

# MAINE STATE LEGISLATURE

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SEVENTY-FIFTH LEGISLATURE

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HOUSE

NO. 196

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*House of Representatives, Feb. 14, 1911.*

*Introduced by Mr. Woodside of Webster, who moved its reference to the Committee on Banks and Banking. By him tabled for printing pending reference to a committee.*

*C. C. HARVEY, Clerk.*

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STATE OF MAINE

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IN THE YEAR OF OUR LORD ONE THOUSAND NINE  
HUNDRED AND ELEVEN.

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AN ACT relating to Investments by Savings Banks.

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

Section I. Chapter forty-eight, Section twenty-three, 2 sub-division third, clause f of the Revised Statutes as 3 amended by Chapter 149 of the Public Laws of 1909, is 4 hereby amended by substituting in place thereof the fol- 5 lowing:

‘f. In the bonds of street railroads constructed in this 7 State prior to April 27, 1895, and in the bonds of such 8 street railroads constructed since said date; provided, that 9 in the case of street railroads constructed since that date 10 an amount of capital stock equal to thirty-three and one-

11 third per cent. of the mortgaged debt shall have been paid  
12 in, in cash, and expended upon the road, in addition to the  
13 amount of the bonded debt, or that annual dividends in  
14 amount equal to five per cent. per annum on an amount of  
15 capital stock equal to one-third of the bonded debt has been  
16 earned and paid for a period of five years next prior there-  
17 to, evidenced by a certificate of such fact or facts of the  
18 railroad commissioners, or other board or commission hav-  
19 ing jurisdiction over street railroads in this State filed in  
20 the office of the Secretary of State.'

Sect. 2. Section 5, Chapter 69 of the Public Laws of  
2 1907, being clause g of said sub-division third as amended,  
3 is hereby amended by inserting the word 'and' between the  
4 letters "b" and "c" and striking out the word and letter  
5 "and f" following the letter "c" in the third line thereof,  
6 so that the clause as amended shall read:

'g. In consolidated or refunding bonds, which are of an  
8 issue to retire the entire funded debt under the conditions  
9 as applied to first mortgage bonds in clauses b and c of this  
10 sub-division, and which are secured by a first mortgage on  
11 the whole or any part of the system.'

Sect. 3. Said sub-division third is hereby further amend-  
2 ed by adding thereto under the designation clause h the  
3 following:

'h. In the bonds of the public service corporations lo-  
5 cated and doing business outside of the State of Maine as  
6 described and limited below, to wit:

I. Any company supply artificial gas, electric light and  
8 power or electric railway facilities, or any combination  
9 of the above, the gross earnings of which as defined in this  
10 law shall in its last fiscal year preceding investment have  
11 amounted to not less than \$500,000, except that in the case  
12 of a company supplying electric light and power but not  
13 gas or electric railway facilities the company shall not com-  
14 ply with the requirements of this law unless at least one-  
15 half of its gross earnings shall have been derived from the  
16 sale of electric light.

II. Any company supplying telephone service under di-  
18 rect license from the American Telephone and Telegraph  
19 Company, the gross earnings of which as defined in this  
20 law shall in its last fiscal year preceding investment have  
21 amounted to not less than \$2,000,000.

Provided that any such company shall fulfill the following  
23 requirements.

1. It shall operate within the boundaries of one or more  
25 of the United States.

2. It shall not within a period of five years next pre-  
27 ceding investment have defaulted in the payment of any  
28 matured obligation.

3. It shall have had in each of its three fiscal years pre-  
30 ceding investment gross earnings as defined in this law  
31 equal in amount to not less than four times the amount of  
32 interest and rentals as defined in this law.

4. It shall have had in each of its three fiscal years pre-

34 ceding investment net earnings as defined in this law equal  
35 in amount to not less than one and three-quarters times the  
36 amount of interest and rentals as defined in this law.

5. Gross earnings shall be considered to mean the in-  
38 income received by a company from sources outside the  
39 company for the sale of product manufactured or service  
40 rendered. This shall include such income from all prop-  
41 erties operated whether owned, leased or controlled.

6. Net earnings shall be considered to mean the amount  
43 of gross earnings remaining after the subtraction of all  
44 operating expenses including maintenance charges and taxes  
45 to which amount shall be added income from sources other  
46 than operation.

7. In case of disagreement as to the correct statement  
48 of gross and net earnings, the Bank Commissioner may in  
49 his judgment require the earnings to be stated in accord-  
50 ance with any established standard of accounting which he  
51 may approve.

8. Interest and rentals shall be considered to include pay-  
53 ments of interest on all outstanding indebtedness and rent-  
54 als on all leased or controlled properties the earnings of  
55 which are included in the gross earnings of the company.

9. The bonds of any company which complies with the  
57 above requirements may be purchased provided that they  
58 are direct or assumed obligations of the company comply-  
59 ing and are of one of the following classes as defined be-  
60 low :

First mortgage bonds.

Refunding mortgage bonds.

Underlying bonds.

Guaranteed first mortgage bonds.

10. A first mortgage bond within the meaning of this  
66 act, shall have been at the time of its issue secured by a  
67 mortgage on the entire property owned in fee by the com-  
68 pany which issued such bonds; and at the time of invest-  
69 ment there shall be no lien on this property prior to such  
70 bond.

11. A refunding mortgage bond shall have been secured  
72 at the time of its issue by a mortgage on the entire prop-  
73 erty owned in fee by the company which issued such bond;  
74 it shall provide for the retirement of all bonds secured by  
75 prior lien on the property by which such bond is secured,  
76 and it shall mature at a date later than the maturity of any  
77 such prior liens.

12. An underlying bond is one for the retirement of  
79 which provision is made in a refunding mortgage. It must  
80 be a direct or assumed obligation of the company issuing  
81 the refunding mortgage or guaranteed by that company by  
82 endorsement as to both principal and interest.

13. A guaranteed first mortgage bond shall have been  
84 issued by a company the property of which is operated by  
85 the guaranteeing company and earnings of which are in-  
86 cluded in the gross earnings of the guaranteeing company.  
87 It shall be secured by a first mortgage as defined in this

88 law, and it shall be guaranteed as to principal and interest  
89 by endorsement by the guaranteeing company.

14. In the case of a company which has issued a refund-  
91 ing mortgage but does not comply with the requirements  
92 as to proportions of gross and net earnings to interest and  
93 rentals, the refunding mortgage and underlying bonds may  
94 nevertheless be eligible for investment, if in each of the  
95 last three fiscal years preceding investment the gross earn-  
96 ings and net earnings shall have been respectively four and  
97 one-half times and one and three-quarters times the amount  
98 of interest on the refunding bonds and underlying bonds;  
99 but if subsequently to the refunding mortgage property shall  
100 have been acquired subject to existing liens, the interest on  
101 these existing liens must be added to the amount of interest  
102 on the refunding and underlying bonds in determining the  
103 above proportion.

If such a company has no refunding mortgage, but has  
105 issued first mortgage bonds covering the entire property  
106 of the company, such first mortgage bonds may be eligible  
107 for investment if in each of the last three fiscal years the  
108 gross and net earnings have been respectively four and  
109 one-half times and one and three-quarters times the amount  
110 of interest on such first mortgage bonds.

15. In the case of a company which has issued a refund-  
112 ing mortgage but does not comply with the requirements  
113 as to proportions of gross and net earnings to interest  
114 and rentals, nor with the conditions stated in the preced-

115 ing paragraph, the first mortgage bonds underlying the  
116 refunding mortgage may nevertheless be eligible for invest-  
117 ment if in each of the last three fiscal years preceding invest-  
118 ment the gross and net earnings shall have been respectively  
119 five times and one and three-quarters times the interest on  
120 all such underlying bonds; provided further that the re-  
121 funding bonds shall be not less in amount than one-third  
122 the amount of all the underlying bonds and that the in-  
123 terest paid on the refunding bonds shall be not less in  
124 amount than one-third the interest on all the underlying  
125 bonds.

III. A savings bank may also invest in the bonds as de-  
127 scribed below of a company holding not less than ninety  
128 per cent. of the capital stock in a company or companies  
129 as already described. Such a company shall be termed  
130 in this law a holding company.

1. Provided that the company or companies controlled  
132 by the holding company shall operate in the same com-  
133 munity or shall provide a physical connection between com-  
134 munities.

2. Provided that the gross earnings from operation of  
136 the operating company or companies shall have amounted  
137 in the last fiscal year of the holding company to not less  
138 than \$500,000, or in the case of a telephone company to  
139 not less than \$2,000,000; and that the gross and net earn-  
140 ings from operation shall for the last three fiscal years  
141 preceding investment have amounted to not less than four



142 times and one and three-quarters times respectively the  
143 amount of interest and rentals paid by both holding and  
144 operating companies deducting payments by one company  
145 to another.

3. The bonds of a holding company as described above  
147 shall be eligible for investment if secured through the  
148 irrevocable pledge of collateral by a lien which gives in  
149 effect the same security as a first or refunding mortgage  
150 as defined in this law; and if an issue of bonds of such  
151 a holding company is secured by a lien which gives in ef-  
152 fect the same security as a refunding mortgage as defined  
153 in this law and provides for the retirement of bonds se-  
154 cured by prior liens, the bonds secured by such prior liens  
155 shall also be eligible for investment.

IV. If a company fails to comply in any fiscal year with  
157 the provisions as to the proportion of gross and net earn-  
158 ings to interest and rentals, the company's bonds shall  
159 not thereby cease to be a legal investment, though no more  
160 bonds of that company may be purchased during the next  
161 fiscal year of the company. If the company fails to com-  
162 ply for two successive fiscal years, its bonds shall then  
163 cease to be a legal investment until the company shall have  
164 fulfilled the original provisions of this law, but if the  
165 company complies again with a lapse of only one fiscal  
166 year, its bonds shall continue to be legal investments.

V. When three months have elapsed after the end of a  
168 company's fiscal year, no bank shall purchase bonds of  
169 that company unless the Bank Commissioner has received

170 satisfactory evidence that the company has complied dur-  
171 ing the fiscal year with the provisions of this law.

Sect. 4. Clause d, sub-division sixth, of said Section  
2 twenty-three, as amended by Section six, Chapter sixty-  
3 nine of the Public Laws of 1907, is hereby amended by add-  
4 ing thereto the words, 'and in the equipment bonds or notes  
5 of any railroad included in sub-division third, clauses b and c  
6 of this section, which has earned net, for the three years  
7 last preceding such investment, after paying all operating  
8 expenses, maintenance charges, rentals, taxes and all in-  
9 terest and dividends guaranteed by it, at least twice the in-  
10 terest on all its outstanding obligations', so that said clause  
11 as amended shall read as follows:

'd. In the bonds, stocks or notes of any railroad in New  
13 England, which has earned and paid an annual dividend  
14 equivalent to five per cent on a capital stock equal to one third  
15 of its funded debt for a period of ten years next prior thereto,  
16 and in the stock or notes of the New York Central and  
17 Hudson River, the Illinois Central, the Lake Shore and  
18 Michigan Southern, and the Pennsylvania Railroad Com-  
19 panies, and in the equipment bonds or notes of any railroad  
20 included in subdivision third, clauses b and c, of this section,  
21 which has earned net, for the three years last preceding such  
22 investment, after paying all operating expenses, mainten-  
23 ance charges, rentals, taxes and all interest and dividends  
24 guaranteed by it, at least twice the interest on all its out-  
25 standing obligations.'

Sect. 5. Section eight, Chapter sixty-nine, of the Public Laws of 1907, is hereby repealed.

Sect. 6. Section fifty-three of said Chapter forty-eight is hereby amended by striking out the words “and this Chapter does not require the change of investments for those hereinbefore named, except as the same can be done gradually by the sale or redemption of the securities so invested in, in such manner as to prevent loss or embarrassment in the business of such corporation, or unnecessary loss or injury to the borrowers on such securities”, in lines thirteen to eighteen thereof, and inserting in place thereof the words, ‘and it shall be lawful for any savings bank or banks to purchase the identical investments now lawfully held by any other savings bank or banks, or any part thereof whether from such bank or banks or from any other person or corporation hereafter acquiring them, but not to purchase or hold any stocks, bonds, funds or other investments which do not comply with the provisions of Section twenty-three of this Chapter, as amended, even though they be of the same class, issue or character as those now owned and heretofore a legal investment’, so that said section as amended shall read as follows :

‘Sect. 53. The powers, privileges, duties and restrictions, conferred and imposed upon any savings corporation, by whatever name known, in its charter or act of incorporation, are so far abridged, enlarged or modified, that every such charter or act shall conform to this chapter ; and every

26 such corporation possesses the powers, rights and privileges,  
27 and is subject to the duties, restrictions and liabilities here-  
28 in conferred and imposed, anything in their respective char-  
29 ters or acts of incorporation to the contrary notwithstanding.  
30 But nothing herein affects the legality of investments made,  
31 of transactions had, or the payment of interest at a rate not  
32 exceeding six per cent on deposits made, prior to the divi-  
33 dend next following March eleven, eighteen hundred and  
34 seventy-seven. And all investments authorized by any law  
35 in force when such investments were made, or transactions  
36 had, are valid, and it shall be lawful for any savings bank  
37 or banks to purchase the identical investment now lawfully  
38 held by any other savings bank or banks, or any part thereof,  
39 whether from such bank or banks or from any other person  
40 or corporation hereafter acquiring them, but not to purchase  
41 or hold any stocks, bonds, funds or other investments which  
42 do not comply with the provisions of section twenty-three  
43 of this chapter, as amended, even though they be of the same  
44 class, issue or character as those now owned and heretofore  
45 a legal investment. Any investment in securities not named  
46 in section twenty-three, is a misdemeanor, on the part of the  
47 trustees authorizing, or officers making, the same; and such  
48 trustees or officers are subject to the prosecutions and pun-  
49 ishments prescribed by law for that offense.'