

MAINE STATE LEGISLATURE

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R. of S.

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L.D. 1380
(Filing No. S-189)

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STATE OF MAINE
SENATE
113TH LEGISLATURE
FIRST REGULAR SESSION

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COMMITTEE AMENDMENT "A " to S.P. 453, L.D.
1380, Bill, "AN ACT to Revise the Maine Banking Law."

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Amend the bill in section 4 in the next to last
line (page 4, line 27 in L.D.) by striking out the
following: "or 9 8" and inserting in its place the
following: 'or 9'

13
14

Further amend the bill by striking out all of
section 34 and inserting in its place the following:

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'Sec. 34. 24 MRSA §2308 is repealed.

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17

Sec. 35. 24 MRSA c. 19, sub-c. III is enacted to
read:

18

SUBCHAPTER III

19

INVESTMENTS

20

§2351. Investments in general

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1. Authority. Corporations subject to this
chapter may invest their funds in accordance with the
provisions of this subchapter, subject to the condi-
tions and limitations set forth in this subchapter.

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2. Diversification. Except as otherwise pro-
vided in this subchapter, no corporation subject to
this chapter may invest more than 10% of its admitted
assets in the securities of any single person.

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3. Overall limitation on stock. Notwithstanding
any other provision of this subchapter, no corpora-
tion subject to this chapter may invest in the aggre-
gate an amount exceeding 50% of its reserves in com-
mon stock.

COMMITTEE AMENDMENT "A " to S.P. 453, L.D. 1380

1 §2352. Definitions

2 As used in this subchapter, unless otherwise in-
3 dicated, the following terms have the following mean-
4 ings.

5 1. Admitted assets. "Admitted assets" means the
6 definition of "assets" as in Title 24-A, section 901.
7 For purposes of this subchapter, such asset value
8 shall be that contained in the annual statement of
9 the corporation as of December 31st of the year next
10 preceding the making of the investment or contained
11 in any audited financial report, as defined in Title
12 24-A, section 221-A, of more current origin.

13 2. Reserves. "Reserves" means those reserves
14 held by corporations subject to this chapter for the
15 protection of subscribers. For purposes of this sub-
16 chapter, such reserve value shall be that contained
17 in the annual statement of the corporation as of De-
18 cember 31st of the year next preceding the making of
19 the investment or any audited financial report as de-
20 defined in Title 24-A, section 221-A, of more current
21 origin.

22 §2353. Government unit bonds

23 Corporations subject to this chapter are autho-
24 rized to invest an amount not greater than 70% of the
25 corporation's admitted assets in aggregate amount in
26 any of the following governmental entities:

27 1. United States and instrumentalities. The
28 bonds and other obligations of the United States or
29 the bonds and other obligations or participation cer-
30 tificates issued by an agency, association, authority
31 or instrumentality created by the United States Con-
32 gress or any executive order;

33 2. States. The bonds and other obligations is-
34 sued or guaranteed by any state or by an instrumen-

R. of S.

COMMITTEE AMENDMENT "A" to S.P. 453, L.D. 1380

1 tality or agency of any state or by any political
2 subdivision of any state provided that such securi-
3 ties are rated within the 3 highest grades by any
4 rating service approved by the superintendent;

5 3. Maine. The bonds and other obligations is-
6 sued or guaranteed by this State or issued by any in-
7 strumentality or agency of this State or any politi-
8 cal subdivision of this State which is not in default
9 on any of its outstanding funded obligations, pro-
10 vided that investments pursuant to this subsection
11 may not exceed 25% of the corporation's admitted as-
12 sets; and

13 4. Canada. The bonds and other obligations is-
14 sued or guaranteed by Canada or issued or guaranteed
15 by any province or political subdivision of Canada,
16 provided that such securities are rated within the 3
17 highest grades by any rating service approved by the
18 superintendent, and are payable in United States
19 funds. Investments pursuant to this subsection may
20 not exceed 20% of the corporation's admitted assets
21 and not more than 2% of the corporation's admitted
22 assets may be invested in any one issue.

23 §2354. Corporate securities

24 Corporations subject to this chapter are autho-
25 riized to invest in:

26 1. Corporate bonds. The bonds and other obliga-
27 tions of any United States or Canadian corporation,
28 provided that such securities are rated within the 3
29 highest grades by any rating service approved by the
30 superintendent and are payable in United States
31 funds. Not more than 60% of the admitted assets of
32 any corporation subject to this chapter may be in-
33 vested in such obligations and not more than 2% of
34 the admitted assets of the corporation may be in-
35 vested in the securities of any one such corporation;

36 2. Corporate stocks. The stock of any United

COMMITTEE AMENDMENT " A " to S.P. 453, L.D. 1380

1 States or Canadian corporation, provided that such
2 securities are rated within the 3 highest grades by
3 any rating service approved by the superintendent.
4 Not more than 50% of the reserves of any corporations
5 subject to this chapter may be invested in such secu-
6 rities and not more than 5% of those reserves may be
7 invested in the securities of any single corporation;

8 3. Maine corporate bonds. The bonds and other
9 obligations of any Maine corporation actually con-
10 ducting in this State the business for which such
11 corporation was created which, for a period of 3 suc-
12 cessive fiscal years or for a period of 3 years imme-
13 diately preceding the investment, has earned or re-
14 ceived an average net income of not less than 2 times
15 the interest on the obligations in question and all
16 prior liens or, in the case of water companies sub-
17 ject to the jurisdiction of the Public Utilities Com-
18 mission, an average net income of not less than 1 1/2
19 times the interest on the obligations in question and
20 all prior liens. Not more than 20% of the admitted
21 assets of the corporation may be invested in such secu-
22 rities of Maine corporations and not more than 2%
23 of such admitted assets may be invested in the secu-
24 rities of any single corporation; or

25 4. Maine corporate stocks. Maine corporate
26 stocks, provided that they meet the following re-
27 quirements:

28 A. The stock of any Maine corporation actually
29 conducting in this State the business for which
30 the corporation was created, provided that the
31 corporation, for a period of 3 years immediately
32 preceding the investment, has earned and received
33 an average net income after taxes equivalent to
34 at least 6% upon the entire outstanding issue of
35 the stock in question;

36 B. Not more than 10% of the reserves of the cor-
37 poration may be invested under this section in
38 stocks of Maine corporations and not more than 5%

R. of S.

COMMITTEE AMENDMENT " A " to S.P. 453, L.D. 1380

1 of the reserves of the corporation may be so in-
2 vested in the stock of any single corporation.
3 No corporation subject to this chapter may hold
4 by way of investment more than 20% of the capital
5 stock of any corporation; and

6 C. Nothing in this section may be construed to
7 prohibit or limit a corporation from acquiring or
8 investing in related corporations pursuant to
9 section 2359.

10 §2355. Financial institution stock and other obliga-
11 tions

12 1. General provisions. Corporations subject to
13 this chapter are authorized to invest in the securi-
14 ties of financial institutions to the extent permit-
15 ted by this section, except that no investments may
16 be made in any financial institution which has total
17 capital and reserves of less than \$50,000,000.

18 2. Bonds and other obligations. Corporations
19 subject to this chapter may invest in the bonds and
20 other obligations of Maine financial institutions and
21 Maine financial institution holding companies, sub-
22 ject to the eligibility criteria and limitations set
23 forth in section 2354, subsection 3. Corporations
24 subject to this chapter may invest in the bonds or
25 other obligations of non-Maine financial institutions
26 or non-Maine financial institution holding companies
27 subject to the eligibility criteria and limitations
28 set forth in section 2354, subsection 1.

29 3. Stock investments. Corporations subject to
30 this chapter may invest in the stock of Maine finan-
31 cial institutions and Maine financial institutions
32 holding companies, subject to the eligibility crite-
33 ria and limitations in section 2354, subsection 4.
34 Corporations subject to this chapter may invest in
35 the stock of non-Maine financial institution holding
36 companies, subject to the eligibility criteria and
37 limitations set forth in section 2354, subsection 2.

R. of S.

COMMITTEE AMENDMENT "A" to S.P. 453, L.D. 1380

1 No corporation subject to this chapter may acquire
2 more than 10% of the stock of any single financial
3 institution or financial institution holding company.

4 4. Certificates of deposit. Corporations sub-
5 ject to this chapter are authorized to invest in cer-
6 tificates of deposit issued by financial institutions
7 meeting the standards of this section, provided that
8 certificates of deposit issued by savings and loan
9 associations shall be fully insured by the Federal
10 Savings and Loan Insurance Corporation. No corpora-
11 tion subject to this chapter may invest an amount
12 greater than 2% of its admitted assets or the maximum
13 insured amount under the Federal Deposit Insurance
14 Corporation or the Federal Savings and Loan Insurance
15 Corporation, whichever is greater, in certificates of
16 deposit in any single financial institution.

17 §2356. Other securities investments

18 Corporations subject to this chapter are autho-
19 riized to invest in:

20 1. Preferred stock of public utilities. The
21 preferred stock of any public utility corporation if
22 all of the publicly issued bonds of such corporation
23 qualify as legal investments under section 2354, sub-
24 section 1 or 3. Not more than 40% of the reserves of
25 a corporation may be invested in preferred stocks of
26 public utilities and not more than 2% of such re-
27 serves may be invested in the preferred stocks of any
28 one corporation;

29 2. Bonds of nonprofit organizations. The bonds
30 or other interest-bearing obligations of any reli-
31 gious, charitable, educational or fraternal associa-
32 tion or corporation. Not more than 10% of the admit-
33 ted assets of a corporation may be invested in secu-
34 rities coming within the coverage of this subsection
35 and not more than 1% of the admitted assets of a cor-
36 poration may be invested in securities of any one
37 such association or corporation;

R. of S

COMMITTEE AMENDMENT " A" to S.P. 453, L.D. 1380

1 3. Small business investment companies. The
2 stock of small business investment companies licensed
3 under the United States Small Business Investment Act
4 of 1958, as amended, and commercially domiciled in
5 this State and doing business primarily in this
6 State. Not more than 1% of the reserves of a corpo-
7 ration may be invested in the stock of small business
8 investment companies and any single corporation shall
9 not own more than 10% of the stock of any one small
10 business investment company; and

11 4. Maine Capital Corporation. The stock of the
12 Maine Capital Corporation, established under Title
13 10, chapter 108, in an amount not to exceed 1% of ad-
14 mitted assets of a corporation.

15 §2357. Other prudent securities

16 Corporations subject to this chapter are autho-
17 riized to invest in such securities as the directors
18 consider to be sound, prudent investments, the making
19 of which would not otherwise be legal but for this
20 section. Not more than 8% of the admitted assets of
21 a corporation may be invested in securities within
22 the coverage of this section and investments in the
23 stock of Maine financial institutions may not be con-
24 sidered within this section. All investments made
25 pursuant to the authority granted in this section
26 shall be so recorded in the minutes of the board of
27 directors' meeting at which such investments are ap-
28 proved. This section does not limit the authority of
29 corporations subject to this chapter to invest in se-
30 curities specifically regulated by this subchapter.
31 This section gives additional authority to invest 8%
32 of the corporation's admitted assets in any type of
33 prudent security.

34 §2358. Retention of unauthorized securities

35 Corporations subject to this chapter may acquire
36 and hold securities not authorized by law but which

COMMITTEE AMENDMENT "A " to S.P. 453, L.D. 1380

1 have been acquired in settlements, reorganizations,
2 recapitalizations, mergers, consolidations, by re-
3 ceipt of stock dividends or by the exercise of rights
4 applicable to securities held by the corporations and
5 may continue to hold such securities at the discre-
6 tion of their directors provided that the securities
7 shall be treated as a nonadmitted asset.

8 \$2359. Real estate

9 1. For offices and facilities. A corporation
10 subject to this chapter may invest in improved or un-
11 improved real estate and in the erection or improve-
12 ment of buildings on the real estate, together with
13 furniture, fixtures, equipment and capitalized leases
14 on any fixed asset items for the purpose of providing
15 offices or facilities for transaction of the corpora-
16 tion's authorized business and these buildings may
17 include space for rental purposes. The book value of
18 real estate, furniture, fixtures, equipment and capi-
19 talized leases, combined, made pursuant to this sub-
20 section shall not exceed 60% of the corporation's re-
21 serve, provided that the superintendent may approve,
22 in writing, upon application by a corporation and
23 for good cause shown, a greater percentage.

24 2. Investment realty. In addition to real es-
25 tate owned for offices and facilities, corporations
26 subject to this chapter may acquire real estate or
27 interests in real estate which is located within the
28 State by purchase or by any other means and may hold
29 the real estate or interests in real estate for in-
30 vestment purposes and may improve, develop, lease,
31 contract, convey and otherwise deal with real estate
32 or interests in real estate, as long as the book val-
33 ue of the real estate does not exceed 15% of its re-
34 serve and provided that the real estate is income
35 producing.

36 3. Aggregate limitation. The aggregate value of
37 all real estate invested in pursuant to this section
38 shall not exceed 60% of the reserves of the corpora-

COMMITTEE AMENDMENT " A " to S.P. 453, L.D. 1380

1 tion.

2 §2360. Related corporations

3 1. Authorization. A corporation subject to this
4 chapter, in accordance with this section, may form or
5 invest in the capital stock, obligations or other se-
6 curities of a related corporation, as defined in sub-
7 section 7, or otherwise participate in or utilize the
8 services of such a corporation.

9 2. Limitations. The stock of a related corpora-
10 tion formed pursuant to this section shall be owned
11 only by entities involved in the provision of health
12 care or health care financing. The aggregate invest-
13 ment of a corporation subject to this chapter in the
14 related corporations shall not exceed 20% of its re-
15 serves.

16 3. Records. The books and accounts of a related
17 corporation involving any corporations subject to
18 this chapter shall be kept in such manner and form as
19 the superintendent may prescribe and these books and
20 accounts may be examined by the superintendent or his
21 designee.

22 4. Joint ownership. A related corporation
23 formed pursuant to this section may be owned by 2 or
24 more entities involved in the provision of health
25 care or health care financing, provided that the su-
26 perintendent shall approve such joint ownership. In
27 approving or disapproving joint ownership, the super-
28 intendent may consider the type of entities making
29 application and the competitive effect of such joint
30 ownership.

31 5. Application required. A corporation subject
32 to this chapter shall make application to the super-
33 intendent for authority to form or invest in a corpo-
34 ration to engage in any activity authorized by this
35 section. The applicant must demonstrate that the op-
36 eration of and investment in the related corporation

of S.

COMMITTEE AMENDMENT "A" to S.P. 453, L.D. 1380

1 is in the public interest and that the operation of
2 and investment in the related corporation shall not
3 unduly strain the financial viability of the appli-
4 cant.

5 6. Limitations on permissible activities. In
6 determining which activities shall be permissible for
7 corporations subject to this chapter, the superin-
8 tendent may limit activity for all such corporations.
9 The superintendent shall also have authority to adopt
10 rules setting forth those activities for which he
11 will accept applications by type of corporation, pro-
12 vided that nothing in this section may be construed
13 to prohibit the corporation from making an applica-
14 tion in the absence of rules. In adopting rules, the
15 superintendent shall consider the public interest,
16 including the impact on the financial viability of
17 the corporation.

18 7. Related corporation defined. "Related corpo-
19 ration" means a Maine corporation substantially all
20 the activities of which consist of clerical, book-
21 keeping, accounting, statistical, management, person-
22 nel, marketing or similar functions related to the
23 provision of health care.

24 Sec. 36. 24-A MRSA §1108, sub-§10-A is enacted
25 to read:

26 10-A. African Development Bank; and'

27 Further amend the bill in section 37 in that part
28 designated "§5074." in subsection 1, paragraph D in
29 the last line (page 23, line 22 in L.D.) by striking
30 out the following: "or the Inter-American Development
31 Bank" and inserting in its place the following: ',
32 the Inter-American Development Bank or the African
33 Development Bank'

34 Further amend the bill by renumbering the sec-
35 tions to read consecutively.

COMMITTEE AMENDMENT "A " to S.P. 453, L.D. 1380

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STATEMENT OF FACT

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This amendment puts into the Maine Revised Statutes, Title 24, the investment authority for non-profit hospital or medical service organizations that is currently in Title 9-B but will not be if the changes proposed in the bill are adopted.

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This amendment also adds the African Development Bank to the list of authorized investments for municipalities and for commercial insurers. All African countries, except South Africa, and Canada, Japan, the United States and some European countries are members of the bank. Thirty other states have amended their laws to include the African Development Bank on approved investment lists.

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Reported by Senator Collins for the Committee on Banking and Insurance. Reproduced and Distributed Pursuant to Senate Rule 12.
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