

# MAINE STATE LEGISLATURE

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# E I G H T Y - N I N T H   L E G I S L A T U R E

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**Legislative Document**

**No. 549**

H. P. 1310

House of Representatives, February 8, 1939.

Referred to Committee on Banks and Banking. Sent up for concurrence and 500 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Poulin of Rumford by request.

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## S T A T E   O F   M A I N E

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
THIRTY-NINE

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**AN ACT to Authorize the Incorporation of Credit Unions.**

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

**Sec. 1. Name; definition.** A corporation organized under this chapter shall include in its corporate name the words "credit union". Other distinguishing words may be used. The words "credit union" shall mean a corporation organized under this chapter or corresponding provisions of earlier laws, and, unless the context otherwise requires, the word "commissioner" shall mean the commissioner of banks.

**Sec. 2. Incorporation, etc.** Twenty or more persons, resident of this state, who have associated themselves by a written agreement with the intention of forming a corporation for the purpose of accumulating and investing the savings of its members and making loans to them for provident purposes, may, with the consent of the commissioner of banks, become such a corporation upon complying with the following section. The said commissioner may grant such consent **when** satisfied that the proposed field of operation is favorable to the **success** of such corporation, and that the standing of the proposed incorporators is such as to give assurance that its affairs will be administered in accordance with the spirit of this chapter. A credit union shall organize and commence business within 6

months from the date of its incorporation, otherwise its charter shall become void.

**Sec. 3. Law applicable to credit unions.** Credit unions shall be organized under the provisions, so far as applicable, of section 8 and subsequent sections of chapter 56 of the revised statutes, and additions thereof, and amendment thereto, except that the fee for filing and recording the articles of organization, including the issuing by the state secretary of the certificate of incorporation, shall be \$5. So much of chapter 57 of the revised statutes as amended, as relates to supervision by the commissioner shall apply to credit unions so far as applicable.

To defray in part the expenses of each regular examination of a credit union, which examination shall be made under the provisions of chapter 57 of the revised statutes, the credit union so examined shall pay a fee of 20c for each \$1,000 of assets shown by its statement of condition at the time of the examination, which fee shall in no event be less than \$10; provided, that no fee shall be collected hereunder from a credit union until it has been in operation for a period of 1 year. Such fee shall be payable within 30 days after notice from the commissioner.

**Sec. 4. Credit union banking restricted.** No person, partnership or association, and no corporation except one incorporated under this chapter shall hereafter receive payments on shares or deposits from its members and loan such payments on shares and deposits in the manner of a credit union or transact business under any name or title containing the words "credit union". Whoever violates any provision of this section shall be punished by a fine of not more than \$1,000, and the supreme judicial and superior courts shall have jurisdiction in equity, by any appropriate process to enforce the provisions of this section.

**Sec. 5. Fraternal organizations, voluntary associations, partnerships and corporations as limited members.** Any fraternal organization, voluntary association, partnership or corporation, having a usual place of business within the state and composed principally of individual members or stockholders who are themselves eligible to membership in a credit union, may become a member of a credit union, but, except with the consent of the commissioner, a credit union shall make no loan to such a member in excess of the total of its shares and deposits therein; nor shall a credit union receive from any such member money in payment for shares or on deposit to such an amount that the total of such payments by all members of the class described in this section shall exceed at any time 25% of the assets of the credit union.

**Sec. 6. Deposits and loans.** Subject to section 5, hereof, a credit union may receive savings of its members in payment for shares or on deposit or may lend to its members at reasonable rates or invest, as hereinafter provided, the funds so accumulated. It may undertake such other activities relating to the purpose of the association as its by-laws may authorize.

**Sec. 7. By-laws.** The shareholders of every such corporation shall make and adopt by-laws, consistent with law, for the government of its affairs. The by-laws shall provide for and determine—

- (a) The name of the corporation.
- (b) The purposes for which it is formed.
- (c) The condition of residence, occupation or association which qualify persons for membership.
- (d) The conditions on which shares may be paid in, transferred and withdrawn.
- (e) The conditions on which deposits may be received and withdrawn.
- (f) The method of receipting for money paid on account of shares or deposits or repaid on loans.
- (g) The number of directors and the number of members of the credit committee.
- (h) The time of holding regular meetings of the board of directors, the credit committee and the auditing committee.
- (i) The duties of the several officers.
- (j) The entrance fees, if any, to be charged.
- (k) The fines, if any, to be charged for failure to meet obligations to the corporation punctually.
- (l) The date of the annual meeting and the manner in which members shall be notified of all meetings.
- (m) The number of members who shall constitute a quorum at all meetings.
- (n) Such other regulations as may be deemed to be necessary.

**Sec. 8. Amendment to by-laws.** Subject to section 9, hereof, the by-laws may be amended at any annual meeting or at a special meeting, called for the purpose, by a  $\frac{3}{4}$  vote of all the members present and entitled to vote; provided, that a copy of the proposed amendment, together with a written notice of the meeting, shall have been sent to each member or handed to him in person at least 7 days prior to said meeting.

**Sec. 9. Approval by commissioner.** No credit union shall receive any

deposits or payments on account of shares, or make any loans, until its by-laws have been approved in writing by the commissioner, nor shall any amendments to its by-laws become operative until they have been so approved.

**Sec. 10. Capital.** The capital of a credit union shall be unlimited in amount and shall consist of shares and deposits. Shares of capital stock may be subscribed for and paid for in such manner as the by-laws shall prescribe; provided, that the par value of the shares shall be \$5. Section 36 of chapter 57 of the revised statutes, shall also apply to credit unions, subject to the limitations as regards shares and deposits herein provided. A shareholder may purchase and hold not exceeding 400 shares in a credit union and may also make deposits in such credit union to an amount not exceeding \$2,000, which deposits, together with the addition of interest thereon and dividends on shares, may accumulate to an amount not exceeding \$3,000; provided, that the total amount of shares and deposits held by any one member in any one credit union including the afore-said accumulations, shall not exceed \$4,000 in the aggregate; and provided further, that in the event that the by-laws of a credit union do not provide for the receipt of deposits, a shareholder may purchase not exceeding 800 shares in such credit union. A credit union may require from a member 90 days notice of his intention to withdraw any or all of his shares and 60 days notice of his intention to withdraw any or all of his deposits. Section 25 of chapter 57 of the revised statutes shall apply to credit unions.

**Sec. 11. Shares may be issued to minors, etc.** Shares may be issued and deposits received in the name of a minor, and such shares and deposits may, in the discretion of the directors, be withdrawn by such minor or by his parent or guardian, and in either case payments made on such withdrawals shall be valid and shall release the corporation from liability to the minor, parent, or guardian in respect to such shares and deposits. A minor under 18 shall not have the right to vote.

**Sec. 12. Fiscal year.** The fiscal year of every credit union shall end at the close of business on the last business day of October.

**Sec. 13. Meetings.** The annual meeting of the corporation shall be held at such time and place as the by-laws prescribed, but not later than 30 days after the close of the fiscal year. Special meetings may be called at any time by a majority of the directors and shall be called by the clerk upon written application of 10 or more members entitled to vote. Notice of all meetings of the corporation and of all meetings of the board of directors and of committees shall be given in the manner prescribed in the by-laws.

No member shall be entitled to vote by proxy or have more than 1 vote, and, after a credit union has been incorporated for 1 year, no member thereof shall be entitled to vote until he has been a member for more than 3 months.

A fraternal organization, voluntary association, partnership, or corporation, having membership in a credit union may cast 1 vote at any of its meetings by a duly delegated agent.

The members at each annual meeting shall fix the maximum amount to be loaned to any one member and, upon recommendation of the board of directors, may declare dividends in accordance with section 25 of this act.

**Sec. 14. Directors.** The business and affairs of a credit union shall be managed by a board of not less than 11 directors unless the number of members of such union is less than 11. The directors shall be elected at the annual meetings. All members of the said board, as well as the officers whom they may elect, shall be sworn to the faithful performance of their duties, and shall hold their several offices unless sooner removed as hereinafter provided, until their successors are qualified. A record of every such qualification shall be filed and preserved with the records of the corporation. Directors shall be elected for not less than 1 or more than 3 years, as the by-laws shall provide. If the term is more than 1 year, they shall be divided into classes, and an equal number, as nearly as may be, elected each year. If a director ceases to be a member of the credit union, his office shall thereupon become vacant.

**Sec. 15. Election of officers; committees; bonds.** The directors at their first meeting after the annual meeting shall elect from their own number a president, one or more vice presidents, a clerk, a treasurer, a credit committee of not less than 3 members, an auditing committee of 3 members, and such other officers as may be necessary for the transaction of the business of the credit union, who shall be the officers of the corporation and who shall hold office until their successors are qualified, unless sooner removed as hereinafter provided. The offices of clerk and treasurer may be held by the same person. No member of the said board of directors shall be a member of both the credit and the auditing committee unless the number of members of the credit union is less than 11. The treasurer and all other officers and employees of a credit union having access to the cash or negotiable securities in its possession shall each give a bond to the directors in such amount and with such surety or sureties and conditions as the commissioner may prescribe, and shall file with him an attested copy thereof, with a certificate of its custodian that the original is in his possession, and the provisions of section 17 of chapter 57 of the revised

statutes, relative to bonds of officers of savings banks shall apply to bonds given hereunder so far as applicable. The treasurer and any other officers and employees required to give bond, may be included in one or more blanket or schedule bonds.

Subject to the approval of the commissioner of insurance as to the form and conditions thereof, a schedule bond may be issued to an association of credit unions covering the officers and employees of the credit unions which are members of such association.

**Sec. 16. Powers and duties of directors.** The board of directors shall have the general direction of the affairs of the corporation and shall meet as often as may be necessary, but not less than once each month. It shall act upon all applications for membership and upon the expulsion of members; determine the rate of interest on loans subject to the limitations contained in this chapter; shall decide on all applications for real estate mortgage loans after receipt of the certification by the credit committee of the application in the manner hereinafter provided; shall determine the rate of interest to be paid on deposits which shall not, however, exceed 6% per annum and shall fill vacancies in the board of directors and committees until the next annual election. It shall make recommendations to the members of the credit union relative to the maximum amount to be loaned to any one member; the advisability of declaring a dividend and the amount to be declared; the need of amendments to the by-laws, and other matters upon which, in its opinion, the members should act at any regular or special meeting. The board of directors, with the approval of the commissioner, may borrow money for and in behalf of the credit union. It may by a 2/3 vote remove from office for cause any officer or any member of any committee.

**Sec. 17. Powers and duties of the auditing committee.** The auditing committee shall keep fully informed at all times as to the financial condition of the credit union; shall examine carefully the cash and accounts of the credit union monthly; shall certify the monthly statements submitted by the treasurer; shall make a thorough audit of the books, including income and expense, semi-annually; and shall report to the board of directors its findings, together with its recommendations. It shall, under regulations prescribed by the commissioner, cause to be verified the pass books of the credit union at least once in every 3 years. It shall hold meetings at least once each month, shall keep records thereof and shall make an annual report at the annual meeting.

**Sec. 18. Directors not to receive compensation, etc.; compensation of officers.** No member of the board of directors shall receive any compensa-

tion for his services as a member of the said board or as a member of any committee, nor shall any member of the said board borrow from the corporation to an amount in excess of the total of his shares and deposits in said credit union and the accumulated earnings standing to his credit thereon on the books of the corporation, unless approved by vote of  $\frac{2}{3}$  of the other members of the said board. No member of said board shall become surety or co-maker for any loan. The officers elected by the board may receive such compensation as it may authorize subject to the approval of the members at the next annual meeting or at a special meeting called for the purpose.

**Sec. 19. Guaranty fund.** Before the payment of an annual or semi-annual dividend there shall be set apart as a guaranty fund not less than 10% of the gross income which has accumulated during the next preceding dividend period, except as hereinafter provided, until such time as said guaranty fund shall equal 15% of the assets of the said credit union; and thereafter there shall be added to the guaranty fund at the end of each such period such percentage of the gross income which has accumulated during that period as will result in maintaining such guaranty fund at such amount. All entrance fees shall be added to the guaranty fund at the close of the dividend period. Said guaranty fund and the investments thereof shall be held to meet contingencies or losses in the business of the credit union, and shall not be distributed to its members, except in case of dissolution.

**Sec. 20. Liability of certain endorsers upon notes, etc.; authorization of establishment of contingent funds.** The by-laws of a credit union may provide that upon the death of a borrower by means of a personal loan upon his note, with an endorser or endorsers, but otherwise unsecured, the liability of any endorser shall cease with respect to the unpaid balance of such loan and any loss thereon may be charged to a contingent fund, which fund shall be created and thereafter maintained by such credit union by contributions from undivided earnings, current earnings or from the borrowers, as determined by the board of directors; provided, that the operation of such a provision of the by-laws shall not, in any calendar year, result in charges to the contingent fund in excess of 10% of the guaranty fund in addition to the unexpended balance of contributions by borrowers. Each charge to the contingent fund shall be reported within 10 days thereafter to the commissioner, who may make such order regarding the operation of the contingent fund as he may deem advisable.

**Sec. 21. Reserve fund.** If the losses and bad debts of a credit union at the end of any dividend period exceed 20% of the guaranty fund, includ-



ing in said term the amount required by law to be contributed at the end of that period to said fund, there shall thereafter be maintained a reserve fund which shall before the payment of a dividend be made equal, by payments from the earning of that period, to the amount by which the losses and bad debts at the end of that period exceed 20% of the guaranty fund, including the aforesaid contribution for that period; provided, that the excess in any subsequent period over the amount required to be maintained for that period as a reserve fund may be transferred from such fund and made available for the payment of dividends. All debts due to any credit union on which interest or partial payments on the principal are due and unpaid for a period of 6 months, unless the same are well secured and in process of collection, shall be considered bad debts within the meaning of this section.

**Sec. 22. Impairment of capital.** Whenever in the opinion of the commissioner the losses and bad debts of a credit union are of such an amount as seriously to impair its capital, he may require that such credit union deduct from each share account therein a specified percentage thereof, sufficient in the aggregate to correct the impaired condition, and set up the amounts so deducted in a reserve account for the general purposes of the credit union. Following receipt of written notice of such a requirement from the commissioner and until such deductions have been made, such credit union shall not accept receipts for, or allow withdrawals, from, share or deposit accounts, transfer any shares to deposits or offset any loans against shares.

**Sec. 23. Investment of funds.** The capital, deposits and surplus of a credit union shall be invested in loans to members, with approval of the credit committee, as provided in the following section, and also when so required herein, of the board of directors; and any capital, deposits or surplus funds in excess of the amount for which loans shall be approved by the credit committee and the board of directors, may be deposited in savings banks or trust companies incorporated under the laws of this state, or in national banks located therein, or invested in any bonds, notes of the United States or of any state or subdivision thereof, of bankers' acceptances, which bonds, notes or bankers' acceptances are at the time of their purchase legal investments for savings banks in this state; or in the shares of co-operative banks incorporated in this state. At least 5% of the total assets of a credit union shall be carried as cash on hand or as balances due from banks and trust companies, or invested in the bonds or notes of the United States, or of any state or subdivision thereof, which are legal investments for savings banks as above specified, provided that such bonds,

notes or shares are the absolute property and under the control of such credit union. Whenever the aforesaid ratio falls below 5%, no further loans shall be made until the ratio as herein provided has been re-established. Investments, other than personal loans, shall be made only with the approval of the board of directors.

**Sec. 24. Powers and duties of credit committee.** The credit committee shall:

- (a) Hold meetings at least one in each month;
- (b) Act on all applications for loans;
- (c) Approve in writing all personal loans granted and the security, if any, pledged therefor; and
- (d) Submit to the board of directors all applications for loans to be secured by mortgages of real estate, with their recommendations thereon, which shall include a certificate as to their best judgment of the value of the real estate involved.

No personal loan shall be made unless all of the members of the credit committee who are present when the application is considered, which number shall constitute at least  $\frac{2}{3}$  of the members of said committee, approve said loan. No loan shall be granted unless the members of said committee are satisfied that the loan promises to be of benefit to the borrower.

**Sec. 25. Applications for loans.** All applications for loans shall be made in writing and shall state the purpose for which the loan is desired and the security, if any, offered.

The form of application for a loan to be secured by a mortgage of real estate shall contain—

- (a) The date.
- (b) The name of the applicant.
- (c) The name of the husband or wife of the applicant, if any.
- (d) The amount of loan desired.
- (e) Assessed value of the real estate in question.
- (f) A statement of all balances due of any mortgages outstanding against said real estate.
- (g) The income from said real estate.
- (h) A description of said real estate.
- (i) Such other information as the board of directors may require.

**Sec. 26. Loans.** A credit union may make loans of the following classes to its members:

- (a) Personal loans secured by the note of the borrower; and

(b) Loans secured by mortgages of real estate situated within the state.

Personal loans shall always be given the preference, and in the event there are not sufficient funds available to satisfy all loan applications approved by the credit committee, preference shall be given to the smaller loan.

#### (A) Personal Loans

Each personal loan shall be payable within 1 year from the date thereof and shall be paid or renewed on or before such date.

Each endorser of a note given as security for a personal loan shall be a resident of the state at the time the loan is made, unless such endorser is a member of the credit union.

Each personal loan shall be limited as follows:

1. To an amount not exceeding \$100, if secured by the unendorsed and unsecured note of the borrower.

2. To an amount not exceeding \$300, if secured by the note of the borrower with 1 or more responsible endorsers thereon, or with satisfactory collateral pledged to secure the same, or if secured by the joint and several note of 2 or more members.

3. To an amount not exceeding \$1000, if secured by the note of the borrower with 2 or more responsible endorsers thereon, or with satisfactory collateral pledged to secure the same, or if secured by the joint and several note of 3 or more members.

4. To an amount not exceeding \$1500 if secured, by the note of the borrower with 2 or more responsible endorsers thereon or by a joint and several note of 3 or more members, and, in either case, with collateral valued at not more than 80% of its market value, pledged fully to secure the same.

5. To an amount not exceeding \$3000, if secured by the note of the borrower and with sufficient collateral pledged to secure the same made up to bonds or notes of the United States, or of any state or subdivision thereof, which are legal investments for savings banks in this state valued at not more than 80% of their market value, or by the assignment of the pass book of a depositor in a savings bank doing business in any of the New England states or in the savings department of a trust company or national bank doing business in this state, or the pass book of a depositor in a cooperative bank or any other banking institution doing business in the state.

6. To an amount not exceeding the value of the shares and deposits of the borrower in the credit union, if secured by the note of the borrower and by an assignment of said shares and deposits.

For the purpose of this section, an assignment of wages may be received as satisfactory collateral for any loan not in excess of \$250.

The amount of a loan under paragraph 2, 3, 5 or 6 secured by an unendorsed note of the borrower may, in the discretion of the credit committee, exceed by not more than \$100 the amount warranted, in their opinion, by the value of the collateral offered as security for the loan; but the total amount of any such loan shall not exceed the amount stated in the paragraph under which the loan is made.

### **(B) Loans Secured by Mortgages of Real Estate**

The total amount which a credit union may invest in loans secured by mortgages of real estate, both first and subsequent, shall not exceed 70% of the aggregate amount of the shares, deposits and guaranty fund, provided, that in credit unions having assets of less than \$75,000, the total amount so invested shall not exceed 50% of such aggregate amount. All loans secured by mortgages of real estate shall be subject to the following restrictions:

1. The total liability of any member upon loans of this class shall not exceed 5% of the assets of the credit union, nor shall it exceed \$8,000.
2. A loan secured by a first mortgage of real estate shall not exceed 60% of the value of the property mortgaged, as determined by the credit committee, except as hereinafter provided.
3. The aggregate of all loans secured by mortgages of real estate outstanding, whether held by the credit union or not, shall not exceed 80% of the value of the property mortgaged, as determined by the credit committee; provided, that any loan held which exceeds 60% of the value of the property mortgaged, as herein determined, whether written on demand or on time, shall be amortized by weekly, monthly or quarterly payments, such payments being at the rate of at least 6% per annum until such loan is reduced to said 60%.

**Sec. 27. Dividends.** At the annual meeting, and if it is provided in the by-laws that a dividend shall be paid semi-annually, at a meeting during the month of May in each year, a dividend may be declared from the earnings which have actually been collected during the dividend period next preceding and which remain after the deduction of all expenses, interest on deposits and the amounts required to be set apart to the guaranty fund and to the reserve fund, or such dividend may be declared in whole or in part from the undivided earnings of preceding years remaining after the aforesaid deductions for said years.

Such dividends shall be paid on all fully paid shares outstanding at the close of the dividend period, but shares which become fully paid during such dividend period shall be entitled only to a proportional part of said dividend, calculated from the first day of the month following such payment in full. Dividends due to a member shall, at his election, be paid to him in cash or be credited to his account in either shares or deposits.

No dividend exceeding 8% per annum shall be paid until such time as the guaranty fund shall equal 15% of the assets as hereinbefore provided, after which time special dividends may be declared from surplus earnings on recommendation of the board of directors.

**Sec. 28. Lost pass books, etc.** Section 26 of chapter 57 of the revised statutes shall apply to the pass books of credit unions.

**Sec. 29. Report to commissioner.** Within 20 days after the last business day of December in each year, every credit union shall make to the commissioner a report in such form as he may prescribe, signed by the president, treasurer and a majority of the auditing committee, who shall make oath that the report is correct according to their best knowledge and belief. Any credit union neglecting to make said report within the time herein prescribed shall forfeit to the state \$5 for each day during which such neglect continues.

**Sec. 30. Expulsion of members.** The board of directors may expel from a credit union any member who has not carried out his engagements with it, or who has been convicted of a criminal offense, or who neglects or refuses to comply with the provisions of this chapter or of the by-laws of the credit union, or whose private life is a source of scandal, or who habitually neglects to pay his debts, or who becomes insolvent or bankrupt, or who has deceived the corporation or any committee thereof with regard to the use of borrowed money; but no member shall so be expelled until he has been informed in writing of the charges against him, and an opportunity has been given him, after reasonable notice, to be heard thereon.

The amounts paid in on shares or deposited by members who have withdrawn or have been expelled shall be paid to them, in the order of withdrawal or expulsion, but only as funds therefore become available and after deducting any amounts due from such members to the credit union. Such expulsion shall not operate to relieve a member from any outstanding liability to the credit union.

**Sec. 31. Liquidation.** At any regular or special meeting, if proper notice of the purpose has been given, the members, upon recommendation of not less than 2/3 of the board of directors, may, by a 2/3 vote of those

present and entitled to vote, vote to liquidate the credit union. A committee of 3 members shall thereupon be elected for the purpose of conserving and liquidating the assets, under the direction of the commissioner. Any vacancy in the membership of the committee shall be filled by the remaining members thereof. The committee, in the name of the credit union, may prosecute and defend all suits and other legal proceedings and may execute all deeds and other instruments necessary to effectuate any sale of real or personal property or any compromise authorized by the committee; and any instrument so executed shall be valid and effectual to the same extent as though executed by the officers of the credit union by authority of its board of directors or of its members. After the credit union has voted to liquidate, no receipts shall be accepted for, or withdrawals be allowed from, its share or deposit accounts and no shares shall be transferred to deposits. No loans shall be offset against shares except as approved by the committee. After the payment of all debts and deposits, all holders of claims arising out of the ownership of shares, including persons who have not received payment for shares after requesting the withdrawal thereof, shall be entitled to the remaining assets in liquidation in proportion to their respective interests therein. The charter of a credit union in process of liquidation shall become void except for the purpose of discharging existing obligations and liabilities.

Funds representing unclaimed dividends in liquidation and remaining in the hands of the liquidating committee for 6 months after the date of the final dividend, shall be deposited by them, together with all books and papers of the credit union, with the commissioner. Such funds shall be deposited in one or more trust companies, savings banks or national banks to the credit of the commissioner in his official capacity in trust for the members of the liquidating credit union entitled thereto, according to their several interests. Upon receipt of evidence satisfactory to him the commissioner may pay over the money so held by him to the persons respectively entitled thereto.

In cases of doubt or of conflicting claims, he may require an order of the supreme judicial court authorizing and directing the payment thereof. He may apply the interest earned by the moneys so held toward defraying the expenses incurred in the payment of such unclaimed dividends. At the expiration of 12 months from the date of receipt thereof such funds as still remain in the hands of the commissioner shall be disposed of as provided in section 53 of chapter 57 of the revised statutes.

**Sec. 32. Shares not taxable, etc.** Credit union shares shall be tax

exempted, and no taxes, or charges, except as hereinbefore provided, shall be assessed against them.

**Sec. 33. Federal credit unions may become state credit unions.** Credit unions now existing in the state of Maine, organized under federal law, may become subjected to this chapter by application, and conformity with the rules contained herein.