

# 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)



# 117th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1996

---

Legislative Document

No. 1750

---

H.P. 1272

House of Representatives, February 1, 1996

**An Act to Implement the Recommendations of the Maine Task Force on  
Interstate Banking and Branching.**

---

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

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative VIGUE of Winslow. (GOVERNOR'S BILL)  
Cosponsored by Representatives: GATES of Rockport, MAYO of Bath, Senator:  
ABROMSON of Cumberland.

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

2  
3       **Sec. 1. 9-B MRSA §131, sub-§1-A** is enacted to read:

4           **1-A. Affiliate.** "Affiliate" means any company that  
5 controls, is controlled by, or is under common control with  
6 another company. For purposes of this definition, "control" has  
7 the same meaning as in section 1011, subsection 4.

8  
9       **Sec. 2. 9-B MRSA §131, sub-§§2 and 3,** as enacted by PL 1975, c.  
10 500, §1, are amended to read:

11           **2. Authorized to do business in this State.** "Authorized to  
12 do business in this State" means that a financial institution or  
13 credit union is authorized to do the business of banking, if it  
14 is:

15           A. Organized under provisions of this Title;

16           B. Organized under provisions of prior laws of this State,  
17 and subject to the provisions of this Title; ~~or~~

18           C. Organized under provisions of federal law and maintains  
19 ~~its principal office in~~ this State, as its home state;

20           D. Organized under provisions of federal law or laws of  
21 another state and maintains a branch in this State; or

22           E. Organized under provisions of law of a foreign country  
23 and maintains a branch in this State.

24           **3. Branch.** "Branch" means any office or facility of a  
25 financial institution where the business of ~~such--financial~~  
26 ~~institution~~ banking is conducted other than the institution's  
27 main office.

28  
29       **Sec. 3. 9-B MRSA §131, sub-§12-A, ¶¶B and C,** as enacted by PL  
30 1975, c. 666, §2, are amended to read:

31           B. Organized under provisions of prior laws of this State  
32 and subject to the provisions of this Title; ~~or~~

33           C. Organized under provisions of federal law and maintains  
34 ~~its principal office in~~ this State, as its home state;

35       **Sec. 4. 9-B MRSA §131, sub-§12-A, ¶¶D and E** are enacted to  
36 read:

37           D. Organized under provisions of federal law or laws of  
38 another state and maintains a branch in this State; or

2           E. Organized under provisions of law of a foreign country  
3           and maintains a branch in this State.

4  
5           **Sec. 5. 9-B MRSA §131, sub-§12-B** is enacted to read:

6           **12-B. Deposit production office.** "Deposit production  
7           office" means a branch of a financial institution or credit  
8           union authorized to do business in this State that is used  
9           primarily to generate deposits and does not reasonably meet the  
10           credit needs of the community that the branch serves, as  
11           determined by the superintendent. For purposes of this  
12           subsection, deposits include credit union share accounts.

13           **Sec. 6. 9-B MRSA §131, sub-§17-A, ¶¶B and C,** as enacted by PL  
14           1975, c. 666, §3, are amended to read:

15           B. Organized under provisions of prior laws of this State  
16           and subject to the provisions of this Title; ~~or~~

17           C. Organized under provisions of federal law and maintains  
18           ~~its-principal-office-in~~ this State, as its home state;

19           **Sec. 7. 9-B MRSA §131, sub-§17-A, ¶¶D and E** are enacted to  
20           read:

21           D. Organized under provisions of federal law or laws of  
22           another state and maintains a branch in this State; or

23           E. Organized under provisions of law of a foreign country  
24           and maintains a branch in this State.

25           **Sec. 8. 9-B MRSA §131, sub-§§20-A, 20-B, 29-A and 29-B** are  
26           enacted to read:

27           **20-A. Home state.** "Home state" means:

28           A. With respect to a financial institution or out-of-state  
29           financial institution, the state under whose laws the  
30           financial institution or out-of-state financial institution  
31           is organized; or

32           B. With respect to a national bank or federal association,  
33           the state in which the main office of the national bank or  
34           federal association is deemed to be located under federal  
35           law.

36           **20-B. Host state.** "Host state" means a state, other than  
37           the home state of an out-of-state financial institution, national

2 bank or federal association, in which the financial institution  
3 maintains a branch or seeks to establish and maintain a branch.

4 29-A. Out-of-state. "Out-of-state" means a foreign country  
5 or a state other than this State.

6 29-B. Out-of-state financial institution. "Out-of-state  
7 financial institution" means a financial institution organized  
8 under provisions of law of a foreign country or a State other  
9 than this State, that maintains or seeks to establish and  
10 maintain, a branch in this State.

11 **Sec. 9. 9-B MRSA §212, sub-§4** is enacted to read:

12 4. Contracts with other state and federal regulatory  
13 agencies. The superintendent may employ and engage experts,  
14 professionals or other personnel of other state and federal  
15 regulatory agencies as may be necessary to assist the Bureau in  
16 carrying out its regulatory functions. Contracts for services  
17 under this subsection are designated sole source contracts and  
18 are not subject to the procurement requirements of Title 5,  
19 chapter 155.

20 **Sec. 10. 9-B MRSA §214, sub-§2-A** is enacted to read:

21 2-A. Assessment on interstate branches of out-of-state  
22 financial institutions. To provide for the balance of the  
23 reasonable expenses incurred to fulfill the bureau's duty  
24 pursuant to this Title, including general regulatory costs,  
25 overhead, general office and administrative expenses, the  
26 superintendent may assess a fee to be paid by each out-of-state  
27 financial institution that operates one or more branches in this  
28 State. The amount and timing of payment of this assessment must  
29 be determined through rulemaking by the bureau.

30 **Sec. 11. 9-B MRSA §221**, as amended by PL 1985, c. 763, Pt. A,  
31 **§63**, is repealed and the following enacted in its place:

32 **§221. Examinations**

33 1. Requirements. The superintendent shall examine each  
34 financial institution organized under the laws of this State at  
35 least once every 36 months or more frequently as the  
36 superintendent determines. The superintendent may examine an  
37 out-of-state financial institution operating branches in this  
38 State in order to determine compliance with the laws of this  
39 State and to ensure that the activities of each branch are  
40 conducted in a safe and sound manner.

2 The superintendent must have full access to the vaults, books and  
4 papers of the financial institution or branch of the out-of-state  
6 financial institution being examined. The superintendent may  
8 make any inquiries necessary to determine the condition of the  
10 financial institution or the branch of the out-of-state financial  
12 institution and its compliance with the laws of this State. The  
14 directors, corporators, officers, employees and agents of a  
financial institution and the officers, employees and agents of  
the out-of-state financial institution, the branch of which is  
being examined, shall furnish statements and full information to  
the superintendent or the superintendent's examiners related to  
the condition and standing of the institution or branch being  
examined and all matters pertaining to its business and  
management.

16 2. Exception. Notwithstanding the requirements set forth  
18 in subsection 1, the superintendent may accept the examination  
20 reports of other state, federal or foreign regulatory agencies as  
a method of satisfying such requirements in whole or in part.

22 3. Joint examinations with other state, federal or foreign  
24 regulatory agencies. In satisfaction of the examination  
26 requirements of this section, the superintendent may conduct  
28 joint examinations of financial institutions organized under the  
30 laws of this State or branches of out-of-state financial  
institutions operating branches in this State with other state,  
federal or foreign regulatory agencies. For purposes of this  
section, "joint examination" means an examination conducted  
simultaneously by 2 or more regulatory agencies in which one  
examination report is issued.

32 **Sec. 12. 9-B MRSA §222, sub-§§1 and 4,** as enacted by PL 1975,  
34 c. 500, §1, are amended to read:

36 **1. General requirement.** In addition to the reports required  
38 pursuant to this section, the superintendent ~~shall have the power~~  
40 ~~to~~ may require, from a financial institution ~~subject to his~~  
42 ~~supervision and regulation~~ organized under the laws of this State  
and from an out-of-state financial institution authorized to do  
business in this State, reports and other information from ~~sueh~~  
44 ~~those~~ those institutions at ~~sueh~~ those times and in such form as he  
deems ~~the superintendent considers~~ appropriate for the proper  
supervision and regulation of ~~sueh~~ those institutions.

46 **4. Use of reports prepared for other state or federal**  
48 **regulatory agencies.** ~~The~~ At the discretion of the  
superintendent, the reporting requirements imposed by of this  
section may be complied with by submitting to the superintendent  
copies of reports prepared for other state or federal regulatory

2 agencies by the institution which that contain the information  
requested, ~~unless the superintendent shall otherwise require.~~

4 **Sec. 13. 9-B MRSA §224, sub-§1**, as enacted by PL 1975, c. 500,  
§1, is amended to read:

6  
8 **1. Records for superintendent.** A financial institution  
authorized to do business in this State shall keep ~~within this~~  
State ~~such~~ those books, accounts and records relating to all  
10 transactions ~~as will~~ that enable the superintendent to ~~insure~~  
ensure full compliance with the laws of this State. The  
12 superintendent ~~may authorize such records to be maintained~~  
~~outside of this State for good cause.~~

14  
16 **Sec. 14. 9-B MRSA §226, sub-§3**, as amended by PL 1975, c. 666,  
§7, is further amended to read:

18 **3. Disclosure to others.** The superintendent may disclose  
such the information specified in subsection 1 to the following  
20 persons or entities ~~set forth below; provided that.~~ However, the  
recipients ~~thereof shall~~ of the information may not disclose or  
22 make public information so communicated, except as authorized by  
the superintendent or pursuant to other provisions of this Title;

24  
26 A. The Treasurer of State and the Commissioner of Business  
Professional and Financial Regulation;

28 ~~B. The advisory board established pursuant to section 216;~~

30 C. State departments which that, in the opinion of the  
superintendent, require such this information;

32  
34 D. Other persons, including other state, foreign or federal  
regulatory officials, who, in the opinion of the  
superintendent, require such this information to facilitate  
36 the general conduct of supervisory activities of the Bureau  
bureau;

38  
40 E. A court of law or equity ~~and then, but~~ only with the  
written consent of the superintendent or pursuant to a  
special order of the court; and

42  
44 F. To those persons or entities necessary in order to  
comply with provisions of this Title relating to disclosure  
46 or publication of certain applications, reports, statistics  
and information.

48 **Sec. 15. 9-B MRSA §226-A** is enacted to read:

50 **§226-A. Cooperative agreements**

2           The superintendent may enter into cooperative agreements  
3 with other state, federal or foreign regulatory agencies to  
4 facilitate the regulatory supervision of financial institutions  
5 authorized to do business in this State, including, but not  
6 limited to, information sharing, coordination of examinations and  
7 joint examinations.

8  
9           **Sec. 16. 9-B MRSA §231, sub-§1**, as amended by PL 1985, c. 328,  
10 §§3 and 4, is repealed and the following enacted in its place:

11           1. Authority. The superintendent has the following  
12 authority over financial institutions, out-of-state financial  
13 institutions, financial institution holding companies and  
14 subsidiaries thereof.

15           A. The superintendent may issue and serve an order upon an  
16 institution or company requiring the institution or company  
17 to cease and desist from the violation or practice if, in  
18 the opinion of the superintendent, a financial institution  
19 or its subsidiary, financial institution holding company or  
20 its subsidiary or out-of-state financial institution subject  
21 to the provisions of this Title is engaging in or has  
22 engaged in, or the superintendent has reasonable cause to  
23 believe that the institution or company is about to engage  
24 in, any of the following violations or practices:

25                   (1) An unsafe or unsound practice in conducting the  
26 business of the financial institution or company;

27                   (2) Violation of a law, rule or regulation relating to  
28 the supervision of the institution or company;

29                   (3) Violation of any condition, imposed in writing, in  
30 connection with the approval of any application by the  
31 superintendent;

32                   (4) Violation of any written agreement entered into  
33 with the superintendent; or

34                   (5) An anticompetitive or deceptive practice, or one  
35 that is otherwise injurious to the public interest  
36 under chapter 24.

37           B. The superintendent may restrict the withdrawal of funds  
38 from one or more financial institutions in an order issued  
39 under paragraph A if, in the opinion of the superintendent,  
40 extraordinary circumstances make such action necessary and  
41 appropriate.



2           appropriate for the protection of depositors, shareholders  
3           or the public.

4           C. The order issued under paragraph A may require the  
5           officers or directors of the institution or company or  
6           subsidiary to take affirmative action to correct any  
7           violation or practice.

8           D. Before issuing a cease and desist order against an  
9           out-of-state financial institution operating one or more  
10           branches in this State, the superintendent shall request  
11           that the financial institution's home state regulatory  
12           agency undertake an enforcement action. If the home state  
13           regulatory agency is unwilling or unable to issue an  
14           enforcement action, the superintendent may then exercise the  
15           enforcement authority available under this section. The  
16           superintendent may take enforcement action against a branch  
17           of a foreign financial institution without requesting  
18           enforcement action be taken first by the foreign regulatory  
19           agency. Where, in the opinion of the superintendent,  
20           emergency conditions make such enforcement action  
21           immediately necessary for the protection of depositors,  
22           shareholders or the public, the superintendent may proceed  
23           without requesting enforcement by the home state regulatory  
24           agency.

25           **Sec. 17. 9-B MRSA §232, first ¶**, as enacted by PL 1975, c. 500,  
26           §1, is amended to read:

27           The superintendent shall ~~have the power to~~ may remove any  
28           officer or director of a financial institution organized pursuant  
29           to this Title or any officer of a branch of an out-of-state  
30           financial institution authorized to do business in this State, in  
31           accordance with the procedures and subject to the conditions and  
32           limitations set forth in this section.

33           **Sec. 18. 9-B MRSA §241, sub-§§8 to 10** are enacted to read:

34           8. Deposit production offices prohibited. A financial  
35           institution or credit union authorized to do business in this  
36           State is prohibited from operating deposit production offices in  
37           this State. Each financial institution or credit union  
38           authorized to do business in this State shall submit an annual  
39           report to the superintendent providing deposit and loan  
40           information considered necessary by the superintendent to monitor  
41           compliance with this section. If the superintendent determines  
42           that a deposit production office is being operated, the  
43           superintendent may issue a cease and desist order pursuant to  
44           chapter 23. The superintendent shall adopt regulations that set

2 forth the factors that the bureau shall consider in determining  
3 whether a branch is being operated as a deposit production office.

4 9. Restrictions on the use of the terms "savings," "bank"  
5 and derivatives of those terms. The subsection governs the use  
6 of the terms "savings," "bank" and derivatives of those terms.

8 A. A person, if duly authorized under the laws of this  
9 State, another state or the United States to conduct the  
10 business of banking, may use as a part of the name or title  
11 under which the business of banking is conducted, the terms  
12 "saving," "savings," "savings bank," "bank," "banker,"  
13 "trust," "trust company," "banking" or "trust and banking  
14 company."

16 B. Except as provided in paragraph A, a person, without  
17 prior written approval of the superintendent, may not use  
18 the terms "saving," "savings," "savings bank," "bank,"  
19 "banker," "trust," "trust company," "banking" or "trust and  
20 banking company" or any derivatives of those terms as part  
21 of the name or title under which business is conducted or as  
22 a designation of such business. In determining whether to  
23 grant written permission, the superintendent shall consider  
24 whether the business to be conducted is similar to the  
25 business of banking and whether using those terms or any  
26 derivatives of those terms could be deceptive or otherwise  
27 injurious to public interest.

28 C. This subsection does not apply to out-of-state financial  
29 institutions, corporations or partnerships that, in the  
30 ordinary course of their business, have to file with the  
31 Secretary of State in processing the routine disposition of  
32 assets acquired by legitimate business dealings.

34 D. A person who violates any provision of this subsection  
35 is subject to a civil penalty of not more than \$10,000 for  
36 each violation.

38 10. Deposit concentration. A financial institution  
39 authorized to do business in this State may not consolidate or  
40 merge or acquire all or part of a Maine financial institution or  
41 Maine financial institution holding company if, as the result of  
42 the consolidation, acquisition, or merger, the financial  
43 institution would hold or control more than 30% of the total  
44 amount of deposits of financial institutions authorized to do  
45 business in this State; except, upon consideration of the  
46 decision-making criteria found in Section 253, the superintendent  
47 may waive the 30% deposit concentration limit on a case-by-case  
48 basis. In calculating the amount of deposits that a financial  
49 institution authorized to do business in this State may hold or  
50 control.

2 control under this section, credit union shares are added to the  
3 amount of deposits of financial institutions authorized to do  
4 business in this State. However, the 30% deposit concentration  
5 limit does not apply to credit unions authorized to do business  
6 in this State.

7 **Sec. 19. 9-B MRSA §339-A**, as enacted by PL 1987, c. 692, §4,  
8 is repealed and the following enacted in its place:

10 **§339-A. Interstate branches and satellite facilities**

12 **1. Interstate branches.** Except as provided for in chapter  
13 37, this Title may not be construed as permitting a financial  
14 institution to establish a branch office or facility in any state  
15 other than this State and a financial institution not authorized  
16 to do business in this State may not establish or operate a  
17 branch office or facility in this State.

18 **2. Satellite facilities.** Satellite facilities operated by  
19 financial institutions not authorized to do business in this  
20 State are prohibited according to this section. A financial  
21 institution organized pursuant to the laws of this State must  
22 provide notice to the superintendent in accordance with chapter  
23 33 prior to the establishment of a satellite facility. A  
24 financial institution organized pursuant to laws of other states  
25 or the United States and authorized to do the business of banking  
26 in this State must provide notice to the superintendent in  
27 accordance with chapter 37 prior to the establishment of a  
28 satellite facility.

29 **Sec. 20. 9-B MRSA c. 37** is enacted to read:

31 **CHAPTER 37**

32 **INTERSTATE BRANCHING,**  
33 **MERGERS, CONSOLIDATIONS AND ACQUISITIONS**

34 **§371. Applicability of chapter; fees**

35 **1. Applicability.** The provisions of this chapter govern de  
36 novo establishment of interstate branches, interstate  
37 combinations and interstate branch acquisitions undertaken by a  
38 financial institution, out-of-state financial institution,  
39 federal association or national bank.

40 **2. Fees.** An application or notice required under this  
41 chapter is not complete unless accompanied by a fee payable to  
42 the Treasurer of State to be credited and used as provided in  
43 section 214. The superintendent shall establish the amount of  
44 section 214. The superintendent shall establish the amount of

2 the fee according to the requirements of section 373; the fee may  
3 not exceed \$2,500.

4 **§372. Definitions**

6 As used in this chapter, unless the context otherwise  
7 indicates, the following terms have the following meanings.

8  
9 **1. De novo branch.** "De novo branch" means a branch of a  
10 financial institution, out-of-state financial institution,  
11 federal association or national bank, that is originally  
12 established by the financial institution as a branch and does not  
13 become a branch of that financial institution as a result of the  
14 acquisition by the financial institution of a financial  
15 institution or the acquisition of a branch of a financial  
16 institution or through the conversion, merger or consolidation  
17 with that institution or branch.

18  
19 **2. Interstate branch acquisition.** "Interstate branch  
20 acquisition" means the purchase of one or more branches of a  
21 financial institution, out-of-state financial institution,  
22 federal association or national bank whose home state is  
23 different from the home state of the acquiring financial  
24 institution, out-of-state financial institution, federal  
25 association or national bank and the transfer of any branches so  
26 acquired into branches of the acquiring financial institution,  
27 out-of-state financial institution, federal association or  
28 national bank.

29  
30 **3. Interstate combination.** "Interstate combination" means  
31 the merger, acquisition or consolidation of financial  
32 institutions, out-of-state financial institutions, federal  
33 associations or national banks, that have different home states  
34 when the branches of the acquired financial institution,  
35 out-of-state financial institution, federal association, or  
36 national bank become branches of the resulting financial  
37 institution, out-of-state financial institution, federal  
38 association or national bank.

39 **§373. Interstate combinations, branch acquisitions and de novo**  
40 **establishments**

41  
42  
43 **1. Authority.** Interstate combinations are expressly  
44 authorized subject to the provisions of this chapter. Interstate  
45 branch acquisition and establishment of de novo branches are  
46 expressly authorized subject to the provisions of this chapter;  
47 however, the law of jurisdiction of any out-of-state financial  
48 institution, federal association or national bank proposing to  
49 establish or acquire one or more branches in this State must  
50 expressly authorize, under conditions no more restrictive than

2 those imposed by the laws of this State as determined by the  
3 superintendent, the out-of-state financial institution, federal  
4 association or national bank to engage in interstate branch  
5 acquisition or establishment of de novo branches in that state.

6 **2. Application requirements.** When the resulting financial  
7 institution of any interstate combination, interstate branch  
8 acquisition or de novo branch establishment is a financial  
9 institution organized under the laws of this State, that  
10 financial institution must obtain prior approval of the  
11 superintendent before participating in the transaction. The  
12 application for the superintendent's approval must be filed in  
13 the form and manner prescribed by the superintendent in  
14 accordance with this chapter and chapters 33 and 35, as  
15 applicable. The superintendent shall approve or disapprove an  
16 application under this section in accordance with the  
17 requirements of section 252 and the superintendent may condition  
18 approval of the application, as necessary, to conform with the  
19 criteria set forth in section 253.

20 **3. Notice requirements.** When the resulting financial  
21 institution of any interstate combination, branch acquisition or  
22 de novo branch establishment is an out-of-state financial  
23 institution, federal association or national bank with a home  
24 state that is not this State, that out-of-state financial  
25 institution, federal association or national bank must provide  
26 prior notice to the superintendent before participating in the  
27 transaction. Notice to the superintendent must:

28 A. Be in a form and contain that information prescribed by  
29 the superintendent, including, but not limited to, proof of  
30 compliance with this chapter, as applicable;

31 B. Be provided no later than 3 days after the date of  
32 filing an application for that transaction with the  
33 appropriate state or federal regulatory agency;

34 C. Include a copy of any application filed with the  
35 appropriate state or federal regulatory agency; and

36 D. Include payment of the fee pursuant to section 371.

37 The superintendent shall provide written response within 30 days  
38 of receipt of the notice. If the superintendent finds that the  
39 interstate combination, acquisition or establishment does not  
40 comply with applicable state law, including, but not limited to,  
41 the conditions and requirements of this chapter, the  
42 superintendent may file an objection with the appropriate state  
43 or federal regulatory agency that has primary responsibility for  
44 the applicant. In addition, if the superintendent finds that an  
45 interstate combination, acquisition or establishment does not  
46 comply with applicable state law, including, but not limited to,  
47 the conditions and requirements of this chapter, the  
48 superintendent may file an objection with the appropriate state  
49 or federal regulatory agency that has primary responsibility for  
50 the applicant. In addition, if the superintendent finds that an

2 interstate combination, branch acquisition or de novo  
3 establishment would be adverse to the public interest, the  
4 superintendent may bring an action in the name of the State  
5 pursuant to chapter 24.

6 **§374. Authority for expedited transactions**

8 Notwithstanding any other provision of law, or any charter,  
9 certificate of organization, articles of association, articles of  
10 incorporation or bylaw of any participating institution, the  
11 superintendent may order that an interstate combination or branch  
12 acquisition pursuant to section 373, subsection 1 become  
13 effective immediately, if the superintendent determines that the  
14 action is necessary for the protection of depositors,  
15 shareholders or the public. A person aggrieved by an interstate  
16 combination or branch acquisition pursuant to this section is  
17 entitled to judicial review of the superintendent's order in  
18 accordance with Title 5, chapter 375, subchapter VII.

20 **§375. Applicable concentration limits**

22 Any interstate combination or branch acquisition authorized  
23 pursuant to this chapter is subject to the deposit concentration  
24 limitations set forth in section 241, subsection 10.

26 **§376. Activities of interstate branches**

28 1. Branches of financial institutions organized under the  
29 laws of this State. Pursuant to this chapter, a financial  
30 institution organized under the laws of this State that  
31 establishes and operates a branch in another state may conduct  
32 any activity at that branch that is permissible for a financial  
33 institution organized under the laws of the "host state" as  
34 defined in section 131, subsection 20-B. The financial  
35 institution shall provide prior written notice of the branch  
36 activity to the superintendent if the activity is not permissible  
37 in this State.

38 2. Branches of out-of-state financial institutions. The  
39 laws of this State, including, but not limited to, the laws  
40 regarding consumer protection, fair lending and establishment of  
41 intrastate branches, apply to any state branch of an out-of-state  
42 financial institution, federal association or national bank to  
43 the same extent as those laws apply to a state branch of a  
44 financial institution organized under the laws of this State. An  
45 out-of-state financial institution that maintains, or seeks to  
46 establish and maintain, a branch in this State pursuant to this  
47 chapter may not conduct any activity at that branch that is not  
48 permissible for a financial institution organized under the laws  
49 of this State.

2       **§377. Corporate filing requirements**

4           **1. Applicability of Title 13-A.** An out-of-state financial  
6 institution, federal association or national bank with a home  
8 state other than this State that seeks to establish and operate a  
10 branch in this State as the result of an interstate combination,  
12 branch acquisition or de novo establishment pursuant to this  
14 chapter shall comply with the filing requirements for foreign  
16 corporations under Title 13-A. The approval of the filing of an  
18 out-of-state financial institution, federal association or  
20 national bank by the Secretary of State does not authorize the  
22 operation of a branch in this State by an out-of-state financial  
24 institution, federal association or national bank until the  
26 notice required pursuant to subsection 2 has been filed.

28           **2. Notice to the superintendent required.** An out-of-state  
30 financial institution, federal association or national bank is  
32 not authorized to do business in this State pursuant to this  
34 chapter until copies of the documents filed with the Secretary of  
36 State pursuant to Title 13-A have been received by the  
38 superintendent.

40       **§378. Effective date**

42           This chapter takes effect January 1, 1997.

44           Sec. 21. 9-B MRS §418 is enacted to read:

46       **§418. Acting as agent**

48           A financial institution or a financial institution not  
50 authorized to do business in this State may act as agent for a  
52 financial institution, out-of-state financial institution, a  
54 financial institution organized under provisions of law of  
56 another state, federal association or national bank in accordance  
58 with this section.

60           **1. Activities.** A financial institution acting as agent may  
62 receive deposits, renew time deposits, close loans, service loans  
64 and receive payments on loans and other obligations. The list of  
66 permitted agency activities may be expanded through rulemaking.

68           **2. Limitations on activities.** The agreement to act as  
70 agent must limit the activities to those specifically permitted  
72 under this section or as expanded through rulemaking. The  
74 institution acting as agent pursuant to an agency agreement may  
76 not be considered a branch of the contracting institution, nor is  
78 the contracting institution considered a branch of the  
80 institution acting as agent.

2           **3. Notice required.** A financial institution entering into  
4 an agency agreement shall file notice with the superintendent, in  
6 the form and manner prescribed by the superintendent, prior to  
8 engaging in the activities permitted under this section.

10           **4. Relationship terms.** An agency relationship between  
12 institutions must be on terms that are consistent with safe and  
14 sound banking practices and the superintendent may adopt rules to  
16 supplement the requirements of this section.

18           **Sec. 22. 9-B MRSA §422, sub-§1,** as amended by PL 1977, c. 621,  
20 is further amended to read:

22           **1. Requirement.** A financial institution organized under the  
24 laws of this State or a branch of an out-of-state financial  
26 institution authorized to do business in this State shall take  
28 such any action as may be necessary to have its deposits or  
30 accounts insured by either the Federal Deposit Insurance  
32 Corporation or the Federal Savings and Loan Insurance  
34 Corporation, or by its successors to such federal  
36 corporations. The institution may have its deposits or accounts  
38 insured by whichever corporation insures the deposits or accounts  
40 of that type of institution. The superintendent may waive this  
42 requirement for a financial institution with assets of less than  
44 \$500,000, if such institution demonstrates to the superintendent  
46 that it is satisfying a particular community need which cannot be  
48 sufficiently met by other financial institutions and that it has  
50 adequate security for its deposits or accounts. For purposes of  
this section, a branch of an out-of-state financial institution  
does not include a branch of a foreign bank that is not eligible  
for insurance of accounts by the Federal Deposit Insurance  
Corporation or its successors.

36           **Sec. 23. 9-B MRSA §572,** as amended by PL 1985, c. 647, §8, is  
38 repealed.

40           **Sec. 24. 9-B MRSA §673,** as amended by PL 1985, c. 647, §9, is  
42 repealed.

44           **Sec. 25. 9-B MRSA §1011, sub-§2,** as enacted by PL 1975, c.  
46 500, §1, is amended to read:

48           **2. Maine financial institution holding company.** "Maine  
50 financial institution holding company" means any company which  
whose home state is this State and that has control over any  
financial institution authorized to do business in this State or  
has control over a company which that controls any such a  
financial institution, provided that if a financial institution  
holding company described in section 1013, subsection 2 acquires



2 ~~control of a financial institution~~ authorized to do business in  
3 this State, ~~it shall not be deemed a "Maine financial institution~~  
4 ~~holding company" unless the operations of its financial~~  
5 ~~institution subsidiaries are principally conducted in the State~~  
6 ~~of Maine.~~

7  
8 **Sec. 26. 9-B MRSA §1011, sub-§7,** as enacted by PL 1983, c.  
9 302, §1, is amended to read:

10 **7. Non-Maine financial institution holding company.**  
11 "Non-Maine financial institution holding company" means a  
12 financial institution holding company, ~~the operations of which~~  
13 ~~are principally conducted outside~~ whose home state is not this  
14 State.

15  
16 **Sec. 27. 9-B MRSA §1011, sub-§8,** as enacted by PL 1983, c.  
17 302, §1, is repealed.

18 **Sec. 28. 9-B MRSA §1011, sub-§§11 and 12** are enacted to read:

19  
20 **11. Home state.** "Home state," with respect to a financial  
21 institution holding company, means the state in which the total  
22 deposits of all financial institution subsidiaries of that  
23 company are the largest on the later of July 1, 1966 or the date  
24 on which the company becomes a financial institution holding  
25 company under this Title.

26  
27 **12. Host state.** "Host state," with respect to a financial  
28 institution holding company, means a state, other than the home  
29 state of the company, in which the company controls or seeks to  
30 control a financial institution subsidiary.

31  
32 **Sec. 29. 9-B MRSA §1013, sub-§1, ¶C,** as enacted by PL 1985, c.  
33 642, §5, is amended to read:

34  
35 C. Acquisition of more than 5% of the voting shares of a  
36 financial institution, ~~the operations of which are~~  
37 ~~principally conducted outside of~~ whose home state is not  
38 this State, by a Maine financial institution or a Maine  
39 financial institution holding company.

40  
41 **Sec. 30. 9-B MRSA §1013, sub-§2,** as amended by PL 1987, c. 90,  
42 §1, is repealed.

43  
44 **Sec. 31. 9-B MRSA §1013, sub-§3,** as amended by PL 1983, c.  
45 597, §3, is further amended to read:

46  
47 **3. Requirements for acquisition or establishment.** A  
48 ~~non-Maine~~ financial institution holding company may establish,

2 acquire or maintain control of a Maine financial institution or  
Maine financial institution holding company with prior approval  
of the superintendent, ~~when and for as long as~~ subject to the  
4 following conditions ~~are satisfied~~.

6 A. The Maine financial institution or Maine financial  
institution holding company to be established or acquired  
8 shall enter into an agreement with the superintendent to  
provide reports and permit examination of its records to the  
10 extent ~~deemed considered~~ necessary by the superintendent to  
ensure compliance with this section and other relevant  
12 provisions of this Title and any ~~regulations promulgated~~  
~~thereunder~~ rules adopted under this Title. If the financial  
14 institution to be established or acquired is federally  
chartered, the agreement may provide that compliance  
16 examination information shall must be provided by the  
federal agency responsible for supervision of that financial  
18 institution. The superintendent may specify the information  
which that requires verification, and shall must be provided  
20 a report of that status of compliance by the federal agency.

22 B. A Maine financial institution or Maine financial  
institution holding company, control of which is to be  
24 acquired or held, shall must have, on the date of  
acquisition or establishment, and shall maintain a minimum  
26 equity capital which that the superintendent determines  
acceptable given the market area to be served and the  
28 general plan of business of the Maine financial institution  
or Maine financial institution holding company. ~~In no event~~  
30 ~~shall such equity capital be less than \$3,000,000 in the~~  
~~case of an establishment, or \$1,000,000 in the case of an~~  
32 ~~acquisition.~~ Equity capital shall must be maintained  
consistent with sound banking practices.

34 C. A financial institution holding company may not  
36 consolidate or merge with or acquire all or part of a Maine  
financial institution or Maine financial institution holding  
38 company if, as the result of the consolidation, acquisition  
or merger, the financial institution holding company would  
40 hold or control more than 30% of the total amount of  
deposits of financial institutions authorized to do business  
42 in this State; except, upon consideration of the  
decision-making criteria found in section 253, the  
44 superintendent may waive the 30% deposit concentration  
limits on a case-by-case basis. In calculating the amount  
46 of deposits that a financial institution holding company may  
hold or control under this section, credit union shares are  
48 added to the amount of deposits of financial institutions  
authorized to do business in this State. However, the 30%

2           deposit concentration limit does not apply to credit unions  
3           authorized to do business in this State.

4           **Sec. 32. 9-B MRSA §1013, sub-§4**, as amended by PL 1983, c.  
5           597, §4, is repealed.

6           **Sec. 33. 9-B MRSA §1015, sub-§2**, as amended by PL 1987, c. 90,  
7           §3, is further amended to read:

10           **2. Criteria for approval.** Applications for approvals  
11           required in subsection 1 shall must be filed pursuant to  
12           procedures established by the superintendent. Action on those  
13           applications shall must be taken in accordance with the  
14           requirements of section 252 and shall ~~be~~ is subject to the  
15           standards set forth in section 253. ~~An application filed by a~~  
16           ~~non-Maine--financial--institution--holding--company--for--the~~  
17           ~~acquisition--or--establishment--of--a--Maine--financial--institution--or~~  
18           ~~Maine--financial--institution--holding--company--is--subject--to--the~~  
19           ~~additional--requirement--that--the--superintendent--find--that--the~~  
20           ~~proposal--would--bring--net--new--funds--into--the--State--An--application~~  
21           ~~by--a--Maine--financial--institution--holding--company--to--acquire--or~~  
22           ~~establish--an--out--of--state--financial--institution--or--financial~~  
23           ~~institution--holding--company--is--subject--to--the--additional~~  
24           ~~requirement--that--the--superintendent--find--that--deposits--of~~  
25           ~~citizens--and--businesses--of--this--State--held--in--the--holding~~  
26           ~~company's--Maine--subsidiaries--will--continue--to--be--invested--in~~  
27           ~~Maine--loans--and--investments--in--a--manner--consistent--with--the~~  
28           ~~company's--historical--performance--and--current--economic~~  
29           ~~conditions--Such--a--transaction--is--subject--to--the--requirements--of~~  
30           ~~section--1013--subsection--3--paragraph--A--and--the--superintendent~~  
31           ~~may--require--the--application--to--contain--some--or--all--of--the~~  
32           ~~information--required--in--section--1013--subsection--4.~~

34           **Sec. 34. 9-B MRSA §1015, sub-§3**, as amended by PL 1983, c.  
35           201, §5, is further amended to read:

36           **3. Application fee.** No An application for approval  
37           required in subsection 1 may not be deemed considered complete by  
38           the superintendent unless accompanied by an application fee of  
39           \$2,500, ~~payable to the Treasurer of State~~, to be credited and  
40           used as provided in section 214. ~~No application for approval of~~  
41           ~~an--acquisition--or--establishment--of--a--financial--institution--or~~  
42           ~~financial--institution--holding--company--by--an--out--of--state--company~~  
43           ~~may--be--deemed--complete--by--the--superintendent--unless--accompanied~~  
44           ~~by--an--application--fee--of--\$5,000--payable--to--the--Treasurer--of~~  
45           ~~State--to--be--credited--and--used--as--provided--in--section--214.~~ The  
46           superintendent shall establish the amount of the fee according to  
47           subsection 1; the fee may not exceed \$7,500.

2           **Sec. 35. 36 MRSA §5206-B, sub-§2**, as amended by PL 1987, c.  
841, §6, is further amended to read:

4           **2. Maine assets.** "Maine assets" means, for any taxable  
6           year for any taxable entity other than a financial institution  
7           for which the State is not the home state, a taxable entity's  
8           total end-of-year end-of-year assets as required to be reported  
9           pursuant to the laws of the United States on Internal Revenue  
10           Service Form 1120, Schedule L, except for tangible personal  
11           property and real property located outside the State, loans  
12           secured by real or tangible personal property located outside the  
13           State, loans not secured by real or tangible personal property if  
14           the customer's billing address is outside the State and credit  
15           card receivables if the customer's billing address is outside the  
16           State. For any financial institution for which the State is not  
17           the home state and that operates a branch in this State and is  
18           authorized to do the business of banking in this State pursuant  
19           to Title 9-B, section 131, subsection 17-A, "Maine assets"  
20           include real and tangible personal property located in the State,  
21           loans secured by real or tangible personal property located in  
22           the State, loans not secured by real or tangible personal  
23           property if the customer's billing address is in the State and  
24           credit card receivables if the customer's billing address is in  
25           the State. The term includes, in the case of a unitary business,  
26           the tangible personal property and real property located in the  
27           State of any member of the affiliated group ~~which that~~ is not  
28           subject for the taxable year to taxation under Part 8. This  
29           property in the possession of a taxable entity at year-end and  
30           located in the State is to be reported as a Maine asset by the  
31           possessor taxable entity.

32           **Sec. 36. 36 MRSA §5206-B, sub-§4**, as repealed and replaced by  
33           PL 1985, c. 783, §35, is amended to read:

34           **4. Taxable entity.** "Taxable entity" means any financial  
35           institution, including any federally chartered financial  
36           institution authorized to do business in this State, except a  
37           credit union, ~~--and;~~ any service corporation or subsidiary as  
38           defined in Title 9-B, section 131 ~~and;~~ any financial institution  
39           holding company as defined in Title 9-B, section 1011, ~~except~~  
40           that "control," as defined in Title 9-B, section 1011, shall-mean  
41           subsection 4, means ownership of more than 50% of the voting  
42           stock owned directly or indirectly, ~~which that~~ is organized under  
43           the laws of this State or authorized to do business in this  
44           State, ~~--which;~~ or any financial institution for which Maine is not  
45           the home state and that operates a branch in this State and is  
46           authorized to do the business of banking in this State pursuant  
47           to Title 9-B, section 131, subsection 17-A, that at any time  
48           during the taxable year realized Maine net income or had Maine  
49           assets.  
50

2

## STATEMENT OF FACT

4

6       The report of the Maine Task Force on Interstate Banking and  
8       Branching, dated November 30, 1995, recommends action the State  
10       should take in response to the federal Riegle-Neal Interstate  
12       Banking and Branching Act of 1994 to permit interstate branching  
14       in this State. The report contains numerous recommendations for  
16       legislation to enact the necessary statutory authority and  
18       safeguards. This bill contains those provisions.

12

14       The bill makes the necessary changes to definitions in the  
16       Maine Banking Code to conform to Riegle-Neal and other changes  
18       being proposed in this bill.

16

18       The bill makes the necessary changes to examination and  
20       enforcement provisions of the Maine Banking Code to provide for  
22       the regulation of the financial industry in an interstate  
24       branching environment. Changes include authorizing the Bureau of  
26       Banking to engage in joint examinations, exchange of information  
28       and contracting with other state or federal regulatory agencies  
30       in order to alleviate regulatory burden; expanding cease and  
32       desist and officer removal authority to ensure that interstate  
34       branch operations comply with state laws; prohibiting the  
36       interstate operation of a deposit production office and reporting  
38       requirements to monitor compliance; and establishing a 30% limit  
40       on deposits that may be acquired through merger or acquisition by  
42       a financial institution doing business in the State.

30

32       The bill authorizes interstate branching through  
34       establishment, acquisition or interstate merger, effective  
36       January 1, 1997. This permits an interstate merger, with the  
38       operation of interstate branches. It also permits the  
40       acquisition of a branch only, and de novo establishment of an  
42       interstate branch, but only on a reciprocal basis.

38

40       The bill permits state-chartered banks to act as agent for  
42       other financial institutions, which establishes parity with the  
44       new powers provided to federally chartered banks by Riegle-Neal.

42

44       The bill also makes technical changes to Maine banking and  
46       bank holding company laws to conform to Riegle-Neal and other  
48       changes being proposed in this bill.

46

48       The bill also makes technical changes to the Maine franchise  
tax laws to ensure that interstate branches are subject to the  
franchise tax.