

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1380

S.P. 453

In Senate, April 29, 1987

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.

Reference to the Committee on Banking and Insurance suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator SEWALL of Lincoln.

Cosponsored by Representative CURRAN of Westbrook, Representative RYDELL of Brunswick, Senator BRANNIGAN of Cumberland.

STATE OF MAINE

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

AN ACT to Revise the Maine Banking Law.

1
2

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

5 Sec. 1. 9-B MRSA §443, sub-§§8, 9 and 10 are en-
6 acted to read:

7 8. Clearing corporation. Notwithstanding any
8 other provision of law, any fiduciary, as defined in
9 Title 13, section 642, holding securities in its fi-
10 duciary capacity, any financial institution or pri-
11 vate banker holding securities as a custodian or man-
12 aging agent, and any financial institution or private
13 banker holding securities as custodian for a fiduci-
14 ary, are authorized to deposit or arrange for the de-
15 posit of such securities in a clearing corporation as
16 defined in Title 11, article 8, upon the following
17 terms and conditions.

1 A. When those securities are so deposited, cer-
2 tificates representing securities of the same
3 class of the same issuer may be merged and held
4 in bulk in the name of the nominee of the clear-
5 ing corporation with any other such securities
6 deposited in the clearing corporation by any per-
7 son, regardless of ownership of the securities,
8 and certificates of small denomination may be
9 merged into one or more certificates of larger
10 denomination. The records of the fiduciary and
11 the records of the financial institution or pri-
12 vate banker acting as custodian, as managing
13 agent or as custodian for a fiduciary shall at
14 all times show the name of the party for whose
15 account the securities are so deposited.

16 B. Title to the securities may be transferred by
17 bookkeeping entry on the books of the clearing
18 corporation without physical delivery of certifi-
19 cates representing those securities.

20 C. A financial institution or private banker so
21 depositing securities pursuant to this section
22 shall be subject to such rules and regulations
23 as, in the case of state-chartered institutions,
24 the superintendent and, in the case of federally
25 chartered institutions, the Federal Home Loan
26 Bank Board or the United States Comptroller of
27 the Currency may from time to time issue.

28 D. A financial institution acting as custodian
29 for a fiduciary, on demand by the fiduciary,
30 shall certify in writing to the fiduciary the se-
31 curities so deposited by the financial institu-
32 tion or private banker in the clearing corpora-
33 tion for the account of the fiduciary.

34 E. A fiduciary, on demand by any party to a ju-
35 dicial proceeding for the settlement of the
36 fiduciary's account or on demand by the attorney
37 for the party, shall certify in writing to the
38 party the securities deposited by the fiduciary
39 in the clearing corporation for its account as
40 the fiduciary.

41 This subsection shall apply to any fiduciary holding
42 securities in its fiduciary capacity and to any fi-

1 nancial institution or private banker holding securi-
2 ties as a custodian, managing agent or custodian for
3 a fiduciary, acting on October 3, 1973, or who there-
4 after may act regardless of the date of the agree-
5 ment, instrument or court order by which it is ap-
6 pointed and regardless of whether or not the fiduci-
7 ary, custodian, managing agent or custodian for a fi-
8 duciary owns capital stock of the clearing corpora-
9 tion.

10 9. Acting as agent. A financial institution may
11 act as an agent for issuing, registering and counter-
12 signing certificates, bonds, stocks and all other ev-
13 idences of debt or ownership in property.

14 10. Bills or drafts. Subject to such restric-
15 tions as may be imposed by the superintendent, and
16 subject to the limitation contained in this section,
17 a financial institution may accept for payment at a
18 future date drafts and bills of exchange drawn upon
19 it, and may issue letters of credit authorizing hold-
20 ers thereof to draw drafts upon it or its correspon-
21 dents, at sight or on time, provided that the accept-
22 ances or drafts are based upon actual values.

23 No financial institution may accept bills or drafts
24 to an aggregate amount exceeding at any one time 50%
25 of its total capital and reserves, except with the
26 approval of the superintendent and, in no case, to an
27 aggregate amount in excess of 100% of its total capi-
28 tal and reserves.

29 Sec. 2. 9-B MRSA §465, sub-§3, ¶A, as amended by
30 PL 1981, c. 698, §24, is repealed and the following
31 enacted in its place:

32 A. Every director, corporator, officer, agent or
33 employee of a financial institution who autho-
34 rizes or assists in procuring, granting or caus-
35 ing the granting of a loan in violation of this
36 section or sections 534-B, 633 and 734-B, or pays
37 or willfully permits the payment of any funds of
38 the institution on such loan, and every director
39 of an institution who votes on a loan in willful
40 violation of any of the provisions of this sec-
41 tion and every director, corporator, officer,
42 agent or employee who willfully and knowingly

1 permits or causes the same to be done shall be
2 personally responsible for the payment thereof
3 and shall be guilty of a misdemeanor;

4 **Sec. 3. 9-B MRSA §531, sub-§1 is enacted to**
5 **read:**

6 1. Lending policy. The board of directors or
7 trustees of a savings bank shall establish a written
8 policy under which the bank's lending activities
9 shall be conducted. At a minimum, this policy ad-
10 resses the following:

11 A. Individual officer lending authority;

12 B. Loan mix and diversification;

13 C. Loan quality parameters; and

14 D. Delegation of authority to officers and com-
15 mittees responsible for administering the loan
16 portfolio. This policy shall be reviewed and rat-
17 ified by the board of directors or trustees at
18 least annually.

19 **Sec. 4. 9-B MRSA §532, first ¶, as amended by PL**
20 **1985, c. 84, §1, is further amended to read:**

21 Subject to the conditions and limitations set
22 forth in this section, a savings bank may make loans
23 to individuals or corporations, to be secured by a
24 first or subsequent mortgage on real estate provided
25 that the real estate is located in any of the New
26 England states, or located anywhere if the loan is
27 authorized under subsection 3, 4, 5 or 9 8 as fol-
28 lows:

29 **Sec. 5. 9-B MRSA §532, sub-§7, as enacted by PL**
30 **1979, c. 429, §10, is repealed.**

31 **Sec. 6. 9-B MRSA §532, sub-§9, ¶B, as enacted by**
32 **PL 1985, c. 84, §2, is amended to read:**

33 B. A loan made to any one individual pursuant to
34 this subsection shall not exceed the limitations
35 imposed under ~~subsection 7~~ section 534-B and the
36 aggregate amount of the loan shall not exceed 10%
37 of the deposits of the bank.

1 Sec. 7. 9-B MRSA §534, as enacted by PL 1975, c.
2 500, §1, is repealed and the following enacted in its
3 place:

4 §534. Other loans

5 1. Authorization. A savings bank may make loans
6 to any person, firm, business syndicate or corpora-
7 tion, evidenced by a note or other obligation, with
8 or without security, in addition to loans provided
9 for in section 532 and subject to the conditions of
10 this chapter.

11 2. Limitations. Loans made pursuant to this sec-
12 tion shall be subject to individual borrower loan
13 limitations set forth in section 534-B. The aggregate
14 amount of loans made pursuant to this section and
15 section 535 shall not exceed 40% of deposits.

16 Sec. 8. 9-B MRSA §534-A, as enacted by PL 1981,
17 c. 646, §2, is repealed.

18 Sec. 9. 9-B MRSA §534-B is enacted to read:

19 §534-B. Individual borrower loan limitations

20 1. Savings banks; loans. No savings bank may
21 loan to any person, firm, business syndicate or cor-
22 poration or person and affiliated corporation or cor-
23 porations, or invest in securities issued by a firm,
24 business syndicate or corporation, in amount or
25 amounts, at any time outstanding, in excess of 10% of
26 its total surplus and reserve accounts, except on the
27 approval of a majority of its entire board of direc-
28 tors or executive committee, unless the debt or secu-
29 rity is secured by collateral which shall be of value
30 equal to the excess of the loans or securities above
31 10%; and in no event shall the total amount of loans
32 to any person, firm, business syndicate or corpora-
33 tion or person and affiliated corporation or corpora-
34 tions exceed 20% of the amount set forth in this sec-
35 tion.

36 2. Amount of loan. In determining the amount,
37 and in addition to the persons or parties described
38 in subsection 1 who are original promisors, every
39 person, firm, syndicate or corporation appearing on

1 any loan as endorser, guarantor or surety shall also
2 be regarded as an original promisor. A lessee whose
3 lease is taken by assignment by the savings bank as
4 security therefor may be regarded as the original
5 promisor for purposes of this section, but only to a
6 fraction of the applicable loan, the fraction being
7 the amount of annual basic rent payable by the lessee
8 over the annual gross income produced by the securi-
9 ty.

10 3. Exclusions. The following items shall be ex-
11 cluded from the limitation set forth in subsection 1
12 and shall not be considered as a loan within subsec-
13 tion 1:

14 A. The discount of bills of exchange drawn in
15 good faith against actually existing values and
16 the discount of commercial or business paper ac-
17 tually owned by the person negotiating the dis-
18 count, the renewal or renewals in whole or in
19 part of the commercial or business paper so dis-
20 counted for periods not exceeding in all 3 years
21 for any such paper;

22 B. Loans to municipal corporations located with-
23 in this State upon their bonds or notes;

24 C. Any loan or loans to the extent that they are
25 secured or covered by guarantees or by commit-
26 ments or agreements to take over or purchase the
27 loan, made by any federal reserve bank or by the
28 United States, the State of Maine or any depart-
29 ment, bureau, board, commission, agency, authori-
30 ty, instrumentality or establishment of the
31 United States or State of Maine, including any
32 corporation owned directly or indirectly by the
33 United States or State of Maine; any loan or
34 loans to the extent that they are participated
35 out by a savings bank according to law; and any
36 loan or loans by a savings bank to the extent
37 that they are legally committed to be purchased
38 by any financial institution, corporation or oth-
39 er business entity or governmental department,
40 authority or agency duly authorized by any feder-
41 al law or state law of the United States;

1 D. Obligations as endorser, with or without re-
2 course, or as guarantor, conditional or uncondi-
3 tional, of dealer-originated obligations;

4 E. Sales of federal funds, interbank deposits,
5 not to include certificates of deposit and
6 clearings; and

7 F. Loans to the extent secured by deposits or
8 the cash surrender value of a life insurance pol-
9 icy.

10 4. Loans without collateral. In all cases where
11 loans in excess of the 10% are granted without col-
12 lateral, the records of the institution shall show
13 who voted in favor of such a decision, and the
14 records and those required by section 222 shall con-
15 stitute prima facie evidence of the truth of all
16 facts stated in the records in prosecutions and civil
17 actions to enforce the several provisions and penal-
18 ties enumerated in section 465, subsection 3.

19 Sec. 10. 9-B MRSA §535, sub-§3, as enacted by PL
20 1975, c. 500, §1, is amended to read:

21 3. Limitations. Total participations in loans to
22 any one borrower shall not exceed 1% of the bank's
23 deposits; and the aggregate amount of such loans
24 shall not exceed 10% of the deposits of the bank, ex-
25 cept as provided in section 537 the limitations set
26 forth in section 534-B. Loans made pursuant to this
27 section shall be included with those made pursuant to
28 section 534 for purposes of determining the limit as
29 set forth in section 534.

30 Sec. 11. 9-B MRSA §536, as amended by PL 1979,
31 c. 663, §44, is repealed.

32 Sec. 12. 9-B MRSA §537, as amended by PL 1981,
33 c. 646, §4, is repealed.

34 Sec. 13. 9-B MRSA §539-A, as enacted by PL 1983,
35 c. 251, §1, is amended to read:

36 §539-A. Commercial lines of credit

1 1. Authorization; limitations. A savings bank
2 may grant to any person or syndicate a commercial
3 line of credit to an amount not exceeding 20% of its
4 total surplus and reserve accounts the limits set
5 forth in section 534-B, subject to the restrictions
6 set forth in sections section 465 and 532.

7 2. ~~Record of approval. The records of the insti-~~
8 ~~tution shall show the approval or disapproval of a~~
9 ~~line of credit, in the amount of \$10,000 or more, and~~
10 ~~if approved, unless otherwise specified, it shall be~~
11 ~~assumed that all directors or trustees voted in the~~
12 ~~affirmative.~~

13 2-A. Approval. Commercial lines of credit may be
14 approved by the board of directors, or responsibility
15 for approval may be delegated to certain officers or
16 committees as authorized by section 224, subsection
17 2.

18 3. Advances against credit line. When such line
19 of credit is given, the treasurer or other authorized
20 officer may accept notes thereunder and pay out loans
21 in accordance therewith without further approval.

22 4. Maturity of credit line. A line of credit
23 given pursuant to this section shall ~~expire no later~~
24 ~~than 12 months after its approval, unless renewed in~~
25 ~~the same manner in which it was originally given~~ be
26 reviewed at least annually by the board of directors
27 or trustees or a committee of board members.

28 Sec. 14. 9-B MRSa c. 55, as amended, is re-
29 pealed.

30 Sec. 15. 9-B MRSa, c. 55-A is enacted to read:

31 CHAPTER 55-A

32 INVESTMENT IN SECURITIES

33 §559-A. Investments in general

34 1. Authorization. Savings banks and savings and
35 loan associations may hereafter invest their funds in
36 securities, in addition to loans and real estate au-
37 thorized elsewhere in this Title, in accordance with
38 the terms and conditions in this chapter.

1 2. Investment policy. The board of directors or
2 trustees of a savings bank shall establish a written
3 policy under which the bank's investment activities
4 shall be conducted. At a minimum, this policy shall
5 address the following:

6 A. Investment quality parameters;

7 B. Investment mix and diversification;

8 C. Investment maturities; and

9 D. Delegation of authority to officers and com-
10 mittees responsible for administering the invest-
11 ment portfolio.

12 This policy shall be reviewed and ratified by the
13 board of directors or trustees at least annually.

14 §559-B. Retention of unauthorized securities

15 Financial institutions organized under Part 3 may
16 acquire and hold securities not authorized by the law
17 but which have been acquired in settlements, reorga-
18 nizations, recapitalizations, mergers, consolida-
19 tions, by receipt of stock dividends or by the exer-
20 cise of rights applicable to securities held by the
21 financial institutions, and may continue to hold the
22 securities at the discretion of the directors of the
23 financial institutions; provided that this section
24 may not be construed as affecting the limitations set
25 forth in chapter 101. Financial institutions or-
26 ganized under this Title may continue to hold at the
27 discretion of their directors securities under autho-
28 rization of law.

29 §559-C. Subsidiary companies

30 A savings bank may invest its funds in subsidiary
31 service corporations pursuant to section 445, and in
32 corporations authorized to conduct activities pursu-
33 ant to section 446; provided that all conditions and
34 limitations set forth in those sections and rules
35 promulgated under those sections are complied with.

36 §559-D. Common and preferred stock

1 A savings bank may invest in common and preferred
2 stock of corporations subject to the following re-
3 strictions.

4 1. Common and preferred stock. The aggregate
5 amount of common and preferred stock, as determined
6 on an original cost basis, in which a savings bank
7 may invest shall not exceed 100% of the bank's sur-
8 plus or capital.

9 2. Limitation. The amount, as determined on an
10 original cost basis, invested in the common stock of
11 any one corporation shall not exceed 5% of the bank's
12 surplus or capital.

13 3. Bank portfolio. The bank's portfolio of com-
14 mon and preferred stocks shall be accounted for on a
15 lower of cost or market basis.

16 This section shall become effective on June 30,
17 1988.

18 Sec. 16. 9-B MRSA §625, as enacted by PL 1975,
19 c. 500, §1, is repealed.

20 Sec. 17. 9-B MRSA §633, sub-§1, as enacted by PL
21 1975, c. 500, §1, is amended to read:

22 1. Limitations. No stock trust company shall may
23 loan to any person, firm, business syndicate or cor-
24 poration an amount or amounts, at any time outstand-
25 ing, or invest in the securities issued by a firm,
26 business syndicate or corporation, in excess of 10%
27 of its total capital and reserves or, in the case of
28 a mutual trust company, 10% of its total surplus, ex-
29 cept on the approval of a majority of its entire
30 board of directors or executive committee, unless the
31 loan or security is secured by collateral which shall
32 be of value equal to the excess of said loans above
33 said 10%; and in no event shall the total amount of
34 loans and securities to any person, firm, business
35 syndicate or corporation exceed 20% of the amount set
36 forth above.

37 Sec. 18. 9-B MRSA §633, sub-§3, ¶E, as enacted
38 by PL 1975, c. 500, §1, is amended to read:

1 E. Sales of ~~Federal~~ federal funds, interbank de-
2 posits, not to include certificates of deposit,
3 and clearings; and

4 Sec. 19. 9-B MRSA §636, as amended by PL 1983,
5 c. 251, §2, is further amended to read:

6 §636. Commercial lines of credit

7 1. Authorization; limitations. A trust company
8 may grant to any person or syndicate a line of credit
9 to an amount not exceeding 20% of its total capital
10 and reserves, subject to the restrictions, if appli-
11 cable, as to the vote of the entire board and the
12 rights of interested persons to vote on the same, set
13 forth in sections 465 and 633.

14 2. Approval. ~~The records of the institution~~
15 ~~shall show the approval or disapproval of a line of~~
16 ~~credit, in the amount of \$10,000 or more, and if ap-~~
17 ~~proved, unless otherwise specified, it shall be as-~~
18 ~~sumed that all directors voted in the affirmative.~~
19 Commercial lines of credit may be approved by the
20 board of directors or responsibility for approval may
21 be delegated to certain officers or committees as au-
22 thorized by section 224, subsection 2.

23 3. Advances against credit line. When such line
24 of credit is given, the treasurer or other authorized
25 officer may accept notes thereunder and pay out loans
26 in accordance therewith without further approval.

27 4. Maturity of credit line. A line of credit
28 given pursuant to this section shall ~~expire no later~~
29 ~~than 12 months after its approval unless renewed in~~
30 ~~the same manner in which it was originally given~~
31 be reviewed at least annually by the board of directors
32 or trustees, or a committee of board members.

33 Sec. 20. 9-B MRSA §665, as enacted by PL 1975,
34 c. 500, §1, is repealed.

35 Sec. 21. 9-B MRSA §666, as enacted by PL 1975,
36 c. 500, §1, is repealed.

37 Sec. 22. 9-B MRSA §731, sub-§1 is enacted to
38 read:

1 1. Lending policy. The board of directors or
2 trustees of a savings and loan association shall es-
3 tablish a written policy under which the associa-
4 tion's lending activities shall be conducted. At a
5 minimum, this policy shall address the following:

6 A. Individual officer lending authority;

7 B. Loan mix and diversification;

8 C. Loan quality parameters; and

9 D. Delegation of authority to officers and com-
10 mittees responsible for administering the loan
11 portfolio.

12 This policy shall be reviewed and ratified by the
13 board of directors or trustees at least annually.

14 Sec. 23. 9-B MRSA §732, sub-§10, as enacted by
15 PL 1975, c. 500, §1, is repealed.

16 Sec. 24. 9-B MRSA §734, as enacted by PL 1975,
17 c. 500, §1, is repealed and the following enacted in
18 its place:

19 §734. Other loans

20 1. Authorization. A savings and loan association
21 may make loans to any person, firm, business syndi-
22 cate or corporation, evidenced by a note or other ob-
23 ligation, with or without security, in addition to
24 loans provided for in section 732 and subject to the
25 conditions of this chapter.

26 2. Limitations. Loans made pursuant to this sec-
27 tion shall be subject to the individual borrower loan
28 limitations set forth in section 734-B. The aggregate
29 amount of loans made pursuant to this section and
30 section 735 shall not exceed 40% of deposits.

31 Sec. 25. 9-B MRSA §734-A, as enacted by PL 1981,
32 c. 646, §9, is repealed.

33 Sec. 26. 9-B MRSA §734-B is enacted to read:

1 §734-B. Individual limitations

2 1. Loans. No savings and loan association may
3 loan to any person, firm, business syndicate or cor-
4 poration or person and affiliated corporation or cor-
5 porations, or invest in securities issued by a firm,
6 business syndicate or corporation, in amount or
7 amounts, at any time outstanding, in excess of 10% of
8 its total net worth, except on the approval of a ma-
9 jority of its entire board of directors or executive
10 committee, unless the debt or security is secured by
11 collateral which shall be of value equal to the ex-
12 cess of the loans or securities above 10%; and in no
13 event shall the total amount of loans or securities
14 to any person, firm, business syndicate or corpora-
15 tion or person and affiliated corporation or corpora-
16 tions exceed 20% of the amount set forth in this sec-
17 tion.

18 2. Amount. In determining the amount and in ad-
19 dition to the persons or parties described in subsec-
20 tion 1, who are original promisors, every person,
21 firm, syndicate or corporation appearing on any loan
22 as endorser, guarantor or surety shall also be re-
23 garded as an original promisor. A lessee whose lease
24 is taken by assignment by the savings and loan asso-
25 ciation as security therefor may be regarded as the
26 original promisor for purposes of this section, but
27 only to a fraction of the applicable loan, the frac-
28 tion being the amount of annual basic rent payable by
29 the lessee over the annual gross income produced by
30 the security.

31 3. Exclusions. The following items shall be ex-
32 cluded from the limitation set forth in subsection 1
33 and shall not be considered as a loan within subsec-
34 tion 1:

35 A. The discount of bills of exchange drawn in
36 good faith against actually existing values and
37 the discount of commercial or business paper ac-
38 tually owned by the person negotiating the dis-
39 count, the renewal or renewals in whole or in
40 part of the commercial or business paper so dis-
41 counted for periods not exceeding in all 3 years
42 for any such paper;

1 B. Loans to municipal corporations located with-
2 in this State upon their bonds or notes;

3 C. Any loan or loans to the extent that they are
4 secured or covered by guarantees or by commit-
5 ments or agreements to take over or purchase the
6 loan or loans, made by any Federal Reserve Bank
7 or by the United States or State of Maine or any
8 department, bureau, board, commission, agency,
9 authority, instrumentality or establishment of
10 the United States or State of Maine, including
11 any corporation owned directly or indirectly by
12 the United States or State of Maine; any loan or
13 loans to the extent that they are participated
14 out by a savings and loan association according
15 to law and any loan or loans by a savings and
16 loan association to the extent that they are le-
17 gally committed to be purchased by any financial
18 institution, corporation or other business entity
19 or governmental department, authority or agency
20 duly authorized by any federal law or state law
21 of the United States;

22 D. Obligations as endorser, with or without re-
23 course, or as guarantor, conditional or uncondi-
24 tional, of dealer-originated obligations;

25 E. Sales of federal funds, interbank deposits,
26 not to include certificates of deposit and
27 clearings; and

28 F. Loans to the extent secured by deposits or
29 the cash surrender value of a life insurance pol-
30 icy.

31 4. Records. In all cases where loans in excess
32 of the 10% are granted without collateral, the
33 records of the institution shall show who voted in
34 favor of the decision, and the records and those re-
35 quired by section 222 shall constitute prima facie
36 evidence of the truth of all facts stated in the
37 records in prosecutions and civil actions to enforce
38 the several provisions and penalties enumerated in
39 section 465, subsection 1.

40 **Sec. 27. 9-B MRSA §735, sub-§3, as enacted by PL**
41 **1975, c. 500, §1, is amended to read:**

1 3. Limitations. Total participations in loans to
2 any borrower shall not exceed ~~1% of the associa-~~
3 ~~tion's deposits, and the aggregate amount of such~~
4 ~~loans shall not exceed 10% of the deposits of the as-~~
5 ~~sociation, except as provided in section 737~~ the lim-
6 itations set forth in section 734-B. Loans made pur-
7 suant to this section shall be included with those
8 made pursuant to section 734 for purposes of deter-
9 mining the limit as set forth in section 734.

10 Sec. 28. 9-B MRSA §736, as amended by PL 1979,
11 c. 663, §52, is repealed.

12 Sec. 29. 9-B MRSA §737, as amended by PL 1981,
13 c. 646, §11, is repealed.

14 Sec. 30. 9-B MRSA §739-A, as enacted by PL 1983,
15 c. 251, §3, is amended to read:

16 §739-A. Commercial lines of credit

17 1. Authorization; limitations. A savings and
18 loan association may grant to any person or syndicate
19 a commercial line of credit to an amount not exceed-
20 ing 20% of its total surplus and reserve accounts the
21 limits set forth in section 734-B, subject to the re-
22 strictions set forth in sections section 465 and 732.

23 2. ~~Record of approval. The records of an insti-~~
24 ~~tution shall show the approval or disapproval of a~~
25 ~~line of credit, in the amount of \$10,000 or more, and~~
26 ~~if approved, unless otherwise specified, it shall be~~
27 ~~assumed that all directors or trustees voted in the~~
28 ~~affirmative.~~

29 2-A. Approval. Commercial lines of credit may be
30 approved by the board of directors or responsibility
31 for approval may be delegated to certain officers or
32 committees as authorized by section 224, subsection
33 2.

34 3. Advances against credit line. When such line
35 of credit is given, the treasurer or other authorized
36 officer may accept notes thereunder and pay out loans
37 in accordance therewith without further approval.

1 4. Maturity of credit line. A line of credit
2 given pursuant to this section shall ~~expire no later~~
3 ~~than 12 months after its approval, unless renewed in~~
4 ~~the same manner in which it was originally given~~ be
5 reviewed at least annually by the board of directors
6 or trustees or a committee of board members.

7 Sec. 31. 9-B MRSA §857-A, sub-§1, as enacted by
8 PL 1979, c. 133, §2, is amended to read:

9 1. Authorization; limitations. Subject to the
10 limitations set forth in ~~section 853~~ sections 854 and
11 855, the credit committee of a credit union may ap-
12 prove a line of credit to a member upon written ap-
13 plication by the member, and advances may be made to
14 that member within the limits of that extension of
15 credit. A line of credit given pursuant to this sec-
16 tion, other than a line of credit secured by real es-
17 tate, shall expire no later than 12 months after its
18 approval unless renewed in the same manner in which
19 it was originally given, but no additional loan ap-
20 plications shall be required from the member so long
21 as the aggregate obligation outstanding at any time
22 does not exceed the specified limit of that extension
23 of credit.

24 Sec. 32. 9-B MRSA §862, sub-§2, as amended by PL
25 1985, c. 533, §2, is repealed.

26 Sec. 33. 9-B MRSA §862, sub-§2-A is enacted to
27 read:

28 2-A. Other legal investments for credit unions.
29 A credit union may legally invest in the following.

30 A. Credit unions are authorized to invest in
31 government unit bonds:

32 (1) The bonds and other obligations of the
33 United States or the bonds and other obliga-
34 tions or participation certificates issued
35 by any agency, association, authority or in-
36 strumentality created by Congress or any ex-
37 ecutive order;

38 (2) The bonds and other obligations issued
39 or guaranteed by any state or by any instru-

1 mentality or agency of any state, or by any
2 political subdivision of any state; provided
3 that such securities are rated within the 3
4 highest grades by any rating service ap-
5 proved by the superintendent;

6 (3) The bonds and other obligations issued
7 or guaranteed by this State, or issued by an
8 instrumentality or agency of this State or
9 any political subdivision of this State
10 which is not in default on any of its out-
11 standing funded obligations; and

12 (4) The bonds and other obligations issued
13 or guaranteed by the Dominion of Canada, or
14 issued or guaranteed by any province or po-
15 litical subdivision of a province; provided
16 that such securities are rated within the 3
17 highest grades by any rating service ap-
18 proved by the superintendent and are payable
19 in United States funds.

20 B. Credit unions are allowed to invest in the
21 bonds and other obligations of any United States
22 corporation, provided that such securities are
23 rated within the 3 highest grades by any rating
24 service approved by the superintendent. Not more
25 than 2% of the shares of a credit union shall be
26 invested in the securities of any one such corpo-
27 ration and the total of all such investments
28 shall not exceed 20% of the shares of a credit
29 union.

30 C. Credit unions are authorized to invest in the
31 following:

32 (1) The bonds, debentures, acceptances and
33 commercial paper of any financial institu-
34 tion authorized to do business within this
35 State, incorporated under the laws of this
36 State or the United States and of any finan-
37 cial institution holding company registered
38 under chapter 101. For the purposes of this
39 subsection, the out-of-state owners of Maine
40 financial institutions or financial institu-
41 tion holding companies are not to be consid-
42 ered Maine financial institutions or finan-
43 cial institution holding companies;

1 (2) The bonds, debentures, acceptances and
2 commercial paper of banks or bank holding
3 companies principally domiciled outside the
4 State, provided that the bank's or holding
5 company's bonds and debentures are rated in
6 the 3 highest grades by a rating service ap-
7 proved by the superintendent. In the case of
8 commercial paper, the commercial paper
9 should be rated in the 2 highest grades. In
10 the case of acceptances, the bank's or hold-
11 ing company's ratings of its other obliga-
12 tions so listed should be within the above
13 parameter. These banks should also be in-
14 sured by the Federal Deposit Insurance Cor-
15 poration and holding companies should be
16 registered under the Bank Holding Company
17 Act of 1956; and

18 (3) Capital notes or debentures issued by
19 any savings bank or savings and loan associ-
20 ation chartered under the laws of any state,
21 or of the United States, or of the Common-
22 wealth of Puerto Rico, provided that these
23 institutions are insured by the Federal De-
24 posit Insurance Corporation or Federal Sav-
25 ings and Loan Insurance Corporation or is-
26 sued by a thrift institution holding company
27 registered under the United States Housing
28 Act, Section 408. These obligations shall be
29 rated in the 3 highest grades by a rating
30 service approved by the superintendent.

31 A credit union shall not acquire obligations de-
32 scribed in this paragraph both by way of invest-
33 ment as security for loans in excess of 30% of
34 its shares; nor shall it acquire such obligations
35 of any one bank or thrift, or bank or thrift
36 holding company, not principally domiciled in
37 this State in excess of 5% of its shares.

38 D. A credit union may invest in mutual funds or
39 trusts, provided that all of the investments of
40 those mutual funds or trusts are permissible in-
41 vestments under this section.

42 E. A credit union may invest in guaranteed loans
43 pursuant to section 532, subsections 3 and 4.

1 F. The superintendent may by rule, issued pursu-
2 ant to section 251, raise or lower the limita-
3 tions as to percentage of securities prescribed
4 under this section or prescribe such additional
5 limitations as in his judgment conditions war-
6 rant.

7 **Sec. 34. 24 MRSA §2308 is amended to read:**

8 §2308. Investments

9 Any corporation subject to this chapter shall be
10 restricted in its investments in the same manner as
11 ~~are--savings-banks-in-this-State~~ provided under Title
12 30, chapter 241, article 1-B.

13 **Sec. 35. 30 MRSA §5051-A, sub-§1, ¶A, as enacted**
14 **by PL 1983, c. 98, §3, is amended to read:**

15 A. Accounts and deposits exceeding an amount
16 equal to 25% of the capital, surplus and undi-
17 vided profits of any trust company or national
18 bank or a sum exceeding an amount equal to 25% of
19 the reserve fund and undivided profit account of
20 a mutual savings bank or state or federal savings
21 and loan association on deposit at any one time
22 shall be secured by the pledge of certain securi-
23 ties as collateral, or fully covered by insur-
24 ance. The collateral shall be in an amount equal
25 to the excess deposit. The value of the securi-
26 ties so pledged shall be determined by the munic-
27 ipal officers on the basis of market value. The
28 municipal officers shall review the value of
29 these securities pledged on the first business
30 day of January and July of each year. The collat-
31 eral shall only consist of securities in which
32 savings banks may invest as provided in ~~Title~~
33 ~~9-B,--sections-551-to-559~~ article 1-B. The securi-
34 ties shall be held in a depository institution
35 approved by the municipal officers and pledged to
36 indemnify the municipalities against any loss.
37 Notice of the hypothecation at the time of depos-
38 it shall be given to the municipal officers by
39 the depository institution and a copy of the no-
40 tice shall be mailed to the Department of Audit;

41 **Sec. 36. 30 MRSA §5051-A, sub-§2, as enacted by**
42 **PL 1983, c. 98, §3, is amended to read:**

1 2. Savings bank investments. Invested according
2 to the law governing the investment of funds of sav-
3 ings banks in ~~Title-9-B,--chapter-55~~ article 1-B.

4 A. For the purpose of this subsection, the words
5 "deposits of a bank" or their equivalent, as used
6 in ~~Title--9-B,--chapter-55~~ article 1-B, mean the
7 total assets of the permanent reserve fund, per-
8 manent trust fund or other permanent fund being
9 invested, but the limitation concerning the maxi-
10 mum amount which may be invested in a security or
11 type of security under ~~Title-9-B,--chapter-55~~ ar-
12 ticle 1-B, applies only to an investment in that
13 security or type of security which exceeds
14 \$20,000;

15 Sec. 37. 30 MRSA c. 241, sub-c. II, art. 1-B is
16 enacted to read:

17 ARTICLE 1-B. INVESTMENTS IN SECURITIES

18 §5071. Investments in general

19 Municipalities may hereafter invest their funds
20 in securities in accordance with this article, sub-
21 ject to the conditions and limitations set forth in
22 this article or the terms of the instrument, order or
23 article creating the fund being invested. Limitations
24 set forth in this article concerning the maximum
25 amount which may be invested in a security or type of
26 security shall apply only to an investment in that
27 security or type of security which exceeds \$20,000.
28 Investments made pursuant to this article shall be
29 made by the treasurer upon direction of the municipal
30 officers.

31 §5072. Government unit bonds

32 Municipalities may invest in:

33 1. United States and instrumentalities. The
34 bonds and other obligations of the United States, or
35 the bonds and other obligations or participation cer-
36 tificates issued by any agency, association, authori-
37 ty or instrumentality created by the Congress or any
38 executive order;

1 2. States. The bonds and other obligations is-
2 sued or guaranteed by any state or by any instrumen-
3 tality or agency of any state, or by any political
4 subdivision of any state; provided that such securi-
5 ties are rated within the 3 highest grades by any
6 rating service approved by the Superintendent of
7 Banking;

8 3. Maine. The bonds and other obligations issued
9 or guaranteed by this State, or issued by any instrum-
10 mentality or agency of this State, or any political
11 subdivision of the State which is not in default on
12 any of its outstanding funded obligations; and

13 4. Canada. The bonds and other obligations is-
14 sued or guaranteed by the Dominion of Canada, or is-
15 sued or guaranteed by any province, or political sub-
16 division of a province; provided that such securities
17 are rated within the 3 highest grades by any rating
18 service approved by the Superintendent of Banking and
19 are payable in United States funds.

20 §5073. Corporate securities

21 Municipalities may invest in:

22 1. Corporate bonds. The bonds and other obliga-
23 tions of any United States or Canadian corporation;
24 provided that such securities are rated within the 3
25 highest grades by any rating service approved by the
26 Superintendent of Banking and are payable in United
27 States funds. Not more than 2% of the total assets of
28 the permanent reserve fund, permanent trust fund or
29 other permanent fund being invested shall be invested
30 in the securities of any one such corporation;

31 2. Maine corporate bonds. The bonds and other
32 obligations of any Maine corporation, actually con-
33 ducting in this State the business for which such
34 corporation was created, which, for a period of 3
35 successive fiscal years or for a period of 3 years
36 immediately preceding the investment, has earned or
37 received an average net income of not less than 2
38 times the interest on the obligations in question and
39 all prior liens or, in the case of water companies
40 subject to the jurisdiction of the Public Utilities
41 Commission, an average net income of not less than

1 1 1/2 times the interest on the obligations in ques-
2 tion and all prior liens. Not more than 20% of the
3 total assets of the permanent reserve fund, permanent
4 trust fund or other permanent fund being invested
5 shall be invested in such securities of Maine corpora-
6 tions; and not more than 2% of such fund in the se-
7 curities of any single corporation; and

8 3. Maine corporate stocks. Maine corporate
9 stocks which have the following characteristics.

10 A. The stock of any Maine corporation, other
11 than stock of a financial institution, actually
12 conducting in this State the business for which
13 such corporation was created; provided that such
14 corporation has, for a period of 3 years immedi-
15 ately preceding the investment, earned and re-
16 ceived an average net income after taxes equiva-
17 lent to at least 6% upon the entire outstanding
18 issue of the stock in question.

19 B. Not more than 10% of the deposits of the to-
20 tal assets of the permanent reserve fund, perman-
21 ent trust fund or other permanent fund being in-
22 vested shall be invested under this section in
23 stocks of Maine corporations; and not more than
24 1% of the total assets of the permanent reserve
25 fund, permanent trust fund or other permanent
26 fund being invested shall be so invested in the
27 stock of any single corporation. Such fund shall
28 be invested in no more than 20% of the capital
29 stock of any corporation.

30 §5074. Financial institution stock and other obliga-
31 tions

32 1. Municipalities may invest in:

33 A. The debentures of any financial institution
34 authorized to do business within this State, in-
35 corporated under the laws of this State or the
36 United States and of any financial institution
37 holding company; provided that such holding com-
38 pany is registered under the Bank Holding Company
39 Act of 1956, as amended, or section 408 of the
40 National Housing Act, as amended;

1 B. The capital stock, preferred stock, debentures and acceptances of any insured bank not
2 having an office in this State which has total
3 capital and reserves of not less than
4 \$50,000,000; and of any bank holding company
5 whose subsidiary banks have total capital and re-
6 serves of not less than \$50,000,000; provided
7 that the holding company is registered under the
8 Bank Holding Company Act of 1956;
9

10 C. Capital notes or debentures issued by any mu-
11 nicipalities chartered under the laws of any
12 state, or of the United States, or of the Common-
13 wealth of Puerto Rico, notwithstanding the fact
14 that such notes or debentures may be subordinate
15 to the claims of depositors or other creditors of
16 the issuing institution. Not more than 1% of the
17 total assets of the permanent reserve fund, per-
18 manent trust fund or other permanent fund being
19 invested shall be so invested; and

20 D. Obligations issued, assumed or guaranteed by
21 the International Bank for Reconstruction and De-
22 velopment or the Inter-American Development Bank.

23 2. Limitations. A municipality shall not acquire
24 or hold stock and obligations described in subsection
25 1 in excess of 30% of the total assets of the reserve
26 fund, permanent trust fund or other permanent fund
27 being invested; nor shall it acquire or hold stock
28 and obligations of any one bank or holding company
29 not operating in this State in excess of 5% of the
30 total assets of the reserve fund, permanent trust
31 fund or other permanent fund being invested; nor
32 shall any such fund be invested in such stock in ex-
33 cess of 10% of the capital stock of any one bank or
34 holding company.

35 \$5075. Other stock investments

36 Municipalities may invest in:

37 1. Preferred stock of public utilities. The pre-
38 ferred stock of any public corporation if all of the
39 publicly issued bonds of such corporation qualify as
40 legal investments under section 5073, subsection 1 or
41 2. Not more than 10% of the permanent reserve fund,

1 permanent trust fund or other permanent fund being
2 invested shall be invested in preferred stocks of
3 public utilities; and not more than 1% of any such
4 fund may be invested in the preferred stocks of any
5 one corporation;

6 2. Bonds of nonprofit organizations. The bonds
7 or other interest-bearing obligations of any reli-
8 gious, charitable, educational or fraternal associa-
9 tion or corporation. Not more than 10% of the total
10 assets of the permanent reserve fund, permanent trust
11 fund or other permanent fund being invested may be
12 invested in securities coming within the coverage of
13 this subsection; and not more than 1% of the total
14 assets of the permanent reserve fund, permanent trust
15 fund or other permanent fund being invested may be
16 invested in securities of any one such association or
17 corporation;

18 3. Small business investment companies. The
19 stock of small business investment companies licensed
20 under the United States Small Business Investment Act
21 of 1958, as amended, and commercially domiciled in
22 Maine and doing business primarily in Maine. Not more
23 than 1% of the total assets of the permanent reserve
24 fund, permanent trust fund or other permanent fund
25 being invested may be invested in the stock of small
26 business investment companies and any such fund shall
27 not be invested in more than 10% of the stock of any
28 one small business investment company; and

29 4. Maine Capital Corporation. The stock of the
30 Maine Capital Corporation, established under Title
31 10, chapter 108, in an amount not to exceed 1% of the
32 total assets of the permanent reserve fund, permanent
33 trust fund or other permanent fund being invested.

34 §5076. Other prudent securities

35 Municipalities may invest in such securities as
36 the municipal officers consider to be sound, prudent
37 investments, the making of which would not otherwise
38 be legal but for this section. Not more than 10% of
39 the total assets of the permanent reserve fund, per-
40 manent trust fund or other permanent fund being in-
41 vested may be invested in securities within the cov-
42 erage of this section; and investments in the stock

1 of Maine financial institutions shall not be consid-
2 ered within this section. This section does not lim-
3 it the authority of municipalities to invest in secu-
4 rities specifically regulated by this article; rath-
5 er, this section gives additional authority to invest
6 10% in any type of prudent security.

7 §5077. Retention of unauthorized securities

8 Municipalities may acquire and hold securities
9 not authorized by law, but which have been acquired
10 in settlements, reorganizations, recapitalizations,
11 mergers, consolidations, by receipt of stock divi-
12 dends or the exercise of rights applicable to securi-
13 ties held by the municipalities, and may continue to
14 hold such securities at the discretion of the municip-
15 al officers. Municipalities may continue to hold at
16 the discretion of the municipal officers securities
17 under authorization of law.

1

STATEMENT OF FACT

2 This bill is being presented in response to an
3 administrative recommendation made by the Joint
4 Standing Committee on Audit and Program Review.
5 Through hearings and testimony presented during the
6 review of the Bureau of Banking, it became apparent
7 that several areas of the Banking Code should be ad-
8 dressed given the myriad of changes that have taken
9 place since October 1, 1975, when the last compre-
10 hensive review of the code took place. This bill ad-
11 dresses the lending and investment powers accorded to
12 thrift institutions and also makes changes in those
13 sections peripheral to that effort.

14 Sections 1, 16, 20 and 21 of the bill take 3 sec-
15 tions of law presently found in the trust company
16 powers and moves these sections into the general pow-
17 ers portion of the Maine Revised Statutes, Title 9-B.
18 In effect, this change grants the same authority to
19 savings banks and savings and loan associations as
20 has been accorded to trust companies, to conduct cer-
21 tain activities that are associated with the opera-
22 tion of a financial institution. This change is in
23 keeping with the powers that have already been
24 granted to thrift institutions to operate a trust de-
25 partment and to offer commercial loan services.

26 Section 2 sets forth the same remedies for viola-
27 tion of lending limits for trust companies, savings
28 banks and savings and loan associations.

29 Section 3 expands the general authority for sav-
30 ings banks to make loans to include a requirement
31 that each financial institution formulate and review
32 periodically a comprehensive loan policy that sets
33 forth the parameters and guidelines for conducting
34 this activity.

35 Sections 4, 5 and 6 make changes to the real es-
36 tate mortgage section of the law. The major change
37 repeals the existing loan limitation section and es-
38 tablishes limits in another area of the law applica-
39 ble to all loans granted by a savings bank. The re-
40 mainder of the changes represent minor technical
41 changes to the code to properly number cross refer-
42 ences.

1 Section 7 is essentially a combination of 3 ex-
2 isting sections into one section. The new section in-
3 corporates the same lending authority as is enjoyed
4 under present law into one section of the law.

5 Sections 8 and 9 set forth a comprehensive lend-
6 ing limit for all transactions entered into by a sav-
7 ings bank. Loans and investments to any one individu-
8 al or company may not exceed an amount equivalent to
9 20% of the capital of the bank. This limitation is
10 consistent with that which is in place for trust com-
11 panies and comparable to that being proposed for sav-
12 ings and loan associations.

13 Section 10 amends the law governing loan
14 participations to bring lending in this category un-
15 der the individual limitations proposed under this
16 bill.

17 Sections 11 and 12 repeal those sections of ex-
18 isting law that have been incorporated in the new
19 "Other loans" section that is addressed in section 7
20 of this bill.

21 Section 13 amends the law governing lines of
22 credit to clarify that this law governs only commer-
23 cial lending activity and also provides that the an-
24 nual review of each line may be conducted by either
25 the board of directors or trustees or a committee
26 made up of board members.

27 Section 14 repeals Title 9-B, chapter 55.

28 Section 15 sets forth the new investment powers
29 for savings banks and savings and loan associations.
30 Essentially, it requires that such financial institu-
31 tions formulate a comprehensive investment policy
32 that sets forth guidelines for conducting a bank's
33 investment activities. Two other sections of chapter
34 55 are brought forward into chapter 55-A with no
35 change in a savings bank's authority to retain unau-
36 thorized securities and the ability to invest in sub-
37 sidiary companies. One new section is being added
38 that will place some restrictions on the common and
39 preferred stock portfolio of a savings bank.

1 Sections 17 and 18 make minor clarification
2 changes in the individual limitations imposed under
3 the trust company law.

4 Section 19 addresses the trust company law gov-
5 erning lines of credit and clarifies that law as gov-
6 erning only commercial lines of credit and provides
7 for review of those lines by either the board of di-
8 rectors or a committee of board members.

9 Sections 22 to 30 address the lending powers af-
10 forded to savings and loan associations and make
11 those changes identical to that provided for in sec-
12 tions 3 to 13 of this bill.

13 Section 31 provides for clarifying language to
14 the lines of credit section for credit unions.

15 Sections 32 and 33 set forth specific investment
16 authority relegated to credit unions. Changes in the
17 savings bank law eliminate the investments criteria
18 that are presently referenced in the credit union
19 law. These sections move those investment parameters
20 to the credit union portion of the law.

21 Sections 34 to 36 correct a reference to Title
22 30, article I-B.

23 Section 37 preserves the provisions of Title 9-B,
24 chapter 55, as they relate to municipalities and non-
25 profit hospital and medical service organizations
26 while relocating them to Title 30. This is a stop gap
27 measure as the law governing these organizations will
28 be recodified.

29 2155042187