

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 1719

S.P. 595

In Senate, March 9, 1999

**An Act to Amend the Maine Banking Code Regarding Extensions of  
Credit.**

(EMERGENCY)

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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 Representative SAXL of Bangor and  
Senator LaFOUNTAIN of York, Representatives: MAYO of Bath, PERRY of Bangor,  
SULLIVAN of Biddeford.

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

4  
6           Whereas, without the proposed change, Maine-based lenders  
may suffer competitive losses to out-of-state financial  
corporations; and

8  
10          Whereas, Maine companies that would prefer to do business  
with local lenders are forced to use other financial  
organizations; and

12  
14          Whereas, Maine lenders are ready and able to serve these  
Maine businesses but for the restraints resulting from the  
current Maine banking law; and

16  
18          Whereas, this current Maine banking law was passed prior to  
Maine's many recent banking code changes regarding interstate  
banking; and

20  
22          Whereas, this legislation would amend Maine law so that  
Maine's Superintendent of Banking may waive certain requirements  
that predate these changes to Maine's banking code; and

24  
26          Whereas, without this legislation Maine-based lenders would  
continue to see loan business move to out-of-state financial  
organizations; and

28  
30          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  
32 necessary for the preservation of the public peace, health and  
safety; now, therefore,

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

36           **Sec. 1. 9-B MRSA §439-A, sub-§2,** as amended by PL 1997, c.  
38 398, Pt. I, §25, is further amended to read:

40           **2. Limitations.** A financial institution subject to this  
Title or a service corporation established pursuant to section  
42 445 may not make loans or extensions of credit outstanding at one  
time to a person in excess of 20% of its total capital. ~~Total~~  
44 Except as provided in paragraph A, total loans or other  
extensions of credit in excess of 10% of total capital must be  
46 approved by a majority of the governing body or the executive  
committee of that institution or corporation. Any loan made in  
48 violation of this section is subject to the remedies prescribed  
in section 465-A.

50

2 A. The superintendent may grant a partial or full waiver of  
4 the voting requirement for loans or other extensions of  
6 credit in excess of 10% of total capital for good cause  
8 shown. In granting this waiver, the superintendent shall  
10 consider capital, management and resources of the financial  
12 institution or other relevant factors as determined by the  
14 superintendent.

16 B. Any waiver granted pursuant to paragraph A may be  
18 withdrawn by the superintendent upon written notice to the  
20 financial institution.

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

### 26 SUMMARY

28 This bill authorizes the Superintendent of Banking to grant  
a partial or full waiver to the requirement that a financial  
institution making loans or extensions of credit in excess of 10%  
of total capital must be approved by the governing body or  
executive committee of that institution or corporation.

There is no waiver provision for the prohibition against a  
financial institution making loans to one person in excess of 20%  
of its total capital. Also, the waiver may be withdrawn by the  
superintendent upon written notice to the financial institution.