

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 159

S.P. 49

In Senate, January 14, 1997

An Act to Clarify the Parity Provision in Maine Banking Law.

(EMERGENCY)

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

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

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator ABROMSON of Cumberland.

Cosponsored by Senator MURRAY of Penobscot, Representatives: MAYO of Bath, VIGUE of Winslow.

OFFICE OF THE REVISOR OF STATUTES

BILL DRAFT SUMMARY

LR #: 138 ITEM #: 1 TYPE: O

(EMERGENCY)

TITLE:

An Act to Clarify the Parity Provision in Maine Banking Law

SPONSOR: Sen. ABROMSON of Cumberland

COSPONSORS:

LEGEND: Submitted by the Department of
Professional and Financial Regulation
pursuant to Joint Rule 204.

AUTHORITY FOR INTRODUCTION: DPT

DATE/TIME LAST PRINTED: 01/13/97 12:37

LAST ACTION: ULT/GONE 01/10/97

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, while Maine law encourages parity between state and federally chartered financial institutions, it is unclear whether current parity provisions would permit state-chartered financial institutions the same powers as are accorded federally chartered financial institutions; and

Whereas, the majority of Maine's banking assets are in state-chartered financial institutions, and it is essential to the economy of Maine that state-chartered financial institutions have the same powers and abilities as federally chartered financial institutions; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 9-B MRSA §416, as enacted by PL 1975, c. 500, §1, is amended to read:

§416. Powers of federally chartered institutions

To the extent authorized by the superintendent pursuant to regulations Notwithstanding any other provisions of law, a financial institution shall have has the power to engage in any activity which that financial institutions chartered by or otherwise subject to the jurisdiction of the Federal Government may hereafter be authorized to engage in by federal legislation or regulations issued pursuant to such legislation. In the event any law of this State is preempted or declared invalid by a court of competent jurisdiction or by the responsible federal chartering authority, pursuant to applicable federal law, with respect to any power that may be exercised by a financial institution chartered by or otherwise subject to the jurisdiction of the Federal Government, that law is invalid with respect to financial institutions authorized to do business in this State. The superintendent may adopt rules to carry out the purposes of this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 2. 9-B MRSA §828, as enacted by PL 1975, c. 500, §1, is amended to read:

2 **§828. Powers of federally-chartered credit unions**

4 To the extent authorized by the superintendent pursuant to
6 regulations Notwithstanding any other provisions of law, a credit
8 union shall have has the power to engage in any activity which
10 that a credit union chartered by or otherwise subject to the
12 jurisdiction of the Federal Government may hereafter be
14 authorized to engage in by Federal legislation or regulations
16 issued pursuant to such legislation. In the event any law of
18 this State is preempted or declared invalid by a court of
20 competent jurisdiction or by the responsible federal chartering
authority, pursuant to applicable federal law, with respect to
any power that may be exercised by a credit union chartered by or
otherwise subject to the jurisdiction of the Federal Government,
that law is invalid with respect to credit unions authorized to
do business in this State. The superintendent may adopt rules to
carry out the purposes of this section. Rules adopted pursuant
to this section are routine technical rules as defined in Title
5, chapter 375, subchapter II-A.

22 **Emergency clause.** In view of the emergency cited in the
24 preamble, this Act takes effect when approved.

26 **SUMMARY**

28 In 1996, the U.S. Supreme Court decided Barnett Bank of
30 Marion County, N.A. v. Nelson, holding that national banks may
32 sell insurance in the manner provided for under the National
34 Banking Act, despite state laws to the contrary. This bill
36 amends the Maine Banking Code to clarify the parity provisions to
38 ensure that state-chartered financial institutions are permitted
40 to engage in any and all activities that are permitted for
42 federally chartered financial institutions, including the sale of
insurance, notwithstanding any other provision of state law
including, but not limited to Maine Revised Statutes, Title 24-A,
section 1514-A. It also serves to clarify that any state law
preempted in its application to the powers that may be exercised
by a federally chartered financial institution must be
automatically preempted in its application to financial
institutions authorized to do business in this State.

44 This bill also authorizes the Superintendent of Banking to
46 adopt rules to carry out the purposes of Title 9-B, sections 416
48 and 828, and to ensure that all such activities engaged in by
state-chartered financial institutions are carried out in a safe
and sound manner and with sufficient consumer protections.