

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWELFTH LEGISLATURE

SECOND REGULAR SESSION
January 8, 1986 to April 16, 1986

SECOND SPECIAL SESSION
May 28, 1986 to May 30, 1986

AND AT THE

THIRD SPECIAL SESSION
October 17, 1986

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Co., Inc.
Augusta, Maine

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND TWELFTH LEGISLATURE
1985

it shall make payments for promotion and for administration of the pool as a dealer under this chapter.

Effective July 16, 1986.

CHAPTER 647

H.P. 1532 - L.D. 2159

AN ACT to Clarify the Confidentiality Provisions of the Maine Banking Code.

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

Sec. 1. 9-B MRSA §161, sub-§1, ¶B, as enacted by PL 1977, c. 416, is amended to read:

B. "Financial records" means any original or any copy of:

(1) A document granting signature authority over a deposit, deposit-like or share account;

(2) A statement, ledger card or other record of any deposit ~~or~~, deposit-like, share or loan account, which shows each transaction in or with respect to that account;

(3) A check, clear draft or money order drawn on an institution or issued and payable by an institution; or

(4) Any item, other than an institutional or periodic charge, made pursuant to any agreement by an institution and a person which constitutes a debit or credit to that person's deposit ~~or~~, deposit-like, share or loan account, including charges made through the use of credit cards as authorized by section 444, if the item is not included in subparagraph (3).

Sec. 2. 9-B MRSA §163, sub-§1, as enacted by PL 1977, c. 416, is amended to read:

1. Service. A fiduciary institution shall disclose financial records under section 162 pursuant to

a subpoena, summons, warrant or court order which on its face appears to have been issued upon lawful authority only if the subpoena, summons, warrant or court order is ~~first~~ served upon the customer ~~and then upon~~ prior to disclosure by the fiduciary institution. The agency or person requesting the disclosure of financial records shall certify in writing to the fiduciary institution the fact that the subpoena, summons, warrant or court order has been served upon the customer. The court for good cause shown may delay or dispense with service of the subpoena, summons, warrant or court order upon the customer. The court shall delay or dispense with service of the subpoena, summons, warrant or court order upon the customer upon notice by the Attorney General or his designee that such service upon the customer would not be in the public interest. A subpoena, summons or warrant issued in connection with a federal grand jury proceeding or a trustee process lawfully issued need not be served upon the customer.

Sec. 3. 9-B MRSA §164, sub-§1, as enacted by PL 1977, c. 416, is amended to read:

1. Violation. Any officer or employee of a fiduciary institution or consumer reporting agency who intentionally or knowingly furnishes financial records in violation of this chapter commits a civil violation and shall be subject to a civil penalty of not more than \$1,000. Any fiduciary institution or any agent or employee of a fiduciary institution making a disclosure of financial records in good-faith reliance upon the certificate of agency or person requesting the disclosure, that the provisions of section 163 requiring prior notice to the customer have been complied with, shall not be liable to the customer for the disclosures and shall not be liable for any civil penalties under this section.

Sec. 4. 9-B MRSA §334, sub-§4, ¶B, as enacted by PL 1981, c. 352, §4, is amended to read:

B. Approval to participate in or discontinue the use of a satellite facility established under this chapter or a comparable facility established under federal law, if any other financial institution has previously been granted authority to use the facility, shall be requested by the financial institution by the filing of a notice with the superintendent in such form and manner and containing such information as the superintendent may require ~~at least~~ 30 days prior to commencement or discontinuation of that use. A single notification may be filed by more than one

institution seeking approval with respect to the same facility or facilities, and a single notification may be filed covering more than one facility. The superintendent may establish fees to accompany notification under this subsection. Section 336, subsection 3, shall govern the establishment, credit and use of these fees. If the superintendent objects to a notification filed under this subsection, he shall, within 14 days of receipt of the notification, inform the financial institution involved that the notification will be treated as though it were an application filed under paragraph C.

Sec. 5. 9-B MRSA §336, sub-§5, as repealed and replaced by PL 1975, c. 666, §18, is amended to read:

5. Approvals; time extensions. If the superintendent approves an application to establish and operate a branch or agency office or facility, copies of the order shall be filed with the Secretary of State and shall be furnished to the applicant institution. If only the notification is submitted and no application is requested during the 30-day period, a copy of the acknowledgment of the action shall be filed with the Secretary of State. The order or acknowledgment shall lapse one year after its effective date if the office or facility authorized thereunder has not opened for business, unless the superintendent for good cause shown has granted in writing an extension of time, not to exceed 6 months. No fee shall be charged for such extension. Additional 6-month extensions may be granted by the superintendent for good cause shown at a fee established by the superintendent for such extensions not to exceed \$500.

Sec. 6. 9-B MRSA §342, sub-§3, ¶E, as amended by PL 1983, c. 600, §3, is further amended to read:

E. A copy of the charter issued to ~~such~~ the federal association or federal savings bank by the representative of the Federal Home Loan Bank Board, or a copy of a certificate showing the organization of such institution as a Federal federal association, ~~certified by the secretary or assistant secretary of the Federal Home Loan Bank,~~ shall be filed immediately with the superintendent and with the Secretary of State. The Upon receipt of a copy of the charter or certificate, the superintendent shall notify the Secre-

tary of State that ~~such~~ the conversion has been effected.

Sec. 7. 9-B MRSA §436, sub-§1, as enacted by PL 1975, c. 500, §1, is amended to read:

1. Authorization; requirements. Any interest in real property which may be mortgaged to a financial institution authorized to do business in this State 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. A mortgage securing future advances remains valid and retains its priority even if no funds have been advanced or all advances have been repaid so long as an agreement regarding advances remains in effect. Upon termination of the agreement regarding future advances and repayment of all advances, the mortgage shall be discharged. 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 thereaf-

ter made will be junior to such person's mortgage or lien upon or rights in such real estate.

Sec. 8. 9-B MRSA §572, as enacted by PL 1975, c. 500, §1, is amended to read:

§572. Use of the word "saving"

~~No~~ Without the prior written approval of the bank superintendent, no person, partnership, association, ~~or~~ corporation, bank or trust company, except a savings bank ~~organized under the laws of~~ authorized to do business in this State, ~~shall~~ may 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.

Sec. 9. 9-B MRSA §673, as amended by PL 1979, c. 429, §11, is further amended to read:

§673. Use of word "bank"

~~No~~ Without the prior written approval of the bank superintendent, 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~~ may 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. This section shall not apply to out-of-state banks, corporations, partnerships, etc., which in the ordinary course of their business have to file with the Secretary of State, Corporation Records Division, in processing the routine disposition of assets acquired by legitimate business dealings, or to these organizations providing services to financial institutions or credit un-

ions authorized to do business in Maine, provided these organizations obtain the prior written approval of the superintendent to allow the filing with the Secretary of State.

Sec. 10. 9-B MRSA §874, as enacted by PL 1975, c. 500, §1, is amended to read:

§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 the 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 provide to the superintendent all necessary approvals and charters required by the National Credit Union Administration and all Federal federal laws and regulations applicable thereto. The superintendent shall notify the Secretary of State that the conversion has been effected. A copy of the approval or charter shall accompany the notification.

Sec. 11. 9-B MRSA §882, as enacted by PL 1975, c. 500, §1, is amended to read:

§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~~ may 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" without the prior written approval of the bank superintendent or unless organized under provisions of federal law. 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.