

MAINE STATE LEGISLATURE

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(EMERGENCY)

SECOND REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 1974

H.P. 1500 House of Representatives, January 19, 1984

Approved for introduction by the Legislative Council pursuant to Joint Rule 26.

Reference to the Committee on Business Legislation is suggested and ordered printed.

EDWIN H. PERT, Clerk

Presented by Speaker Martin of Eagle Lake.

Cosponsors: Representative Brannigan of Portland, Senator Clark of Cumberland and Senator Collins of Knox.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-FOUR

AN ACT Revising the Maine Bank
Holding Company Act.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the reciprocity requirements in Maine bank law are subject to varied interpretations in relation to the laws or prospective laws of the 49 other states and constitute an unnecessary barrier to the attraction of new capital into this State; and

Whereas, Maine law provides standards of capitalization and business conduct sufficient to protect the public interest; and

Whereas, the repeal of the reciprocity requirements in Maine law will encourage further competition in interstate banking and attract additional capital to the State; and

1 Whereas, in the judgment of the Legislature,
2 these facts create an emergency within the meaning of
3 the Constitution of Maine and require the following
4 legislation as immediately necessary for the preser-
5 vation of the public peace, health and safety; now,
6 therefore,

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

9 Sec. 1. 9-B MRSA §417, as enacted by PL 1983, c.
10 55, §1, is amended by adding at the end a new para-
11 graph to read:

12 Notwithstanding the investment limitations in
13 section 554, and subject to any approval required un-
14 der this section, and subject to any approval re-
15 quired by and any limitations contained in section
16 1013, a Maine financial institution may acquire con-
17 trol of a financial institution within or outside
18 this State.

19 Sec. 2. 9-B MRSA §1013, sub-§2, as amended by PL
20 1983, c. 302, §2, is further amended to read:

21 2. Acquisition by out-of-state company. A
22 non-Maine financial institution holding company may
23 establish or acquire control of one or more Maine fi-
24 nancial institutions or Maine financial institution
25 holding companies with the prior approval of the su-
26 perintendent; ~~provided that the state in which the~~
27 ~~operations of such financial institution holding com-~~
28 ~~pany are principally conducted authorizes the estab-~~
29 ~~lishment of, or acquisition of control of, financial~~
30 ~~institutions or financial institution holding compa-~~
31 ~~nies in that state by Maine financial institution~~
32 ~~holding companies, under conditions no more restric-~~
33 ~~tive than those imposed by this Title, as determined~~
34 ~~by the superintendent.~~

35 Sec. 3. 9-B MRSA §1013, sub-§3, ¶B, as enacted
36 by PL 1983, c. 302, §3, is amended to read:

37 B. A Maine financial institution or Maine finan-
38 cial institution holding company, control of
39 which is to be acquired or held, shall have, on

1 the date of acquisition or establishment, and
2 shall maintain a minimum equity capital which the
3 superintendent determines acceptable given the
4 market area to be served and the general plan of
5 business of the Maine financial institution or
6 Maine financial institution holding company. In
7 no event shall such equity capital be less than
8 \$3,000,000 in the case of an establishment, or
9 \$1,000,000 in the case of an acquisition. Equity
10 capital shall be maintained consistent with
11 sound banking practices.

12 **Sec. 4. Transitional provision.** Notwithstanding
13 the Revised Statutes Title 1, section 302, Title 9-B,
14 section 1013, as amended by section 2 of this Act,
15 shall apply to any applications by non-Maine finan-
16 cial institution holding companies to establish or
17 acquire control of Maine financial institution hold-
18 ing companies which applications for such establish-
19 ment or acquisition have been filed with, and have
20 either heretofore been approved or are currently
21 pending hearing or decision by, the Superintendent of
22 Banking upon the effective date of this Act. Title
23 9-B, section 1013, as amended by section 3 of this
24 Act, shall not apply to any applications by non-Maine
25 financial institution holding companies to establish
26 or acquire control of Maine financial institution
27 holding companies which applications for such estab-
28 lishment or acquisition have been filed with, and
29 have either heretofore been approved or are currently
30 pending hearing or decision by, the Superintendent of
31 Banking upon the effective date of this Act.

32 **Emergency clause.** In view of the emergency cited
33 in the preamble, this Act shall take effect when ap-
34 proved.

35 STATEMENT OF FACT

36 This bill makes 3 changes in the bank holding
37 company laws or in its application. It repeals the
38 reciprocity provision, establishes minimum capital
39 requirements and removes a barrier to savings banks
40 participation.

1 Section 1. This section clearly differentiates
2 between investments in bank securities and acquisi-
3 tion of an out-of-state bank. Currently, savings
4 banks are prohibited from investing in stock in an
5 out-of-state bank that has capital and reserves under
6 \$50,000,000. This was intended as a safeguard to in-
7 sure that investments were made only in well capital-
8 ized institutions. Savings banks in Maine are small
9 by national standards and would be excluded from in-
10 terstate acquisitions if required to adhere to this
11 \$50,000,000 investment standard when considering the
12 acquisition of a bank in another state.

13 This section would make it clear the Maine sav-
14 ings banks may acquire an out-of-state bank provided
15 that they satisfy the same capital standards applied
16 by the Bureau of Banking to any application for ac-
17 quisition.

18 Section 2. Recently, the states of South Dakota,
19 Delaware, Alaska, New York, Massachusetts, Connecti-
20 cut and Rhode Island have each enacted some form of
21 interstate banking law. A wide variety of proposals
22 are under active consideration in many of the remain-
23 ing states.

24 These laws were designed, and will continue to be
25 designed, in keeping with the objectives of individu-
26 al states. Common objectives are the attraction of
27 capital, expansion of jobs and increased state tax
28 revenues. Common considerations are proximity to fi-
29 nancial centers, the nature and structure of local
30 banking and capital availability. Maine's objec-
31 tives, since the passage of our 1975 banking laws,
32 have been to attract additional capital, increase
33 available services and to stimulate competition in
34 banking.

35 The most complex legal issues surrounding inter-
36 state banking are those involving reciprocity. Such
37 provisions, be they national such as those of Maine,
38 New York and Alaska, or regional such as those of
39 Massachusetts and Connecticut, are subject to varied
40 interpretations by administrators, Attorneys General
41 and ultimately by the courts. As additional states
42 adopt new and different interstate banking legisla-
43 tion, this problem will be further exacerbated. The

1 best and simplest way for Maine to solve
2 interpretative problems and to avoid costly litigation
3 is to repeal our reciprocal provision while
4 maintaining our regulatory safeguards.

5 This section removes the reciprocal provision
6 from the law. Any financial institution holding company
7 from any other state could then make application
8 to acquire or establish a financial institution or
9 financial institution holding company in Maine irrespective
10 of the status of interstate banking laws in
11 the state in which its headquarters is located.

12 Section 3. This section requires financial institutions
13 or financial institution holding companies which are established
14 or acquired by out-of-state financial institution holding
15 companies to have a minimum capital of \$3,000,000 in the case
16 of an establishment or \$1,000,000 in the case of an acquisition.
17 Such a requirement will guarantee financial strength,
18 genuine commitment to serving the needs of Maine's
19 citizens and businesses and guard against the use of
20 Maine as a jumping off place.
21

22 Section 4 provides that applications of non-Maine
23 bank holding companies whether already filed and approved,
24 or filed and pending action, are governed by section 2,
25 but not by section 3 of this Act. Ordinarily, the provisions
26 of the Revised Statutes, Title 1, section 302, govern to make
27 legislation prospective only. However, at this time there are
28 several applications pending and one already approved, the
29 resubmission of which would be a needless waste of
30 time and an unnecessary expense to business and to
31 the Bureau of Banking.
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