

# MAINE STATE LEGISLATURE

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1 (After Deadline)  
2 SECOND REGULAR SESSION  
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE  
5

6 Legislative Document

No. 2125

7  
8 S.P. 836

In Senate, March 4, 1986

9 Approved for introduction by a majority of the Legislative Council  
10 pursuant to Joint Rule 27.

11 Reference to the Committee on Business and Commerce suggested and  
ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Violette of Aroostook.

12 Cosponsored by Representative Diamond of Bangor, Representative  
Rolde of York and Senator Sewall of Lincoln.

13 STATE OF MAINE  
14

15 IN THE YEAR OF OUR LORD  
16 NINETEEN HUNDRED AND EIGHTY-SIX  
17

18 AN ACT to Clarify and Effectuate Legislative  
19 Intent Regarding the Separation of  
20 Insurance and Banking.  
21

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

24 24-A MRSA §1514-A, as enacted by PL 1971, c. 407,  
25 is repealed and the following enacted in its place:

26 §1514-A. Prohibition as to financial institutions  
27 and related parties

28 1. Legislative findings and purpose. It is the  
29 finding of the Legislature that the commingling of  
30 the business of banking, as defined in Title 9-B,  
31 section 131, subsection 5, and the transaction of in-  
32 urance, as defined in sections 3 and 9, has detri-  
33 mental effects upon the public welfare, including the  
34 potential for unfair competition, consumer confusion,  
35 excessive concentration of economic resources, ille-

1 gal tie-in sales and explicit or implicit coercion of  
2 consumers in their choice of insurance. It is the  
3 intent of the Legislature to reaffirm the general  
4 policy of separation, with limited and specific ex-  
5 ceptions, between the business of banking and the  
6 transaction of insurance.

7 2. Definitions. As used in this section, unless  
8 the context otherwise indicates, the following terms  
9 have the following meanings.

10 A. "Financial institution" means a trust compa-  
11 ny, commercial bank, savings bank, industrial  
12 bank, savings and loan association or credit un-  
13 ion, either state-chartered or federally  
14 chartered.

15 B. "Financial institution holding company" has  
16 the meaning set forth in Title 9-B, section 1011.

17 C. "Subsidiary" means any corporation, partner-  
18 ship, association or other business entity in  
19 which either:

20 (1) Financial institutions, financial in-  
21 stitution holding companies or the officers,  
22 employees, agents or representatives of fi-  
23 nancial institutions or financial institu-  
24 tion holding companies, singly or in the ag-  
25 gregate, possess an ownership interest of at  
26 least 25%; or

27 (2) In the absence of a 25% ownership in-  
28 terest, it is determined by the superintend-  
29 ent that financial institutions, financial  
30 institution holding companies or the offi-  
31 cers, employees, agents or representatives  
32 of financial institutions or financial in-  
33 stitution holding companies, singly or in  
34 the aggregate, possess by any means the pow-  
35 er to direct or cause the direction of the  
36 management or activities of the entity.

37 3. Prohibition on licensing. No financial in-  
38 stitution, financial institution holding company or  
39 its subsidiary or any officer, employee, agent or  
40 representative of a financial institution, financial

1 institution holding company or its subsidiary may be  
2 licensed as an insurance agent, broker or consultant  
3 in this State or may act as an insurance agent, bro-  
4 ker or consultant in this State. Nothing in this  
5 section limits the activity of these organizations  
6 with respect to credit life and credit health insur-  
7 ance to the extent authorized by chapter 37, group  
8 health insurance to the extent authorized by chapter  
9 35 and group life insurance to the extent authorized  
10 by chapter 31.

11 4. Rule-making authority. The superintendent  
12 may promulgate rules to implement and support this  
13 section. The rules may limit or prohibit activities  
14 which appear to evade or circumvent the separation of  
15 the business of banking from the transaction of in-  
16 surance. The rules may include, without limitation,  
17 physical separation and nonassistance provisions ap-  
18 plicable to circumstances where insurance transac-  
19 tions are occurring on the premises of financial in-  
20 stitutions, through lease arrangements involving in-  
21 surance agents, brokers or consultants and financial  
22 institutions, or otherwise.

23

#### STATEMENT OF FACT

24 In 1971, the Legislature enacted the Maine Re-  
25 vised Statutes, Title 24-A, section 1514-A, as "An  
26 Act Prohibiting Insurance Licenses for Banks, Savings  
27 and Loan Associations and Credit Unions," PL 1971,  
28 chapter 407. The legislative intent underlying this  
29 enactment was to "prevent banks, savings and loan as-  
30 sociations and related parties from conducting the  
31 business of an insurance agent, broker or consul-  
32 tant," L.D. 1285, Statement of Fact. This policy of  
33 separating the business of banking from the sale of  
34 insurance is evidenced by numerous unsuccessful leg-  
35 islative proposals since 1971 to amend or repeal the  
36 Maine Revised Statutes, Title 24-A, section 1514-A.

37 Despite this background, recent developments have  
38 begun to undermine the separation between banking and  
39 insurance. In one case, the Superior Court has rules  
40 that the current language of the Maine Revised Stat-  
41 utes, Title 24-A, section 1514-A, does not permit the

1 Superintendent of Insurance to refuse to renew the  
2 insurance agent's license of a corporation which is  
3 owned substantially by banks and which is managed in  
4 part by bank personnel. Although this decision is  
5 currently under appeal, it highlights the need for  
6 clarification of the statutory language.

7 Another recent development involves the leasing  
8 of space in bank lobbies by insurance agents, who may  
9 then attempt to engage in "joint marketing" with the  
10 bank. It is apparent that the leasing arrangements,  
11 if not properly regulated, could easily undermine the  
12 legislative policy separating banking and insurance.  
13 The Department of the Attorney General has advised  
14 the Superintendent of Insurance that current laws do  
15 not provide authority for the promulgation of certain  
16 portions of a rule proposed by the superintendent  
17 concerning space-sharing between banks and insurance  
18 licensees.

19 The purposes of this bill are to clarify that en-  
20 tities with significant bank involvement are not eli-  
21 gible for insurance licensure and to expressly autho-  
22 rize the superintendent to promulgate rules to ensure  
23 maintenance of the separation between banking and in-  
24 surance. In regard to the first objective, the defi-  
25 nition of "subsidiary" proposed in this bill is al-  
26 most identical to the definition of "subsidiary" con-  
27 tained in the Maine Banking Code, in the Maine Re-  
28 vised Statutes, Title 9-B, section 131, subsection  
29 39-A, and section 1011, subsection 4. The public in-  
30 terests supporting these provisions are enumerated in  
31 this bill.

32 5643012386