LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

One Hundred and Sixth Legislature

1ST SPECIAL SESSION

JANUARY 2, 1974 TO MARCH 29, 1974

AND BY THE

One Hundred and Seventh Legislature

REGULAR SESSION

JANUARY 1, 1975 TO JULY 2, 1975

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN ACCORDANCE WITH THE REVISED STATUTES OF 1964, TITLE 3, SECTION 164, SUBSECTION 6.

THE KNOWLTON AND MCLEARY COMPANY
FARMINGTON, MAINE
1975

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

One Hundred and Seventh Legislature

1975

[DUE TO ITS SIZE, THIS LAW HAS BEEN DIVIDED INTO TWO ELECTRONIC FILES. THIS IS THE SECOND FILE.]

CHAPTER 36

CONSERVATION, LIQUIDATION AND INSOLVENCY

§ 361. Applicability of chapter

The provisions of this chapter shall apply to savings banks, trust companies, savings and loan associations, and industrial banks organized under the laws of this State.

§ 362. Payments restrained to preserve assets or protect depositors

1. Application to court. Whenever it may become necessary to preserve the assets or protect depositors in a financial institution, the Superior Court may, on application by the superintendent, the directors of such institution, or ¾ of its depositors, members or stockholders, after due notice, issue an order restraining the institution from paying out its funds or any portion thereof or from declaring or paying any dividends or deposits for such time as the court shall deem advisable.

2. Authority of court. The court may at any time revoke or modify the original order and authorize the institution to pay dividends upon its deposits, or pay any portion of its deposits to such as may desire to withdraw the same or make any other or further order that may be necessary to protect the depositors or members of such institution.

3. Rights of parties. Nothing in this section shall be construed to take away the rights of the parties in interest to proceed under sections 365 or 366, subsection 1.

§ 363. Conservation of assets

1. Appointment of a conservator.

A. Whenever, in the judgment of the superintendent, or in the judgment of a majority of the board of directors, corporators, stockholders or members of a financial institution, it shall be necessary to conserve or revalue the assets of said institution or to reorganize and put into sound condition such institution for the benefit of depositors, creditors or the public, the Superior Court shall, on a complaint by any of the aforementioned parties setting forth the facts, appoint a time for the examination of the affairs of said institution and cause notice thereof to be given to all interested parties in such manner as may be prescribed. In such examination there shall be included the liability of stockholders to assessment with respect to all institutions organized pursuant to chapter 31.

B. Following an examination pursuant to paragraph A, the court may appoint one or more conservators for such financial institution who shall endeavor promptly to remedy the situation complained of in the petition for his appointment; require such bond as it may deem proper; and issue such decrees as may be necessary to carry out the provisions of this chapter. The superintendent, his deputy, or another person, including the corporation insuring the institution's accounts pursuant to section 422, may be appointed by the court as conservator, and a certified copy of the order of the court making such appointment shall be evidence thereof.

C. A conservator, in addition to the powers set forth elsewhere in this chapter and such power and authority as may be expressed in an order of the court, shall have all the rights, powers, privileges and authority possessed by the officers, board of directors, corporators, members and stockholders of the institution, including the power to remove any officer or director; provided that the order of removal is approved in writing by the court.

D. If the superintendent or his deputy is appointed conservator, he shall receive no additional compensation, but his reasonable and necessary expenses as conservator shall be paid to him by the institution. If another person is so appointed, then the compensation of the conservator, as determined by the court, shall be paid by said institution.

E. In the event that the Federal corporation insuring the institution's deposits or accounts pursuant to section 422 accepts an appointment as conservator, such corporation shall acquire both legal and equitable title to all assets, rights or claims and to all real or personal property of the institution, to the extent necessary for such corporation to perform its duties as conservator or as may be necessary under applicable federal law to effectuate such appointment. If such corporation pays or makes available for payment the insured deposit liabilities of an institution by reason of actions taken pursuant to this section, such corporation shall be subrogated to the rights of all the depositors of the institution, whether or not it has become conservator thereof, in the same manner and to the same extent as it would be subrogated in the conservation of a financial institution operating under a federal charter and insured by such corporation.

2. Segregation of assets.

A. The conservator appointed in subsection 1 may order that there be segregated and set aside investments which in his judgment are of slow or doubtful value or which, on account of unusual conditions, cannot be converted into cash at their full fair value.

B. Pursuant to the conservator's segregation order, the clerk or treasurer of such financial institution shall withdraw all investments so segregated, and the then book value thereof, from his list of investments and book values of assets as shown on the books of the institution.

C. The clerk or treasurer of said institution shall make and keep a complete and accurate list of the investments segregated as provided for in paragraph A at said book values, and such other records in respect thereof as the superintendent or conservator may from time to time prescribe.

3. Deposit reductions and shareholder assessments. Simultaneously with the actions taken pursuant to subsection 2, the following actions shall be taken by the institution:

A. In the case of a mutual financial institution, each and every deposit then standing therein shall be reduced so as to divide pro rata among the depositors or members the aggregate book value of all investments segregated in subsection 2. After such order has been delivered, no depositor or member shall demand or receive on account of such deposit more than

the amount remaining to the credit thereof after said reduction has been made, and dividends shall be computed only on the amounts so remaining, except as otherwise provided in this section. The treasurer or clerk of the institution shall withdraw the sum of any deposit reductions from his statements of the amounts due to depositors or members, and enter the reduction on individual passbooks as they are presented. The investments and amounts due depositors or members then remaining with changes thereafter made in a usual course of business shall be deemed to be the investments held by and deposits standing in said institution for the purpose of taxation and all other purposes, except as elsewhere provided in this chapter.

B. In the case of a stock institution, if the liabilities of such institution, excluding the outstanding capital stock, exceed its assets after making assessment on the stockholders pursuant to section 315, subsection 4, the deficit, after making due allowances for priorities, shall be divided pro rata among the depositors and each account shall be charged with its proportionate share thereof. The depositor will be entitled to withdraw the amount of his account as thus fixed and determined in such amounts and at such times as the court directs. Such institution shall issue to each depositor a certificate showing the amount of the deficit charged to his account. The certificate shall be negotiable and shall bear no interest. No dividend or profit shall be made thereafter in liquidation of common stock until such certificates have been paid in full with interest compounded at the rate of 3% per year; otherwise, said certificates shall not be deemed to be a liability of the institution.

C. Nothing contained in this subsection shall be construed as permitting a court, conservator, or the superintendent to reduce deposits or accounts insured by a federal corporation pursuant to section 422, without written approval of such corporation.

4. Sale of segregated investments. Investments segregated in subsection 2 may be sold or exchanged for other securities or investments by a vote of the directors, and shall be sold when so ordered by the conservator, the superintendent or the court. All moneys received from such sales or as income from such securities or investments shall be entered into a special account and shall be deemed to be held by the institution for the benefit of the depositors or members whose deposits were so reduced in subsection 3, to be disposed of as provided in subsection 5.

5. Repayment of reduction.

A. The directors of a financial institution from time to time may, and when so directed by the superintendent shall, declare pro rata dividends of moneys received as provided in subsection 4 among the depositors or members whose deposits were reduced, payable to those who would then have been entitled to receive the sums so deducted if said sums had continued to be included in the deposits so reduced, and payable as other dividends are paid.

B. Any depositor or member whose deposit was reduced, any holder of a certificate issued pursuant to subsection 3, paragraph B, the superintendent, or the institution shall be entitled to file a complaint with the court, after one year from the date of said reduction, for an order of distribution whenever the condition of the institution, taking into account the rights of creditors and of preferred stockholders, if any, warrants such payment.

C. The court may, at any time and in its discretion, declare any such repayment to be final.

6. Conservator continuing business. The conservator may continue to operate such financial institution in accordance with the following conditions and limitations:

A. All depositors, members, and stockholders of such institution shall continue to make payments to the institution in accordance with the terms and conditions of their contracts.

B. The conservator may set aside and make available for withdrawal by depositors or members and payment to other creditors on a ratable basis such amounts as in the opinion of the court may safely be used for such purpose.

C. The conservator shall have the power to receive deposits, but deposits so received shall not be subject to any limitation as to payment or withdrawal, and shall be segregated and shall not be used to liquidate any indebtedness of the institution existing at the time that the conservator was appointed or any subsequent indebtedness incurred for the purpose of liquidating the indebtedness of such institution existing at the time the conservator was appointed. Such deposits, received while the institution is in the hands of a conservator, shall be kept in cash or invested in direct obligations of the United States, or deposited with another financial institution pursuant to section 414.

7. Definition of investments. The words "investment" or "investments", as used in this section, shall be deemed to include all assets of the institution, whether real or personal.

8. Termination of conservatorship.

A. The powers and duties of the conservator appointed pursuant to subsection 1 shall cease and such conservatorship shall be terminated at such time as the court may order; provided that any interested party may petition the court for termination of such conservatorship 6 months following appointment of the conservator.

B. Upon termination of the conservatorship, the institution shall be returned to its board of directors and thereafter shall be managed and operated as if no conservator had been appointed, or a receiver shall be appointed as hereinafter provided in section 365. A certified copy of any court order discharging such conservator and returning said institution to its board of directors shall be sufficient evidence thereof.

9. Conservator's liability limited. The conservator or the superintendent shall be under no liability whatsoever for anything done or omitted to be done under this chapter; provided that his action or omission to act be in good faith.

10. Appeal.

A. Any person affected adversely by anything done or omitted to be done under this section may appeal by filing a complaint in the Superior

Court seeking an order annulling, altering or modifying such act, or enjoining the performance thereof, or requiring action to be taken under any provision of this section.

B. Such appeal shall be filed within 10 days after such person shall have had notice of such act or failure to act, in person or by publication of a certificate thereof signed by the conservator, the superintendent or by the president, treasurer or clerk of the institution in a newspaper of general circulation in the county where such institution has its principal office.

C. Notwithstanding the period established in paragraph B for taking such an appeal, no such appeal shall be permitted to be taken more than 30 days after the order of the court provided for in subsection 8.

§ 364. Voluntary liquidation

1. Application to court. Whenever, in the opinion of the superintendent and a majority of the directors of any financial institution, or in the opinion of ¾ of its depositors, members or stockholders, it is inexpedient for any reason for said institution to continue the further prosecution of its business, the directors may join with the superintendent in an application to the Superior Court for liquidation of the affairs of said institution, or such depositors, members or stockholders may file such application.

2. Injunction to restrict payments. Upon presentation of such application, the court may issue an injunction wholly or partially restraining further payment of deposits until further order of court.

3. Order to liquidate. If, after notice and hearing on said application, such court is of the opinion that it is inexpedient for said institution to continue the further prosecution of its business, it may make such orders and decrees as seem proper for liquidation of the institution's affairs, distribution of its assets, protection of its depositors, members and stockholders, if any, and the welfare of the community.

4. Liquidation proceedings. Further proceedings on such application may be in the manner provided for liquidation of an insolvent financial institution, or the court may authorize the president and directors of such institution then in office to liquidate its affairs under direction of the court.

5. Applicability of section 362. Section 362 is made applicable to such applications.

§ 365. Insolvency liquidation

1. Injunction against insolvent institution.

A. If, upon examination of any financial institution, the superintendent is of the opinion that it is insolvent or that its condition is such as to render its further proceedings hazardous to the public or to those having funds in its custody, he may apply to the Superior Court for an injunction to restrain such institution, in whole or in part, from proceeding further with its business until a hearing can be had.

B. The court may forthwith issue process for such purpose and, after a full hearing of the institution, may dissolve or modify the injunction or

make the same permanent, and make such orders or decrees to suspend, restrain, or prohibit the further prosecution of the institution's business as may be necessary according to the course of proceedings in which equitable relief is sought.

C. The court may appoint one or more receivers or trustees to take possession of the institution's property and effects, subject to such rules and orders as are from time to time prescribed by the Superior Court.

2. Appointment of a receiver.

A. The person appointed by the Superior Court as a receiver may be the superintendent, his deputy, or such other person, including the corporation insuring the institution's accounts pursuant to section 422, as the court may choose; and a certified copy of the court order making such appointment shall be evidence thereof. A receiver shall have the power and authority provided in this Title, and such other powers and authority as may be expressed in the order of the court.

B. If the superintendent or his deputy is appointed receiver, he shall receive no additional compensation, but his reasonable and necessary expenses as a receiver shall be paid to him by the institution. If another person is so appointed, then the compensation of the receiver, as determined by the court, shall be paid from the assets of said institution.

C. In the event that the federal corporation insuring the institution's deposits or accounts pursuant to section 422 accepts an appointment as receiver, such corporation shall acquire both legal and equitable title to all assets, rights or claims and to all real or personal property of the institution, to the extent necessary for such corporation to perform its duties as receiver or as may be necessary under applicable Federal law to effectuate such appointment.

3. Specific powers of receivers. Upon taking possession of the property and business of a financial institution under this section, the receiver shall have the following powers:

A. He may collect moneys due to the institution and do all acts necessary to conserve its assets and business, and shall proceed to liquidate its affairs.

B. He shall collect all debts due and claims belonging to the institution and, upon the order or decree of the Superior Court, may sell or compound all bad or doubtful debts.

C. On order or decree of the court, the receiver may sell, for cash or other consideration or as provided by law, all or any part of the real and personal property of the institution on such terms as the court shall direct.

D. In the name of such institution, the receiver may take a mortgage on such real property from a bona fide purchaser to secure the whole or part of the purchase price, upon such terms and for such periods as the court shall direct.

E. On order or decree of the court, the receiver may borrow money and issue evidence of indebtedness therefor. To secure the repayment of same,

the receiver may mortgage, pledge, transfer in trust or hypothecate any or all of the property of such institution, whether real, personal or mixed, superior to any charge thereon for expenses of liquidation.

F. The receiver shall have all rights and powers given to conservators by section 363.

G. Whenever the Federal corporation insuring the institution's deposits or accounts pursuant to section 422 pays or makes available for payment the insured deposit liabilities of an institution, such corporation shall become subrogated to the rights of all depositors of the institution, whether or not it has become receiver thereof, in the same manner and to the same extent as it would be subrogated in the liquidation of a financial institution operating under a federal charter and insured by such corporation.

4. Reports of receiver; legal advice.

A. In May of each year, and at such other time as the superintendent requires, the receiver shall make a report to the superintendent of the progress made in the settlement of affairs of said institution. The superintendent shall give reasonable notice of the time and furnish blanks for such report.

B. The Attorney General shall render such legal services in connection with such receivership as the superintendent or deputy superintendent may require, without additional compensation.

5. Distribution of assets: stock institution. In the case of an insolvent stock institution, the distribution of assets after payment of all claims of creditors and depositors shall be made under order of the court by the receiver except as provided in subsection 3, paragraph G.

6. Distribution of assets: mutual institution.

A. After a decree of sequestration is issued pursuant to subsection 1, the court shall appoint commissioners who shall give such notice of the times and places of their sessions as the court orders.

B. Such commissioners shall receive and decide upon all claims against the institution and make reports to the court, at such time as the court orders, of the claims allowed and disallowed and of the amount due each depositor, which shall be subject to such objections and amendments as the court may permit. On application of any interested party, the court may extend the time for hearing claims by the commissioners, as justice may require.

C. When the amount due each person is established, the court shall cause others than depositors to be paid in full, and after deducting expenses of receivership and liquidation, the balance shall be ratably distributed among depositors except as provided in subsection 3, paragraph G.

D. Except as provided in section 366, subsection 2 the owners of all classes of shares and accounts of such mutual institution shall have the same status as to the assets of the institution; and, in the case of liquidation, one class of shares or accounts shall not have preference over any other class of shares or accounts.

7. Attachments dissolved; actions discontinued; judgment recovered added to claims.

A. All attachments of property of the financial institution shall be dissolved by the decree of sequestration, and all pending actions discontinued and the claim presented to the commissioners or to the court, unless the Superior Court, upon application of the plaintiff within 3 months from said decree, passes an order allowing the receiver to be made a party to the action and that the claim may be prosecuted to a final judgment.

B. After a decree of sequestration, no action shall be maintained on any claim against the financial institution unless the court, on application therefor within the time named, authorizes it; and, in such cases, the receiver shall be made a party.

C. Any judgment recovered shall be added to the claims against the institution.

8. Untimely claims barred. All claims not presented to the commissioners or the court within the time fixed by the court, or litigated as provided, are forever barred.

9. Unknown depositors.

A. When it appears upon the settlement of the account of the receiver of a financial institution pursuant to this section that there is remaining in his hands funds due depositors who cannot be found and whose heirs or legal representatives are unknown, the Superior Court may order such unclaimed funds to be paid into the State Treasury, together with a statement giving the names of such depositors and the amount due each, the same to be held in trust for 20 years thereafter, to be paid to the person or persons having established a lawful right thereto when made to appear upon proper proceedings instituted in the court ordering such disposition of such unclaimed funds.

B. Whenever any such unclaimed fund is in an amount less than $200, the claimant thereto may make application to the Superior Court which may, after identification satisfactory to it, issue an order under the seal of the Superior Court directing the Treasurer of State to pay said fund to the claimant therein named; and said fund shall be paid as directed.

C. Any income earned on such funds shall be paid into the General Fund as compensation for administration.

§ 366. Mutual institutions: insolvency; bylaws

1. Reduction of deposit accounts; elimination of insolvency.

A. Whenever a mutual financial institution is insolvent by reason of loss on, or depreciation in the value of, any of its assets without the fault of its directors, the Superior Court shall, on complaint in writing of a majority of the directors and the superintendent setting forth the facts, appoint a time for the examination of the affairs of such institution, and cause notice thereof to be given to all interested parties, in such manner as may be prescribed.

B. If upon examination of its assets and liabilities and from other evidence, the court is satisfied of the facts set forth in said complaint and that the institution has not exceeded its powers nor failed to comply with any of the rules, restrictions and conditions provided by law, the court may, if deemed in the interest of the depositors or members and the public, by proper decree, reduce the deposit account of each depositor or member so as to divide such loss pro rata among the depositors or members thereby rendering the institution solvent so that its further proceedings will not be hazardous to the public or those having and placing funds in its custody. The depositors or members shall not draw from such institution a larger sum than is thus fixed by the court, except as authorized.

C. The institution's clerk or treasurer shall keep an accurate account of all sums received for such assets of the institution held by it at the time of filing such complaint. If a larger sum is realized therefrom than the value estimated by the court, he shall, at such times as the court prescribes, render to the court a true account thereof, and thereupon the court, after due notice to all interested parties, shall declare a pro rata dividend of such excess among the depositors or members at the time of filing the complaint. Such dividend may be declared by the court whenever the court deems it for the interest of the depositors or members and the public, whether all or only a portion of such assets has been reduced to money. Any such dividend may at any time, in the discretion of the court, be declared to be a final one.

D. No deposit shall be paid or received by such institution after the filing of the complaint until the decree of the court reducing the deposits. If the complaint is denied, the superintendent shall proceed to wind up the affairs of the institution as provided in section 365.

E. Nothing contained in this subsection shall be construed as permitting the court to reduce deposits or accounts insured by a federal corporation pursuant to section 422 without the prior written approval of such corporation.

2. Optional bylaw. A mutual financial institution may provide in its bylaws that in the event of voluntary or involuntary liquidation, dissolution or winding up of the affairs of the institution, or in the event of any other situation in which the priority of savings accounts or deposits is in controversy, all savings accounts and deposits shall, to the extent of their withdrawal value, have the same priority as the claims of general creditors of the institution not having priority over other general creditors of the institution, other than any priority arising or resulting from consensual subordination; and, in addition, that savings accounts and deposits shall have the right to share in the remaining assets of the institution; provided that such bylaw shall not contravene the regulations of the federal corporation insuring the deposits or accounts of the institution pursuant to section 422.

§ 367. Additional authority in conservation and liquidation

1. Participation by government units. The Treasurer of State, by written direction of the Governor and Council and with approval of a Justice of the Supreme Judicial Court; the treasurer of any county, by written direction of the county commissioners of such county and with approval of a Justice of the Supreme Judicial Court; the treasurer of any city, town or village corporation or other municipal corporation, including any district organized

by law for any public purpose, by written direction, in case of cities of the city government thereof, in case of towns of the selectmen thereof, in case of village corporations of the assessors, overseers or other similar governing board thereof, in case of other municipal corporations and districts of their respective trustees, commissioners, directors or other similar governing board, and in each case with approval of a Justice of the Supreme Judicial Court, may for and in behalf and in the name of his respective governmental unit participate in any plan of reorganization, management or continuation of any financial institution organized under the laws of this State or of the United States in which his governmental unit has moneys on deposit including trust funds, sinking funds and all other forms of deposit, or may enter into any agreement concerning such deposits for the public benefit and for the benefit of the institution and its depositors or members.

2. Injunctions restraining proceedings. Whenever proceedings are instituted under any provisions of this chapter, injunctions may be issued restraining all persons from proceeding against said financial institution described in sections 363 and 365 until final decree, including trustee processes.

3. Dissolution of attachments. The Superior Court may dissolve all attachments on the property of a financial institution made within 4 months before the filing of the complaint or application in sections 363 and 365; cancel leases, contracts and all other claims as in receivership proceedings; discontinue all actions pending against said financial institution; and fix the rights of said claimants, and adjudicate and fix the time and mode of payment of all claims, accounts and deposits having priority.

4. Court protection of creditors rights. The relief sought in the complaint described in sections 363 or 365 filed by the superintendent shall not be granted without a hearing. It shall not be granted if objected to in writing by the time and demand depositors of said financial institution who are credited with the majority in amount of the time and demand deposits. The court shall appoint immediately upon the filing of such complaint a conservator with authority to act pending a hearing. Any depositor may be permitted to intervene as party plaintiff in any complaint filed hereunder and may be heard thereon. Any depositor or party in interest may present in writing a plan of reorganization; and the superintendent may file his plan of reorganization. The depositors who are credited with the majority in amount of the time and demand deposits may present in writing to said court a plan of reorganization and if said plan is the most feasible, it shall be adopted. Final decree of reorganization shall be made by said court after submission of plans and hearing thereon. The right of appeal is granted.

5. Preferred stock. Any stock institution described in sections 363 or 365 may issue preferred stock as provided in section 314 on a petition filed for that purpose only.

6. Power of courts and superintendent.

A. The court may do all other and further things necessary to carry out the terms and provisions of this chapter.

B. All powers conferred under this chapter on the superintendent are in addition to the powers otherwise conferred upon him by law.

C. The superintendent shall have the power to promulgate regulations for the purpose of carrying out provisions of this chapter; provided that such regulations are not inconsistent herewith.

7. Court-ordered mergers. The court may order the merger or consolidation of any financial institution that is within sections 363 or 365, with any other financial institution, State or Federal, with the consent of such other financial institution; and may prescribe the mode or procedure for said merger or consolidation, and the terms and conditions thereof.

8. Expenses. All expenses of the superintendent or his assistants incurred in carrying out this chapter shall be paid out of the assets of the financial institution in connection with which such expenses were incurred.

PART 4

POWERS AND DUTIES OF

FINANCIAL INSTITUTIONS

CHAPTER 41

GENERAL POWERS

§ 411. Applicability of chapter

The provisions of this chapter shall set forth the powers granted to all financial institutions organized pursuant to chapters 31 and 32. Additional powers granted to savings banks, trust companies and savings and loan associations shall be as provided in Parts 5, 6 and 7, respectively.

§ 412. General corporate powers

A financial institution organized under chapter 31 or 32 shall have the power:

1. To exist perpetually;

2. To sue and be sued in its corporate name, and to participate in any judicial, administrative, arbitrative or other proceeding;

3. To adopt and alter a corporate seal, and to use the same or a facsimile thereof;

4. To elect, appoint or hire officers, agents and employees of the institution, and to define their duties and fix their compensation;

5. To make and alter bylaws not inconsistent with its articles of incorporation or with the laws of this State for the administration and regulation of the affairs of the institution;

6. To cease its corporate activities and surrender its corporate franchise;

7. To make donations irrespective of corporate benefit for any charitable, philanthropic, scientific, educational, civic betterment or public welfare purpose, as a majority of the directors shall deem appropriate;

8. To establish and carry out pension plans, pension trusts, profit sharing plans, stock option plans, stock bonus plans and other incentive plans for any or all of its directors, officers, and employees; and to pay pensions and similar payments to its directors, officers or employees, and their families;

9. To reimburse, indemnify and purchase liability insurance for directors, officers, and employees as provided in Title 13-A, section 719; and

10. To join any cooperative league or other entity organized for the purpose of protecting and promoting the welfare of institutions of the same type and their depositors; and to comply with all conditions of membership therein.

§ 413. Borrowing

In addition to any general borrowing powers specified elsewhere in this Title, a financial institution may obtain funds in the manner set forth below:

1. Capital notes or debentures.

A. Subject to the prior written approval of the superintendent, a financial institution may issue and sell its capital notes or debentures, which shall be subordinate to the claims of its depositors, shareholders and its other creditors.

B. Capital notes or debentures of a financial institution may, with the approval of the superintendent, be issued, sold, or pledged to any officer, board, commission, corporation, or body created by the Federal Government. Such capital notes or debentures may be made subordinate to the claims or interests of its depositors, or other creditors or shareholders, or prior to the claims or interests of its depositors or shareholders, in and to the institution's surplus.

C. Capital notes or debentures may also be issued, with the prior approval of the superintendent, pursuant to federal housing legislation.

2. Mortgage-backed securities. A financial institution shall have power to issue, or participate with other persons in the issuance of, mortgage-backed securities which are guaranteed as to principal and interest by the United States or by an agency of the United States, and are backed in whole or in part by mortgages held by the institution; and, in connection therewith, may enter into and perform such agreements relating to the custody and servicing of such mortgages and to other matters as may be required pursuant to applicable regulations of any such agency.

§ 414. Deposits in financial institutions

A financial institution may, except to the extent limitations may be imposed by Parts 5, 6 or 7, deposit its funds in any other financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

§ 415. Participation in public agencies

To the extent authorized by the superintendent pursuant to regulations, a financial institution shall have the power to participate in a public agency hereafter created under the laws of this State or of the United States, the purpose of which is to afford advantages or safeguards to financial institutions, depositors or shareholders, and to comply with all requirements and conditions imposed upon such participants.

§ 416. Powers of Federally-chartered institutions

To the extent authorized by the superintendent pursuant to regulations, a financial institution shall have the power to engage in any activity which 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.

CHAPTER 42

DEPOSITS IN GENERAL

§ 421. Applicability of chapter; tax exemption

1. Applicability. The sections of this chapter shall govern deposits or accounts in financial institutions subject to the provisions of this Title and shall govern, when applicable, the deposit powers of specific types of institutions set forth in chapters 52, 62 or 72.

2. Tax exemption. All interest-bearing deposits or accounts of whatever type in financial institutions subject to the provisions of this Title are exempt from municipal taxation to said institution, and to the depositors or members of such institution.

§ 422. Insurance of deposits or accounts

1. Requirement. A financial institution organized under the laws of this State shall take such action as may be necessary to have its deposits or accounts insured by either the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, or by the successors to such federal corporations. The institution may have its deposits or accounts insured by whichever corporation insures the deposits or accounts of that type of institution.

2. Transition period.

A. A financial institution which is not insured by one of the corporations specified in subsection 1 on the effective date of this section shall make application for such insurance coverage with the appropriate corporation within 6 months of said effective date. Such institution, within one week of making such application, shall file with the superintendent a certified copy of the resolution adopted by its board, corporators or members authorizing the application for insurance of deposits or accounts.

B. Any institution making application for insurance pursuant to paragraph A shall have 2 years from the effective date of this section to comply with all federal requirements relating thereto. Within one week of receipt of the notice of acceptance or rejection by one of the federal corporations described in subsection 1, the institution shall file a statement of such acceptance or rejection with the superintendent.

3. Failure to obtain insurance. If an institution shall fail to obtain insurance within the time set forth in subsection 2, or if its application shall have been rejected, the superintendent may exercise any and all powers granted to him by this Title, notwithstanding the solvency of such institution.

4. Applicable law. A financial institution which has its deposits or accounts insured pursuant to this section shall comply with all statutes and regulations governing the insurance of deposits or accounts by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation; provided that nothing contained in this section shall be construed as repealing, modifying or impairing any powers, duties, rights or responsibilities under the provisions of this Title of the superintendent or of the institution so insured.

§ 423. Demand deposits

A financial institution subject to the provisions of Parts 5, 6 or 7 shall have the power to accept demand deposits, subject to the conditions and limitations set forth in this section.

1. Personal demand deposits.

A. Except as otherwise provided in subsection 2, a financial institution may accept only personal demand deposits, as defined in section 131, after the effective date of this section, subject to such regulations as may be promulgated by the superintendent.

B. A signed statement by the depositor stating that the depositor shall use a demand deposit accepted by the institution pursuant to this subsection for only nonbusiness purposes, shall relieve the institution from liability for violation of this subsection; provided that if the institution acquires knowledge in the ordinary course of its business that the depositor is using such deposit for business or commercial purposes, the institution shall promptly give notice thereof to the depositor. If the depositor fails to terminate such business use within 30 days of said notice, the institution shall promptly close out such deposit by returning to the depositor the balance of funds in the account, less any service charges.

2. Demand deposit powers.

A. A financial institution subject to the provisions of Part 6 may accept demand deposits from individuals and others, subject to such regulations as may be promulgated by the superintendent.

B. A financial institution subject to Parts 5 or 7 shall accept only those deposits authorized in subsection 1 until such time as there exists either equality among financial institutions as to interest rates payable on deposits, or Federally-chartered thrift institutions in this State are authorized to have checking deposit or demand deposit privileges and, in the event of the latter, only to the extent such federal institutions are so authorized. In either event, the offering of such deposits shall be permitted only to the extent authorized pursuant to regulations promulgated by the superintendent.

3. Cash reserve. Cash reserve requirements for deposits authorized pursuant to subsections 1 and 2 shall be as established in sections 514, 613 or 714.

The superintendent in establishing minimum cash reserves under said sections shall establish the percentages at the same level for all financial institutions subject to the provisions of Parts 5, 6 and 7.

4. Applicable law. Deposits accepted pursuant to this section and negotiable or transferable instruments drawn on such deposits shall be subject to Title 11, except as otherwise provided in this Title.

§ 424. NOW accounts

1. Authorization required. No financial institution shall allow the owner of a deposit or account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to 3rd parties, except that such withdrawals may be made at such time as any financial institution located in the State of Maine is authorized to do so under federal law and then only to the extent permitted pursuant to regulations promulgated by the superintendent. Such regulations shall be designed to maintain competitive equality among all financial institutions authorized to permit such withdrawals.

2. Cash reserve. Cash reserve requirements for deposits authorized pursuant to subsection 1 shall be as established in sections 514, 613 or 714.

3. Applicable law. Deposits accepted pursuant to this section and negotiable or transferable instruments drawn on such deposits shall be subject to Title 11, except as otherwise provided in this Title.

§ 425. Computation of dividends and interest on deposits and accounts

1. Period. A financial institution may determine the date or dividend periods on which dividends or interest may be legally paid to depositors having deposits or accounts in the institution.

2. Amount on deposit. Dividends or interest shall be payable on the amount on deposit in the institution for each month of the period chosen pursuant to subsection 1, except as provided in subsection 4.

3. Computation of amount on deposit. To determine the amount on deposit for each month of the period chosen in subsection 1, the institution may elect to treat deposits made on other than the first day of the month as having been made either on the first day of the month, the last day of the month, or on the date of deposit; provided that all withdrawals shall be deducted first, as follows:

A. First day crediting. If the institution elects to credit deposits during the month as having been made on the first day thereof, it shall deduct all withdrawals from said deposits and any excess of withdrawals shall be deducted from the depositor's opening monthly balance in determining the amount on deposit for that month.

B. Last day crediting. If the institution elects to credit deposits during the month on the last day thereof, it shall deduct all withdrawals from said deposits and any excess of withdrawals shall be deducted from the depositor's opening monthly balance in determining the amount on deposit for that month.

C. Date of deposit crediting. If the institution elects to credit deposits during the month as having been made on the date of deposit, it shall deduct all withdrawals from said deposits and any deposits remaining after such deduction shall earn dividends or interest from the date on which such

deposits were made to the end of the month. If withdrawals exceed deposits during the month, any excess of withdrawals shall be deducted from the depositor's opening balance in determining the amount on deposit for that month.

At the end of the period chosen in subsection 1, the institution shall pay such interest or dividends on the amounts on deposit, as shall be required by its agreement with the depositor.

4. Other methods of computation. An institution may elect to compute interest from the date of deposit to the date of withdrawal. Any other method of computation may be used if such method approximates one of the methods set forth in this section; provided that prior to the use of such other method, the institution shall obtain written approval of the superintendent.

5. Grace periods. An institution may elect to treat all deposits made before the 10th day of the month as having been made on the first day thereof, and all deposits made at other times during the month may be treated as provided in subsection 3. Withdrawals made during the last 3 days of the period established in subsection 1 may be considered as having been made on the first day of the next succeeding period.

6. Compounding of dividends and interest. Nothing herein shall be construed as requiring an institution to compound interest or dividends paid on deposits or accounts other than at the end of the period established in subsection 1 provided that an institution may compound interest at such earlier times as it may elect.

§ 426. Savings deposits or accounts: written notice of withdrawal

1. Withdrawal notice may be required. A financial institution may at any time, by resolution of its board of directors, require written notice by a savings depositor not to exceed 90 days prior to the repayment of deposits or accounts, or may require similar notice before repaying deposits in excess of $50, or certain classes of savings deposits or accounts.

2. Deposit not payable during waiting period. In the event such notice is required, no such deposit or account shall be due or payable during the required period after the notice shall have been given. If not withdrawn within 15 days after the expiration of the required period following notice, such deposit or account shall not be due and payable under that notice.

3. Deposits prior to expiration of waiting period. The institution may receive any deposit or deposits before expiration of the required period, subject to such regulations as may be imposed by the superintendent.

4. Interest earned until actual withdrawal. The written notice of withdrawal required pursuant to this section shall not constitute a withdrawal from such deposit or account for purposes of section 425 until the amounts noticed shall have been actually withdrawn by the depositor giving such written notice, and interest shall be earned thereon for the period prior to actual withdrawal as provided in section 425.

5. Exception. In the case of a savings and loan association, notice required pursuant to this section shall not constitute an application for withdrawal as defined in section 725.

§ 427. Deposit or account transactions

1. Minor's deposits or accounts. Money deposited in the name of a minor is his property, and a financial institution may, in the discretion of the officer making or authorizing the payment, pay the same to such minor, to his order or to his guardian. The receipt of such minor, or his guardian, for any such payment is a valid release and shall discharge the institution.

2. Fiduciary deposits or accounts.

A. Whenever a deposit is made in trust, the name and address of the person for whom it is made, or the purpose for which the trust is created, shall be disclosed in writing to the institution, and the deposit shall be credited to the depositor as trustee for such person or purpose.

B. Whenever a deposit is made by a person designated on the records of a financial institution as a fiduciary, it shall be conclusively presumed, in all dealings between the institution and the fiduciary or any other persons with respect to such deposit, that a fiduciary relationship in fact exists, and that such fiduciary has power to invest money in the institution, and to withdraw the same or any part thereof, and to transfer his deposit to any other person. The receipt or acquittance of such fiduciary shall fully exonerate and discharge the institution from all liability to any person having any interest in such deposit and the institution shall not be under any duty to see to the proper application of the trust property.

C. Upon the death or disability of any fiduciary, the value of such deposit or account may be paid, at the option of the institution, and in the absence of notice of the existence and terms of a trust, either to the executor, administrator, conservator or guardian of such fiduciary, or to any substituted fiduciary, or to the person, if any, who is designated on the records of the institution as the beneficiary of such deposit, if of the age of 15 years or upwards, or to the guardian or parent or person standing in loci parentis to such person if under the age of 15 years. The receipt or acquittance of any such person shall fully exonerate and discharge the institution from all liability to any person having any interest in such deposit, and the institution shall not be under any duty to see to the proper application of the trust property.

3. Fiduciary transactions by check.

A. If a check drawn or endorsed by a fiduciary is received by a drawee financial institution, including a check for payment in cash or for the personal credit of such fiduciary, such institution may assume, without inquiry, that the fiduciary has acted within the scope of his authority.

B. As used in this subsection, "fiduciary" includes a trustee under any trust, express or implied, resulting or constructive, or an executor, administrator, guardian, conservator, receiver, trustee in bankruptcy, assignee for the benefit of creditors, partner, agent, officer of a corporation, public or private, public officer or any other person acting in a fiduciary capacity for any person, trust or estate. "Person" includes 2 or more persons having a common interest. For the purposes of this subsection, such institution may rely upon, though it need not require, a writing certified by the clerk or secretary of a corporation as to such officer.

C. Nothing contained in this subsection shall be deemed to modify or otherwise affect Title 11, section 1-201, subsection 25 or Title 11, section 3-304, nor to relieve such institution from any liability imposed upon it by law to the extent of any payment or amount which such institution may receive for its benefit from any of such checks or funds represented thereby.

4. Joint deposits or accounts.

A. To whom paid. When a deposit has been made or shall hereafter be made in any financial institution authorized to do business in this State in the names of 2 or more persons, payable to either, or payable to either or the survivor, such deposit, or any part thereof, or the interest or dividends thereon may be paid to any or either of said persons, whether the other or others be living or not, or to the legal representative of the survivor of said persons, and the receipt or acquittance of the persons to whom said payment is so made shall be a valid and sufficient release and discharge to such financial institution for any payment so made.

B. Property of survivor. All such deposits or accounts, whenever opened or issued, payable to either or the survivor who are husband and wife, up to, but not exceeding an aggregate value of $10,000, and payable to either or 2 or more or the survivor of those persons who are parent and child, grandparent and grandchild, or brothers and sisters, up to, but not exceeding an aggregate value of $5,000 including interest and dividends, in the name of the same persons in all financial institutions within this State shall, in the absence of fraud or undue influence, upon the death of any such persons, become the sole and absolute property of the survivor or survivors, even though the intention of all or any one of the parties be in whole or in part testamentary and though a technical joint tenancy be not in law or fact created. The said amount which so becomes the sole and absolute property of the survivor or survivors pursuant to this subsection shall be exclusive of, and in addition to, any amounts to which such survivor or survivors are entitled under common law as contributors to such deposit or deposits, account or accounts, share or shares.

5. Pledge of joint deposits or accounts. The pledge of all or part of a deposit or account in joint tenancy signed by that person or those persons who are authorized in writing to make withdrawals from the deposit or account shall, unless the terms of the deposit or account provide specifically to the contrary, be a valid pledge and transfer of that part of the deposit or account pledged, and shall not operate to sever or terminate the joint and survivorship ownership of all or any part of the deposit or account.

6. Power of attorney over deposits or accounts. Any financial institution may continue to recognize the authority of an attorney authorized in writing to manage or to make withdrawals either in whole or in part from the account of a depositor until it receives written notice of the revocation of his authority. For the purposes of this subsection, written notice of the death or adjudication of incompetency of such depositor shall constitute written notice of revocation of the authority of his attorney. No institution shall be liable for damages by reason of any payment made pursuant to this subsection.

7. Transfer of deposit or account. A depositor may transfer, absolutely or conditionally, his deposit or account to any other person, subject to any provisions affecting such deposit or account pursuant to this chapter or Parts

5, 6 or 7, by a written assignment in a form approved by the institution, accompanied by delivery of the evidence of the deposit or account. Evidence of the deposit or account shall mean the membership certificate, share certificate, account book, passbook, or any other evidence of the deposit or account which may have been issued in connection with such deposit or account. Every such transfer of a deposit or account shall be deemed to include the deposit or account and the evidence of the deposit or account issued in connection therewith. No such absolute transfer shall be effective against an institution until such written assignment and the accompanying evidence of the deposit or account shall be delivered to the institution with a request that it complete such transfer upon its records. No such conditional transfer shall be effective against an institution unless and until it actually receives notice thereof in writing.

8. Payment of decedent's deposit or account. If any depositor shall die leaving in a financial institution a deposit or account on which the balance due him shall not exceed $1,000, and no executor of his will or administrator of his estate shall be appointed, the institution may pay the balance of such deposit or account to the surviving spouse, next of kin, funeral director or other preferred creditor or creditors who may appear to be entitled thereto. For any payment so made, the institution shall not be held liable to the decedent's executor or administrator thereafter appointed unless the payment shall have been made within 6 months after the decedent's death and an action to recover the amount shall have been commenced within one year after the date of payment.

9. Lost evidences of deposits or accounts.

A. If a financial institution receives a notice in writing that an account book or passbook or other evidence of a deposit or account issued by said institution is lost, together with a request that a duplicate evidence of deposit or account be issued, such notice and request being signed by the appropriate person or persons as provided, the institution, at the expiration of a period of 10 days from the receipt of such notice if the missing evidence is not sooner presented, may issue a duplicate evidence of deposit or account to the person or persons signing said notice and request, and the delivery of such duplicate evidence shall relieve the institution from all liability on account of the missing original evidence of deposit or account. Such notice and request shall be signed in the following manner:

(1) Single depositor. If the evidence of deposit or account was issued to a single depositor, then by him, an officer in the event of a corporation, or by a guardian, conservator, trustee, executor or administrator;

(2) Two or more depositors. If the evidence of deposit or account was issued to 2 or more depositors, then by all such depositors then surviving, or by the last survivor of such depositors; provided that a guardian or conservator shall sign for any of the foregoing persons respecting whom he has been appointed.

B. Lost certificate of deposit or account. If a depositor shall lose a nonnegotiable certificate of deposit or certificate of account, subsection 9, paragraph A shall apply, except that the depositor shall provide an affidavit in writing to the institution, in lieu of the notice provided for in subsection 9, paragraph A, stating that such certificate issued by the institution is lost and could not be found after thorough search.

10. Adverse claim to deposit or account. Except as provided in Title 11, section 4-405, notice to any financial institution authorized to do business in this State of an adverse claim to a deposit or account standing on its books to the credit of any person shall not be effectual to cause said institution to recognize said adverse claimant, unless said adverse claimant shall either procure a restraining order, injunction or other appropriate process against said institution from a court of competent jurisdiction in a civil action to which the person to whose credit the deposit or account stands is made a party, or shall execute to said institution, in form and with sureties acceptable to it, a bond indemnifying said institution from any and all liability, loss, damage, costs and expenses for and on account of the payment of such adverse claim or the dishonor of checks or other orders of the person to whose credit the deposit or account stands on the books of said institution.

11. Payment of orders. Any financial institution may pay any order drawn by any person who has funds on deposit to meet the same, notwithstanding the death of the drawer in the interval of time between signing such order and its presentation for payment, when said presentation is made within 30 days after the date of such order; and at any subsequent period, provided the institution has not received actual notice of the death of the drawer.

12. Superintendent's authority to permit withdrawals. Except as expressly limited by other provisions of this Title, the superintendent may authorize a financial institution or institutions, by regulation, to permit the withdrawal of funds on deposit by depositors, account holders or members of said institution or institutions, in such manner or by such methods as the superintendent may deem appropriate under the circumstances.

§ 428. Inactive deposits or accounts

1. Publication required. The treasurer or designated officer of every financial institution authorized to do business in this State shall annually, on or before the first day of November, cause to be published in a newspaper of general circulation in the county where the institution's principal office is located, or in such other newspaper as the superintendent may designate, a listing of every depositor in said institution who shall not have made a deposit therein or withdrawn therefrom any part of his deposit or account, any part of the dividends thereon, for a period of more than 20 years next preceding. This subsection shall not apply to inactive accounts which, with accumulations thereon, are less than $50.

2. Contents of notice. The published notice of inactive accounts, shall contain the name of each depositor, a statement containing the name, the amount standing to his credit, the last known place of residence or post office address, and the fact of death, if known. Such notice shall also state that 2 years after the date of publication, all moneys in such inactive deposits or accounts shall be paid into the State Treasury. Said treasurer shall transmit a copy of such statement to the superintendent, to be placed on file in his office for public inspection. Any treasurer willfully neglecting to comply with this section shall be punished by a fine of $50.

3. Escheat to State. Two years after the date of such publication, all moneys in such inactive deposits or accounts shall be deemed presumptively abandoned and shall be paid into the State Treasury and credited to the General Fund for the use of the State.

4. Inactive accounts less than $50. All deposits and accounts which are inactive as set forth in this section, and which, with accumulations thereon, are less than $50, shall be paid into the State Treasury and credited to the General Fund for use of the State at the end of 20 years after the last deposit.

5. Petition to reclaim abandoned deposit. After payment into the State Treasury of such deposits or accounts, no civil action shall be maintained in any court in this State by any depositor or his heirs, successors or assigns against any institution making such payments. Thereafter, any lawful claimants may petition the Governor and Council for payment of such moneys to the claimants. In his petition, the claimant shall state fully the facts showing the basis of his right, title and interest in such deposit. The Governor and Council, after hearing, shall determine who are lawful claimants and shall authorize payment by the Treasurer of State from the General Fund to such claimants.

6. Exceptions. This section shall not apply to the deposits or accounts of persons known to the treasurer to be living, to a deposit or account the deposit book of which has during such period been brought into the bank to be verified or to have the dividends added. A deposit or account shall not be deemed to be inactive under this section during such period that Bureau of Internal Revenue Form 1099, or its equivalent, is sent to the depositor and is not returned by the post office department.

CHAPTER 43

LOANS IN GENERAL

§ 431. Applicability of chapter

The sections of this chapter shall govern loans made by financial institutions subject to the provisions of this Title and shall be in addition to the lending powers set forth in chapters 53, 63 and 73 for each type of institution.

§ 432. Interest on loans

1. Interest absent in writing. The maximum legal rate of interest on a loan made by a financial institution, in the absence of an agreement in writing establishing a different rate, shall be 6 percent per year.

2. Interest: noncommercial or consumer loans.

A. The legal rate of interest, whether set forth in writing or not, on a noncommercial or consumer loan, shall be established in accordance with and subject to the limitations set forth in Title 9-A.

A loan made by a financial institution which is secured by a first mortgage on real estate shall not be within the interest limitations set forth in Title 9-A; provided that the security interest in real estate is not given for purpose of evading said Title 9-A.

§ 433. Fair credit extension

Every financial institution authorized to do business in this State shall be subject to and shall comply with the provisions of Title 5, sections 4595 to 4598 providing for the fair extension of credit by lenders in this State.

§ 434. Loan participations and purchases

1. Authority. In addition to a loan made directly by a single financial institution to a borrower, an institution may:

A. Participate with another lender or other lenders in the making of a loan;

B. Purchase a participation interest in loans made by another lender or other lenders;

C. Purchase loans from another lender or other lenders, or a holder of such loan; and

D. Sell any loan or participation interest held by it to another lender or other lenders;

provided that such loan qualifies as a loan which the financial institution is otherwise authorized to make pursuant to this Title; and provided further that such participation, purchase, or sale is authorized by any federal law or regulation which may be applicable to such institution by reason of sections 422, 562, 563, 614 or 763.

2. Servicing of participations, purchases and sales. If a financial institution enters into any agreement or transaction with respect to a loan as authorized in subsection 1, it may service said loan itself or agree to the servicing thereof by any other participating, selling, or purchasing lender or lenders.

3. Treatment of participations and purchases. If a financial institution participates in the making of a loan or purchases a participation interest in a loan, only the amount of the institution's participation interest shall be counted toward any percentage of deposits or other limitations set forth in this Title. Any loan purchased by a financial institution shall be counted toward such limitations in an amount equal to the purchase price thereof.

4. Treatment of sales of participations and loans. If a financial institution sells a loan or a participation interest in a loan, the amount of the loan or participation so sold shall not be counted thereafter toward any percentage of deposit or other limitation set forth in this Title; provided that such sale is made without recourse to the selling institution.

5. Records of certain sales and purchases. Any loan or participation interest therein may be purchased from or sold to an entity affiliated with such financial institution, or purchased from or sold to any officer, director or employee of such institution; provided that the board of directors of such institution shall specifically approve such purchase or sale; and provided further, that the board shall keep complete records of such purchases and sales in such form as the superintendent may prescribe.

6. Superintendent's authority. The superintendent may promulgate regulations pursuant to section 251 specifying the "lender" or "lenders," as those terms are used in subsection 1, with which a financial institution may enter into the agreement or transaction authorized in subsection 1; provided that the superintendent shall not exclude from any list of permissible lenders a financial institution whose deposits are insured by any corporation or agency

authorized to insure deposits of financial institutions authorized to do business in this State; an agency or instrumentality of this State or of the United States engaged in the making, purchasing or selling of loans or participation interests therein; an approved Federal Housing mortgagee; or a service corporation in which a majority of the capital stock is owned by one or more insured financial institutions.

§ 435. Minority of borrower

1. Limitation on disability. The disability of minority of any person otherwise eligible for a loan, or guaranty or insurance of a loan, pursuant to the Act of Congress entitled the "Servicemen's Readjustment Act", 38 U.S.C. § 1801 et seq., as amended, and of the minor spouse of any eligible veteran, in connection with any transaction entered into pursuant to said Act of Congress, shall not affect the binding effect of any obligation incurred by such eligible person or spouse as an incident to any such transaction, including incurring of indebtedness and acquiring, encumbering, selling, releasing or conveying property, or any interest therein, if all or part of any such obligation be guaranteed or insured by the Government or the Administrator of Veterans' Affairs pursuant to said Act and amendments thereto; or if the Administrator be the creditor, by reason of a loan or a sale pursuant to said Act and amendments.

2. No additional rights. This section shall not create, or render enforceable any other or greater rights or liabilities than would exist if neither such person nor such spouse was a minor.

§ 436. Open-end mortgages

1. Authorization; requirements. Any interest in real property which may be mortgaged to a financial institution may be mortgaged to secure existing debts or obligations, to secure debts or obligations created simultaneously with the execution of the mortgage, to secure future advances necessary to protect the security and to secure future advances to be made at the option of the parties up to a total amount stated in the mortgage; and all such debts, obligations and future advances, from and as of the time the mortgage is filed for record as provided by law, shall be secured by such mortgage and have priority over the rights of all persons who subsequent to the recording of such mortgage acquire any rights in or liens upon the mortgaged real estate. Such priority over subsequent persons shall be only to the extent that the aggregate amount outstanding at any one time of such debts, obligations and future advances does not exceed the total amount stated in the mortgage; except that:

A. The mortgagor or his successor in title is authorized to file for record, and the same shall be recorded in the same recording office as the original mortgage, a notice limiting the amount of optional future advances secured by such mortgage to not less than the amount actually advanced at the time of such filing; provided that a copy of such filing is filed with the mortgagee; and

B. The priority of such debts, obligations and future advances shall not include any future optional advances secured by such mortgage made by such institution after any such person, in addition to acquiring such subsequent right or lien, sends to the institution by registered mail or delivers to an officer of the institution and secures a receipt therefor, express written notice stating that any such optional advances thereafter made will be junior to such person's mortgage or lien upon or rights in such real estate.

2. Future advances. "Future advances" referred to in subsection 1 shall include only those made to recipients designated in the mortgage.

3. Applicability limited. The provisions of this paragraph shall not be construed to affect or otherwise change the present law which allows mortgages stating nominal or no consideration to secure existing debts or obligations, or debts or obligations created simultaneously with the execution of the mortgage, to the extent of the actual debts or obligations, existing or granted; but such mortgages, when not also expressly providing for future advances to be made at the option of the parties, shall not afford security for any future advances except those necessary to protect the security.

§ 437. Repayment of noncommercial and consumer loans

1. Right to repay. A borrower from a financial institution may repay a noncommercial or consumer loan at any time upon application to the lending institution.

2. Settlement. Upon settlement of the account, the borrower shall be charged with the full amount of the unpaid balance of the original noncommercial or consumer loan, together with all interest, premiums and fines, and any prepayment penalty or other charge which may be legally due under the terms of the loan.

3. Credit for security pledged. The borrower shall be given credit for the withdrawing value of any account or deposit pledged and transferred as security and all other sums credited to said noncommercial or consumer loan, and the balance shall be received by the institution in full satisfaction and discharge of said loan.

§ 438. Federal funds loans or sales

1. Authorization. A financial institution may loan or sell to any commercial bank insured by the Federal Deposit Insurance Corporation, or to the Federal Home Loan Bank of which it is a member, deposits which it maintains with insured commercial banks, a Federal Reserve Bank, or a Federal Home Loan Bank.

2. Definition; exemption from loan limitations. For purposes of this section, "federal funds loans or sales" means overnight loans to insured commercial banks which are payable the next business day, and such loans or sales shall be exempt from any limitations on loans to individual borrowers provided for in this Title.

3. Policy statement and documentation required. A financial institution loaning or selling federal funds shall have a policy statement approved by its board of directors regarding such transactions and said policy statement shall include, but not be limited to, the manner in which the institution shall limit its credit exposure to any one borrower or purchaser. Such institution shall also maintain documentation evidencing the commercial bank purchasing the funds and the terms on which such funds have been so loaned or sold.

CHAPTER 44

SERVICES AND INCIDENTAL ACTIVITIES

§ 441. Applicability of chapter

The provisions of this chapter shall govern the services and incidental activities offered by financial institutions, except as otherwise provided in Parts 5, 6 and 7.

§ 442. Trustee, self-employment retirement plans

1. Authorization; limitation. A financial institution shall have power to act as trustee under a retirement plan established pursuant to the Act of Congress entitled "Self-employed Individuals Retirement Act of 1962", as amended, or an individual retirement account pursuant to the "Employee Retirement Income Security Act of 1974", as amended; provided that the provisions of such plans require the funds of such trust or account to be invested exclusively in deposits in said institution.

2. Loss of status as qualified plan. In the event that any such retirement plan, which in the judgment of the institution constitutes a qualified plan under either said Self-employed Individuals Retirement Act of 1962 or the Employee Retirement Income Security Act of 1974 and the regulations promulgated thereunder at the time the trust or account was established and accepted by the institution, is determined subsequently not to be such a qualified plan or ceases subsequently to be such a qualified plan, in whole or in part, the institution may nevertheless continue to act as trustee of any deposit theretofore made under such plan and to dispose of the same in accordance with the directions of the depositor and the beneficiaries thereof.

3. Segregation not required. No institution, with respect to the deposits made under this section, shall be required to segregate such deposits from its other deposits except as may be required under federal law establishing such plans; provided that the institution shall keep appropriate records showing in proper detail all transactions engaged in under the authority of this section.

§ 443. Services for customers

In addition to all customer services incidental to the powers granted in its articles of incorporation, a financial institution authorized to do business in this State may offer the services set forth below to its customers, depositors or members.

1. Checks, money orders and travelers' checks. A financial institution may engage, directly or indirectly, in the business of selling, issuing or registering checks or money orders, and may act as agent for the sale of travelers' checks.

2. Safe deposit boxes. A financial institution may own and maintain safe deposit vaults, with boxes, safes, and other facilities therein, to be rented to depositors and other persons for the safekeeping or storage of personal property susceptible of being deposited therein, subject to the general laws and regulations applicable to safe deposit boxes.

3. Safekeeping. A financial institution may receive on deposit from its customers, depositors or members property for safekeeping.

4. Consumer financial counseling. A financial institution may render consumer financial counseling services, including budget planning, debt management and related services. Such services may be offered by the institution directly, or indirectly through a corporation organized by one or more financial institutions to provide such services, pursuant to section 445.

5. Public collection agency. A financial institution may act as a collection agent and receive and transmit payments made on accounts of quasi-municipal corporations, public utility corporations or nonprofit hospital or medical service corporations, subject to such regulations as the superintendent may prescribe.

6. Participation in public lotteries. A financial institution may participate in public lotteries authorized pursuant to the laws of this State in the manner as outlined in guidelines and regulations promulgated pursuant to such laws; provided that the superintendent may promulgate additional rules and regulations governing such participation.

§ 444. Credit cards

1. Authorization. A financial institution shall have the power to extend credit through the use of credit cards issued by such institution, any subsidiary thereof or issued by such as agent for another institution or subsidiary thereof subject to such regulations as may be promulgated by the superintendent.

2. Treatment as personal loan. In the case of a savings bank or savings and loan association, credit extended through the use of credit cards shall be treated as a loan made pursuant to section 534 or 734.

§ 445. Service corporations

1. Authorization. A financial institution may invest in the capital stock, obligations or other securities of a service corporation, as defined in section 131, or otherwise participate in or utilize the service of such a corporation.

2. Limitations. The stock of a service corporation formed pursuant to this section shall be owned only by financial institutions. The aggregate investment of a financial institution in such service corporations shall not exceed 50 percent of its total capital and reserves or its total surplus account.

3. Records. The books and accounts of a service corporation involving any financial institution shall be kept in such manner and form as the superintendent may prescribe; and any agreement between a financial institution and such corporation shall provide that such books and accounts may be examined by the superintendent or his designee.

4. Joint ownership. A service corporation formed pursuant to this section may be owned by 2 or more such financial institutions; provided that the superintendent shall approve such joint ownership. In approving or disapproving joint ownership of a subsidiary, the superintendent may, in addition to the criteria set forth in section 253 consider the type of institutions making application, and the competitive effect of such joint ownership.

§ 446. Closely-related activities

A financial institution authorized to do business in this State which is not a subsidiary of a financial institution holding company, as defined in chapter 101, may engage in those activities deemed permissible for Maine financial institution holding companies pursuant to section 1014, subject to the conditions and limitations set forth in this section.

1. Application required. A financial institution shall make application to the superintendent in accordance with section 252 for authority to engage in any activity permissible under section 1014. In determining whether such authority shall be granted, the superintendent shall consider those criteria set forth in section 253, except that size of such financial institution alone shall not be the determining factor in the superintendent's decision to approve or disapprove the application.

2. Limitations on permissible activities. In determining which activities shall be permissible for such financial institutions, the superintendent may limit activities by the type of institution, or may authorize an activity for all such non-subsidiary financial institutions. The superintendent shall also have authority to promulgate regulations setting forth those activities for which he will accept applications by type of institution; provided that nothing herein shall be construed to prohibit such financial institution from making an application in the absence of such regulations.

3. Subsidiary corporation required; limitations. All activities engaged in pursuant to this section shall be conducted through a subsidiary corporation, unless the superintendent shall authorize otherwise in approving an application, or by regulation.

A. The investment of such financial institution in such subsidiary corporation shall be limited to its initial capital investment, and no further investment, whether in the form of an additional capital investment or loans, shall be made in such subsidiary corporation without the prior written approval of the superintendent;

B. The maximum amount of investment in any one such subsidiary corporation shall not exceed 20% of the institution's total capital and reserves or its surplus account; and the aggregate investment in all such subsidiary corporations shall not exceed 50% of the institution's total capital and reserves or surplus account.

4. Joint ownership. A subsidiary corporation formed pursuant to this section may be owned by 2 or more such financial institutions; provided that the superintendent shall approve such joint ownership. In approving or disapproving joint ownership of a subsidiary, the superintendent may, in addition to the criteria set forth in section 253, consider the type of institutions making application, and the competitive effect of such joint ownership.

CHAPTER 45

RECORDS AND REPORTS

§ 451. Applicability of chapter

The provisions of this chapter shall apply to financial institutions organized under Parts 5, 6, 7 and 9, and shall establish minimum recordkeeping requirements for such institutions.

§ 452. Maintenance of records; accounting and assets

1. Safekeeping of assets and records. Every financial institution shall make provisions to secure the safekeeping of the institution's assets and its books, accounts and records; and to keep them separate and apart from the assets or property of others. An institution may use the services of a correspondent bank as a depository for securities owned or held as collateral, of a computer service organization for accounting, or the practice of nominee registration of title of securities, when reasonably appropriate to accomplish the duties imposed by this section.

2. Books and accounting. The clerk or treasurer of every financial institution, or such other officer as may be designated in the bylaws or by a duly recorded vote of its directors, shall cause the books and accounts of the institution to be kept in such manner and form as will most accurately and promptly reflect its condition and earnings. The superintendent may prescribe the manner and form of keeping such books and accounts, which need not be uniform.

3. Assets.

A. No asset shall be entered on the books of a financial institution at a figure in excess of its actual cost to the institution; nor shall the book value of any such asset be thereafter increased, except upon the written authorization of the superintendent or as may be provided below.

B. The directors may in their discretion authorize the carrying of any item of assets of the institution at a value less than its cost to the institution, may authorize such provision for depreciation of physical assets as in their judgment may be required, and may provide for systematic amortization of premiums of bonds or other obligations acquired at a cost other than the par value thereof, or the directors may provide for accretion in accordance with generally accepted accounting principles for financial institutions.

4. Fair value. The superintendent may require any of the assets of a financial institution to be charged down to such sum as in his judgment represents its fair value.

§ 453. Annual audits

1. Selection of auditor. The board of directors of a financial institution subject to the provisions of this Title shall employ an independent public accountant or accountants at least annually.

2. Duties of the auditor. The accountant or auditor selected in subsection 1 shall analyze the books, accounts, notes, mortgages, securities and operating systems of the institution in such manner as in his judgment will result in an audit which, together with the internal auditing and accounting procedures of the institution, comports with generally accepted accounting standards for the protection of depositors, members or stockholders and the efficient operation of the institution. The accountant or auditor shall make a written report of the condition of the institution to the president and chairman of the board, for the board, in such manner and to such extent as said

accountant or auditor may deem necessary or proper, and said accountant or auditor shall supply such additional information obtained from his audit as the board may direct.

3. Superintendent's comment on audit. The superintendent shall, in the course of his regular official examination of the institution and at such other times as he deems advisable, investigate the work of such accountant or auditor to determine its adequacy for the purposes set forth in subsection 2. In determining the adequacy of such an audit, the superintendent shall take into account the internal auditing and accounting procedures established by such institution. If the superintendent determines that the audit is inadequate, he shall report forthwith his findings, with instructions, in writing to the directors, who shall, within 30 days thereafter, comply therewith.

4. Audit limiting liability. Whenever the directors of a financial institution shall have provided for such audit or audits by the method prescribed and, in the case of the employment, election or appointment of an accountant or auditor by them, shall have taken such action to remedy conditions as may be deemed reasonably necessary in the light of the information disclosed by any report of said accountant or auditor, and shall have complied with all reasonable recommendations of the superintendent relative thereto within the time hereinbefore prescribed, they shall not be personally liable for any loss suffered by such institution due to any subsequent wrongdoing by any officer or employee of the institution, in the absence of other facts indicating negligence on the part of said directors.

§ 454. Destruction of deposit records

When a statement of account has been rendered by a financial institution to a depositor accompanied by vouchers, if any, which are the basis for debit entries in such account, or the depositor's account book or passbook has been written up by the institution showing the condition of the depositor's account and delivered to such depositor with like accompaniment of vouchers, if any, such account, after the period of 6 years from the date of its rendition, in the event no objection thereto has been made theretofore by the depositor, shall be deemed finally adjusted and settled and its correctness conclusively presumed and such depositor shall thereafter be barred from questioning the correctness of such account for any cause. Nothing herein shall be construed to relieve the depositor from the duty now imposed by law of exercising due diligence in the examination of such account and vouchers, if any, when rendered by the institution and of immediate notification to the institution upon discovery of any error therein, nor from the legal consequences of neglect of such duty, nor to prevent the application of Title 11 to cases governed thereby. Financial institutions shall accordingly not be required to preserve or keep their records or files relating thereto for a longer period than 6 years.

CHAPTER 46

PROHIBITIONS

§ 461. Applicability of chapter

The provisions of this chapter setting forth acts and practices which are prohibited shall apply to all savings banks, trust companies, savings and loan associations, credit unions and financial institution holding companies subject to the laws of this State and shall be in addition to the prohibitions set forth elsewhere in this Title.

§ 462. Interlocks of directors, corporators and officers

1. Prohibited interlocks. Except as provided in subsections 2 and 3, no person who is a director, corporator, officer or employee of a financial institution, credit union or financial institution holding company authorized to do business in this State shall serve as a director, corporator, officer or employee of any other such financial institution, credit union or financial institution holding company authorized to do business in this State.

2. Exceptions. The prohibitions contained in subsection 1 shall not apply to the situation where directors, officers or employees of subsidiaries of financial institutions and subsidiaries of financial institution holding companies who may also be directors, officers or employees of the parent financial institution holding company, or of other subsidiaries of such holding company.

3. Grandfather provision. The prohibitions contained in subsection 1 shall not apply to any person who is presently serving in such multiple offices until October 3, 1976.

§ 463. Stock in Maine financial institutions

1. Prohibition. Except as provided in subsections 2 and 3, no financial institution authorized to do business in Maine or Maine financial institution holding companies shall acquire shares of stock in any other financial institution authorized to do business in this State or in a Maine financial institution holding company after the effective date of this section, without the prior approval of the superintendent.

2. Existing holdings.

A. A financial institution or financial institution holding company holding shares of stock in such other financial institution or financial institution holding companies described in subsection 1 on the effective date of this section may continue to hold such shares; provided that any holdings in excess of 5% of the outstanding voting shares of such other institution shall be sold within 5 years from the effective date of this section, in accordance with a plan approved by the superintendent. The superintendent may permit an additional time, up to 5 years, to dispose of such excess holdings, if market or other conditions warrant such delay.

B. If at the end of the additional time, if any, granted by the superintendent, the institution shall have failed to dispose such excess holdings, it shall either promptly sell the excess voting stock or in a petition setting forth the reasons for failure to dispose of such stock, request the superintendent to hold a hearing for the purpose of determining whether market and economic conditions warrant additional time to dispose such stock. Upon receipt of a petition the superintendent shall hold a hearing pursuant to section 254. If the institution requesting the hearing shall establish good cause at the hearing for failure to comply with this section, the superintendent shall grant the institution additional time in which to dispose of such excess holdings, subject to such terms and conditions as the superintendent deems necessary to effectuate the purposes of this section.

3. Exception. The prohibitions contained in subsections 1 and 2 shall not apply to any shares held in a fiduciary capacity by a financial institution; to shares acquired upon a merger or consolidation pursuant to chapter 35; nor to shares acquired pursuant to chapter 101.

4. Financial institution stock as collateral. If a financial institution receives stock in any other financial institution authorized to do business in this State after the effective date of this section by way of foreclosure on such shares pledged as security for a loan or otherwise, it shall place such shares in escrow and not vote such shares, pending their disposal in such manner as the superintendent deems appropriate under the circumstances, except as such holdings may be permitted pursuant to subsection 3.

§ 464. Loans on shares of stock

1. Prohibition. A financial institution shall not make loans or discounts on the security of the shares of its own capital stock or the capital stock of its parent holding company or its subsidiaries, if any, nor shall an institution be the purchaser or holder of any such shares unless necessary to prevent loss upon a debt previously contracted for in good faith, and all stock so acquired shall be disposed of at public or private sale within one year after its acquisition, in accordance with such requirements as the superintendent deems appropriate.

2. Extension of time for disposition of shares. The time for disposition of shares acquired in subsection 1 may be extended by the superintendent for good cause shown, upon application in writing to the superintendent.

3. Purchase of own shares. Nothing in this section shall be construed as prohibiting an institution from redeeming shares of its capital stock or from purchasing shares for the purpose of reducing its outstanding shares pursuant to provisions in its bylaws; provided that prior written approval of the superintendent has been obtained.

§ 465. Loans to directors, corporators or officers

1. Trust companies.

A. Prohibitions. Except for loans adequately secured by a pledge of a savings deposit, certificate of deposit, or the cash surrender value of a life insurance policy, or as provided in paragraph B, no trust company shall make any loan to any of its directors, corporators, officers, agents or to any other person in the company's employ, or on which any such director, corporator, officer, agent or employee is an endorser, guarantor or surety, or to any firm or business syndicate of which such director, corporator, officer, agent or employee is a member, or to any person or on the endorsement or guaranty of any person, who is a partner of or member of a business syndicate with such director, corporator, officer, agent or employee, or to any corporation of which any such director, corporator, officer, agent or employee is a director, officer, agent or employee, until the proposition to make such loan shall have been submitted to the board of directors, or the executive committee, if any, of such company and accepted and approved by a majority of the entire membership of such board or committee in the following manner:

(1) No director of such trust company who is interested in said loan in any of the above capacities or who is connected or associated with the borrower in any of the above ways shall be regarded as voting in the affirmative on such loan.

(2) The term "agent" as used in this section shall not be construed to include any person other than a person elected or appointed by the stockholders.

B. Exception. Notwithstanding any prohibition contained in subsection 1, a trust company may make a loan to a person in its employ who is not a director or corporator if the loan does not exceed $5,000 in amount or if it is secured by collateral, other than that specified in subsection 1, having a value of at least 105% of the amount of the loan, and if such loan is confirmed within 30 days of its making by the board of directors or executive committee.

2. Thrift institutions and credit unions. Except for loans secured by a first mortgage on real estate, personal loans having an aggregate value of $5,000 or less, and passbook loans, no thrift institution or credit union subject to the laws of this State shall make any loans to its officers or directors, and no thrift institution shall make a loan to its corporators unless such loans are on the same terms as are generally available to the public.

3. Liability for making.

A. Every director, corporator, officer, agent and employee of a financial institution who authorizes or assists in procuring, granting or causing the granting of a loan in violation of this section or sections 613 and 633, or pays or willfully permits the payment of any funds of the institution on such loan, and every director of an institution who votes on a loan in violation of any of the provisions of this section and every director, corporator, officer, agent or employee who willfully and knowingly permits or causes the same to be done shall be personally responsible for the payment thereof and shall be guilty of a misdemeanor;

B. All loans granted in violation of this section shall be due and payable immediately, without demand, whether they appear on their face to be time loans or otherwise;

C. When the superintendent shall find any loans outstanding in violation of this section, he shall notify the president, clerk or treasurer of the institution to cause the same to be paid forthwith;

D. If they are not paid within 30 days or such further time as said superintendent shall determine, he shall report the facts to the Attorney General who shall commence a civil action in the name and for the benefit of such institution for the collection of the same. The Attorney General may employ special counsel to prosecute said civil action; and said institution shall pay all expenses thereof, to be recovered in a civil action in the name of the State.

§ 466. Unlawful acts

The acts set forth in this section shall be unlawful and shall be deemed criminal offenses unless otherwise provided.

1. Copying records of financial institutions. Any director, corporator, officer, agent or employee of a financial institution who copies any of the books, papers, records or documents belonging to or in the custody of such institution, either for his own use or for the use of any other person other than in the ordinary and regular course of his duties, shall be punished by a fine of not more than $1,000 or by imprisonment for not more than 11 months, or by both.

2. Disclosures by service corporation employees. Any information derived from financial institution records or sources by personnel of a service corporation formed pursuant to section 445 shall not be disclosed except in the regular course of business. Whoever violates this subsection shall be punished by a fine of not more than $1,000 or by imprisonment for not more than 11 months, or by both.

3. Violation of orders. No person shall violate any order of the superintendent lawfully served upon him.

4. Unauthorized business. No person shall engage in the business authorized for any financial institution unless he is properly authorized, nor represent that he is acting as such a financial institution, nor use an artificial or corporate name which purports to be or suggests that it is such a financial institution. Financial institutions organized under the laws of the United States shall not be subject to this provision.

5. Procuring loans. No director, corporator, officer, agent, employee or attorney of a financial institution shall stipulate for or receive or consent or agree to receive any fee, commission, gift or thing of value, from any person, firm or corporation for procuring or endeavoring to procure for such person, firm or corporation, or for any other person, firm or corporation, from any such financial institution, any loan or extension or renewal of loan or substitution of security, or the purchase or discount or acceptance of any paper, note, draft, check or bill of exchange by any such financial institution. Nothing contained in this subsection shall be construed to refer to the expenses of examining titles, drafting conveyances and mortgages and the performance of other purely legal services.

6. Concealment. No director, corporator, officer, agent or employee of a financial institution shall conceal or endeavor to conceal any transaction of the financial institution from any director, corporator, officer, agent or employee of the institution nor any official or employee of the Bureau of Banking to whom it should be properly disclosed.

7. Deception; false statements. No director, corporator, officer, agent or employee of a financial institution shall maintain or authorize the maintenance of any account of the financial institution in a manner which, to his knowledge, does not conform to the requirements prescribed by statutes applicable to the supervision of financial institutions or regulations issued thereunder; nor shall such person, with intent to deceive, make any false or misleading statement or entry or omit any statement or entry that should be made in any book, account, report or statement of the institution; obstruct or endeavor to obstruct a lawful examination or investigation of the institution or any of its affairs by an official or employee of the Bureau of Banking.

8. Violation of Title or regulations. If, in the opinion of the superintendent, any financial institution or its officers or directors have persistently violated any provision of this Title, he shall forthwith report the same with

such remarks as he deems expedient to the Attorney General who may forthwith institute a prosecution therefor on behalf of the State. This section shall apply to section 363.

9. False returns. No director, corporator, officer, agent or employee of any financial institution shall willfully or knowingly make a false return to the superintendent in response to any call for information issued by the superintendent or by a deputy superintendent, nor upon the making or filing of any regular or special report required by this Title.

10. Failure to make returns. Any financial institution which shall fail to furnish reports and information to the superintendent, as required by this Title within the time specified, shall be subject to a penalty of not more than $100 per day for each day it is in violation of this section, which penalty may be recovered in a civil action in the name of the State.

11. Criminal sanctions.

A. Any person responsible for an act or omission expressly declared to be a criminal offense by statutes pertaining to the supervision of financial institutions and for which no other penalty has been provided by statute shall be guilty of a misdemeanor and shall be punished by imprisonment for not more than 11 months or by a fine of not more than $5,000 or by both. If the act or omission was intended to defraud, such person shall be guilty of a felony and shall be punished by a fine of not more than $10,000 or by imprisonment for not more than 5 years, or by both.

B. A director, corporator, officer, agent or employee of a financial institution shall be responsible for an act or omission of the institution declared to be a criminal offense against statutes pertaining to the supervision of financial institutions whenever, knowing that such act or omission is unlawful, he participates in authorizing, executing, ratifying or concealing such act, or in authorizing or ratifying such omission or, having a duty to take the required action, omits to do so.

§ 467. Outside business interests

1. Acting as security dealer prohibited. No director, officer, agent or employee of a financial institution subject to the laws of this State shall engage in for any compensation, direct or indirect, the business of selling or negotiating securities as the agent or salesman of any securities dealer, as defined in Title 32, section 751, other than the institution.

2. Other outside business interests. No treasurer or assistant treasurer of a financial institution shall engage in, directly or indirectly, any other business or occupation without the consent of a majority of the directors, evidenced by a duly recorded resolution.

3. Compliance. Any person described in subsections 1 or 2 who is in violation of this section on the effective date hereof shall have two years from said effective date to comply with the requirements of subsections 1 and 2.

PART 5
SAVINGS BANKS
CHAPTER 51
CAPITAL AND CASH RESERVE

§ 511. Applicable law; powers

1. Subject to corporation laws and this Title. Each savings bank, lawfully organized, shall be subject to the laws of Maine regulating corporations in general, except as otherwise provided in this Title. The powers, privileges, duties and restrictions conferred and imposed upon any savings bank, 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 Title. Every such corporation possesses the powers, rights and privileges, and is subject to the duties, restrictions and liabilities conferred and imposed by this Title, anything in their respective charters or acts of incorporation to the contrary notwithstanding.

2. General powers. In addition to those specific grants of power set forth in this Title, a savings bank shall have the power to receive and repay deposits, to lend and invest the same, to declare dividends, and to exercise by its board of directors or duly authorized officers or agents, subject to law, all such powers as are reasonably incidental to the business of a savings bank.

§ 512. Undivided profits

1. Definition. The undivided profits of a savings bank shall represent the undistributed earnings of the bank, exclusive of any amounts required to be placed into the fund established pursuant to section 513, and which is unallocated and for general corporate use.

2. Source of dividends. Such profits shall be the source for all interest and dividend payments made by the bank to depositors or stockholders; provided that dividends may be declared and paid from capital surplus to holders of outstanding cumulative preferred stock pursuant to Title 13-A, section 516.

§ 513. Guaranty fund

1. Requirement. Every savings bank shall establish and maintain a guaranty fund which at all times shall exceed 5% of all existing deposits of the savings bank, unless the superintendent shall approve, in writing, a lesser amount. Such fund shall provide security against losses and contingencies, and all losses not otherwise absorbed shall be charged against it.

2. Composition of fund. The guaranty fund shall initially consist of the capital deposits of the corporators or proceeds from the bank's capital notes or debentures issued for such purpose in a savings bank organized under chapter 32; or the capital stock and paid-in capital stock surplus of a bank organized under chapter 31.

3. Restoration of fund. Should the guaranty fund become impaired and fall below 5% of the bank's total deposits, it shall be restored by setting aside from current net income an amount which, together with other amounts so set aside for this purpose during the year, shall be equal to at least ½ of 1%

of its deposits, until the fund is restored to the required amount. If the savings bank has capital stock pursuant to chapter 31, all or part of such restoration may be made from its paid-in capital stock surplus, provided that any paid-in capital stock surplus so used shall not be available for any other corporate purpose.

4. Exception. A savings bank insured by the Federal Savings and Loan Insurance Corporation pursuant to section 422 may designate the guaranty fund required by this section as its federal insurance reserve account, and any bank so insured shall be considered in compliance with this section; provided that the reserve requirements of the Federal Savings and Loan Insurance Corporation are being complied with.

§ 514. Cash reserve

1. Reserve requirements. Every savings bank shall establish and maintain a minimum cash reserve in an amount established by the superintendent for all savings banks within the following levels:

A. Between 1 and 4% of the bank's savings deposits;

B. Between 2 and 5% of the bank's time deposits;

C. Between 6 and 12% of the bank's demand deposits less treasury tax and loan account deposits; and

D. Between 6 and 12% of the bank's NOW account deposits.

2. Composition of reserve. The cash reserve required in subsection 1 shall be comprised of the following items:

A. Cash on hand;

B. Deposits held in commercial banks, savings banks and savings and loan associations;

C. Federal funds sold to banks pursuant to section 438;

D. The book value of investments in obligations of the United States;

E. The book value of investments in the obligations, notes and debentures issued by any agency or instrumentality of the United States.

The superintendent shall establish a maximum maturity period for investments in paragraphs D and E between 0 and 5 years, as he deems necessary and conditions warrant.

3. Computation period. The required amount of cash reserve shall be computed each business week by averaging the daily totals of items set forth in subsection 2. The method of computation and the reserve computation period for determining compliance with this section shall be established by the superintendent.

4. Assessment for deficiency. Any deficiency in the cash reserve established pursuant to this section may be subject to an assessment for such

period of time as the deficiency may exceed 2 percent of the required reserves. Any such penalty may be assessed at a rate not to exceed 10 percent per annum.

5. Failure to make up deficiency. If any savings bank fails to make up a reserve deficiency with a corresponding excess reserve in the reserve computation period immediately following the period in which the deficiency occurred, the bank shall not make any investments authorized by this Title, except those authorized under sections 538, subsection 1, and 552, subsections 1 and 3, without the prior written approval of the superintendent.

CHAPTER 52

DEPOSITS

§ 521. Deposits in general

In addition to the provisions in this chapter governing deposits in a savings bank, a savings bank shall be subject to the provisions in chapter 42 setting forth the deposit powers common to all financial institutions subject to Parts 5, 6, or 7.

§ 522. Classification and amounts

1. Authorization. A savings bank may receive on deposit, for the use and benefit of its depositors, all sums of money offered for that purpose, and may classify and differentiate among deposits on such basis as it may determine. The bank may, by vote of its directors or by bylaws, establish minimum and maximum amounts which may be received; and the directors may refuse deposits at their pleasure.

2. Certificates of deposits. A savings bank may accept sums of money on deposit and issue certificates of deposit providing for payment of interest at a specified rate; or, by appropriate resolution, the bank may provide for the acceptance of nonpassbook accounts on terms deemed appropriate.

3. Applicability of federal law. A savings bank whose deposit accounts are insured by the Federal Savings and Loan Insurance Corporation or by the Federal Deposit Insurance Corporation pursuant to section 422 may create any type or class of deposit account, the issuance of which has been approved by that corporation insuring the savings bank's deposit accounts.

4. Different rates of dividends. A savings bank may pay different rates of dividends on different classes or types of deposits; provided that the bank shall regulate a dividend in such manner that each depositor shall receive the same ratable portion of dividends as every other depositor in that class.

5. Special purpose accounts. Savings banks may accept sums of money for Christmas clubs or other special purpose accounts on terms to be agreed upon, with provision for repayment of the same, with or without interest.

6. Superintendent's approval required. Any type or class of deposit not offered by a savings bank prior to the effective date of this section or not authorized for savings banks pursuant to other provisions of this Title or not

authorized by the corporation insuring the bank's deposits may not be offered by a savings bank without the written approval of the superintendent.

7. Prohibitions. Nothing contained in this section shall be construed as authorizing a savings bank to establish demand deposit accounts or NOW accounts, except as provided in sections 423 and 424.

§ 523. Dividends and interest on deposits and accounts

1. Authorization. After passing to the guaranty fund that part of income required in section 513, if any, the directors may declare such dividends or interest as in their judgment should be declared in the light of the bank's condition and earning power, and as may be permitted or required by the bank's bylaws.

2. Extra dividends. The directors, in their discretion, may declare an extra dividend payable from the undivided profits of the bank when in their opinion the undivided profits are more than adequate for the protection of the bank's depositors; provided that if the savings bank has capital stock, a majority of the shares entitled to vote thereon must approve such extra dividends to depositors. Such action shall not become effective until written approval thereof has been given by the superintendent. The clerk or treasurer shall promptly notify said superintendent by registered mail of such contemplated action by sending a copy of such vote of the directors, and vote of the stockholders if required, duly certified by him. Within 10 days after receipt thereof, the superintendent shall notify the directors, through the clerk or treasurer, of his approval or disapproval of such action.

3. Vote of directors. Dividends may be declared, and credited and paid to depositors only as authorized by a vote of the board of directors and a vote of the stockholders, if required pursuant to subsection 2, entered upon the bank's records whereon shall be recorded the yeas and nays upon such vote or votes.

4. Computation of dividends. Dividends and interest due on the deposits or accounts in a savings bank shall be determined in accordance with section 425.

5. Eligibility for dividends. Notwithstanding any other provision of this Title, a savings bank may exclude from earnings or dividends any account or deposit having a withdrawal value of less than $25.

CHAPTER 53

LOANS

§ 531. Loans in general

In addition to the provisions in this chapter governing loans by a savings bank, a savings bank shall be subject to the provisions of chapter 43 setting forth the lending powers common to all financial institutions subject to Parts 5, 6 or 7.

§ 532. Real estate mortgage loans

Subject to the conditions and limitations set forth in this section, a savings bank may make loans to individuals or corporations, to be secured by a first

mortgage of real estate located in any of the New England states, or located anywhere if the loan is authorized under subsections 3, 4 or 5 as follows:

1. Nonamortized loans. Loans in an amount not exceeding 70% of the bank's appraisal of the market value of such real estate.

2. Amortized loans. Loans in an amount not exceeding 90% of the bank's appraisal of the market value; provided that the note or other obligation evidencing the loan shall require monthly payments of the interest and principal thereon at a rate of amortization sufficient to repay the entire loan within a period not exceeding 30 years, or shall require full payment of the loan within a period of 3 years. No such loan of 3 years or less shall be renewed for any sum in excess of 70% of the then existing market value of such real estate. For reasonable cause, the beginning of amortization may be delayed up to 18 months from the making of an amortized loan; also, for reasonable cause, principal payments in designated portions of the year may be omitted.

3. U. S. or State-guaranteed loans. Without regard to any other law, a savings bank is authorized to make or buy and sell any loan, secured or unsecured, or any real estate installment sale contract, which is insured or guaranteed in any manner, in part or in full, by the United States or any instrumentality thereof, or by this State or any instrumentality thereof, or for which there is a commitment to so insure or guarantee, or for which a conditional guarantee has been issued.

4. FHA insured loans. Loans to individuals secured by first mortgage of real estate located anywhere, to an amount not in excess of 100% of the appraised market value thereof, or purchase such notes, bonds or other obligations secured by such a mortgage, if such loans have been guaranteed or insured by the Federal Housing Administration or any successor corporation or organization to whom the government of the United States may assign the mortgage insurance functions which have heretofore been exercised by the Federal Housing Administration, or if the Federal Housing Administration or such successor corporation or organization has made a commitment to guarantee or insure them, all such loans to conform to the Federal legislation pertaining thereto and to regulations promulgated thereunder.

5. Loans insured by mortgage guarantee company. Loans in an amount not exceeding 100% of the bank's appraisal of the real estate's market value, if at least the top 20% of the loan is insured by a mortgage guaranty insurer licensed to do business in this State.

6. Loans to purchase foreclosed properties. Loans to individuals or corporations not in excess of the purchase price of real estate pertaining thereto if such loans are made to enable the mortgagor to purchase from the bank real estate acquired by the bank through foreclosure or by deed in lieu of foreclosure.

§ 533. Other mortgage loans

1. Loans on leases. A savings bank may make a loan secured by a mortgage, pledge or collateral assignment of a lease of real property or a lease of air rights upon the following conditions:

A. The security shall be a first lien upon the lease and the fee shall not be subject to any prior lien;

B. The amount of the loan shall not exceed 80% of the bank's appraisal of the leasehold interest, including the leasehold interest in improvements erected or to be erected upon the leased real property; and

C. The note or other obligation evidencing the loan shall require monthly payment of the interest and principal thereon at a rate of amortization sufficient to repay the entire loan within a period not to exceed 4/5 of the unexpired term of the lease, defined so as to exclude extensions of the term which may be provided by an option of renewal or extension, and within a period not to exceed in any event 25 years.

2. Mobile home loans. A savings bank may make loans secured by an interest in a mobile home, in an amount not to exceed 100% of the value of the security, on such terms as the board of directors may determine; provided that the following conditions are met:

A. The security interest shall be a first lien upon the mobile home;

B. The mobile home is placed or to be placed upon a slab or foundation located on real property which is owned, rented or leased by the borrower; and

C. The borrower uses the mobile home as his residence and not for business or commercial purposes.

§ 534. Personal and consumer loans

1. Authorization. A savings bank may make loans to any individual borrower or borrowers, evidenced by a note or other obligation, with or without security, in addition to loans provided for in section 538.

2. Limitations. Loans made to any one individual pursuant to this section shall not exceed 1 percent of the bank's deposits; and the aggregate amount of such loans shall not exceed 10% of the deposits of the bank, except as provided in section 537.

§ 535. Loan participations originated by commercial banks

1. Authorization. A savings bank may purchase a participation interest in any loan originated by a commercial bank authorized to do business in this State, subject to the restrictions set forth in subsections 2 and 3.

2. Conditions. A participation interest purchased pursuant to this section shall meet the following conditions:

A. It shall not exceed 75% of the amount of the loan, and the selling bank shall maintain at all times a minimum participation of 25% of the outstanding loan balance;

B. It shall be evidenced by a participation certificate signed by the selling bank;

C. It shall be subject to a specific repayment schedule;

D. If the loan in which the participation interest is sold is a commercial loan, the selling bank shall prepare and supply to the purchasing savings bank a comprehensive analysis of balance sheets, earnings statements and surplus reconciliations covering the most recent 5 years of the borrower's operations, or for the number of years in operation if less than 5 years; and

E. The selling bank shall annually supply to the savings bank a report of the loan, its security, if any, and the financial status of the borrower.

3. Limitations. Total participations in loans to any one borrower shall not exceed 1% of the bank's deposits; and the aggregate amount of such loans shall not exceed 10% of the deposits of the bank, except as provided in section 537.

§ 536. Other prudent loans

1. Authorization. A savings bank may make such other loans, including commercial loans, as the directors of the bank consider to be prudent loans, the making of which would not otherwise be legal but for this section.

2. Types of prudent loans. Loans within this section shall include, but not be limited to:

A. Loans to dealers on mobile homes for inventory financing; provided that the amount of such loans shall be limited to the manufacturer's invoice price of each new mobile home including any installed equipment.

B. Purchase of loan participations in which the United States or any instrumentality thereof participates which qualify as legal loans for savings banks under any provision or combination of provisions of this Title.

C. Purchases of commercial paper maturing within 12 months; provided that:

(1) The issuer's business is principally in the United States;

(2) The paper would qualify 90 days prior to maturity as eligible for rediscount with a Federal Reserve Bank; and

(3) The paper is rated within the 3 highest grades by any rating service approved by the superintendent.

3. Limitations. Loans to any one borrower pursuant to this section shall not exceed 1% of the bank's deposits; and the aggregate amount of such loans shall not exceed 10% of the deposits of the bank, except as provided in section 537.

§ 537. Additional loans authorized by superintendent

1. Leeway provision. The superintendent may by regulation grant additional authority for a savings bank to make commercial loans, or purchase participation interests in loans originated by commercial banks authorized to do business in this State, in an amount determined by the superintendent with the percentage thereof to be adjustable on an industry-wide basis be-

tween 0 and 10% of total deposits. Loans made pursuant to this section shall be made in accordance with such criteria as shall be established pursuant to regulations promulgated by the superintendent.

2. Change in loan limitations. The superintendent may by regulation adjust the percentage limitations contained in sections 534, 535 and 536; provided that at no time shall the total loans outstanding under sections 534, 535 and 536 exceed 30% of the deposits of a savings bank.

§ 538. Miscellaneous loans

In addition to loans authorized elsewhere in this Title, a savings bank may make the following loans, subject to the terms and conditions set forth herein:

1. Secured loans.

A. Loans secured by a pledge of any share account or deposit book or certificate issued by any financial institution located in the State of Maine, or secured by pledge of a life insurance policy or pledge of any listed securities.

B. The amount of any loan made pursuant to paragraph A shall not exceed the withdrawal value of the pledged account, or exceed the cash surrender value of any pledged life insurance policy or exceed the market value of any pledged listed securities.

2. National Housing Act. Loans to an amount within the discretion of the board of directors; provided that the loan is eligible for insurance under the National Housing Act and seasonable application is made under Title I of that Act.

3. Higher education. Loans to an amount within the discretion of the board of directors; provided that the loan is made to assist the borrower in furthering his higher education.

4. Loans to municipal corporations. Loans to any municipal or quasi-municipal corporation in this State and any religious, charitable, educational or fraternal association or corporation evidenced by note or other obligations, with or without security.

§ 539. Aggregate limitation on loans

1. Limitation. After the effective date of this chapter, the aggregate total of all loans made by a savings bank under this Title shall not exceed 100% of the total of its deposits and undivided profits, as determined by the superintendent. In determining the aggregate of loans hereunder, there shall be excluded mortgage loans backing any security in the issuance of which the association participates pursuant to section 413.

2. Superintendent's authority. Notwithstanding the limitation set forth in subsection 1 the superintendent may, for good cause shown, approve an aggregate amount of loans in excess of the amount set forth in subsection 1, subject to such terms and conditions as the superintendent deems necessary.

3. Exception. This section shall not apply to savings banks whose deposits or accounts are insured by the Federal Savings and Loan Insurance Corporation; provided that the loan requirements of the Federal Home Loan Bank are being complied with.

CHAPTER 54

REAL PROPERTY OWNERSHIP

§ 541. Real estate investment in general

Savings banks may hereafter invest their funds, in addition to loans authorized under chapters 43 and 53 and securities authorized under chapter 55, in real estate in accordance with this chapter and in accordance with section 337.

§ 542. Real estate other than for offices

1. Limitations. In addition to real estate owned for offices and facilities pursuant to section 337, a savings bank may invest in or otherwise hold real estate located anywhere within the State of Maine the book value of which, together with real estate invested in pursuant to section 337, shall not exceed 50% of its total capital and reserves in the case of a bank organized pursuant to chapter 31, or 50% of its surplus account in a bank organized pursuant to chapter 32; provided that the superintendent may approve in writing an additional percentage.

2. Exceptions. The limitation contained in subsection 1 shall not apply to real estate held pursuant to section 543 or the value of real estate acquired by foreclosure or by the acceptance of a deed in lieu of foreclosure.

§ 543. Housing development real estate

1. Authorization. A savings bank may acquire real estate or interests in real estate by mortgage foreclosure, purchase or by any other means, and may hold the same for investment purposes and may improve, develop, lease, contract, convey and otherwise deal with the same; provided that such investment is restricted to that which promotes the development of housing for lower income families under the Housing and Urban Development Act of 1968, as amended, or such as promote the preservation or restoration of historically or architecturally significant buildings or structures.

2. Limitation. The book value of real estate investments made under this section shall not exceed 5% of the bank's deposits. Such computation shall exclude the value of real estate held by a savings bank pursuant to sections 542 and 337, and also the value of real estate acquired by foreclosure or by the acceptance of a deed in lieu of foreclosure.

CHAPTER 55

INVESTMENTS IN SECURITIES

§ 551. Investments in general

Savings banks and savings and loan associations may hereafter invest their funds in securities, in addition to loans and real estate authorized elsewhere in this Title, in accordance with the provisions of this chapter, subject to the conditions and limitations set forth herein.

§ 552. Government unit bonds

Savings banks and savings and loan associations are authorized to invest in:

1. United States and instrumentalities. The bonds and other obligations of the United States, or the bonds and other obligations or participation certificates issued by any agency, association, authority or instrumentality created by the Congress or any executive order.

2. States. The bonds and other obligations issued or guaranteed by any state or by any instrumentality or agency of any state, or by any political subdivision of any state; provided that such securities are rated within the 3 highest grades by any rating service approved by the superintendent.

3. Maine. The bonds and other obligations issued or guaranteed by this State, or issued by any instrumentality or agency of this State, or any political subdivision thereof which is not in default on any of its outstanding funded obligations.

4. Canada. The bonds and other obligations issued or guaranteed by the Dominion of Canada, or issued or guaranteed by any province, or political subdivision thereof; provided that such securities are rated within the 3 highest grades by any rating service approved by the superintendent, and are payable in United States funds.

§ 553. Corporate securities

Savings banks and savings and loan associations are authorized to invest in:

1. Corporate bonds. The bonds and other obligations of any United States or Canadian corporation; provided that such securities are rated within the 3 highest grades by any rating service approved by the superintendent, and are payable in United States funds. Not more than 2% of the deposits of an institution shall be invested in the securities of any one such corporation.

2. Maine corporate bonds. The bonds and other obligations of any Maine corporation, actually conducting in this State the business for which such corporation was created, which, for a period of 3 successive fiscal years or for a period of 3 years immediately preceding the investment, has earned or received an average net income of not less than 2 times the interest on the obligations in question and all prior liens or, in the case of water companies subject to the jurisdiction of the Maine Public Utilities Commission, an average net income of not less than 1½ times the interest on the obligations in question and all prior liens. Not more than 20% of the deposits of an institution shall be invested in such securities of Maine corporations; and not more than 2% of such deposits in the securities of any single corporation.

3. Maine corporate stocks.

A. Characteristics. The stock of any Maine corporation, other than stock of a financial institution, actually conducting in this State the business for which such corporation was created; provided that such corporation

has, for a period of 3 years immediately preceding the investment, earned and received an average net income after taxes equivalent to at least 6% upon the entire outstanding issue of the stock in question.

B. Limitation. Not more than 10% of the deposits of an institution shall be invested under this section in stocks of Maine corporations; and not more than 1% of the deposits of such institution shall be so invested in the stock of any single corporation. No such institution shall hold by way of investment or as security for loans, or both, more than 20% of the capital stock of any corporation; provided that this limitation shall not apply to assets acquired in good faith upon judgments for debts or in settlements to secure debts, nor to any of such capital stock acquired subsequent to the making of the original loan in good faith for the sole purpose of improving the security of such loan; and provided further that nothing in this section shall be construed to prohibit an institution from acquiring or investing in stock of corporations organized pursuant to sections 445 or 446.

§ 554. Financial institution stock and other obligations

1. Savings banks and savings and loan associations are authorized to invest in:

A. Maine financial institutions. The debentures and certificates of deposit of any financial institution authorized to do business within this State, incorporated under the laws of this State or the United States and of any financial institution holding company; provided that such holding company is registered under the Bank Holding Company Act of 1956, as amended, or section 408 of the National Housing Act, as amended. Stock in a financial institution described in this subsection shall only be owned or acquired pursuant to section 463 or chapters 35 and 101.

B. Banks outside of Maine. The capital stock, preferred stock, debentures, acceptances and certificates of deposit of any insured bank not having an office in this State which has total capital and reserves of not less than $50,000,000; and of any bank holding company whose subsidiary banks have total capital and reserves of not less than $50,000,000; provided that the holding company is registered under the Bank Holding Company Act of 1956.

C. Thrift institutions. Capital notes or debentures issued by any other savings bank or savings and loan association chartered under the laws of any State, or of the United States, or of the Commonwealth of Puerto Rico, notwithstanding the fact that such notes or debentures may be subordinate to the claims of depositors or other creditors of the issuing institution. Not more than 1% of the deposits of an institution shall be so invested.

D. Others. Obligations issued, assumed or guaranteed by the International Bank for Reconstruction and Development, or the Inter-American Development Bank.

2. Limitations. An institution shall not acquire or hold stock and obligations described in subsection 1 both by way of investment and as security for loans in excess of 10% of its deposits; nor shall it acquire or hold stock and obligations of any bank or holding company not operating in this State with a book value in excess of 1% of its deposits; nor shall it acquire or hold

such stock in excess of 10% of the capital stock of any bank or holding company; provided, however, that nothing in this section shall be construed to prohibit the acquisition or holding of shares pursuant to chapters 35 and 101.

§ 555. Other stock investments

Savings banks and savings and loan associations are authorized to invest in:

1. Preferred stock of public utilities. The preferred stock of any public corporation if all of the publicly issued bonds of such corporation qualify as legal investments under section 553, subsections 1 or 2. Not more than 10% of the deposits of an institution shall be invested in preferred stocks of public utilities; and not more than 1% of such deposits shall be invested in the preferred stocks of any one corporation.

2. Maine Development Credit Corporation. The stock, notes and other obligations legally issued by the Development Credit Corporation of Maine in an amount not to exceed 1% of the deposits of the institution.

3. Bonds of nonprofit organizations. The bonds or other interest-bearing obligations of any religious, charitable, educational or fraternal association or corporation. Not more than 10% of the deposits of an institution shall be invested in securities coming within the coverage of this subsection; and not more than 1% of the deposits of an institution shall be invested in securities of any one such association or corporation.

§ 556. Other prudent securities

Savings banks and savings and loan associations are authorized to invest in such securities as the directors consider to be sound, prudent investments, the making of which would not otherwise be legal but for this section. Not more than 10% of the deposits of an institution shall be invested in securities within the coverage of this section; and, investments in the stock of Maine financial institutions shall not be considered within this section. All investments made pursuant to the authority granted in this section shall be so recorded in the minutes of the board of directors meeting at which such investments are approved.

§ 557. Retention of unauthorized securities

Financial institutions organized under Part 3 may acquire and hold securities not authorized by law but which have been acquired in settlements, reorganizations, recapitalizations, mergers, consolidations, by receipt of stock dividends or by the exercise of rights applicable to securities held by said financial institutions, and may continue to hold such securities at the discretion of the directors of such financial institutions; provided, however, that this section shall in no way be construed as affecting the limitations set forth in section 463. Financial institutions organized under this Title may continue to hold at the discretion of their directors securities under authorization of law.

§ 558. Change in investment limitations

The superintendent may by regulation, issued pursuant to section 251, raise or lower the limitations as to percentage of securities prescribed under this chapter or prescribe such additional limitations as in his judgment banking conditions warrant.

§ 559. Subsidiary companies

A savings bank may invest its funds in subsidiary service corporations pursuant to section 445, and in corporations authorized to conduct activities pursuant to section 446; provided that all conditions and limitations set forth in those sections and regulations promulgated thereunder are complied with.

CHAPTER 56

ADDITIONAL POWERS

§ 561. Powers in general

In addition to the powers granted to a savings bank by this chapter and elsewhere in Part 5, a savings bank shall have all those powers set forth in Parts 3 and 4 for all financial institutions subject to Parts 5, 6 or 7.

§ 562. Federal Reserve membership

1. Reserve requirements. Any savings bank may become a member and stockholder in a Federal Reserve Bank within the Federal Reserve district where said savings bank is situated, and while such savings bank continues as a member bank under the "Federal Reserve Act", as amended, it shall be subject to said Federal Reserve Act and any amendments thereto relative to bank reserves. Reserves required under the Federal Reserve Act shall be substituted for the cash reserve required by section 514.

2. Powers and privileges as member bank. Every savings bank that becomes a member of a Federal Reserve Bank may have and exercise any and all of the corporate powers and privileges which may be exercised by member banks under the Federal Reserve Act; provided that such savings bank shall at all times be subject to the requirements imposed on savings banks by this Title and the laws of this State, unless otherwise provided therein.

§ 563. Federal Home Loan Bank membership

1. Reserve requirements. Any savings bank may become a member and stockholder in a Federal Home Loan Bank within the Federal Home Loan Bank district where said savings bank is situated; and while such savings bank continues as a member under the "Federal Home Loan Bank Act", as amended, it shall be subject to said Act relative to bank reserves. Reserves required under said Act shall be substituted for the cash reserve required pursuant to section 514; provided that if such bank is also a member of the Federal Reserve System pursuant to section 562, such cash reserve shall be maintained in such manner as shall comply with the requirements of both the Federal Reserve Bank and the Federal Home Loan Bank of which the savings bank is a member.

2. Powers and privileges as member institutions. Every savings bank becoming a member of a Federal Home Loan Bank may have and exercise any and all of the corporate powers and privileges which may be exercised by member institutions under the Federal Home Loan Bank Act; provided that such savings bank shall at all times be subject to the requirements imposed on savings banks by this Title and the laws of this State, unless otherwise provided therein.

§ 564. Promissory notes; bills of exchange

A savings bank shall have the power to collect promissory notes or bills of exchange.

§ 565. Borrowing

1. Authorization. A savings bank may borrow money from any source, within or without the State, and execute repurchase agreements when in the judgment of the directors such action is desirable.

2. Limitations. Notwithstanding the power granted to a savings bank in subsection 1, the superintendent may, by regulation, establish limitations and conditions on any borrowing or type of borrowing by a savings bank.

CHAPTER 57

PROHIBITIONS

§ 571. Prohibitions in general

In addition to the prohibitions applied to savings banks pursuant to this chapter, a savings bank, its officers and its directors shall be subject to the prohibitions in chapter 46 which are applicable to all financial institutions subject to Parts 5, 6 or 7.

§ 572. Use of the word "saving"

No person, partnership, association, or corporation, bank or trust company, except a savings bank organized under the laws of this State, shall use as part of its name or title the word or words "saving", "savings", or "savings bank"; except that loan and building associations legally organized under the laws of this State may use the name or style "savings and loan association"; provided that in all written uses of the name or style "savings and loan association", a loan and building association shall give equal emphasis to the word "savings" and the word "loan". This restriction shall not apply to any business being conducted under such name or style prior to the 23rd day of April, 1905, nor to any bank or trust company using such word or words prior to the first day of January, 1929.

PART 6

TRUST COMPANIES

CHAPTER 61

CAPITAL AND CASH RESERVE

§ 611. Applicable law; powers

1. Organized under this Title. All laws affecting trust companies shall apply to corporations organized and doing business as trust and banking companies.

2. Organized under special act. Any trust company chartered by special act of the Legislature shall have all the rights and powers and shall be subject to all provisions, regulations, and restrictions from time to time conferred upon trust companies or established with reference thereto by general law, except that the enumeration of powers in this Title shall not be con-

strued as revoking any rights or powers possessed by such trust company by virtue of express provisions of its charter.

3. Existing trust companies. Trust companies established prior to the effective date of this Title shall enjoy all of the privileges and be subject to this Title, as if organized thereunder.

§ 612. Guaranty Fund

1. Requirements; superintendent's authority. Every trust company shall establish and maintain a quaranty fund which at all times shall exceed 4% of all existing deposits of the trust company, unless the superintendent shall approve, in writing, a lesser amount. Such fund shall provide security against losses and contingencies, and all losses not otherwise absorbed shall be charged against it. If conditions warrant, the superintendent may by regulation increase or lower the percentage of deposits required by this section.

2. Initial composition of fund. The guaranty fund shall initially consist of the capital stock and paid-in capital stock surplus of a trust company organized under chapter 31; or the capital deposits of the corporators or proceeds from the trust company's capital notes or debentures issued for such purpose in a trust company organized under chapter 32.

3. Accumulation of fund. The guaranty fund shall be accumulated in the following manner:

A. A stock trust company shall set apart not less than 10% of its net earnings in each and every year until the amount so set apart, together with any unimpaired capital stock and paid-in capital stock surplus, shall exceed the required 4% of all existing deposits.

B. A trust company organized pursuant to chapter 32 shall set apart not less than 10% of its net earnings in each and every year until the guaranty fund shall exceed the required 4% of all existing deposits of the trust company.

4. Restoration of fund. Whenever the general reserve shall become impaired and fall below the amounts provided for in this section, it shall be reimbursed in the manner provided for its accumulation.

§ 613. Cash reserve

1. Reserve requirements. Every trust company shall establish and maintain minimum cash reserves in an amount established by the superintendent for all trust companies within the following levels:

A. Between 1 and 4% of the company's savings deposits;

B. Between 2 and 5% of the company's time deposits;

C. Between 6 and 12% of the company's demand deposits less treasury tax and loan account deposits; and

D. Between 6 and 12% of the company's NOW account deposits.

2. Composition of reserve. The cash reserve required in subsection 1 shall be comprised of the following items:

A. Cash on hand;

B. Deposits held in commercial banks, savings banks and savings and loan associations;

C. Federal funds sold to banks pursuant to section 438;

D. The book value of investments in obligations of the United States;

E. The book value of investments in the obligations, notes and debentures issued by any agency or instrumentality of the United States.

The superintendent shall establish a maximum maturity period for investments in paragraphs D and E between 0 and 5 years, as he deems necessary and conditions warrant.

3. Computation period. The required amount of cash reserve shall be computed each business week by averaging the daily totals of items set forth in subsection 2. The method of computation and the reserve computation period for determining compliance with this section shall be established by the superintendent.

4. Assessment for deficiency. Any deficiency in the cash reserve established pursuant to this section may be subject to an assessment for such period of time as the deficiency may exceed 2% of the required reserves. Any such penalty may be assessed at a rate not to exceed 10% per year.

5. Failure to make up deficiency. If any trust company fails to make up a reserve deficiency with a corresponding excess reserve in the reserve computation period immediately following the period in which the deficiency occurred, the superintendent may declare loans made by it during the period of continuing deficiency to be illegal and the obligation for payment of such loans and the responsibility of the directors, officers, agents and employees of such trust company shall be as set forth in section 465, subsection 3.

§ 614. Federal Reserve membership

1. Reserve requirements. Any trust company may become a member and stockholder of the Federal Reserve Bank within the Federal Reserve district where said trust company is situated, and while said trust company continues as a member bank under the "Federal Reserve Act", as amended, the company shall be subject to said Federal Reserve Act and any amendments thereto relative to bank reserves. Reserves required under the Federal Reserve Act shall be substituted for the cash reserve required under section 613.

2. Powers and privileges as member bank. Every such trust company may have and exercise any and all of the corporate powers and privileges which may be exercised by member banks under the Federal Reserve Act. All provisions of charters in conflict with this section are void.

§ 615. Liability of stockholders

As to deposits in and claims outstanding against trust companies on July 24, 1937, the liability of stockholders shall be as provided by law until terminated in accordance with this section. Such liability shall cease on November 1, 1937, with respect to all shares of stock issued by any trust company which shall be transacting the business of banking on November 1, 1937; provided that not less than 3 months prior to such date said trust company shall have caused notice of such prospective termination of liability to be published in a daily newspaper, if any, otherwise in a weekly newspaper, published in the city, town or county in which the principal office of such trust company is located. If a trust company fails to give such notice as and when provided, a termination of such liability may thereafter be accomplished as of the date 3 months subsequent to publication in the manner provided. No such notice shall be required as to shares of common stock in any trust company issued after December 16, 1933, which shall not in any event be subject to any liability to the depositors or any other creditor thereof.

CHAPTER 62

DEPOSITS

§ 621. Deposits in general

In addition to the provisions in this chapter governing deposits in a trust company, a trust company shall be subject to the provisions of chapter 42 setting forth the deposit powers common to all financial institutions subject to Parts 5, 6 or 7.

§ 622. Pledge of assets for deposits

A trust company shall not have the power to pledge or hypothecate any of its assets as security for deposits made with it, except for the following deposits:

1. Federal, State, county, municipal, United States postmaster funds, postal savings funds or other public funds;

2. Funds deposited by the superintendent as receiver of an institution of which he has, pursuant to law, taken possession; and

3. Funds deposited by a trust company in its own bank, which funds are being held by such trust company in a fiduciary capacity.

§ 623. Trust assets

1. Separation of trust assets. Except as otherwise provided, all securities, moneys and property received by any trust company to be held in trust or in any other fiduciary capacity shall be kept separate and apart from the other assets of the company in a trust department to be established and maintained by such trust company.

2. Separation of trust account investments. The investments of each account shall be kept separate from those of all other accounts, except that:

A. They may be placed in custody with any other bank or trust company, whether within or without this State and may, while so held, be commingled with other securities of other such accounts, with records being kept to show the share of each in the commingled securities.

B. They may be commingled with similar securities of other accounts, with records being kept to show the share of each in the commingled securities. The ownership of and other interests in the securities credited to such account may be transferred by entries on the books of the trust company without physical delivery of any securities.

C. Assets held as a trustee, executor, administrator or guardian may be invested in a common trust fund established under Title 18, section 4101.

D. Securities, the principal and interest of which the United States or any department, agency or instrumentality thereof has agreed to pay or has guaranteed the payment of may be deposited with the Federal Reserve Bank in the district in which this State is located, to be credited to one or more fiduciary or safekeeping accounts on the books of said Federal Reserve Bank in the name of such trust company and to which accounts other similar securities may be credited. A trust company so depositing securities with a Federal Reserve Bank shall be subject to such rules and regulations with respect to the making and maintenance of such deposits as the superintendent may from time to time issue.

E. Any cash, whether principal or income, or both, may be deposited in its commercial department in an account, either time or demand, specifically stating the trust to which the same belongs.

F. Any cash, whether principal or income, or both, may be deposited in its commercial department in an aggregate deposit, either time or demand, including balances from other trusts, with the books of the department showing the specific interest of each trust in such aggregate deposit.

3. Records of trust accounts. A record of all matters relating to each trust account shall be kept separately in the trust department and shall indicate such particulars respecting each such account as the superintendent shall direct.

4. Exclusion from other trust company liabilities. The trust assets held by any such company shall not be subject to any other liabilities of said company.

§ 624. Deposits by fiduciaries and other officials

An administrator, executor, assignee, guardian, conservator, receiver or trustee; any court, including courts of probate and insolvency; officers and treasurers of towns, cities, counties; and savings banks of this State may deposit any moneys, bonds, stocks, evidences of debt or of ownership in property or any personal property with a trust company; and any of said courts may direct any person deriving authority therefrom to so deposit the same.

§ 625. Deposits of securities

1. Clearing corporation. Notwithstanding any other provision of law, any fiduciary, as defined in Title 13, section 642, holding securities in its fiduciary capacity; any bank, trust company or private banker holding securities as a custodian or managing agent; and any bank, trust company or private banker holding securities as custodian for a fiduciary, is authorized to deposit or arrange for the deposit of such securities in a clearing corporation as defined in Title 11, Article 8, upon the following terms and conditions:

A. When such securities are so deposited, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of such clearing corporation with any other such securities deposited in such clearing corporation by any person, regardless of the ownership of such securities and certificates of small denomination may be merged into one or more certificates of larger denomination. The records of such fiduciary and the records of such bank, trust company or private banker acting as custodian, as managing agent or as custodian for a fiduciary shall at all times show the name of the party for whose account the securities are so deposited.

B. Title to such securities may be transferred by bookkeeping entry on the books of such clearing corporation without physical delivery of certificates representing such securities.

C. A bank, trust company or private banker so depositing securities pursuant to this section shall be subject to such rules and regulations as, in the case of state-chartered institutions, the superintendent and, in the case of national banking associations, the Comptroller of the Currency, may from time to time issue.

D. A bank, trust company or private banker acting as custodian for a fiduciary shall, on demand by the fiduciary, certify in writing to the fiduciary the securities so deposited by such bank, trust company or private banker in such clearing corporation for the account of such fiduciary.

E. A fiduciary shall, on demand by any party to a judicial proceeding for the settlement of such fiduciary's account or on demand by the attorney for such party, certify in writing to such party the securities deposited by such fiduciary in such clearing corporation for its account as such fiduciary.

2. Applicability of section. This section shall apply to any fiduciary holding securities in its fiduciary capacity, and to any bank, trust company or private banker holding securities as a custodian, managing agent or custodian for a fiduciary, acting on October 3, 1973, or who thereafter may act regardless of the date of the agreement, instrument or court order by which it is appointed and regardless of whether or not such fiduciary, custodian, managing agent or custodian for a fiduciary owns capital stock of such clearing corporation.

§ 626. Federal Housing Administration and Maine Housing Authority mortgages and debentures as collateral

Whenever collateral must or may be furnished by any depository in this State as security for the deposit of any funds whatsoever, or whenever collateral must or may be deposited with any official of this State pursuant to

any statute of this State, mortgages insured and debentures issued by the Federal Housing Administrator or the Maine Housing Authority shall be considered eligible collateral for such purposes.

CHAPTER 63

LOANS

§ 631. Loans in general

In addition to the provisions in this chapter governing loans made by a trust company, a trust company shall be subject to the provisions of chapter 43 setting forth the lending powers common to all financial institutions subject to Parts 5, 6, or 7.

§ 632. Loans and security

A trust company authorized to do business in this State shall have the power to loan money on credits or real estate or personal security, and to negotiate loans and sales for others.

§ 633. Individual borrower loan limitations

1. Limitations. No stock trust company shall loan to any person, firm, business syndicate or corporation an amount or amounts, at any time outstanding, in excess of 10% of its total capital and reserves or, in the case of a mutual trust company, 10% of its total surplus, except on the approval of a majority of its entire board of directors or executive committee, unless the loan is secured by collateral which shall be of value equal to the excess of said loans above said 10%; and in no event shall the total amount of loans to any person, firm, business syndicate or corporation exceed 20% of the amount set forth above.

2. Original promisor. In determining said amount, every person, firm, syndicate or corporation appearing on any loan as endorser, guarantor or surety shall be regarded as an original promisor.

3. Exclusions from limitations. The following items shall be excluded from the limitation set forth in subsection 1 and shall not be considered as a loan within subsection 1:

A. The discount of bills of exchange drawn in good faith against actually existing values, and the discount of commercial or business paper actually owned by the person negotiating the same, and the renewal or renewals in whole or in part of such commercial or business paper so discounted for periods not exceeding in all 3 years for any such paper;

B. Loans to municipal corporations located within this State upon their bonds or notes;

C. Any loan or loans to the extent that they are secured or covered by guarantees or by commitments or agreements to take over or purchase the same, made by any Federal Reserve Bank or by the United States or State of Maine or any department, bureau, board, commission, agency, authority, instrumentality or establishment of the United States or State of Maine, including any corporation owned directly or indirectly by the United States or State of Maine;

D. Obligations as endorser, with or without recourse, or as guarantor, conditional or unconditional, of dealer-originated obligations;

E. Sales of Federal funds, interbank deposits and clearings; and

F. Loans to the extent secured by deposits or the cash surrender value of a life insurance policy.

4. Record of directors' actions. In all cases where loans in excess of said 10% are granted without collateral, the records of the company shall show who voted in favor thereof, and said records and those required by section 222 shall constitute prima facie evidence of the truth of all facts stated therein in prosecutions and civil actions to enforce the several provisions and penalties enumerated in section 465, subsection 3.

§ 634. Guaranteed loans

Without regard to any other law, any bank or trust company authorized to do business in this State is authorized to make or buy and sell any loan, secured or unsecured, which is insured or guaranteed in any manner, in part or in full, by the United States or any instrumentality thereof, or by this State or instrumentality thereof, or for which there is a commitment to so insure or guarantee or for which a conditional guarantee has been issued.

§ 635. Investments secured by mortgages under the G. I. Bill of Rights

Trust companies in this State shall have the power to invest their funds in notes or bonds secured by mortgages issued under the provisions of the Servicemen's Readjustment Act, 38 U.S.C. § 1801 et seq., as amended.

§ 636. Lines of credit

1. Authorization; limitations. A trust company may grant to any person or syndicate a line of credit to an amount not exceeding 20% of its total capital and reserves, subject to the restrictions as to the vote of the entire board and the rights of interested persons to vote on the same, set forth in sections 465 and 633.

2. Record of approval. The records of the institution shall show the approval or disapproval of a line of credit and if approved, unless otherwise specified, it shall be assumed that all directors voted in the affirmative.

3. Advances against credit line. When such line of credit is given, the treasurer or other authorized officer may accept notes thereunder and pay out loans in accordance therewith without further approval.

4. Maturity of credit line. A line of credit given pursuant to this section shall expire no later than 12 months after its approval unless renewed in the same manner in which it was originally given.

CHAPTER 64

PROPERTY OWNERSHIP

§ 641. Real and personal property

Except as limited in section 337, a trust company shall have the power to hold and enjoy all property, real, personal and mixed, and may sell, grant and dispose of all such property.

CHAPTER 65

INVESTMENTS IN SECURITIES

§ 651. Investments in general

In addition to the general investment powers of a trust company, a trust company may make investments as authorized by this chapter.

§ 652. Stock in Federal Reserve Bank; Federal Deposit Insurance Corporation

1. Federal Reserve Bank. Any trust company which is, or hereafter may become, a member of the Federal Reserve Bank within the Federal Reserve district where such trust company is situated under the "Federal Reserve Act", as amended, may acquire and hold shares of stock of said Federal Reserve Bank.

2. Federal Deposit Insurance Corporation. Such trust company may acquire and hold shares of stock of the Federal Deposit Insurance Corporation under the "Banking Act of 1933", as amended, and while such trust company continues as a member bank, is authorized to exercise such power and do any and all things necessary to avail itself of the benefits of said Banking Act of 1933, and any other Acts of Congress granting powers to or conferring benefits on such member bank now or hereafter passed, without otherwise limiting or impairing in any way the authority conferred upon the superintendent under the laws of this State.

§ 653. Subsidiary companies

A trust company may invest its funds in subsidiary service corporations pursuant to section 445, and in corporations authorized to conduct activities pursuant to section 446; provided that all conditions and limitations set forth in those sections and regulations promulgated thereunder are complied with.

CHAPTER 66

ADDITIONAL POWERS

§ 661. Powers in general

In addition to the powers granted to a trust company by this chapter and elsewhere in Part 6, a trust company shall have those powers set forth in Parts 3 and 4 for all financial institutions subject to Parts 5, 6 or 7.

§ 662. Bond

No surety shall be necessary upon the bond of the trust company in its capacity as trustee, executor, administrator, conservator, guardian, assignee or receiver, or in any other capacity, unless the court or officer approving such bond shall require it.

§ 663. Trusts

A trust company may hold by grant, assignment, transfer, devise or bequest, any real or personal property or trusts duly created, and may execute trusts of every description.

§ 664. Executor, guardian, etc.

A trust company may act as assignee, receiver, executor, administrator, trustee, conservator or guardian; provided that any such appointment as guardian shall apply to the estate of the ward only and not to the person.

§ 665. Acting as an agent.

A trust company may act as agent for issuing, registering and countersigning certificates, bonds, stocks and all other evidences of debt or ownership in property.

§ 666. Bills or drafts

1. Authorization. Subject to such restrictions as may be imposed by the superintendent, and subject to the limitation contained in subsection 2, a trust company may accept for payment at a future date drafts and bills of exchange drawn upon it, and may issue letters of credit authorizing holders thereof to draw drafts upon it or its correspondents, at sight or on time; provided that such acceptances or drafts are based upon actual values.

2. Limitations. No trust company shall accept such bills or drafts to an aggregate amount exceeding at any one time 50% of its total capital and reserves, except with the approval of the superintendent; and, in no case, to an aggregate amount in excess of 100% of its total capital and reserves.

CHAPTER 67

PROHIBITIONS

§ 671. Prohibitions in general

In addition to the prohibitions applied to trust companies pursuant to this chapter, a trust company, its officers and its directors shall be subject to the prohibitions in chapter 46 which are applicable to all financial institutions subject to Parts 5, 6 or 7.

§ 672. Surety bond business prohibited

1. Trust and banking company. No trust company authorized to do business in this State shall engage in the business of acting as surety on official bonds or bonds for the performance of other obligations or guarantee-

ing the fidelity of persons in positions of trust, private or public, and at the same time engage in the business of accepting deposits subject to check or payable on demand, other than deposits for the payment of bonds and interest thereon and for sinking funds.

2. Trust company. No trust company organized under the laws of this State shall be authorized to guarantee the fidelity of persons in positions of trust, private or public, and to act as surety on official bonds and for the performance of other obligations, unless it shall have a capital stock, fully paid in, of not less than $250,000.

3. Limitation. Nothing in this section shall be construed as enlarging the corporate powers of any trust company.

§ 673. Use of word "bank"

No person, unless duly authorized under the laws of this State or the United States to conduct the business of a bank or trust company, shall use as a part of the name or title under which such business is conducted or as designating such business, the word or words "bank", "banker", "trust company", "banking" or "trust and banking company" or the plural of any such word or words, or any abbreviation thereof in or in connection with any other business than that of a bank or trust company duly authorized as aforesaid. This restriction shall not apply to any such person conducting business under such name or style prior to the 23rd day of April, 1905.

PART 7

SAVINGS AND LOANS

CHAPTER 71

CAPITAL AND CASH RESERVE

§ 711. Applicable law; powers; name

1. Applicable law. Every savings and loan association, lawfully organized and as now existing or hereafter created, shall have all the powers conferred by this Title upon savings and loan associations, both express and implied, and such others as are incidental thereto, and incidental or necessary to the operation of its business and attainment of its purposes. Such powers shall be exercised in conformity with the provisions of this Title applicable to savings and loan associations.

2. Existing associations. Savings and loan associations established prior to the effective date of this Title shall enjoy all of the privileges and be subject to this Title as if organized thereunder.

3. Name requirement. Associations formed in accordance with chapters 31 or 32 with a charter to conduct business pursuant to Part 7 shall be known as Savings and Loan Associations, and the name of every association so formed shall contain as part thereof the words "savings and loan" or "loan and building".

§ 712. Undivided profits

1. Definition. The undivided profits of a savings and loan association shall represent the undistributed earnings of the association, exclusive of any amounts required to be placed into fund pursuant to section 713 and which is unallocated and for general corporate use.

2. Source of dividends. Such profits shall be the source for all interest and dividend payments made by the association to members, depositors and shareholders; provided that dividends may be declared and paid from capital surplus to holders of outstanding cumulative preferred stock pursuant to Title 13-A, section 516.

§ 713. Guaranty fund

1. Requirements. Every savings and loan association shall establish and maintain a guaranty fund which at all times shall equal at least 5% of all existing withdrawable accounts and deposits of the association, unless the superintendent shall approve, in writing, a lesser amount. Such fund shall provide security against losses and contingencies; and all losses not otherwise absorbed shall be charged against it.

2. Initial composition of fund. The guaranty fund shall initially consist of the capital deposits of the incorporators or the association's capital notes or debentures issued for such purpose in a savings and loan association organized under chapter 32; or the capital stock and paid-in capital stock surplus of an association organized under chapter 31.

3. Restoration of fund. Should the guaranty fund become impaired and fall below 5% of the association's total withdrawable accounts and deposits, it shall be restored by setting aside from current net income an amount which, together with other amounts so set aside for this purpose during the year, shall be equal to at least ½ of 1% of its deposits, until the fund is restored to the required amount. If the savings and loan association has capital stock pursuant to chapter 31, all or part of such restoration may be made from its paid-in capital stock surplus; provided that any paid-in capital stock surplus so used shall not be available for any other corporate purpose.

4. Exception. A savings and loan association insured by the Federal Savings and Loan Insurance Corporation may designate the guaranty fund required by this section as its Federal insurance reserve account, and any association so insured shall be considered in compliance with this section; provided that the reserve requirements of the Federal Savings and Loan Insurance Corporation are being complied with.

§ 714. Cash reserve

1. Reserve requirements. Every savings and loan association shall establish and maintain a minimum cash reserve in an amount established by the superintendent for all associations within the following levels:

A. Between 1 and 4% of the association's savings deposits;

B. Between 2 and 5% of the association's time deposits;

C. Between 6 and 12% of the association's demand deposits less treasury tax and loan account deposits; and

D. Between 6 and 12% of the association's NOW account deposits

2. Composition of reserve. The cash reserve required in subsection 1 shall be comprised of the following items:

A. Cash on hand;

B. Deposits held in commercial banks, savings banks and savings and loan associations;

C. Federal funds sold to banks pursuant to section 438;

D. The book value of investments in obligations of the United States;

E. The book value of investments in the obligations, notes and debentures issued by any agency or instrumentality of the United States.

The superintendent shall establish a maximum maturity period for investments in paragraphs D and E between 0 and 5 years, as he deems necessary and conditions warrant.

3. Computation period. The required amount of cash reserve shall be computed each business week by averaging the daily totals of items set forth in subsection 2. The method of computation and the reserve computation period for determining compliance with this section shall be established by the superintendent.

4. Assessment for deficiency. Any deficiency in the cash reserve established pursuant to this section may be subject to an assessment for such period of time as the deficiency may exceed 2% of the required reserves. Any such penalty may be assessed at a rate not to exceed 10% per year.

5. Failure to make up deficiency. If any savings and loan association fails to make up a reserve deficiency with a corresponding excess reserve in the reserve computation period immediately following the period in which the deficiency occurred, the association shall not make any investments authorized by this Title, except those authorized under sections 738, 753 and 552, without the prior written approval of the superintendent.

CHAPTER 72

DEPOSITS

§ 721. Deposits in general

In addition to the provisions in this chapter governing deposits in a savings and loan association, a savings and loan association shall be subject to the provisions of chapter 42 setting forth the deposit powers common to all financial institutions subject to Parts 5, 6 or 7.

§ 722. Classification and amounts

1. Authorization. Savings and loan associations may issue such savings accounts and savings deposits as its board of directors or bylaws may determine, and may classify and differentiate among such accounts and deposits

on such basis as it may determine. By vote of its directors or pursuant to its bylaws, an association may establish minimum and maximum amounts and time requirements for savings deposits and classes of savings deposits, and the board or any person duly authorized by it may refuse any deposit and may limit the amount of payments which may be received on an account, except as provided in section 724.

2. Time accounts. An association shall issue to each depositor an account book, certificate or some other evidence of a savings account or savings deposit which shall clearly indicate any time or notice requirement pertaining thereto.

3. Applicability of Federal law. An association whose savings accounts and savings deposits are insured by the Federal Savings and Loan Insurance Corporation pursuant to section 422 may issue any type or class of savings account or savings deposit, the issuance of which has been approved by the Federal Savings and Loan Insurance Corporation.

4. Different rates of dividends. An association may agree in advance to pay an additional or different rate of earnings on any class or subclass of account established pursuant to subsection 1; provided that the association regulates the distribution of earnings in such a manner that each depositor shall receive the same ratable portion of earnings as every other depositor in that class.

5. Special purpose accounts. A savings and loan association may accept sums for Christmas clubs and other special purpose accounts on terms to be agreed upon, with provision for repayment of the same, with or without interest.

6. Superintendent's approval. Any type or class of deposit not offered by a savings and loan association prior to the effective date of this section, nor offered by any association not insured by the Federal Savings and Loan Insurance Corporation, may not be offered by an association without the prior written approval of the superintendent.

7. Prohibitions. Nothing contained in this section shall be construed as authorizing a savings and loan association to establish demand deposit accounts or NOW accounts except as provided in sections 423 and 424.

§ 723. Dividends and interest on share accounts and deposits

1. Authority. After passing to the guaranty fund that part of net income required in section 713, if any, an association may pay dividends or interest on its savings shares, savings accounts, savings and other deposits, at such rate and at such times and for such time or notice periods as shall be determined by resolution of its board of directors or in accordance with deposit agreements entered into pursuant to this Title.

2. Source of dividends. Payments of dividends and interest pursuant to subsection 1 shall be made only from net income and from undivided profits not otherwise restricted by law.

3. Exclusions from dividends. Notwithstanding any other provisions of this Title, an association may, if its bylaws so provide, exclude from earnings or dividends any of the following classes of accounts or deposits:

A. Those having a withdrawal or participating value of less than $25; and

B. Those which are issued under a plan whereby they shall be withdrawn within 24 months from the date upon which they are issued.

4. Computation of dividends. Dividends and interest due on the deposits or accounts in a savings and loan association shall be determined in accordance with section 425.

§ 724. Limitation upon accounts or deposits

By its bylaws or resolution of its board of directors, a savings and loan association may limit the aggregate participation of any member or depositor; provided that such limitation shall not apply:

1. Pledged accounts. To an account which is pledged as security for the repayment of money due such association;

2. Accounts above maximum. To an account which exceeds the aforesaid limitation on the effective date of this Title, but no additions other than dividends shall be made thereto;

3. Excess from dividends; gifts. When the excess results from the addition of dividends to any such account, or from the acquisition, of an account by gift, will or inheritance, or from the acquisition of an account previously held as collateral security for the payment of an obligation, or from the acquisition by one association of the assets of another association; or

4. Excess from capital reduction. When such excess results from a reduction in the capital of the association.

§ 725. Withdrawals

Except as provided in sections 423 and 424, withdrawals from share accounts and deposits in a savings and loan association shall be made in the manner prescribed in this section.

1. Written application for withdrawal. Any member or depositor may at any time present a written application for withdrawal of all or any part of his share accounts or deposits, which application shall request immediate withdrawal of a stated amount in accordance with this section; provided that no member or depositor shall have on file in any one association more than one application at a time. Such application may be cancelled in whole or in part at any time pursuant to written notice by the member or depositor.

2. Withdrawal sequence. Every association shall pay or number, date and file in order of actual receipt every withdrawal application. Withdrawals shall be made in the order of actual receipt of applications, except as provided in this section; and, upon withdrawal, an association shall pay the value of any share accounts or deposits, as determined by the board of directors, but not in excess of the withdrawal value thereof.

3. Immediate payment. If an association so elects, it may at any time pay in full each and every application as presented. It shall not pay some in full, unless it pays every application on file in full, except by paying all

applications on file on the rotation plan prescribed in this section; provided, however, that the board of directors shall have an absolute right to pay upon any application not exceeding $200 to any member or depositor in any one month, in any order.

4. Termination of membership. Members or depositors who have filed written application for withdrawal shall remain members or depositors. No dividends shall be declared upon that portion of a share account or deposit which has been noticed for withdrawal, which for dividend purposes is required to be deducted from the latest previous additions to such share account or deposit, so long as such application is on file.

5. Rotation plan. The rotation plan of payment of withdrawals referred to in subsection 3 is as follows:

A. On the first day of each month, each application which has been on file since the first day of the preceding month and which is reached in order shall be paid $1,000 on account, or in full if the amount noticed for withdrawal or the unpaid balance of such application is less than $1,000.

B. Each such application for more than $1,000 so paid shall be deemed refiled as if filed on that day.

C. Such limited payment on the first day of each month and such renumbering shall take place on the first day of each subsequent month as long as there are applications unpaid.

D. At least 1/3 of the receipts of an association from its members or depositors during the preceding calendar month shall be applied on the first day of each month to the payment of applications which have been on file since the first day of the preceding month. Any association may apply to withdrawals an amount larger than 1/3 of such receipts, but cannot obligate itself to do so.

E. When an application to withdraw is reached for payment as provided, a written notice shall be sent to the applicant by mail at his last address recorded on the books, and unless the applicant shall apply in person or in writing for such withdrawal within 30 days from the date of such notice, no payment on account of such application shall be made and such application shall be cancelled.

§ 726. Retirement of accounts or deposits

1. Authority. At any time after 4 years from the date of issue, the board of directors may, under rules adopted by it, retire unpledged share accounts or deposits by enforcing their withdrawal.

2. Retirement determined by lot. The members or depositors whose share accounts or deposits are to be retired shall be determined by lot, and they shall be paid the full value of their share accounts or deposits less all fines, if any, and a proportionate part of any unadjusted profit or loss; provided that in the case of an association organized pursuant to chapter 31, a retired member or depositor shall be paid the full value of his share accounts or deposits, less all fines, if any, plus the accrued dividends or interest owed by the association on that share account or deposit.

§ 727. Application of withdrawal value to indebtedness

1. Borrowing member. If a borrowing member or depositor of an association is in default on any indebtedness to such association, the board of directors may, after 30 days' written notice of such intention sent by mail to such borrower at his last known address as shown on the books of said association, apply to his indebtedness at their withdrawal value the whole or any part of any shares or sums credited on any account or deposit of such borrowing member or depositor. Share accounts or deposits credited to the indebtedness of a borrower shall be cancelled and any balance remaining shall be held for his account.

2. Nonborrowing member. If a nonborrowing member or depositor of an association is in default on any payment to such association for a period of 90 days or more, the board of directors may, after 30 days' written notice of such intention sent by mail to such member or depositor at his last known address as shown on the books of said association, forfeit the share account or deposit of such member or depositor; and the value thereof, after deducting all fines and legal charges, shall be transferred to the credit of the defaulting member or depositor in an account to be designated "forfeited accounts". Said member or depositor shall be entitled, upon 30 days' notice, to receive the balance so transferred without dividends or other accruals from the time of such transfer.

3. Application of share account as security for debt. Nothing in this section shall prevent an association from applying and crediting at any time the full withdrawal value of any share account or deposit pledged with it as security for the payment of any debt toward the payment of such debt.

§ 728. Deposits as legal investments of security for bonds

1. Deposits in associations as legal investments. Subject to the application of the prudent man rule, administrators, executors, custodians, guardians, conservators, trustees and other fiduciaries of every kind and nature; insurance companies, business and manufacturing companies, banks, credit unions, and all other types of financial institutions; charitable, educational, eleemosynary and public corporations and organizations; municipalities and other public corporations and bodies; and public officials are specifically authorized and empowered to invest funds held by them in share accounts or deposits of any association operating pursuant to this Title. With respect to investments by custodians, associations hereby are deemed to be "banks" within the meaning of that term as used in the Uniform Gift to Minors Act of this State.

2. Deposit of securities. Whenever, under the laws of this State or otherwise, a deposit of securities is required for any purpose, the securities made legal investments by this section shall be acceptable for such deposits, and whenever, under the laws of this State or otherwise, a bond is required with security, such bond may be furnished, and the securities made legal investments by this section in the amount of such bond, when deposited therewith, shall be acceptable as security without other security.

3. Section supplemental to other legal investment laws. This section is supplemental to any and all other laws relating to and declaring what shall be legal investments for the persons, corporations, organizations and officials referred to in this section and the laws relating to the deposit of securities and the making and filing of bonds for any purpose.

CHAPTER 73

LOANS

§ 731. Loans in general

In addition to the provisions in this chapter governing loans made by a savings and loan association, a savings and loan association shall be subject to the provisions of chapter 43 setting forth the lending powers common to all financial institutions subject to Parts 5, 6 or 7.

§ 732. Real estate mortgage loans

1. Authorization. Subject to the conditions and limitations set forth in this section, a savings and loan association may make any loan secured by a mortgage which shall be a first lien on real estate.

2. Written appraisal required. Prior to approval of any loan, every association shall appraise or cause to be appraised the security for the loan, and said appraisal or appraisals shall be in writing with a certificate signed by the appraiser or appraisers, and such appraisal shall be filed and preserved by the association. Appraisals shall be conducted in one or more of the following ways:

A. By an independent qualified appraiser designated by the board of directors;

B. By the association's appraisal committee appointed by the board of directors; or

C. In the case of an insured or guaranteed loan, by an appraiser appointed by any lending, insuring or guaranteeing agency of the United States or the State of Maine which shall insure or guarantee such loan, in whole or in part.

3. Amortized mortgage loans. Direct reduction loans may be made, provided such are repayable in weekly or monthly installments. All payments made upon such loans shall be applied first to interest and other charges, and the remainder to the reduction of the principal of the loan. Loans made under this subsection shall be subject to the following conditions and limitations:

A. Loans may be made in any amount not exceeding 90% of the appraised value or 90% of the purchase price of owner occupied, one-family homes, whichever amount is less, if secured by a mortgage; and

(1) The loan contract requires that in addition to interest and principal payments on the loan, the equivalent of 1/12 of the estimated annual taxes, assessments and insurance premiums on the secured property be paid monthly in advance to the association; and

(2) Loans written under this subsection which exceed 80% the appraised value shall at no time exceed 20% of the association's total assets.

B. To an amount not exceeding 80% of the appraised value of one to 4-family residential property or combination residential and business property, repayable in a period not exceeding 30 years.

C. To an amount not exceeding 80% of the appraised value of any other type of improved real estate, repayable in a period not exceeding 25 years;

D. Mortgage loans not exceeding 100% of the appraised value may be made; provided that at least the top 20% of the loan is insured by a mortgage guaranty insurer licensed to do business in this State.

E. Principal payments on any iloan may be waived from time to time for good cause by an authorized officer whose action is confirmed by the board of auditors;

F. Principal payments on construction loans may be postponed for a maximum of one year from the date of the note; provided that the final maturity date of the loan does not exceed the limits established in paragraphs A or B.

4. Nonamortized mortgage loans. Nonamortizing real estate loans may be made subject to the following conditions and limitations:

A. Interest must be payable at least semiannually;

B. No loan may have a maturity exceeding 5 years; and

C. No loan may exceed 75% of appraised value.

5. Loan limitations. Loans written under subsection 4, together with loans on properties located more than 100 miles from an association's place of business, shall not in the aggregate exceed 20% of total assets of the association.

6. Mortgage loans on sinking fund plan. Real estate loans may be made on the sinking fund plan in amounts not exceeding the limits specified in this section. Any shares pledged for real estate loans, known as sinking fund shares, may be cancelled and the full amount of these shares, including dividend credit thereon, less all monthly installments of interest, fines, taxes and other legal charges in arrears, may be endorsed on the mortgage note and future payments handled in the same manner as with direct reduction loans, with the written agreement of the borrower. When such agreement for transfer is entered into, a copy of the agreement shall be placed in the association files and a copy given to the borrower.

7. Second mortgages. Additional loans upon the same real estate or a portion thereof may be made; provided that any mortgage securing such loan shall contain a provision to the effect that the premises described are subject to such prior mortgage or mortgages to the mortgagee; and provided further that there shall be no intervening mortgage or encumbrance other than those held by the association concerned.

8. Participating interest in mortgage loans. A savings and loan association may purchase a participating interest in mortgage loans. The mortgage which secures payment of any such participating interest shall be a first lien upon real estate, and shall be the type of mortgage loan that the association is authorized to make pursuant to this Title. Such participating interest shall entitle the association to share all money and other benefits derived from such mortgage loan, or incidental thereto, pro rata with, or with preference and priority over, the holder of any other participating interest therein.

9. Real estate improvement loans. Loans for the purchase or improvement of real estate, or for the construction, alteration, repair or improvement of buildings erected thereon, or those which may be made for any other purpose may be made by an association without regard to the restrictions of this Title, provided that the following conditions and limitations are complied with:

A. The loan shall be secured by a mortgage on real estate;

B. The loan shall be guaranteed in whole or in part by the United States or the State of Maine, any instrumentality or agency of either of them, or a commitment to so guarantee or insure shall have been made; and

C. The loan shall have been made in accordance with the terms and conditions permitted by the agency guaranteeing or insuring such loan, notwithstanding any other provision of law limiting interest or other charges or prescribing terms and conditions.

10. Loan size limitations. No association shall make a loan secured by any one property which exceeds $35,000 or 10% of its surplus account, whichever is greater; nor shall the total loans to any one borrower or group of associated borrowers exceed $45,000 or 20% of its surplus account, whichever is greater. This limitation shall not apply to associations whose accounts are insured by the Federal Savings and Loan Insurance Corporation; provided that the loan requirements of the Federal Home Loan Bank Board are being complied with.

§ 733. Other mortgage loans

1. Loans on leases. A savings and loan association may make a loan secured by a mortgage, pledge or collateral assignment of a lease of real property or a lease of air rights, subject to the following conditions and limitations:

A. The security shall be a first lien upon the lease and the fee shall not be subject to any prior lien;

B. The amount of the loan shall not exceed 80% of the association's appraisal of the leasehold interest, including the leasehold interest in improvements erected or to be erected upon the leased real property; and

C. The note or other obligation evidencing the loan shall require monthly payment of the interest and principal thereon at a rate of regular amortization sufficient to repay the entire loan within a period not to exceed 4/5 of the unexpired term of the lease, defined so as to exclude extensions of the term which may be provided by an option of renewal or extension, and within a period not to exceed in any event 25 years.

2. Mobile home loans. A savings and loan association may make loans secured by an interest in a mobile home, in an amount not to exceed 100% of the value of the security, on such terms and conditions as the board of directors may determine; provided that the following conditions are met:

A. The security interest shall be a first lien upon the mobile home;

B. The mobile home is placed or to be placed upon a slab or foundation located on real property which is owned, rented or leased by the borrower; and

C. The borrower uses the mobile home as his residence and not for business or commercial purposes.

§ 734. Personal and consumer loans

1. Authorization. A savings and loan association may make loans to any individual borrower or borrowers, evidenced by a note or other obligation, with or without security, including loans for home improvement, in addition to loans provided for in section 738.

2. Limitations. Loans made to any one individual pursuant to this section shall not exceed 1% of the association's deposits; and the aggregate amount of such loans shall not exceed 10% of the deposits of the association, except as provided in section 737.

§ 735. Loan participations originated by commercial banks

1. Authorization. A savings and loan association may purchase a participation interest in any loan originated by a commercial bank authorized to do business in this State, subject to the restrictions set forth in subsections 2 and 3.

2. Conditions. A participation interest purchased pursuant to this section shall meet the following conditions:

A. It shall not exceed 75% of the amount of the loan and the selling bank shall maintain at all times a minimum participation of 25% of the outstanding loan balance;

B. It shall be evidenced by a participation certificate signed by the selling bank;

C. It shall be subject to a specific repayment schedule;

D. If the loan in which the participation interest is sold is a commercial loan, the selling bank shall prepare and supply to the purchasing association a comprehensive analysis of balance sheets, earnings statements and surplus reconciliations covering the most recent 5 years of the borrower's operations, or for the number of years in operation if less than 5 years; and

E. The selling bank shall annually supply to the association a report of the loan, its security, if any, and the financial status of the borrower.

3. Limitations. Total participations in loans to any one borrower shall not exceed 1% of the association's deposits; and the aggregate amount of such loans shall not exceed 10% of the deposits of the association, except as provided in section 737.

§ 736. Other prudent loans

1. Authorization. A saving and loan association may make such other loans, including commercial loans, as the directors of the association consider to be prudent loans, the making of which would not otherwise be legal but for this section.

2. Types of prudent loans. Loans within this section shall include, but not be limited to:

A. Loans to dealers on mobile homes for inventory financing; provided that the amount of such loans shall be limited to the manufacturer's invoice price of each new mobile home including any installed equipment.

B. Purchase of loan participations in which the United States or any instrumentality thereof participates which qualify as legal loans for savings and loan associations under any provision or combination of provisions of this Title.

C. Purchases of commercial paper maturing within 12 months; provided that:

(1) The issuer's business is principally in the United States;

(2) The paper would qualify 90 days prior to maturity as eligible for rediscount with a Federal Reserve Bank; and

(3) The paper is rated within the 3 highest grades by any rating service approved by the superintendent.

3. Limitations. Loans to any one borrower pursuant to this section shall not exceed 1% of the association's deposits; and the aggregate amount of such loans shall not exceed 10% of the deposits of the association, except as provided in section 737.

§ 737. Additional loans authorized by superintendent

1. Leeway provision. The superintendent may by regulation grant additional authority for savings and loan associations to make commercial loans or purchase participation interests in loans originated by commercial banks authorized to do business in this State, in an amount determined by the superintendent with the percentage thereof to be adjustable on an industry-wide basis between 0 and 10% of total deposits. Loans made pursuant to this section shall be made in accordance with such criteria as shall be established pursuant to regulations promulgated by the superintendent.

2. Change in loan limitations. The superintendent may by regulation adjust the percentage limitations contained in sections 734, 735 and 736; provided that at no time shall the total loans outstanding under sections 734, 735 and 736 exceed 30% of the deposits of a savings and loan association.

§ 738. Miscellaneous loans

In addition to the loans authorized elsewhere in this Title for savings and loan associations, an association may make the following loans, subject to the terms and conditions set forth herein:

1. Secured loans.

A. Loans secured by a pledge of any share account or deposit book or certificate issued by any financial institution located in this State, or secured by a pledge of a life insurance policy or pledge of any listed securities.

B. The amount of any loan made pursuant to paragraph A shall not exceed the withdrawal value of the pledged account, or the cash surrender value of any pledged life insurance policy or exceed the market value of any pledged listed securities.

2. National Housing Act. Loans to an amount within the discretion of the board of directors; provided that the loan is eligible for insurance under the National Housing Act and seasonable application is made under Title 1 of that Act.

3. Higher education. Loans, secured or unsecured, to an amount within the discretion of the board of directors; provided that the loan is made to assist the borrower in furthering his higher education.

§ 739. Aggregate limitation on loans

1. Limitation. After the effective date of this chapter, the aggregate total of all loans made by a savings and loan association under this Title shall not exceed 100% of its withdrawable accounts and undivided profits, as determined by the superintendent. In determining the aggregate of loans hereunder, there shall be excluded mortgage loans backing any security in the issuance of which the association participates pursuant to section 413.

2. Superintendent's authority. Notwithstanding the limitation set forth in subsection 1, the superintendent may, for good cause shown, approve an aggregate amount of loans in excess of the amount set forth in subsection 1, subject to such terms and conditions as the superintendent deems necessary.

3. Exception. This section shall not apply to associations whose accounts are insured by the Federal Savings and Loan Insurance Corporation; provided that the loan requirements of the Federal Home Loan Bank are being complied with.

CHAPTER 74

REAL PROPERTY OWNERSHIP

§ 741. Real estate investments in general

Savings and loan associations may hereafter invest their funds, in addition to investments in loans under chapters 43 and 73 and securities and other investments under chapter 75, in real estate in accordance with this chapter and in accordance with section 337.

§ 742. Real estate other than for offices

1. Purchases to protect interest. A savings and loan association may acquire by purchase or otherwise any real estate upon which the association may have a mortgage, judgmeut, lien or other encumbrance, or in which it may have an interest for the purpose of protecting or conserving such interest.

2. Disposition of real estate owned. The association may sell, convey, contract to sell, lease or mortgage at pleasure the real estate so acquired to any person or persons.

3. Purchase money mortgage. Any real estate acquired pursuant to subsection 1 may be sold and the association, in the discretion of its board of directors, may accept the note of the purchasers, secured by a first mortgage, upon such terms and conditions as the directors may determine.

CHAPTER 75

INVESTMENTS IN SECURITIES

§ 751. Investments in general

A savings and loan association may hereafter invest its funds in other than loans and real estate investments authorized elsewhere in this Title, in accordance with the provisions of this chapter, subject to the conditions and limitations set forth herein.

§ 752. Investments authorized for savings banks

A savings and loan association may invest in securities which are, or hereafter may be made, legal for savings banks pursuant to the provisions of chapter 55, subject to the conditions and restrictions set forth therein. An association may also invest in such other investments as are or shall be authorized by any law of this State for associations regulated by this Title.

§ 753. Federal Home Loan Bank obligations

A savings and loan association may invest in the bonds, notes, debentures or other securities or time deposits or obligations issued by any Federal Home Loan Bank of the United States, or by the Federal Home Loan Bank System.

§ 754. Subsidiary companies

A savings and loan association may invest its funds in subsidiary service corporations pursuant to section 445, and in corporations authorized to conduct activities pursuant to section 446; provided that all conditions and limitations set forth in those sections and regulations promulgated thereunder are complied with.

CHAPTER 76

ADDITIONAL POWERS

§ 761. Powers in general

In addition to the powers granted to a savings and loan association by this chapter and elsewhere in Part 7, a savings and loan association shall have the powers set forth in Parts 3 and 4 for all financial institutions subject to Parts 5, 6 or 7.

§ 762. Expenses and service charges

A savings and loan association may take from its members or borrowers all expenses incurred in connection with the consummation of a real estate mortgage loan and, in addition thereto, a service charge, premium or fee for priority or privilege of a loan for the acquisition of real estate. No such expense, service charge, premium or fee taken by an association shall be deemed usurious.

§ 763. Federal Home Loan Bank membership

1. Reserve requirements. A savings and loan association may become a member and stockholder in a Federal Home Loan Bank within the Federal Home Loan Bank district where said savings and loan association is situated; and, while such association continues as a member under the "Federal Home Loan Bank Act", as amended, it shall be subject to said Act relative to association reserves. Reserves required under said Act shall be substituted for the cash reserve required pursuant to section 714.

2. Powers and privileges as member institution. Every savings and loan association which is a member and stockholder in a Federal Home Loan Bank may have and exercise any and all of the corporate powers and privileges which may be exercised by member institutions under the Federal Home Loan Bank Act; provided that such association shall at all times be subject to the requirements imposed on savings and loan associations by this Title and the laws of this State, unless otherwise provided therein.

§ 764. Account in Federal Reserve Bank

A savings and loan association may maintain an account with the Federal Reserve Bank of the district in which such association is situated, for the purpose of facilitating the collection or exchange of checks or drafts pursuant to section 13 of the Federal Reserve Act, as amended, to the extent that the maintenance of such an account and participation in the collection and exchange system by a savings and loan association may be authorized by applicable Federal laws or regulations.

§ 765. Mutual association acting as an agent

Any savings and loan association organized pursuant to chapter 32 may act as an agent for any person where such agency will further the interests of the association and its members, subject to such limitations as may be prescribed by the superintendent.

§ 766. Borrowing

1. Authorization. A savings and loan association may borrow money from any source in or out of the State, on the note, bond and mortgage or other obligation of the association, upon such terms and conditions as the board of directors may from time to time prescribe by resolution adopted by at least a majority of all the members of the board and duly recorded on the minutes; and may pledge, assign or transfer mortgages owned by the association and the obligations secured by such mortgages, together with the shares, if any, pledged as collateral security therefor, or any real or other personal property, as security for the repayment of money so borrowed.

2. Limitation. No association, without the written consent of the superintendent, shall borrow any sum or sums the aggregate of which would exceed 25% of its total assets, except that any association which is a member of a Federal Home Loan Bank shall have power to secure advances.

CHAPTER 77

PROHIBITIONS

§ 771. Prohibitions in general

In addition to the prohibitions applied to savings and loan associations pursuant to this chapter, a savings and loan association, its directors and its officers shall be subject to the prohibitions in chapter 46 which are applicable to all financial institutions subject to Parts 5, 6 or 7.

§ 772. Business restrictions

1. Prohibition. No person, association or corporation shall carry on the business of accumulating and loaning or investing the accounts of its members or of other persons in the manner of savings and loan associations, or carry on any business similar thereto within this State, unless incorporated under the laws thereof for such purposes, but this section shall not prevent such association, corporation or institution incorporated under the laws of another state from loaning money upon mortgages of real estate located within this State.

2. Applicability of Federal associations. Federal savings and loan associations, incorporated pursuant to the Home Owners' Loan Act of 1933, as amended, shall not be deemed foreign corporations under this section. Insofar as this Title is not inconsistent with Federal law, this Title shall apply to Federal savings and loan associations whose home offices are located in this State, and to the members thereof.

3. Penalty. This section may, on complaint of the superintendent, be enforced by injunction; and any violation thereof may be punishable by a fine of not more than $1,000.

PART 8

CREDIT UNIONS

CHAPTER 81

ORGANIZATION AND FORMATION

§ 811. Applicable law; powers

1. Organized under this Title. Every credit union lawfully organized shall be subject to the provisions of this Part and all regulations issued hereunder.

2. Chartered by special Act. Chapters 81 through 88 shall not be construed as repealing, modifying or amending the provisions of any private or

special Acts authorizing the organization of or defining the purposes of corporations of a similar nature to credit unions, except that such corporations shall be deemed to have all the powers vested in corporations organized under this Part in addition to those powers under such private or special Acts.

§ 812. Permission to organize

1. Organizers. Any number of persons, but not less than 10, all of whom shall be residents of this State, may apply in writing to the superintendent for permission to organize a credit union for the purpose of promoting thrift among its members and creating a source of credit for them, at legitimate rates of interest, for provident and productive purposes.

2. Application to organize. The organizers shall file with the superintendent an application to organize a credit union, together with such copies as the superintendent may require. The organizers shall agree to be bound by its terms and the application shall state:

A. The name by which the credit union shall be known, which name shall include the words "credit union";

B. The proposed location of its principal office;

C. The names and addresses of subscribers to the application, and the number of shares subscribed for by each;

D. The proposed field of membership, as defined in section 814; and

E. Such other information as the superintendent may deem necessary and appropriate.

No application for permission to organize a credit union shall be deemed complete unless accompanied by an application fee of $50, payable to the Treasurer of State, to be credited and used as provided in section 214.

3. Publication of notice. After determining that the application required in subsection 2 is complete, the superintendent may advise the organizers to publish, within 15 days of such advice, a notice, in such form as the superintendent may prescribe. If required, such notice shall appear at least once a week for 3 successive weeks in one or more newspapers of general circulation in the county where the credit union is to be established, or in such other newspapers as the superintendent may designate. Such published notice shall set forth the information in the application for permission to organize, and such additional information as the superintendent may require. The superintendent may require individual notice to any person, organization or corporation, and may require that one of such publications contain the information required under section 252, subsection 2.

4. Permission from superintendent.

A. In accordance with section 252, the superintendent shall determine whether a certificate to commence business and permission to organize should be granted.

B. In addition to the criteria set forth in section 253, the superintendent shall consider the following criteria in determining whether permission to organize should be granted; namely that:

(1) The character, responsibility and general fitness of the persons named in such certificate are such as to reasonably assure the proper conduct of the affairs and operation of a credit union;

(2) The proposed field of membership provides a common bond of interest and a potential membership such as will reasonably assure success of the credit union; and

(3) The proposed credit union will not jeopardize materially the financial stability of any existing credit union.

§ 813. Organization

Upon receipt of a permission to organize pursuant to section 812, the organizers shall comply with the following requirements:

1. Conformance with law. Other than as provided herein, a credit union shall be organized in accordance with Title 13-A.

2. Bylaws.

A. The organizers shall next adopt bylaws consistent with this Part for the general supervision of, and which shall govern the affairs of, the credit union.

B. The bylaws shall provide for and determine:

(1) The name of the corporation;

(2) The purpose for which it is formed;

(3) The condition of residence, occupation or association which qualifies persons for membership;

(4) The conditions on which shares may be paid in, transferred and withdrawn;

(5) The method of receipting for money paid on account of shares or repaid on loans;

(6) The number of directors, and the number of members of the credit committee and the supervisory committee, and the manner of electing same;

(7) The time of holding regular meetings of the board of directors, the credit committee and the supervisory committee;

(8) The duties of the several officers;

(9) The entrance fees, if any, to be charged;

(10) The fines, if any, to be charged for failure to meet obligations to the corporation punctually;

(11) The manner in which members shall be notified of all meetings;

(12) The number of members who shall constitute a quorum at all meetings; and

(13) Such other regulations as may be deemed necessary.

C. Within 10 days after adoption of the bylaws, the organizers shall file copies thereof with the superintendent, and, within 15 days after receipt the superintendent shall, after examining such bylaws for conformance with the requirements of this Title, approve or disapprove such bylaws.

3. Payment of shares.

A. A credit union shall not commence business until the number of shares subscribed to in section 812, subsection 2, have been fully paid in by the subscribers.

B. At such time as the subscribed shares have been fully paid in, a complete list of the shareholders with the name, address, occupation and amount of shares held by each shall be filed with the superintendent, which list shall be verified by the board of directors of the credit union.

4. Certificate to commence business.

A. Upon receipt of the statement required in subsection 3, the superintendent shall cause an examination to be made to determine if the shares have been paid in and all requirements of this section and other laws have been complied with.

B. Upon completion of his examination, and if all requirements of paragraph A are met, including approval of the bylaws, the superintendent shall issue a certificate authorizing the credit union to receive payments on account of shares, make loans, and otherwise commence business. Such certificate shall be conclusive of the facts stated therein; and it shall be unlawful for any credit union to begin transacting business until such a certificate has been granted. A copy of the certificate shall be filed with the Secretary of State by the superintendent.

5. Failure to commence business.

A. Any credit union which shall fail to commence business as a credit union within one year after receiving permission to organize shall forfeit said permission and any certificate to commence business so obtained; and shall cease all activities, which fact shall be certified to the Secretary of State by the superintendent.

B. Nothwithstanding the limitation in paragraph A, the superintendent may extend the period in which business shall be commenced for a period not to exceed 6 months, upon written application by the organizers setting forth the reasons for such extension. If an extension is approved by the superintendent, the Secretary of State shall be so notified by the superintendent.

§ 814. Membership requirements

1. Field of membership. "Field of membership" of a credit union means those persons having a common bond of occupation or association; residence within a well-defined neighborhood, community or rural district; employment by a common employer or by employers located within a well-defined industrial park or community; membership in a bona fide fraternal, religious, cooperative, labor, rural, educational or similar organization; and members of the immediate families of such persons.

2. 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 in a credit union may become a member of a credit union; provided that, except with the consent of the superintendent, a credit union shall make no loans to such a member in excess of the total of its shares therein. No credit union shall receive from any such member money in payment for shares to such an amount that the total of such payments by all members of the class described in this subsection shall exceed at any time 25% of the assets of the credit union; provided that the superintendent may approve in writing a greater percentage.

§ 815. Supervision and examination

Credit unions shall be under the supervision of the superintendent; and Part 2 of this Title shall be applicable to credit unions in the same manner as that Part applies to financial institutions in general.

CHAPTER 82

POWERS

§ 821. Powers in general

In addition to the implied and incidental powers granted elsewhere in this Part, a credit union shall be empowered to do the acts set forth in this chapter, subject to the conditions and limitations set forth herein.

§ 822. Borrowing

1. Limitation. A credit union may borrow moneys from any source; provided that its aggregate borrowing shall not exceed 50% of its paid-in share capital and total surplus.

2. Exceeding limitation. Upon making application to and receiving the written approval of the superintendent, a credit union may borrow in excess of the limitation set forth in subsection 1, but not in excess of the amount stated in such approval.

§ 823. Services for members

1. Sale of negotiable checks and money orders. A credit union may engage directly in the business of selling, issuing or registering checks or money orders to its members.

2. Safe deposit boxes. A credit union may own and maintain safe deposit vaults, with boxes, safes and other facilities therein, for the use of its members and for the safekeeping or storage of personal property susceptible of being deposited therein, subject to the general laws and regulations applicable to safe deposit boxes.

3. Safekeeping. A credit union may receive on deposit from its members property for safekeeping.

4. Financial counseling. A credit union may render, or participate in the rendering of, financial counseling services, including budget planning, debt management and related services, to its members.

5. Trustee, self-employment retirement plans. A credit union shall have the power to act as trustee for a member under a retirement plan established pursuant to the "Self-employed Individuals Retirement Act of 1962", as amended, or the "Employee Retirement Income Security Act of 1974", as amended, subject to the conditions and limitations set forth in section 442.

§ 824. Participation in electronic funds transfer system

1. Authorization. A credit union, with the prior written approval of the superintendent, may issue to its members cards or other devices permitting such members to gain access to or participate in an established electronic funds transfer system.

2. Limitations. The use of such cards or other devices pursuant to subsection 1 by the members of the credit union shall be subject to the conditions and limitations set forth in section 853 and 857.

§ 825. Participation in public lotteries

A credit union may participate in public lotteries authorized pursuant to the laws of this State in the manner outlined in guidelines and regulations promulgated pursuant to such laws; provided that the superintendent may promulgate additional rules and regulations governing such participation.

§ 826. Branch offices

Subject to the prior written approval of the superintendent pursuant to section 336, a credit union may establish branches and facilities, as authorized in chapter 33, at any location within this State; provided that such branches or facilities of a credit union shall meet the needs and convenience of the credit union's common bond members.

§ 827. Deposits

A credit union may receive savings of its members in payment for shares, Christmas clubs, special purpose clubs, tax clubs, deposit accounts and the like.

§ 828. Powers of federally-chartered credit unions

To the extent authorized by the superintendent pursuant to regulations, a credit union shall have the power to engage in any activity which a credit union 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.

CHAPTER 83

FINANCIAL MANAGEMENT

§ 831. Share capital and surplus

1. Amount and par value of share capital.

A. The capital of a credit union shall be unlimited in amount and shall consist of shares which may be subscribed to and paid for in such manner as the bylaws may prescribe.

B. The par value of such shares may be established by the credit union in its charter, in an amount not less than $5 nor more than $25 per share; provided that par values in excess of $5 per share shall be in multiples of $5.

C. The maximum amount of shares which may be held by any one member shall be established from time to time by resolution of the board of directors.

2. Share transactions. The provisions of section 427 shall be applicable to a member's shares in a credit union.

3. Surplus. "Surplus" or "total surplus" of a credit union means the sum of its guaranty fund, undivided profits and other surplus and reserve accounts.

§ 832. Guaranty fund

1. Requirement. Every credit union shall establish and maintain a guaranty fund in the manner set forth in subsections 2 and 3. Such fund shall provide security against losses and contingencies, and all losses not otherwise absorbed shall be charged against it.

2. Payments to fund. Before the payment of a dividend, there shall be set apart into the guaranty fund a percentage of the gross income of the credit union which was accumulated during the preceding dividend period, in the following manner:

A. 10% of gross income until the guaranty fund shall equal 7% of the total of outstanding loans and risk assets of the credit union; and then

B. 5% of the gross income until the guaranty fund shall equal 10% of the total outstanding loans and risk assets of the credit union.

3. Restoration of fund. Whenever the guaranty fund shall fall below 7% or 10% of the total of outstanding loans and risk assets, as the case may be, it shall be replenished by regular contributions in such amounts as required by subsection 2.

4. Superintendent's authority. The superintendent shall have authority to define which assets of a credit union are to be deemed "risk" assets for purposes of this section; and the superintendent may vary the amount of the fund required under this section for individual credit unions as may be necessary for the protection of the credit union and its members.

§ 833. Dividends and interest

1. Time for payment; method.

A. As the bylaws may provide and after provision for the fund in section 832, and at such intervals as it shall determine, the board of directors may declare a dividend to be paid from the remaining net earnings or from undivided profits.

B. Such dividends shall be paid on all paid-up shares outstanding at the end of the period for which the dividend is declared. Shares which become fully paid up during such dividend period and are outstanding at the close of the period shall be entitled to a proportional part of such dividend for each month of the period in accordance with section 425.

C. Dividends due to a member shall, at the discretion of the board of directors, be paid to him in cash or be credited to his account in shares.

2. Rates on different accounts. The board of directors shall be permitted to establish dividend rates for Christmas club accounts and the like.

3. Maximum dividend rate.

A. The superintendent shall have the authority to establish, by regulation, rate ceilings on dividends paid by credit unions; such ceilings to be established with due regard for the maintenance of competitive equality among state-chartered credit unions, federally-chartered credit unions, and other financial institutions.

B. In the absence of regulations pursuant to paragraph A no dividend shall be authorized or paid at a rate in excess of 7% per year.

4. Tax exemption. Shares in a credit union organized pursuant to this Part shall be exempt from taxes; and no taxes or charges, except as otherwise provided, shall be levied against them.

§ 834. Fiscal year

The fiscal year of a credit union shall end as of the close of business on the last business day of December.

§ 835. Reports to superintendent

1. Requirements. Within 30 days after the last business day of December in each year, a credit union shall file with the superintendent a report of income and condition in such form as he may prescribe, signed by the president, treasurer and a majority of the members of the supervisory committee, who shall take an oath in writing that said report is correct according to their best knowledge and belief.

2. Penalty for noncompliance. A credit union neglecting to make said report within the time prescribed may be required, at the discretion of the superintendent, to forfeit to the State $100 for each day during which such neglect continues.

§ 836. Insurance of shares

1. Requirement. Every credit union authorized to do business in this State shall insure its member's shares with the National Credit Union Administration or the successor to such federal agency.

2. Transition period.

A. A credit union not insured by the National Credit Union Administration on the effective date of this section shall make application for such insurance coverage with the administrator within 6 months of said effective date. Such credit union, within one week of making said application, shall submit to the superintendent a certified copy of the resolution adopted by its board of directors authorizing such application.

B. Any credit union making application for insurance pursuant to paragraph A shall have up to 2 years from the effective date of this section to comply with all requirements of the Administrator for insurance of its shares. Within one week of the receipt of the notice of acceptance or rejection by the Administrator of its application, the credit union shall file a statement of such acceptance or rejection with the superintendent.

3. Failure to obtain insurance. If a credit union shall fail to obtain insurance of its shares within the time set forth in subsection 2, or if its application shall be rejected, the superintendent may exercise any and all powers granted to him by this Title for the protection of the public and members of the credit union, notwithstanding the solvency of such credit union.

4. Applicable law. A credit union insured pursuant to subsection 1 shall have the power and duty to comply with all statutes and regulations governing insurance of shares by the National Credit Union Administration; provided that nothing contained in this section shall be construed as repealing, modifying or impairing any powers, duties, rights or responsibilities of the superintendent, or of the credit union so insured, under the provisions of this Title.

CHAPTER 84

MANAGEMENT AND OPERATIONS

§ 841. Management in general

The management and operations of a credit union shall be conducted in accordance with the provisions of Title 13-A, except as provided in this chapter and elsewhere in this Part.

§ 842. Board of directors

The management and control of the affairs of a credit union shall be vested in a board of directors, whose powers shall be exercised in accordance with the provisions of this section.

1. Number, election and qualifications.

A. The number of directors of a credit union shall not be less than 5, all of whom must be residents of this State.

B. The initial board of directors shall be elected at the first meeting of the members of the credit union, and by a vote of the members at each annual meeting thereafter.

C. The term of a director shall not be less than one year nor more than 3 years; provided that if the term is more than one year, the bylaws shall establish terms of office so that an equal number of directors, so far as possible, shall be elected each year.

D. Directors shall be sworn annually to the proper discharge and faithful performance of their duties. Such oaths shall be taken within 60 days of election to office, or such office shall become vacant. A record of every such qualification shall be preserved with the records of the credit union.

E. A director shall serve until a successor is elected and qualified.

F. If a director ceases to be a member of the credit union, his office shall thereupon become vacant.

2. Powers and duties. The board of directors shall manage the affairs, funds and records of the credit union and shall meet as often as necessary, but not less than once a month, notice of such meeting to be made in the manner prescribed in the bylaws. As set forth below, the special duties of the board of directors shall be:

A. Applications for membership. To act upon applications for membership, or to appoint a membership committee of one or more membership officers from among the members of the credit union, other than the treasurer, an assistant treasurer or loan officer, who may be authorized by the board to approve applications for membership under such conditions as the board may prescribe; provided that such committee or membership officer so authorized shall submit to the board at each monthly meeting a list of approved or pending applications for membership received since the previous monthly meeting, together with such other related information as the bylaws or board may require;

B. Loans. To fix from time to time the maximum amount, both secured and unsecured, which may be loaned to any one member, except as limited by chapter 85;

C. Employees. To authorize the employment of such person or persons as may be necessary to carry on the business of the credit union; and to fix the compensation of such employees, including the treasurer;

D. Borrow money. To borrow money to carry on the functions of the credit union, subject to the limitation set forth in section 822;

E. Conveyance of property. To authorize the conveyance of property;

F. Bond. To purchase a blanket bond in an amount which is not less than an amount recommended by the superintendent, which shall be required of the treasurer and of each other officer and other employee having custody of funds or property;

G. Number of shares. To limit the number of shares which may be owned by one member, and such limitation shall apply alike to all members;

H. Investment of funds. To have charge of the investment of funds;

I. Other duties. To perform such other duties as the members may from time to time require;

J. Supervisory committee. To appoint a supervisory committee of not less than 3 members, not more than one member of which may be a director;

K. Credit committee. To appoint a credit committee of not less than 3 members;

L. Executive Committee. To appoint an executive committee, when the bylaws so provide, consisting of not less than 3 members of the board with authority to invest funds or borrow in the name of the credit union;

M. Suspension of members of committees. To suspend any or all members of the credit and supervisory committees for failure to perform their duties;

N. Vacancies. To fill vacancies occurring between annual meetings in the board of directors and in the credit committee and supervisory committee until the election or appointment and qualification of their successors;

O. Loan officers. To establish and provide for compensation of loan officers appointed by the credit committee, and of auditing assistance requested by the supervisory committee;

P. Depository for funds. To designate a depository or depositories for the funds of the credit union;

Q. Dividends. To declare dividends in the way and manner provided in the bylaws and in accordance with this Part;

R. Rate of interest. To determine from time to time the rate of interest consistent with the laws of this State which shall be charged on loans; and to determine from time to time the amount of interest rebate and the interval on which such rebate if any, shall be computed; and

S. Other action. To perform or authorize any action consistent with this Part not specifically reserved by the bylaws for the members.

3. Compensation. No member of the board of directors shall receive any compensation for his services as a member of said board, or as a member of any committees of the credit union.

4. Director as a committee member. No director of a credit union shall be a member of both the credit and the supervisory committees of the credit union, unless the number of members in the credit union is less than 11.

5. Comakers of loans. No director shall become surety or comaker for any loan.

§ 843. Officers and employees

1. Election.

A. The directors, at their first meeting after the annual meeting of the members, shall elect from their own number a president, one or more vice presidents, a clerk, a treasurer and such other officers as may be necessary for the transaction of the business of the credit union. The offices of clerk and treasurer may be held by the same person.

B. Those persons elected in paragraph A shall be the officers of the corporation, and shall hold office until their successors are elected and qualified.

2. Bond.

A. 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 bond, including faithful performance clause, to the credit union in such amount and with such surety or sureties and conditions as the superintendent may prescribe, and shall file with the superintendent an attested copy thereof.

B. The treasurer and any other officers and employees required to give bond may be included in one or more blanket or schedule bonds.

3. Compensation. The treasurer, or any other officer serving in the capacity of general manager, may be compensated in such amount as the board of directors may from time to time determine.

§ 844. Supervisory committee

1. Duties. The supervisory committee, appointed pursuant to section 842, subsection 2, shall keep informed fully and at all times as to the financial condition of the credit union, shall examine or cause to be examined carefully the cash and accounts of the credit union annually, and shall report to the board of directors its findings, together with its recommendations.

2. Verification of deposits.

A. At least once in every 3 years, the supervisory committee shall verify the passbooks and accounts of members of the credit union, and a report of such verification shall be made to the superintendent during the course of of his regular examination pursuant to section 221.

B. If the superintendent deems such verification inadequate, he may cause the bureau to verify such accounts; and the bureau shall have full access to every aspect of the credit union's activities and to all books, papers, vouchers, resources and all other records and property belonging to said credit union, whether in its immediate possession or otherwise, for the purpose of facilitating such verification.

C. Expenses incurred by the superintendent in any such verification shall be paid by the credit union, to be credited and used as provided in section 214.

3. Meetings. The supervisory committee shall hold meetings at least once each quarter, and shall keep records thereof.

4. Annual report. The supervisory committee shall make an annual report at the annual meeting of members of the credit union.

§ 845. Credit committee

1. Powers and duties. The credit committee, appointed pursuant to section 842, subsection 2, shall:

A. Hold meetings at least once in each month;

B. Act on all applications for loans to members;

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 its recommendations thereon, which shall include a signed appraisal as to its best judgment of the value of the real estate involved.

2. Loan officers.

A. When so provided by the bylaws, the credit committee may appoint one or more loan officers who may receive such compensation as may be provided by the board of directors.

B. The credit committee may delegate to the loan officer or officers such authority as is within the limits set for the committee by the board of directors, as it may vote. The authority granted to any loan officer shall be reported to and included in the minutes of the meetings of the board of directors.

C. No loan officer shall disapprove any loan application, but shall refer such applications to the full credit committee. All loan officers shall furnish to the credit committee a record of each application acted upon by him at the next meeting of said committee after the date of filing of the application therefor. No loan officer shall have authority to disburse funds of the credit union for any loan approved by him in his capacity as loan officer.

3. Personal loans. No personal loan, other than those approved by loan officers, shall be made unless a majority of the members of the credit committee who are present at a meeting when the loan application is considered vote to approve said loan. A quorum of the credit committee at such meeting shall be at least ⅔ of the members of the committee.

§ 846. Meetings of the members

1. Time and notice. The annual meeting of the members of a credit union shall be held at such time and place as the board of directors may determine, but not later than 60 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 members shall be given in the manner prescribed in the bylaws.

2. Voting. No member shall be entitled to vote by proxy, except in a vote for dissolution, or have more than one vote; and a member under the age of 18 shall not be entitled to vote. A fraternal organization, voluntary association, partnership or corporation having membership in a credit union may cast one vote at any of the meetings of the credit union by a duly delegated agent.

3. Lending limitations; dividends. The members at each annual meeting may 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 833.

§ 847. Expulsion of members

1. Grounds for expulsion. The board of directors may expel from the credit union any member who has not carried out his engagement with it, or who has been convicted of a criminal offense, or who neglects or refuses to comply with the provisions of this Part or the bylaws of the credit union, or who has deceived the credit union or a committee thereof with regard to the use of borrowed money; but no member shall be expelled until he has been informed in writing of the charges against him and until an opportunity has been given him, after reasonable notice, to be heard thereon.

2. Return of paid-in shares. The amounts paid in on shares 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 therefor become available and after deducting any amounts due from such members to the credit union.

3. Liability unaffected by expulsion. Such expulsion shall not operate to relieve a member from any outstanding liability to the credit union.

§ 848. Amendment of bylaws and charter

1. Procedure. Amendments of the bylaws may be adopted, and amendments of the charter requested, by the affirmative vote of ⅔ of the members of the board of directors at any duly held meeting thereof, if the members of the board have been given at least 7 days' notice of said meeting and the notice has contained a copy of the proposed amendment or amendments.

2. Superintendent's approval. No amendments to the bylaws or charter of a credit union shall become effective without the written approval of the superintendent.

CHAPTER 85

LOANS

§ 851. Loans in general

1. Authorization. A credit union may make loans to its members in accordance with the provisions of this chapter.

2. Applicability of other sections. In addition, a credit union shall be subject to section 432 relating to interest absent in writing; and to section 434 relating to loan participations.

3. Approvals required. The credit committee provided for in section 845 shall approve all loans to members made by the credit union. In addition, the approval of the credit union's board of directors or executive committee shall be required for all loans other than personal loans to members.

§ 852. Loan applications

1. General procedures. 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.

2. Real estate mortgage loans. The form of application for a loan to be secured by a mortgage on real estate shall contain:

A. The date;

B. The name of the applicant;

C. The name of the spouse of the applicant, if any;

D. The amount of loan desired;

E. The appraised value of the real estate in question;

F. A statement of all balances due on any mortgages outstanding against said real estate;

G. The income, if any, from said real estate;

H. A description of said real estate; and

I. Such other information as the board of directors may require.

§ 853. Unsecured loans

Unsecured loans to members may be made by a credit union in an amount not to exceed $500 or 2½% of share capital and surplus, whichever is greater, up to a maximum amount of $5,000 for each such loan.

§ 854. Secured loans

1. Authorization; limitations. Secured loans to members may be made by a credit union in an amount not to exceed $1,000 or 5% of share capital and surplus, whichever is greater; provided that such loan is adequately secured by real or personal property.

2. Exception. Loans fully secured by a pledge of shares of a credit union may be made without limitation as to amount.

§ 855. Real estate mortgage loans

A credit union may make loans to its members secured by a first mortgage on real estate located within this State, subject to the following conditions and limitations:

1. Limitation.

A. The total liability of any member upon loans within this section shall be as established in section 854, subsection 1.

B. No loan made pursuant to this section shall exceed 80% of the appraised value of the property mortgaged, as determined by the credit committee. The note or other obligation evidencing the loan shall require monthly payment of the interest and principal thereon sufficient to repay the entire loan within a period not exceeding 30 years, except that this provision shall not apply to real estate loans insured by the Federal Housing Administration.

2. Loans to secure future advances. Any interest in real estate which may now be mortgaged to a credit union pursuant to this section may be mortgaged in the manner set forth in section 436, subject to the terms and conditions set forth therein. This subsection shall apply to all credit unions authorized to do business in this State, whether organized under the laws of this State, including special or private laws, or organized under the laws of the United States.

3. Aggregate mortgage loan limitation. The total amount which a credit union may invest in loans secured by first mortgages on real estate shall not exceed 35% of its share capital and surplus.

§ 856. Loans to other credit unions

Subject to the approval of its board of directors, a credit union may make loans to other credit unions located in this State; provided that the aggregate loans outstanding at any one time to any one credit union shall not exceed 10% of the share capital and surplus of the lending credit union.

§ 857. Lines of credit

1. Authorization; limitations. Subject to the limitations set forth in section 853, the credit committee of a credit union may approve a line of credit to a member upon written application by the member, and advances may be made to such member within the limits of such extension of credit. No additional loan applications shall be required from the member so long as the aggregate obligation outstanding at any time does not exceed the specified limit of such extension of credit.

2. Advances to member only. Advances made pursuant to a member's line of credit as authorized in subsection 1 shall be made by the credit union directly to the member and not to any other person or entity.

3. Repayment. Repayment of advances made pursuant to a line of credit shall be on such terms as shall be mutually agreed upon by the member and the credit union.

4. Maturity of credit line. A line of credit given pursuant to this section shall expire no later than 12 months after its approval unless renewed in the same manner in which it was originally given.

§ 858. Federal funds loans or sales

A credit union may lend or sell to any member bank of the Federal Reserve System, or to any trust company incorporated under the laws of this State, such deposits as it maintains with a member bank or trust company, in accordance with the provisions of section 438.

CHAPTER 86

INVESTMENTS

§ 861. Investments in general

1. Applicable law. In addition to the loans a credit union is authorized to make pursuant to chapter 85, a credit union may invest its funds in accordance with the provisions of this chapter.

2. Director approval required. Investments pursuant to this chapter shall only be made with the approval of the board of directors or executive committee of the credit union.

§ 862. Deposits, notes and bonds

A credit union may invest in:

1. Deposits in insured institutions. Deposits or share accounts in any financial institution, or shares in a credit union authorized to do business in this State; provided that deposits in such institution or credit union are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation or the National Credit Union Administration;

2. Legal investments for savings banks. Bonds, notes of the United States or of any State or political subdivision thereof, or bankers' acceptances; provided that such are, at the time of purchase by the credit union, legal investments for savings banks in this State pursuant to sections 552; 553, subsections 1 and 2; 554, subsection 1, paragraph A; or 555, subsection 3; and

3. Notes of liquidating credit union; limitation. The purchase of notes from a liquidating credit union; provided that such purchase shall not exceed 5% of the purchasing credit union's share capital and surplus.

Nothing contained in this section shall be construed as authorizing a credit union to purchase or invest in the stock of any corporation.

§ 863. Real estate for office facilities

1. Authorizing. A credit union may invest in real estate by the purchase of improved or unimproved real estate, and in the erection or improvement of buildings thereon together with fixtures and equipment, for the purpose of providing offices for the transaction of its business. Such buildings may include space for rental purposes.

2. Limitation. The cost to the credit union of such lands, buildings, fixtures and equipment shall not exceed 50% of such credit union's total surplus at the time such investment is made; provided that the superintendent may,

for good cause shown, upon application by the credit union in writing, approve an amount in excess of said 50% of total surplus, subject to such conditions as the superintendent may deem necessary.

§ 864. Service corporations

1. Authorization. A credit union may purchase the capital stock or obligations or otherwise invest in or participate in or utilize the services of any organization performing necessary clearing, bookkeeping, statistical and related services for the credit union or other credit unions or related organizations.

2. Limitations. No credit union may invest more than 10% of its share capital and surplus for such purpose; provided that the superintendent may, upon application in writing and for good cause shown, approve an amount in excess of said 10%, subject to such terms and conditions as the superintendent deems necessary.

3. Applicability of section 445. A credit union or credit unions seeking to invest in a service corporation shall do so in accordance with the provisions of section 445.

§ 865. Additional authority

Credit unions organized under private or special laws shall have the authority granted by this chapter, in addition to such other investment authority as they now possess.

CHAPTER 87

DISSOLUTION, MERGERS AND CONVERSIONS

§ 871. Dissolution

1. Voluntary.

A. At a meeting specially called to consider the matter, a majority of the entire membership may vote to dissolve the credit union; provided that a copy of the notice was mailed to the superintendent at least 10 days prior thereto. A member may cast his vote by proxy on forms prepared by the directors and mailed with the notice.

B. The credit union shall thereupon immediately cease to do business, except for the purposes of liquidation; and the president and secretary shall, within 5 days following such meeting, notify the superintendent of intention to liquidate and include a list of the names of the directors and officers of the credit union, together with their addresses, and the name of the person or organization appointed by the board of directors to liquidate the credit union.

2. Involuntary.

A. If it shall appear that any credit union is insolvent, or that it has violated any of the provisions of this Title applicable to credit unions, the

superintendent may, after holding a hearing or giving adequate opportunity for a hearing, order such credit union to correct such conditions; and shall grant it not less than 60 days within which to comply.

B. Failure to comply with such order shall afford the superintendent grounds for revocation of the certificate of organization and charter, and for applying to the Superior Court of the county in which such credit union is located for the appointment of a receiver to close up the affairs of such credit union.

3. Liquidation procedures

A. In liquidation, the credit union shall continue in existence for the purpose of discharging its debts, collecting and distributing its assets and doing all the acts required in order to wind up its business; and may sue and be sued for the purpose of enforcing such debts and obligations until its affairs are fully adjusted. The board of directors or receiver may sell or transfer the assets of the credit union to any other credit union, corporation, credit union league fund or other purchaser, upon the written approval of the superintendent or a court having jurisdiction in this matter.

B. The board of directors or, in the case of involuntary dissolution the receiver, shall use the assets of the credit union to pay in the following order:

(1) Expenses incidental to liquidation, including any surety bond that may be required;

(2) Any liability due nonmembers; and

(3) Savings club accounts.

Assets then remaining, if any, shall be distributed to the members proportionately to the shareholdings held by each member, as of the date dissolution was voted.

C. As soon as the board of directors or the receiver determines that all assets from which there is a reasonable expectancy of realization have been liquidated and distributed as set forth in this subsection, they shall execute a certificate of dissolution on a form prescribed by the superintendent and file same with the Secretary of State and registry of deeds where the original certificate of organization is recorded. After recording, the board of directors shall forward it to the superintendent, whereupon such credit union shall be dissolved.

§ 872. Mergers and consolidations

1. Eligibility.

A. Any 2 or more credit unions authorized to do business in this State may merge or consolidate into a credit union organized under the laws of the State with the approval of the superintendent obtained pursuant to section 252, and in accordance with such procedures as the superintendent may require.

B. If any credit union involved in the proposed merger is a federal credit union, such merger is subject to all applicable laws, rules and regulations of the United States.

2. Plan and adoption. The merger shall be pursuant to a plan agreed upon by a majority of the board of directors of each credit union joining in the merger; and approved by the affirmative vote of a majority of the members voting in person or by proxy at meetings of each credit union called for that purpose or by written consent of the majority of the members of each credit union.

3. Compliance. The superintendent shall not approve said merger unless the surviving credit union would be in compliance with all other laws of the State regulating the organization of credit unions.

4. Effective date; certificate.

A. When the requirements as to approval have been met, including the approval of the superintendent and any Federal agency whose approval may be required under federal law for such merger or consolidation, the superintendent shall, issue an appropriate certificate which must be filed in all places where original organization certificates are required to be filed in this State. In all cases, the superintendent shall cancel the charters of those credit unions organized under the laws of this State which will cease to exist under the terms of the merger and file notice of such action in all places where organization certificates are required to be filed in this State.

B. The merger shall become effective upon filing of the certificates pursuant to paragraph A, unless a later effective date was set forth in the certificate.

5. Effect of merger. Upon the issuance by the superintendent of a certificate to the surviving credit union, all property rights and interests of the merged credit union shall vest in the surviving credit union, without deed, endorsement or other instruments of transfer; and all debts, obligations and liabilities of the merged credit unions are assumed by the surviving credit union. Thereafter, the charter of any merged credit union is void, and existence of the merged credit union as a legal entity separate from the surviving credit union shall terminate. Sections 356, 357 and 358 shall apply to such mergers.

§ 873. Conversion: Federal to State charter

1. Eligibility. A credit union now or hereafter authorized to do business in this State and organized pursuant to provisions of Federal law may become subject to this Part and receive a charter as a state-chartered credit union by making application in writing to the superintendent for such conversion. The superintendent may approve or disapprove such conversion in accordance with the criteria set forth in section 253; provided that as a condition precedent to such approval, the credit union shall show compliance with all applicable Federal laws and regulations relating to such conversion.

2. Issuance of charter. Upon receiving approval from the superintendent, the credit union shall be issued a charter under this Part, which fact shall be certified by the superintendent to the Secretary of State; and, from and after the issuance of such charter, said credit union shall be subject to the provisions of this Part and all regulations issued hereunder.

3. Applicability of other sections. A credit union converting to a State charter pursuant to this section shall be subject to the provisions contained in sections 356, 357 and 358, governing resulting institutions.

§ 874. Conversion: State to federal charter

A credit union organized under the general or special laws of this State may convert to a federally-chartered credit union. Approval of the members of the credit union for such conversion shall be obtained in the manner set forth in section 342, subsection 3. Upon obtaining such approval, the credit union shall comply with the requirements of section 342, subsection 3, paragraphs C, D and E; provided that filings required to be made thereunder and the obtaining of approvals and charters therein specified shall be done in accordance with the requirements of the National Credit Union Administration and all Federal laws and regulations applicable thereto.

§ 875. Conversion: change in type of State charter

A credit union subject to the laws of this State may convert its charter to do business as a credit union into a charter to do business as a savings bank, trust company or savings and loan association as a mutual institution under the laws of this State; provided that any plan of conversion authorized by this section shall be adopted and approved in accordance with the requirements of section 343.

§ 876. Acquisitions

A credit union organized under the laws of this State may acquire all or substantially all the assets of, or assume the liabilities of, any other credit union authorized to do business in this State; provided that such purchase or sale shall be executed pursuant to the provisions of section 355 and shall be subject to the provisions of sections 356, 357 and 358.

CHAPTER 88

PROHIBITIONS

§ 881. Prohibited practices

All credit unions organized pursuant to or subject to the laws of this State, and the directors and officers of such credit unions, shall be subject to the prohibitions and restrictions provided for in chapter 46, except that the superintendent may, upon application and for good cause shown, permit an officer or director of one credit union to hold office in another credit union.

§ 882. Use of name "credit union"

No person, partnership or association and no corporation, except one incorporated under this Part or the corresponding provisions of earlier laws, shall receive payments on shares from its members and loan such payments on shares and 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 Superior Court shall have jurisdiction to grant appropriate equitable relief to enforce this section.

PART 9

INDUSTRIAL BANKS

CHAPTER 91

INDUSTRIAL BANKS

§ 911. Definition

"Industrial bank" means a corporation organized under Title 9, Part 5 as repealed on the effective date of this Title; and which was, on or before June 1, 1967, making loans and selling certificates of investment, either of fixed or uncertain term, and receiving payments in installments or otherwise, with or without an allowance of interest upon such installments.

§ 912. Capital and management

1. Stock: classes; par value. The capital stock of an industrial bank shall have a par value $100 for each share, and only one class of such stock shall be created.

2. Management. Except as otherwise provided in this chapter, the management and operations of an industrial bank shall be conducted in accordance with the provisions of Title 13-A.

§ 913. Powers

In addition to the powers conferred upon corporations by the general corporations law of this State, an industrial bank shall have the power to:

1. Borrow and lend. Borrow and to lend money, and discount notes and bills of exchange including trade acceptances;

2. Investments. Purchase, invest in, hold and sell such notes, bonds and securities as are legal for investments in accordance with the provisions of chapter 55.

3. FHA insured loans. Make such loans as are eligible for insurance pursuant to Title I of the National Housing Act, as amended, and to apply for and obtain insurance on said loans pursuant to said Act; and

4. Certificates of investment. Sell certificates of investment, either of fixed or of uncertain term.

5. Branches. Establish branch or agency offices in accordance with chapter 33; provided that the powers set forth in subsection 4 may only be exercised at branch or agency offices authorized and doing business on or before June 1, 1967.

§ 914. Insurance of certificates of investment

Every industrial bank shall comply with the requirements of section 422, relating to insurance of deposits, and shall be deemed a "financial institution" for purposes of that section.

§ 915. Mergers, consolidations and acquisitions

1. Mergers and consolidations. An industrial bank may merge or consolidate with another industrial bank or a financial institution organized under the laws of this State; provided that any such merger or consolidation shall be executed pursuant to the provisions of sections 352 or 354 and shall be subject to the provisions of sections 356, 357 and 358.

2. Acquisitions. An industrial bank may sell all or substantially all of its assets and liabilities to a financial institution organized under the laws of this State, or purchase all or substantially all of the assets and assume the liabilities of, another industrial bank; provided that such purchase or sale shall be executed pursuant to the provisions of section 355 and shall be subject to the provisions of sections 357 and 358.

3. Mergers into other corporations. Nothing contained in subsections 1 or 2 shall be construed as prohibiting an industrial bank from merging or consolidating with, being acquired by, or selling its assets to a corporation or entity which is not enumerated in subsections 1 or 2; provided that such merger, consolidation, acquisition or sale is executed in accordance with the provision of Title 13-A, and timely notice of such action is given to the superintendent; and provided further that upon the effective date of such action, said industrial bank shall forfeit its charter as an industrial bank and cease all activities as an industrial bank, which fact shall be certified by the superintendent to the Secretary of State.

§ 916. Liquidations and conservation of assets

Industrial banks shall be subject to the provisions of chapter 36 relating to voluntary and involuntary liquidations, and the provisions of said chapter relating to conservation and segregation of assets.

§ 917. Superintendent's authority

1. Supervision and examination. An industrial bank authorized to conduct business in this State shall be subject to the provisions of Part 2.

2. Interest rate ceilings. The superintendent shall have the power and authority to establish rate ceilings which shall govern the interest paid by an industrial bank on certificates of investment and other deposit accounts offered by such company. Regulations promulgated by the superintendent establishing such ceilings shall seek to maintain competitive equality among all financial institutions in this State.

§ 918. Unlawful acts

No industrial bank authorized to do business in this State shall:

1. Loan limitations; rates of loan to capital and surplus. Hold at any one time the direct obligation or obligations of any one person, firm or corporation for more than 4% of the amount of total capital and reserves of such industrial bank or the indirect obligation or obligations of any one person, firm or corporation for more than 15% of the amount of total capital and reserves of such industrial bank. Nothing in this section shall be construed to limit the holdings of an industrial bank in the obligations of the United States or the State of Maine, and in amounts authorized by a vote of a majority of the directors or the executive committee. For the purpose of this

section, bills of exchange, including trade acceptances, shall be deemed to be the direct obligations of the acceptors thereof and the indirect obligations of the drawers thereof.

2. Deposit of funds in other financial institutions. Deposit any of its funds with any other financial institution, unless such institution has been designated as such depository by a vote of a majority of the directors or of the executive committee, exclusive of any director who is an officer, director or trustee of the depository so designated.

3. Borrowing limitations. Be at any time indebted for borrowed money to an amount in excess of 100% of its total capital and reserves, except that by vote of a majority of its entire board of directors or executive committee setting forth the reasons therefor, and upon receiving the written consent of the superintendent thereto, it may borrow money to redeem its certificates of investment or prevent loss by sale of assets, and may redeem rediscount notes, or pledge bonds, notes or other securities as collateral therefor. Copies of all votes authorizing such excess borrowing shall be promptly forwarded by the secretary to the superintendent. Rediscount shall be considered as borrowed money for the purpose of this section.

§ 919. Use of name "industrial bank"

No person, firm or corporation shall use, hold itself out as being, or advertise with the name "industrial bank", except that industrial banks which were properly authorized and doing business on or before June 1, 1967, may use such name at and in connection with their principal office and any branches which were so authorized and doing business on or before said date, and may continue to sell certificates of investment, either fixed or uncertain, and to receive payments in installments or otherwise, with or without an allowance of interest upon such installments, if doing business in such certificates on or before said date.

PART 10

OTHER FINANCIAL ENTITIES

CHAPTER 101

FINANCIAL INSTITUTION HOLDING COMPANIES

§ 1011. Definitions

For the purposes of this chapter:

1. Financial institution holding company. "Financial institution holding company" means any company which has control over any financial institution or has control over any company which controls any financial institution.

2. Maine financial institution holding company. "Maine financial institution holding company" means any company which has control over any financial institution authorized to do business in this State or has control over a company which controls any such financial institution; provided that if a financial institution holding company described in section 1013, subsection 2 acquires control of a financial institution authorized to do business in

this State, it shall not be deemed a "Maine financial institution holding company" unless the operations of its financial institution subsidiaries are principally conducted in the State of Maine.

3. Company. "Company" means a corporation, partnership, business trust, association or similar organization.

4. Control. A company shall be deemed to control another company (referred to in this chapter as a "subsidiary") if it owns 25% or more of the voting shares of the subsidiary or if under the Bank Holding Company Act of 1956, as amended, or under section 408 of the National Housing Act, as amended, it is presumed to control the subsidiary or a determination has been made by the superintendent that it exercises a controlling influence over the management and policies of the subsidiary.

5. Engagement in activities of subsidiaries. A financial institution holding company shall be deemed to own shares owned by a subsidiary, and to engage in activities engaged in by a subsidiary or by any other company of which it owns 5% or more of the voting shares.

6. Maine financial institution. "Maine financial institution" means a financial institution authorized to do business in the State of Maine.

§ 1012. Registration

1. Requirements. Any company that controls one or more Maine financial institutions shall register with the superintendent in accordance with procedures established by him.

2. Time limitation. Unless the superintendent allows an additional time, registration shall be completed within 180 days after the effective date of this chapter, or after the company acquires control of a Maine financial institution, whichever is later.

§ 1013. Acquisition of interests in financial institutions

1. Superintendent's approval. No company shall acquire control of a Maine financial institution, and no Maine financial institution holding company shall acquire more than 5% of the voting shares of any other Maine financial institution or of a financial institution authorized to do business outside of the State of Maine, without the prior approval of the Superintendent.

2. Acquisition by out-of-state company; reciprosity. A financial institution holding company that controls one or more financial institutions outside of the State of Maine may establish or acquire control of one or more Maine financial institutions with the prior approval of the superintendent; provided that the State in which operations of the subsidiary financial institutions of such financial institution holding company are principally conducted authorizes the establishment of, or acquisition of control of, financial institutions in that State by Maine financial institution holding companies, under conditions no more restrictive than those imposed by this chapter, as determined by the superintendent. This subsection shall not become effective until January 1, 1978.

§ 1014. Closely-related activities

1. Permissible activities. A Maine financial institution holding company shall not engage in any activity other than managing or controlling financial institutions, except such activities as are deemed permissible by the superintendent. The superintendent shall promulgate regulations specifying which other activities that are permissible under either the Bank Holding Company Act of 1956 or section 408 of the National Housing Act shall be permissible for Maine financial institution holding companies. Such regulations may establish different permissible activities dependent upon the type of financial institutions controlled by a Maine financial institution holding company. The superintendent shall establish procedures for applications by individual companies for approval to engage in such activities in Maine.

2. Termination of nonpermissible activities. A financial institution holding company that is engaged in an activity that is not permissible for Maine financial institution holding companies to engage in may nevertheless acquire control of a Maine financial institution with the approval of the superintendent as provided in section 1013; provided that before the acquisition is consummated such financial institution holding company shall cease to engage in that activity in Maine, unless it is exempted from the prohibitions of subsection 1 by reason of subsection 3.

3. Exemptions. The prohibitions of subsection 1 shall not apply with respect to any activity in which a Maine financial institution holding company, on the effective date of this section, was lawfully engaged in on that date, unless the superintendent, after notice and opportunity for a hearing, determines that termination of the activity is necessary to assure the safety and soundness of a subsidiary financial institution. Any expansion of such activity in this State would be subject to such conditions as the superintendent may require.

§ 1015. Applications

1. Requirements. Approval of the superintendent shall be obtained for the following actions:

A. Acquisition by a company of control of a Maine financial institution;

B. Acquisitions by a financial institution holding company of interests in a Maine financial institution in excess of 5 percent of the voting shares of such institution;

C. Acquisition or establishment by a Maine financial institution holding company of a financial institution outside of the State of Maine in excess of 5% of the voting shares of such institution;

D. Authority for a Maine financial institution holding company to engage in a closely-related activity, or acquisition or establishment of a subsidiary to engage in a closely-related activity; or

E. Authority for any financial institution holding company controlling a Maine financial institution to engage in a closely-related activity in Maine, or acquisition or establishment of a subsidiary in Maine to engage in a closely-related activity.

2. Criteria for approval. Applications for approvals required in subsection 1 shall be filed pursuant to procedures established by the superintendent. Action on such applications shall be taken in accordance with the requirements of section 252 and shall be subject to the standards set forth in section 253. An application filed pursuant to subsection 1, paragraph B, is subject to the additional requirement that the superintendent find that the proposal would bring net new funds into the State.

3. Application fee. No application for approval required in subsection 1 shall be deemed complete by the superintendent unless accompanied by an application fee of $1,000 payable to the Treasurer of State to be credited and used as provided in section 214.

§ 1016. Reports and examinations

The superintendent may require any financial institution holding company that controls a Maine financial institution to furnish such reports as he deems appropriate to the proper supervision of such companies. Unless the superintendent determines otherwise, reports prepared for Federal authorities may be submitted by such holding company in satisfaction of the requirements of this section. If such information and reports are inadequate in his judgment for that purpose, the superintendent may examine such financial institution holding company and any subsidiary doing business in Maine. Section 214 shall apply with respect to any such examination.

§ 1017. Conformity with Federal procedures

To the maximum extent consistent with the effective discharge of the superintendent's responsibilities, the forms established under this chapter for registration, applications and reports shall conform with those established under either the Bank Holding Company Act of 1956 or sectin 408 of the National Housing Act.

§ 1018. Exclusions from chapter

The superintendent may promulgate regulations excluding financial institution holding companies from the provisions of this chapter, under conditions comparable to those provided in either the Bank Holding Company Act of 1956 or section 408 of the National Housing Act, where control of a Maine financial institution arises out of the acquisition of shares in a fiduciary capacity, or in connection with an underwriting of securities or proxy solicitation, or in securing or collecting a debt.

§ 1019. Prohibitions

1. Prohibited practices. To the extent provided for therein, financial institution holding companies subject to the laws of this State shall be subject to chapters 24 and 46.

2. Penalties. Any company violating any provision of this chapter, or any regulation promulgated thereunder, shall be subject to a penalty of not more than $100 per day for each day the violation continues, to be recovered in a civil action in the name of the State.

CHAPTER 102

MUTUAL TRUST

INVESTMENT COMPANIES

§ 1021. Definition

As used in this chapter, the term "mutual trust investment company" means a corporation which is an investment company as defined by an Act of Congress entitled "Investment Company Act of 1940", as amended; and incorporated in compliance with this chapter to constitute a medium for the common investment of trust funds held in a fiduciary capacity, and for true fiduciary purposes, either alone or with one or more cofiduciaries, by State banks with trust powers, trust companies and national banks with trust powers which are located in this State.

§ 1022. Authority to incorporate

Any 5 or more state banks with trust powers, trust companies and national banks with trust powers located in this State are authorized to cause a mutual trust investment company to be organized and incorporated, subject to the approval of the superintendent and subject to such regulations as he may prescribe.

§ 1023. Application of general corporation law; articles of incorporation

1. Subject to Title 13-A. Except as otherwise provided in this chapter, such a mutual trust investment company shall be incorporated under and shall be subject to Title 13-A.

2. Incorporators. The incorporators subscribing to and acknowledging the articles of incorporation shall consist of 5 or more persons who are officers or directors of the banks and trust companies causing such mutual trust investment company to be incorporated.

§ 1024. Corporate powers; stock ownership

1. Ownership. The stock of a mutual trust investment company shall be owned only by State banks with trust powers, trust companies and national banks with trust powers located in this State, acting as fiduciaries, and their individual cofiduciaries, if any, but may be registered in the name of their nominee or nominees.

2. Transfer or assignment. The stock of a mutual trust investment company shall not be subject to transfer or assignment except to the mutual trust investment company or to a fiduciary or cofiduciary which becomes successor to the stockholder or its nominee; provided that such successor fiduciary or cofiduciary or its nominee is qualified to hold such stock under subsection 1.

3. Directors. A mutual trust investment company shall have not less than 5 directors who need not be stockholders but shall be officers or directors of banks or trust companies located in this State.

4. Investments; assets. A mutual trust investment company may invest its assets only in those investments in which a trustee may invest under the laws of this State, and its assets shall constitute personal property held in trust. Such company shall make no investment in:

A. The note of an individual or individuals, whether or not it is secured;

B. The note, bond or other obligation of any firm, corporation or other issuer if the total original issue of such notes, bonds or other obligations is less than $500,000;

C. Any stocks, bonds or other obligations issued or guaranteed by any one firm, corporation or other issuer in excess of 10% of the total assets of the mutual trust investment company, as increased by the proposed investment; provided that this limitation shall not apply to obligations of the United States, or for the payment of the principal and interest of which the full faith and credit of the United States is pledged; and

D. Shares of stock of any one corporation which would cause the total number of such shares held by the mutual trust investment company to exceed 10% of the number of such shares outstanding.

5. Stock acquisition. A mutual trust investment company may acquire, purchase or redeem its own stock and shall by means of contract or of its bylaws bind itself to acquire, purchase or redeem its own stock, but it shall not vote upon shares of its own stock.

6. Responsibility, liability, accountability. A mutual trust investment company shall not be responsible for ascertaining the investment powers of any fiduciary who may purchase its stock, and shall not be liable for accepting funds from a fiduciary in violation of the restrictions of the will, trust indenture or other instrument under which such fiduciary is acting in the absence of actual knowledge of such violation, and shall be accountable only to the superintendent and the fiduciaries who are the owners of its stock.

§ 1025. Purchase of stock by fiduciaries; authority and restrictions

1. Investment in shares of stock. State banks with trust powers, trust companies and national banks with trust powers located in this State, acting in a fiduciary capacity and for true fiduciary purposes, either alone or with one or more individual cofiduciaries, may, if exercising the care of a prudent investor and with the consent of such individual cofiduciary or cofiduciaries, if any, invest and reinvest funds held in such fiduciary capacity in the shares of stock of a mutual trust investment company except where the will, trust indenture or other instrument under which such fiduciary is acting prohibits such investment. No investment in the stock of a mutual trust investment company may be made by any bank or trust company which operates its own common trust fund under the laws of this State. The stock shall not be subject to Title 32, chapter 13.

2. Limitation. No funds of any estate, trust or fund shall be invested in the stock of a mutual trust investment company in an amount which would result in any bank or trust company having an aggregate holding in excess of 25% of the total issued and outstanding stock of such mutual trust invest-

ment company, as increased by the amount of the proposed investment. In the event that by reason of reduction of the holdings of stock by other banks or trust companies, mergers of banks or trust companies, or for other reasons, the aggregate holding of stock in the mutual trust investment company by any bank or trust company shall become greater than 25% of the total issued and outstanding stock, such bank or trust company may retain the stock then held by it but may not make further investments in such stock until its aggregate holdings have become less than such 25%.

3. Responsibility. A mutual trust investment company shall be permitted to rely on the written statement of any bank or trust company purchasing its stock that the purchase complies with the foregoing requirements, except that the mutual trust investment company shall be responsible to see that the limit on the holding of stock by any one bank or trust company as provided in subsection 2 is not exceeded.

§ 1026. Powers of the superintendent

1. Rules and regulations. The superintendent shall have authority to adopt and issue regulations to govern the conduct and management of all mutual trust investment companies formed pursuant to this chapter, and to prescribe, among other things:

A. The records and accounts to be kept by the mutual trust investment company;

B. The methods and standards to be employed in establishing the value of the shares of stock in the mutual trust investment company and of its assets; and

C. The procedure to be followed in the sale and redemption of its stock.

2. Examination. The superintendent shall at least once in each calendar year, and whenever he deems it necessary or expedient, examine every such mutual trust investment company. On every such examination of a mutual trust investment company, the sperintendent shall make inquiry as to its financial condition, the policies of its management, whether it is complying with the laws of this State and such other matters as the superintendent may prescribe. The reasonable expenses of each examination of a mutual trust investment company pursuant to this section shall be charged to the company in accordance with the provision of section 214.

3. Power and authority. In the enforcement of this chapter and the fulfillment of his responsibilities hereunder, the superintendent shall have the same power and authority over and with respect to mutual trust investment companies and their directors, officers and employees, including the power to compel the attendance of witnesses and the production of books, records, documents and testimony, the power to require the submission to him of reports and information in such form and at such times as he may prescribe, the power to direct the discontinuation of any practice which he may consider illegal, unauthorized or unsafe; and all other powers and authorities, whether or not specifically mentioned herein, as are given the superintendent by the laws of this State with respect to financial institutions in the same manner and with like effect as if mutual trust investment companies were expressly named therein.

Sec. 2. 32 MRSA c. 13, sub-c. VI is enacted to read:

SUBCHAPTER VI

NEGOTIABLE CHECKS AND MONEY ORDERS

§ 891. Sale of negotiable checks and money orders

1. Certificate required. Financial institutions authorized to do business in this State, as defined in Title 9-B, section 121, subsection 2 may engage directly or indirectly in the business of selling, issuing or registering checks or money orders. No person other than the foregoing shall engage in such business directly or indirectly without first obtaining a certificate from the superintendent.

2. Application. Application for a certificate shall be in writing, under oath and shall be in the form prescribed by the superintendent. The application shall state the name and address of the applicant, the names and business addresses of his agents authorized to receive money and transact such business on his behalf, other than a financial institution authorized to do business in this State. Upon notice from the superintendent the applicant shall file with him a surety bond with such sureties as the superintendent shall approve or deposit with the Treasurer of State, cash or securities in a sum of not less than $25,000 nor more than $100,000 as the superintendent shall deem to be necessary for the protection of the public. Any such bond or deposit shall be held as security for the payment of checks or money orders sold by such person or his agents, and the superintendent may make such rules and regulations as may be necessary for the enforcement of this section, including an investigation relative to reputation and integrity, the cost of which investigation shall be chargeable to such person.

3. Termination of business; display of certificate. Each person to whom a certificate to engage in such business has been issued shall promptly return for cancellation, the certificate issued to him, if he ceases to do business or the certificate of any agent of his whose authority has been revoked. If the certificate has become lost, destroyed or is otherwise unavailable, an affidavit to this effect shall be submitted in lieu thereof. A certificate shall be issued for each agent at the time of his appointment and he shall not conduct any business without having the certificate prominently on display at his place of business.

4. Temporary certificate. Any person filing the maximum bond and paying the maximum annual license fee may issue to a new agent a temporary certificate in a form approved by the superintendent. Such temporary certificate shall authorize the new agent to act until the superintendent grants a certificate or refuses such certificate. The principal, on or before the 15th day of each month, shall file with the superintendent a statement listing the names and business addresses, together with such other information as the superintendent may require, of new agents appointed during the previous calendar month.

5. Annual Fee. There shall be a fee of $100 for the annual certificate payable to the superintendent and $3 for each agent listed therein or for any addition thereto, provided that the total annual fee shall not exceed $300 and such fees shall be credited and used as provided in Title 9-B, section 204.

6. Renewal of Certificate. Each certificate shall expire on the last day of December of the year in which issued or for which a fee shall have been paid. Prior to each December 15th there shall be paid to the superintendent the fee provided in this section, for each certificate to principal or agent for the succeeding calendar year. The applicant shall file with the superintendent substantiation of the renewal of continuance of the bond provided for in this section.

7. Suspension or Revocation of Certificate. The superintendent may issue a certificate to engage in such business to any person who in his judgment has complied with this section, but he may at any time suspend or revoke such certificate, after notice and hearing, for failure to comply with this section, or of any rule or regulation promulgated by him, or for failure to pay any check or money order upon presentation for payment.

8. Penalties. Whoever violates any provision of this section or any rule or regulation established hereunder shall be punished by a fine of not more than $100 for each day during which such violation continues.

Sec. 3. 9 MRSA Pts. 1, 2, 3 and 4, sections 2303, 2341-2345, 2381 and 2382, and Pt. 6 are repealed.

Sec. 4. Transitional provision. All rules and regulations issued by the Bureau of Banks and Banking prior to the date of this Title shall be valid and effective after said date until amended or withdrawn, notwithstanding the fact that the promulgation of such regulations may have not been in accordance with this title.

Effective October 1, 1975

CHAPTER 501

AN ACT to Simplify the Computation of Tree Growth Reimbursement.

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

36 MRSA § 578, sub-§ 1, as amended by PL 1973, c. 308, § 7, is repealed and the following enacted in place thereof:

1. Organized areas. The municipal assessors shall adjust the Director of Property Taxation's 100% valuation per acre for each forest type of their county by whatever ratio, or percentage of current just value, is then being applied to other property within the municipality to obtain the assessed values. Forest land in the organized areas, subject to taxation under this subchapter, shall be taxed at the property tax rate applicable to other property in the municipality, which rate shall be applied to the assessed values so determined. For any tax year in which a municipality has a situation where the aggregate tax assessed on lands classified under this subchapter is less than 90% of the aggregate tax assessed on the same lands in 1972, the municipality shall have a valid claim against the State to recover the taxes lost to the extent that such loss exceeds a 10% loss from 1972, upon proof of the facts in form satisfactory to the Commissioner of Finance and Administration. Such claims shall be presented to the Legislature next convening.

Effective October 1, 1975