

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1612

S.P. 608

In Senate, April 22, 1991

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.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

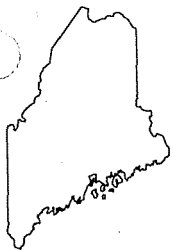
JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator THERIAULT of Aroostook
Cosponsored by Representative GARLAND of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act to Revise the Laws Governing Banking Institutions.



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

2
4 Sec. 1. 9-B MRSA §334, sub-§1, as amended by PL 1981, c. 352,
§3, is further amended to read:

6 1. **Superintendent's approval.** A financial institution or a
8 service corporation wholly owned by one or more financial
10 institutions ~~authorized to do business in this State~~ may
12 establish or participate in the establishment use of a satellite
14 or off-premise facility, as defined in section 131, ~~provided that~~
~~no such facility shall be established.~~ A financial institution
or service corporation may not establish a satellite facility
without prior approval of the superintendent, pursuant to section
336.

16 Sec. 2. 9-B MRSA §334, sub-§4, as amended by PL 1985, c. 647,
18 §4, is repealed and the following enacted in its place:

20 4. Use of established facilities by additional
22 institutions. A satellite facility established under this
24 chapter must be made available for use by other financial
26 institutions authorized to do business in this State. The
28 superintendent may not approve the establishment of any satellite
facility unless all financial institutions using the facility
have equal access to the facility. When a facility is shared,
the identification and promotion of that facility must be generic
to the facility or network system, not to a specific financial
institution.

30 Sec. 3. 9-B MRSA §334, sub-§5, as amended by PL 1983, c. 614,
32 §1, is amended to read:

34 5. **Location of facilities on premises.** Nothing shall may
36 preclude a financial institution from locating an electronic
38 terminal on the premises of its main office or of a branch office
40 for its customers' convenience. ~~Access by other financial~~
~~institutions to such on-premise facilities shall be at the~~
~~discretion of said financial institution.~~ At the discretion of
that financial institution, customers of other financial
institutions may have access to those on-premise facilities.

42 An on-premise facility is a facility which that is located
44 physically on the premises of a main office or branch or one
46 which that is an extension of or ancillary to an existing main
48 office or branch. Only one ancillary or extended facility is
50 permitted at each main office or branch. For purposes of this
52 section, a facility is considered ~~to be~~ ancillary to or an
extension of an existing office if it is situated on the parcel
of land on which the branch or main office is located and not
across a public way, or within 500 feet, whichever is greater,
and not operational from within the confines of another
establishment.

2 Sec. 4. 9-B MRSA §334, sub-§6 is enacted to read:

4 6. Notification required. A financial institution
6 participating in the use or discontinuing the use of a satellite
8 facility or network system must provide notice to the
 superintendent in the form and manner and containing the
 information required by the superintendent.

10 Sec. 5. 9-B MRSA §355, first ¶, as enacted by PL 1975, c. 500,
12 §1, is amended to read:

14 A financial institution organized under the laws of this
16 State may acquire ~~all or substantially all of~~ the assets of, or
18 assume the liabilities of, any other financial institution
 authorized to do business in this State, in accordance with the
 procedures and subject to the conditions and limitations set
 forth below*.

20 Sec. 6. 9-B MRSA §355, sub-§1, as amended by PL 1979, c. 663,
22 §40, is further amended to read:

24 1. Adoption of a plan. The board of directors of the
26 acquiring or assuming institution and the board of directors of
28 the transferring institution shall adopt, by majority vote, a
 plan for such acquisition, assumption or sale on such terms as
 ~~shall be~~ that are mutually agreed upon. The plan shall must
 include:

30 A. The names and types of the institutions involved;

32 B. A statement setting forth the material terms of the
34 proposed acquisition, assumption or sale, including, if
 applicable, the plan for disposition of all assets and
 liabilities not subject to the plan;

36 C. A statement, if applicable, of the plan governing
38 liquidation of the transferring institution pursuant to
40 section 364 upon execution of the plan, with ~~said~~ that
 liquidation being a required provision of the plan;

42 D. A statement that the entire transaction is subject to
44 written approval of the superintendent, and, if the
 transaction involves all or substantially all of the assets
46 or liabilities of the transferring institution, the approval
48 of the transferring institution's stockholders, corporators,
 or members;

50 E. If a stock institution is the transferring institution
 and the proposed sale is not ~~to be~~ for cash, a clear and
 concise statement that stockholders of ~~said~~ the institution

2 voting against the proposed sale are entitled to rights set
forth in section 352, subsection 5; and

4 F. The proposed effective date of such the acquisition,
6 assumption or sale and such all other information and
provisions ~~as--may--be~~ that are necessary to execute the
8 transaction, or ~~as--may--be~~ that are required by the
superintendent.

10 Sec. 7. 9-B MRSA §355, sub-§3, as enacted by PL 1975, c. 500,
12 §1, is amended to read:

14 **3. Vote of stockholders, corporators or members.** The If the
transaction involves all or substantially all of the assets or
16 liabilities of the transferring institution, the plan of
acquisition, assumption or sale shall must be presented to the
18 stockholders, corporators, or members of the transferring
institution for their approval. If the transferring institution
is a stock institution, such approval shall must be obtained in
20 accordance with section 352, subsection 3; and, if the
transferring institution is a mutual institution, approval shall
22 must be obtained in accordance with section 353, subsection 3.

24 Sec. 8. 9-B MRSA §445, sub-§1, as amended by PL 1983, c. 63,
26 §3, is further amended to read:

28 **1. Authorization.** A financial institution may ~~form~~
establish or invest in the capital stock, obligations or other
30 securities of a service corporation, as defined in section 131,
or otherwise participate in or utilize the service of such a
32 corporation. A financial institution may not establish a service
corporation without prior approval of the superintendent pursuant
to section 252.

34 Sec. 9. 9-B MRSA §445, sub-§2, as amended by PL 1975, c. 666,
36 §20, is further amended to read:

38 **2. Limitations.** The stock of a service corporation formed
pursuant to this section shall may be owned only by institutions
40 engaged in the business of banking. The aggregate investment of a
financial institution in such those service corporations shall
42 may not exceed 50-percent 50% of its total capital and reserves
or its total surplus account. For purposes of applying the legal
44 lending limit prescribed in this Title, a financial institution's
investment in a service corporation, if majority owned, must be
46 consolidated with the financial institution on a line-for-line
basis proportionate to the financial institution's ownership
48 interest in the service corporation.

50 Sec. 10. 9-B MRSA §445, sub-§4, as amended by PL 1983, c. 63,
52 §4, is further amended to read:

2 4. **Ownership.** A service corporation formed pursuant to this
3 section may be owned by 2 one or more institutions engaged in the
4 business of banking; ~~provided that~~ if the superintendent shall
5 approve ~~such joint~~ approves that ownership in accordance with
6 section 252. In approving or disapproving ~~joint~~ ownership of a
7 subsidiary, the superintendent may, in addition to the criteria
8 set forth in section 253, consider the type of institutions
9 making application, and the competitive effect of ~~such joint~~ that
10 ownership. An application for approval required by this
11 subsection is not complete unless accompanied by an application
12 fee to be credited and used as provided in section 214.

13 **Sec. 11. 9-B MRSA §535, sub-§2, ¶A,** as amended by PL 1981, c.
14 646, §3, is repealed.

15 **Sec. 12. 9-B MRSA §735, sub-§2, ¶A,** as amended by PL 1981, c.
16 646, §10, is repealed.

17 **Sec. 13. 9-B MRSA §812, sub-§2,** as enacted by PL 1975, c. 500,
18 §1, is amended to read:

19 **2. Application to organize.** The organizers shall file with
20 the superintendent an application to organize a credit union,
21 together with ~~such~~ copies as that the superintendent may
22 require. ~~The organizers requires and shall agree to be bound by~~
23 its the terms and the of that application. The application shall
24 must state:

25 A. The name by which the credit union shall will be known,
26 which ~~name shall~~ must include the words "credit union";

27 B. The proposed location of its principal office;

28 C. The names and addresses of subscribers to the
29 application, and the number of shares subscribed for by each;

30 D. The proposed field of membership, as defined in section
31 814; and

32 E. ~~Such~~ All other information as that the superintendent
33 may ~~deem~~ determines necessary and appropriate.

34 ~~No~~ An application for permission to organize a credit union
35 shall ~~be deemed~~ is not considered complete unless accompanied by
36 an application fee of ~~\$50,~~ payable to the Treasurer of State, to
37 be credited and used as provided in section 214. The
38 superintendent shall establish the amount of the fee according to
39 different application requirements, but in no instance may it
40 exceed \$1,000.

41 **Sec. 14. 9-B MRSA §845, sub-§2,** as enacted by PL 1975, c. 500,
42 §1, is amended to read:

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2. Loan officers.

A. ~~When so provided by the bylaws, the credit committee~~ The board of directors may appoint one or more loan officers who ~~may receive such compensation as may be provided by the board of directors.~~

B. The ~~credit committee~~ board of directors may delegate to the loan officer or officers such the authority as that is within the limits ~~set for the committee by the board of directors, as it may vote~~ established under a written loan policy. The authority granted to any loan officer shall must be ~~reported to and~~ included in the minutes of the meetings of the board of directors.

C. No A loan officer shall may not disapprove any loan application, but shall refer such those applications to the board of directors or the full credit committee. All Each loan ~~officers~~ officer shall furnish to the board of directors or credit committee a record of each application acted upon by him that loan officer at the next meeting of said the board of directors or committee after the date of filing of the application ~~therefor~~. No A loan officer shall ~~have authority to~~ may not disburse funds of the credit union for any loan approved by him that loan officer in his the capacity as loan officer.

Sec. 15. 9-B MRSa §1011, sub-§4, as amended by PL 1985, c. 642, §3, is further amended to read:

4. **Control.** A company shall ~~be deemed to control~~ controls another company (~~referred~~, referred to in this chapter as a "subsidiary") "subsidiary," if it owns 25% or more of the voting shares of the subsidiary or if under the federal Bank Holding Company Act of 1956, as amended, under ~~section 407 or 408 of the National Housing Act~~ the federal Home Owners' Loan Act, Section 1467A, as amended, or under the Federal Deposit Insurance Act, as amended, or regulations or policy statements issued thereunder, ~~it~~ that company is presumed to control the subsidiary or a determination has been made by the superintendent that ~~it~~ the company exercises a controlling influence over the management and policies of the subsidiary.

STATEMENT OF FACT

This bill makes the following changes to several laws governing banking institutions:

It changes the reporting requirement for financial institutions that are participating in the use of satellite or

2 off-premise electronic facilities. The present law requires that
each state-chartered financial institution serve notice to the
4 superintendent when it shares in a new automatic teller machine
location. With the advent of regional networks in which
6 virtually all financial institutions share in all locations once
they are established, this reporting requirement becomes
8 duplicative. The proposed change retains the present application
process for establishing a satellite and provides a notice
10 procedure for the participation or discontinuance in the
participation of an established satellite facility.

12 It rewords the law governing the acquisitions of assets and
assumption of liabilities to clarify that this format may be
14 utilized to purchase less than substantially all of the assets or
liabilities of the transferring institution, such as a branch.
16 These changes provide consistency with present application
procedures and parallel the process required in federal law
18 governing those transactions.

20 It changes the service corporation law to require that the
establishment of a service corporation receive prior approval of
22 the superintendent and that the investment in majority-owned
service corporations be consolidated with the books of the
24 financial institutions for purposes of determining the legal
lending limit.

26 It repeals the provision in the savings bank and savings and
28 loan laws that stipulates that such organization may purchase
only 75% of the amount of any participation loan and the seller
30 must maintain a minimum participation of 25% of the outstanding
loan balance. This provision appears to be inconsistent with
32 other sections of the laws governing banking institutions as well
as present industry practice.

34 It raises the application fee to charter a new credit union
36 from \$50 to an amount not exceeding \$1,000. There has been
substantial increase in the cost of processing such an
38 application since this fee was first established in 1975. This
change will permit the superintendent to establish a fee that
40 equitably covers the cost of processing.

42 It makes changes to the credit union law that currently
permits the employment of a loan officer in lieu of a credit
44 committee to review loan applications. These changes provide
consistency with other sections of the law governing the
46 responsibilities of loan officers in relation to credit
committees.

48 It incorporates a reference to federal law governing the
50 definition of control with respect to a financial institution
holding company. This added reference is necessary due to
52 changes made in the federal law by the passage of the federal

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Financial Institutions Reform, Recovery and Enforcement Act of 1989, and does not represent a substantial change in the State's definition of control.