

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
4

5 Legislative Document

No. 237

6  
7 S.P. 105

In Senate, January 21, 1983

8 Received by the Secretary of the Senate on January 21, 1983. Referred to  
9 the Committee on Business Legislation, and ordered printed pursuant to Joint  
10 Rule 14.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Clark of Cumberland.  
11

12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-THREE  
16

17 AN ACT to Amend the Banking Code Regarding  
18 the Trust Powers of Thrift Institutions.  
19

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

22 Sec. 1. 9-B MRSA §423, sub-§2, ¶B, as amended by  
23 PL 1981, c. 709, is further amended to read:

24 B. A financial institution subject to Part 5 or  
25 7 may accept demand deposits in connection with a  
26 loan to a commercial, corporate or business cus-  
27 tomer subject to such regulations as may be  
28 promulgated by the superintendent. Otherwise, a  
29 financial institution subject to Part 5 or 7  
30 shall accept only demand deposits of its own  
31 funds and those deposits authorized in subsection  
32 1 until such time as there exists either equality  
33 among financial institutions as to interest rates  
34 payable on deposits, or federally-chartered

1           thrift institutions in this State are authorized  
2           to have checking deposit or demand deposit privi-  
3           leges and, in the event of the latter, only to  
4           the extent such federal institutions are so  
5           authorized. In either event, the offering of  
6           such deposits shall be permitted only to the  
7           extent authorized pursuant to regulations promul-  
8           gated by the superintendent. A financial insti-  
9           tution subject to Part 5 or 7 may also accept  
10          demand deposits from any person as necessary to  
11          carry out its powers pursuant to sections 567 and  
12          568.

13           Sec. 2. 9-B MRSA §§524 and 525 are enacted to  
14          read:

15          §524. Trust assets

16           1. Separation of trust assets. Except as other-  
17          wise provided, all securities, moneys and property  
18          received by any savings bank to be held in trust or  
19          in any other fiduciary capacity shall be kept sep-  
20          arate and apart from the other assets of the company  
21          in a trust department to be established and main-  
22          tained by that savings bank.

23           2. Separation of trust account investments. The  
24          investments of each account shall be kept separate  
25          from those of all other accounts, except that:

26           A. They may be placed in custody with any other  
27          financial institution, whether within or without  
28          this State, and may, while so held, be commingled  
29          with other securities of other such accounts,  
30          with records kept to show the share of each in  
31          the commingled securities;

32           B. They may be commingled with similar securi-  
33          ties of other accounts, with records kept to show  
34          the share of each in the commingled securities.  
35          The ownership of and other interests in the  
36          securities credited to that account may be trans-  
37          ferred by entries on the books of the trust com-  
38          pany without physical delivery of any securities;

39           C. Assets held as a trustee, executor, adminis-  
40          trator or guardian may be invested in a common

1 trust fund established under Title 18-A, section  
2 7-501;

3 D. Securities, the principal and interest of  
4 which the United States or any department, agency  
5 or instrumentality thereof has agreed to pay or  
6 has guaranteed the payment of, may be deposited  
7 with the Federal Reserve Bank in the district in  
8 which this State is located, to be credited to  
9 one or more fiduciary or safekeeping accounts on  
10 the books of the Federal Reserve Bank in the name  
11 of that savings bank and to which accounts other  
12 similar securities may be credited. A savings  
13 bank so depositing securities with a Federal  
14 Reserve Bank shall be subject to such rules with  
15 respect to the making and maintenance of those  
16 deposits as the superintendent may from time to  
17 time issue;

18 E. Any cash, whether principal or income, or  
19 both, may be deposited in an account, either time  
20 or demand, specifically stating the trust to  
21 which the cash belongs; and

22 F. Any cash, whether principal or income, or  
23 both, may be deposited in an aggregate deposit,  
24 either time or demand, including balances from  
25 other trusts, with the books showing the specific  
26 interest of each trust in that aggregate deposit.

27 3. Records of trust accounts. A record of all  
28 matters relating to each trust account shall be kept  
29 separately in the trust department and shall indicate  
30 such particulars respecting each such account as the  
31 superintendent shall direct.

32 4. Exclusion from other savings bank liabilities.  
33 The trust assets held by any savings bank shall  
34 not be subject to any other liabilities of the bank.

35 §525. Deposits of fiduciaries and other officials

36 An administrator, executor, assignee, guardian,  
37 conservator, receiver or trustee; any court, includ-  
38 ing courts of probate and insolvency; officers and  
39 treasurers of towns, cities and counties; and any  
40 financial institution of this State may deposit any

1 moneys, bonds, stocks, evidences of debt or of owner-  
2 ship in property or any personal property with a  
3 savings bank, and any of the courts may direct any  
4 person deriving authority therefrom to so deposit the  
5 same.

6 Sec. 3. 9-B MRSA §§566 to 568 are enacted to  
7 read:

8 §566. Bond

9 No surety may be necessary upon the bond of a  
10 savings bank in its capacity as trustee, executor,  
11 administrator, conservator, guardian, assignee or  
12 receiver, or in any other capacity, unless the court  
13 or officer approving that bond requires it.

14 §567. Trusts

15 A savings bank may hold by grant, assignment,  
16 transfer, devise or bequest, any real or personal  
17 property or trusts duly created, and may execute  
18 trusts of every description.

19 §568. Executor, guardian, etc.

20 A savings bank may act as assignee, receiver,  
21 executor, administrator, trustee, conservator or  
22 guardian; provided that any such appointment as  
23 guardian shall apply to the estate of the ward only  
24 and not to the person.

25 Sec. 4. 9-B MRSA §§729 and 730 are enacted to  
26 read:

27 §729. Trust assets

28 1. Separation of trust assets. Except as other-  
29 wise provided, all securities, moneys and property  
30 received by any association to be held in trust or in  
31 any other fiduciary capacity shall be kept separate  
32 and apart from the other assets of the company in a  
33 trust department to be established and maintained by  
34 that association.

35 2. Separation of trust account investments. The  
36 investments of each account shall be kept separate  
37 from those of all other accounts, except that:

- 1           A. They may be placed in custody with any other  
2 financial institution, whether within or without  
3 this State and may, while so held, be commingled  
4 with other securities of other such accounts,  
5 with records kept to show the share of each in  
6 the commingled securities;
- 7           B. They may be commingled with similar securi-  
8 ties of other accounts, with records kept to show  
9 the share of each in the commingled securities.  
10 The ownership of and other interests in the  
11 securities credited to that account may be trans-  
12 ferred by entries on the books of the trust com-  
13 pany without physical delivery of any securities;
- 14           C. Assets held as a trustee, executor, adminis-  
15 trator or guardian may be invested in a common  
16 trust fund established under Title 18-A, section  
17 7-501;
- 18           D. Securities, the principal and interest of  
19 which the United States or any department, agency  
20 or instrumentality thereof has agreed to pay or  
21 has guaranteed the payment of may be deposited  
22 with the Federal Reserve Bank in the district in  
23 which this State is located, to be credited to  
24 one or more fiduciary or safekeeping accounts on  
25 the books of the Federal Reserve Bank in the name  
26 of that association and to which accounts other  
27 similar securities may be credited. An associa-  
28 tion so depositing securities with a Federal  
29 Reserve Bank shall be subject to such rules with  
30 respect to the making and maintenance of such  
31 deposits as the superintendent may from time to  
32 time issue;
- 33           E. Any cash, whether principal or income, or  
34 both, may be deposited in an account, either time  
35 or demand, specifically stating the trust to  
36 which the cash belongs; and
- 37           F. Any cash, whether principal or income, or  
38 both, may be deposited in an aggregate deposit,  
39 either time or demand, including balances from  
40 other trusts, with the books showing the specific  
41 interest of each trust in that aggregate deposit.

1           3. Records of trust accounts. A record of all  
2 matters relating to each trust account shall be kept  
3 separately in the trust department and shall indicate  
4 such particulars respecting each such account as the  
5 superintendent shall direct.

6           4. Exclusion from other association liabilities.  
7 The trust assets held by any association shall not be  
8 subject to any other liabilities of the bank.

9           §730. Deposits of fiduciaries and other officials

10           An administrator, executor, assignee, guardian,  
11 conservator, receiver or trustee; any court, includ-  
12 ing courts of probate and insolvency; officers and  
13 treasurers of towns, cities and counties; and any  
14 financial institution of this State may deposit any  
15 moneys, bonds, stocks, evidences of debt or of owner-  
16 ship in property or any personal property with an  
17 association, and any of the courts may direct any  
18 person deriving authority therefrom to so deposit the  
19 same.

20           Sec. 5. 9-B MRSA §§767 to 769 are enacted to  
21 read:

22           §767. Bond

23           No surety may be necessary upon the bond of a  
24 savings and loan association in its capacity as  
25 trustee, executor, administrator, conservator,  
26 guardian, assignee or receiver, or in any other  
27 capacity, unless the court or officer approving that  
28 bond requires it.

29           §768. Trusts

30           A savings and loan association may hold by grant,  
31 assignment, transfer, devise or bequest, any real or  
32 personal property or trusts duly created, and may  
33 execute trusts of every description.

34           §769. Executor, guardian, etc.

35           A savings and loan association may act as  
36 assignee, receiver, executor, administrator, trustee,  
37 conservator or guardian; provided that any such

1 appointment as guardian shall apply to the estate of  
2 the ward only and not to the person.

3

STATEMENT OF FACT

4       The purpose of this bill is to authorize thrift  
5 institutions to engage in trust activities of every  
6 description and to give thrift institutions the same  
7 powers and responsibilities with respect to trust ac-  
8 tivities as commercial banks.

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