

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

L.D. 1750

DATE: 3/20/96

(Filing No. H- 812)

## BANKING AND INSURANCE

Reproduced and distributed under the direction of the Clerk of the House.

### STATE OF MAINE HOUSE OF REPRESENTATIVES 117TH LEGISLATURE SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1272, L.D. 1750, Bill, "An Act to Implement the Recommendations of the Maine Task Force on Interstate Banking and Branching"

Amend the bill in section 10 in subsection 2-A in the last line (page 3, line 34 in L.D.) by inserting after the following: "bureau" the following: ', but in no event may the amount exceed \$500 per branch annually. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A'

Further amend the bill in section 18 in subsection 8 in the 11th line (page 7, line 49 in L.D.) by striking out the following: "regulations" and inserting in its place the following: 'rules'

Further amend the bill in section 18 in subsection 8 in the last line (page 8, line 2 in L.D.) by inserting after "office." the following: 'Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.'

Further amend the bill in section 18 in subsection 9 in the 2nd line (page 8, line 5 in L.D.) by striking out the following: "The" and inserting in its place the following: 'This'

Further amend the bill in section 18 in subsection 9 in paragraph A in the 4th line (page 8, line 11 in L.D.) by striking out the following: "the business of banking is conducted," and inserting in its place the following: 'it conducts business in this State'

H. 48.  
COMMITTEE AMENDMENT "A" to H.P. 1272, L.D. 1750

Further amend the bill in section 18 in subsection 9 by inserting after paragraph D the following:

'E. This subsection does not prohibit the use of any name of a person who was duly qualified to do business as a foreign corporation in that name under Title 13-A, section 1201 on February 1, 1996.'

Further amend the bill in section 18 in subsection 10 in the 5th line (page 8, line 43, in L.D.) by striking out the following: "acquisition," and inserting in its place the following: 'acquisition'

Further amend the bill in section 18 in subsection 10 in the 8th line (page 8, line 46 in L.D.) by inserting after "State" the following: 'that are attributable to branches located in this State'

Further amend the bill in section 18 in subsection 10 in the 9th line (page 8, line 47 in L.D.) by striking out the following: "Section" and inserting in its place the following: 'section'

Further amend the bill in section 18 in subsection 10 in the 3rd line from the end (page 9, line 3 in L.D.) by inserting after the following: "State" the following: 'that are attributable to branches located in this State'

Further amend the bill in section 18 in subsection 10 in the 3rd line from the end (page 9, line 3 in L.D.) by striking out the following: "However, the" and inserting in its place the following: 'The'

Further amend the bill in section 20 in that part designated "§373." in subsection 1 in the 3rd line from the end (page 11, line 2 in L.D.) by striking out the following: "out-of-state"

Further amend the bill in section 20 in that part designated "§373." in subsection 1 in the 2nd line from the end (page 11, line 3 in L.D.) by inserting after the following: "bank" the following: 'whose home state is this State'

Further amend the bill in section 21 in that part designated "§418." in subsection 1 in the last line (page 13, line 42 in L.D.) by inserting after the following: "rulemaking." the following: 'Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.'

Further amend the bill by inserting after section 22 the following:

'Sec. 23. 9-B MRSA §427, sub-§12, as enacted by PL 1975, c. 500, §1, is amended to read:

**12. Superintendent's authority to permit withdrawals.**  
Except as expressly limited by other provisions of this Title, the superintendent may authorize a financial institution or institutions, ~~by regulation,~~ to permit the withdrawal of funds on deposit by depositors, account holders or members of said institution or institutions, in such manner or by such methods as the superintendent may deem determine appropriate under the circumstances.'

Further amend the bill in section 35 by striking out all of subsection 2 (page 18, lines 4 to 30 in L.D.) and inserting in its place the following:

**'2. Maine assets.** "Maine assets" means, for any taxable year for any taxable entity for which this State is the home state, a taxable entity's total ~~end-of-year~~ end-of-year assets as required to be reported pursuant to the laws of the United States on Internal Revenue Service Form 1120, Schedule L, except for tangible personal property and real property located outside the State, loans secured by real or tangible personal property located outside the State if the entity operates a branch in the State where such property is located, loans not secured by real or tangible personal property if the customer's billing address is outside the State and the entity operates a branch in the state of the customer's billing address and credit card receivables if the customer's billing address is outside the State and the entity operates a branch in the state of the customer's billing address. For any financial institution for which this State is not the home state and that operates a branch in this State and is authorized to do the business of banking in this State pursuant to Title 9-B, section 131, subsection 17-A, "Maine assets" means that portion of the taxable entity's end-of-year assets required to be reported pursuant to the laws of the United States on Internal Revenue Service Form 1120, Schedule L comprising real and tangible personal property located in this State, loans secured by real or tangible personal property located in this State, loans not secured by real or tangible personal property if the customer's billing address is in this State and credit card receivables if the customer's billing address is in this State. The term includes, in the case of a unitary business, the tangible personal property and real property located in the State of any member of the affiliated group which that is not subject for the taxable year to taxation under Part 8. This property in the possession of a taxable entity at year-end and located in the State is to be reported as a Maine asset by the possessor taxable entity.'

2 Further amend the bill by inserting at the end before the  
statement of fact the following:

4  
6 **Sec. 37. Nonseverability.** Notwithstanding the provisions of  
the Maine Revised Statutes, Title 1, section 71, if the  
reciprocity provision for the establishment of branches by  
8 out-of-state financial institutions in Title 9-B, section 373,  
subsection 1 is declared invalid or determined to be  
10 unenforceable for any reason by a final order of any state or  
federal court of competent jurisdiction and that order has the  
12 effect of permitting out-of-state financial institutions to  
establish branches in this State on any basis other than  
14 expressly provided in Title 9-B, section 373, subsection 1, then  
the reciprocity provision for the establishment of branches by  
16 out-of-state financial institutions of section 373, subsection 1  
is invalid and unenforceable and has no force or effect  
18 whatever. Any transaction establishing a branch in this State  
pursuant to section 373, subsection 1 and consummated prior to a  
20 determination of invalidity is unaffected by that determination  
and remains valid.

22  
24 **Sec. 38. Application.** The sections of this Act that amend the  
Maine Revised Statutes, Title 36, section 5206-B, subsections 2  
and 4 apply to tax years beginning on or after January 1, 1997.'

26  
28 Further amend the bill by relettering or renumbering any  
nonconsecutive Part letter or section number to read  
30 consecutively.

32 Further amend the bill by inserting at the end before the  
statement of fact the following:

34  
36 **FISCAL NOTE**

38 The tax provisions of this bill will exempt certain assets  
that are now taxed and tax certain assets that are not currently  
40 taxable in Maine, resulting in a net loss of General Fund revenue  
in fiscal year 1996-97. While the amount of the net loss can not  
42 be determined at this time, it is expected to be less than  
\$50,000.

44  
46 Certain changes pertaining to the regulation of interstate  
banking may significantly affect dedicated revenues collected by  
the Bureau of Banking within the Department of Professional and  
48 Financial Regulation. Depending on decisions made by financial  
institutions subsequent to the passage of the bill, the bureau

could experience significant increases or decreases in dedicated revenue collections. The net effect on dedicated revenues can not be determined at this time.

The Bureau of Banking will incur some minor additional costs to administer new regulatory requirements for certain aspects of interstate banking. These costs can be absorbed within the bureau's existing budgeted resources.'

## STATEMENT OF FACT

This amendment makes the following technical changes to the bill.

1. It sets a cap on the fee that may be assessed to out-of-state financial institutions operating branches in this State.

2. It clarifies use of the words "bank," "savings" and other derivatives of those terms and clarifies that state deposit concentration limits apply only to deposits gathered in the State.

3. It clarifies the provision governing the operation of interstate branches and satellite facilities.

4. It clarifies that loans originating in the State with customer billing addresses outside the State are excluded from the franchise tax if the entity operates a branch in the state of the customer's billing address.

5. It repeals an outdated rule-making requirement in the Maine Banking Code.

The amendment also adds a nonseverability clause with respect to the reciprocity provision regarding de novo establishment of branches in the State by out-of-state financial institutions.

The amendment adds an application clause that pertains to the sections of the bill amending the Maine Revised Statutes, Title 36, section 5206-B, subsections 2 and 4 and adds a fiscal note.