~corporation's~~ **customer's** place of business, a state department or agency or a subdivision of the State to an office of a financial institution, whether paid for by the customer or the financial institution, shall not be construed as the establishment or operation of a mobile branch.

**Sec. 9. 9-B MRSA § 438, sub-§ 1**, as enacted by PL 1975, c. 500, § 1, is amended to read:

**1. Authorization.** A financial institution may loan or sell to any ~~commercial bank~~ **other financial institution** insured by the Federal Deposit Insurance Corporation, **the Federal Savings and Loan Insurance Corporation** or to the Federal Home Loan Bank of which it is a member, deposits which it maintains with insured commercial banks, a Federal Reserve Bank, or a Federal Home Loan Bank.

**Sec. 10. 9-B MRSA § 532, sub-§ 7** is enacted to read:

**7. Individual borrower loan limitations.**

**A. No savings bank shall loan to any person, firm, business syndicate or corporation or person and affiliated corporation or corporations, an amount or amounts, at any time outstanding, in excess of 10% of its total surplus and reserve accounts, except on the approval of a majority of its entire board of directors or executive committee, unless the debt is secured by collateral which shall be of value equal to the excess of the loans above 10%; and in no event shall the total amount of loans to any person, firm, business syndicate or corporation of person and affiliated corporation or corporations exceed 20% of the amount set forth in this section.**

**B. In determining the amount, every person, firm, syndicate or corporation appearing on any loan as endorser, guarantor or surety shall be regarded as an original promisor.**

**C. The following items shall be excluded from the limitation set forth in subsection 1 and shall not be considered as a loan within subsection 1:**

**(1) The discount of bills of exchange drawn in good faith against actually existing values, and the discount of commercial or business paper actually owned by the person negotiating the same, the renewal or renewals in whole or in part of the commercial or business paper so discounted for periods not exceeding in all 3 years for any such paper;**

**(2) Loans to municipal corporations located within this State upon their bonds or notes;**

(3) Any loan or loans to the extent that they are secured or covered by guarantees or by commitments or agreements to take over or purchase the same, made by any Federal Reserve Bank or by the United States or State of Maine or any department, bureau, board, commission, agency, authority, instrumentality or establishment of the United States or State of Maine, including any corporation owned directly or indirectly by the United States or State of Maine;

(4) Obligations as endorser, with or without recourse, or as guarantor, conditional or unconditional, of dealer-obligated obligations;

(5) Sales of federal funds, interbank deposits and clearings; and

(6) Loans to the extent secured by deposits or the cash surrender value of a life insurance policy.

**D.** In all cases where loans in excess of the 10% are granted without collateral, the records of the institution shall show who voted in favor thereof, and the records and those required by section 222 shall constitute prima facie evidence of the truth of all facts stated therein in prosecutions and civil actions to enforce the several provisions and penalties enumerated in section 465, subsection 1.

**Sec. 11.** 9-B MRSA § 673, as enacted by PL 1975, c. 500, § 1, is further amended by adding at the end the following new sentence:

**This section shall not apply to out-of-state banks, corporations, partnerships, etc., which in the ordinary course of their business have to file with the Secretary of State, Corporation Records Division, in processing the routine disposition of assets acquired by legitimate business dealings or to these organizations providing services to financial institutions or credit unions authorized to do business in Maine, provided these organizations obtain the prior written approval of the superintendent to allow the filing with the Secretary of State.**

**Sec. 12.** 9-B MRSA § 844, sub-§ 2, ¶A, as enacted by PL 1975, c. 500, § 1, is repealed and the following enacted in its place:

**A.** At least once in every 3 years, or more often if required by National Credit Union Administration law, rules or regulations, the supervisory committee shall verify or cause to be verified, 100% of the share and deposit accounts of members of the credit union and report of the verification shall be made to the superintendent within 30 days of the completion of the verification.

**Sec. 13.** 9-B MRSA § 862, sub-§ 2, as enacted by PL 1975, c. 500, § 1, is amended to read:

**2. Legal investments for savings bank.** Bonds, notes, bills or other obligations, direct or indirect, of the United States or of any state or political subdivision thereof, or bankers' acceptances; provided that such are, at the time of purchase by the credit union, legal investments for savings banks in this State

pursuant to sections ~~section 532, subsections 3 and 4; section 552; section 553, subsections 1 and 2; section 554, subsection 1, paragraph A, or section 555, subsection 3; and~~

Sec. 14. **9-B MRSA § 871, sub-§ 2, ¶ C** is enacted to read:

**C. In the event that the federal corporation insuring the credit union's shares or accounts pursuant to section 836 accepts an appointment as conservator, the corporation shall acquire both legal and equitable title to all assets, rights or claims and to all real and personal property of the credit union to the extent necessary for the corporation to perform its duties as conservator or as may be necessary under applicable federal law to effectuate the appointment. If the corporation pays or makes available for payment the insured share liabilities of a credit union by reason of actions taken pursuant to this section, the corporation shall be subrogated to the rights of all the shareholders of the credit union, whether or not it has become conservator thereof, in the same manner and to the same extent as it would be subrogated in the conservation of a credit union operating under a federal charter and insured by the corporation.**

#### STATEMENT OF FACT

The purposes of this bill are as follows.

Sections 1, 2 and 3: These changes will reduce the time and effort preparing the number of reports to the superintendent and still provide the information necessary to supervise the institutions. Section 3 also clarifies the time for publishing the financial data each year.

Sections 4 and 5: These changes are necessary to conform the state statutes to the Maine Administrative Procedure Act.

Section 6: This provides for removal of junior employees by their supervisors and still provides the employees with the opportunity to appeal the dismissal in a regular meeting of the directors held within 60 days of the removal.

Section 7: This is to remove the ambiguity between paragraphs 1 and 2 of this section, making positive that fixtures are included in the limitations.

Section 8: This is to change the wording so that the messenger may pick up a deposit from a partnership, sole proprietorship, charitable organization or other type of depositor who might be handling large sums and thereby reduce the exposure to theft, holdup or other type of loss.

Section 9: This is to clarify the right of a thrift institution to deal in both the purchase and sale of federal funds.

Section 10: This is to provide for an upper limit on the exposure of a savings bank's surplus and reserves by loans to one individual or affiliated borrowers comparable to the limitations placed on trust companies in Maine. Savings banks are the only type of state-chartered financial institution on which no similar limitations are in force.

Section 11: Several out-of-state financial institutions have, for legitimate business reasons, had to file with the Secretary of State in order to dispose of real estate acquired or to provide certain business services to Maine financial institutions, but found it very difficult to get their filings accepted because of the ban of the use of the word "bank" in their corporate names. This change will permit the Secretary of State to accept the filings if approved by the superintendent.

Section 12: This is to bring the verification period and percentage in line with the requirements of the National Credit Union Administration requirements for insurance of accounts. All Maine state-chartered credit unions now have their accounts so insured.

Section 13: This is to clarify the right of state-chartered credit unions in Maine to invest in United States Treasury bills and the insured or guaranteed portions of loans so insured or guaranteed by governmental agencies.

Section 14: This is to provide for the federal insuring agency of credit unions to be appointed liquidating agent in the event that a Maine, state-chartered credit union is placed in involuntary liquidation. This proposal is similar to that in effect for Maine, state-chartered financial institutions. See Title 9-B, section 363, subsection 1, paragraph E.