

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

PUBLISHED BY THE REVISOR OF STATUTES
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Twin City Printery
Lewiston, Maine
1987

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
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ONE HUNDRED AND THIRTEENTH LEGISLATURE
1987

B. Assure that the development of the plan includes the participation of community mental health service providers, consumer and family groups and others in annual statewide hearings, as well as informal meetings and work sessions; and

C. Consider community service needs, relate these identified needs to biennial budget requests and incorporate necessary service initiatives into a comprehensive planning document.

Effective September 29, 1987.

CHAPTER 405

S.P. 453 — L.D. 1380

AN ACT to Revise the Maine Banking Law.

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

Sec. 1. 9-B MRSA §443, sub-§§8, 9 and 10 are enacted to read:

8. Clearing corporation. Notwithstanding any other provision of law, any fiduciary, as defined in Title 13, section 642, holding securities in its fiduciary capacity, any financial institution or private banker holding securities as a custodian or managing agent, and any financial institution or private banker holding securities as custodian for a fiduciary, are 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 those 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 the clearing corporation with any other such securities deposited in the clearing corporation by any person, regardless of ownership of the securities, and certificates of small denomination may be merged into one or more certificates of larger denomination. The records of the fiduciary and the records of the financial institution 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 the securities may be transferred by book-keeping entry on the books of the clearing corporation without physical delivery of certificates representing those securities.

C. A financial institution 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 federally chartered institutions, the Federal

Home Loan Bank Board or the United States Comptroller of the Currency may from time to time issue.

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

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

This subsection shall apply to any fiduciary holding securities in its fiduciary capacity and to any financial institution 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 the fiduciary, custodian, managing agent or custodian for a fiduciary owns capital stock of the clearing corporation.

9. Acting as agent. A financial institution may act as an agent for issuing, registering and countersigning certificates, bonds, stocks and all other evidences of debt or ownership in property.

10. Bills or drafts. Subject to such restrictions as may be imposed by the superintendent, and subject to the limitation contained in this section, a financial institution 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 the acceptances or drafts are based upon actual values.

No financial institution may accept 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.

Sec. 2. 9-B MRSA §465, sub-§3, ¶A, as amended by PL 1981, c. 698, §24, is repealed and the following enacted in its place:

A. Every director, corporator, officer, agent or 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 534-B, 633 and 734-B, 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 willful 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;

Sec. 3. 9-B MRSA §531, sub-§1 is enacted to read:

1. Lending policy. The board of directors or trustees of a savings bank shall establish a written policy under which the bank's lending activities shall be conducted. At a minimum, this policy addresses the following:

A. Individual officer lending authority;

B. Loan mix and diversification;

C. Loan quality parameters; and

D. Delegation of authority to officers and committees responsible for administering the loan portfolio. This policy shall be reviewed and ratified by the board of directors or trustees at least annually.

Sec. 4. 9-B MRSA §532, first ¶, as amended by PL 1985, c. 84, §1, is further amended to read:

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 or subsequent mortgage on real estate provided that the real estate is located in any of the New England states, or located anywhere if the loan is authorized under subsection 3, 4, 5 or 9 as follows:

Sec. 5. 9-B MRSA §532, sub-§7, as enacted by PL 1979, c. 429, §10, is repealed.

Sec. 6. 9-B MRSA §532, sub-§9, ¶B, as enacted by PL 1985, c. 84, §2, is amended to read:

B. A loan made to any one individual pursuant to this subsection shall not exceed the limitations imposed under ~~subsection 7~~ section 534-B and the aggregate amount of the loan shall not exceed 10% of the deposits of the bank.

Sec. 7. 9-B MRSA §534, as enacted by PL 1975, c. 500, §1, is repealed and the following enacted in its place:

§534. Other loans

1. Authorization. A savings bank may make loans to any person, firm, business syndicate or corporation, evidenced by a note or other obligation, with or without security, in addition to loans provided for in section 532 and subject to the conditions of this chapter.

2. Limitations. Loans made pursuant to this section shall be subject to individual borrower loan limitations set forth in section 534-B. The aggregate amount of loans made pursuant to this section and section 535 shall not exceed 40% of deposits.

Sec. 8. 9-B MRSA §534-A, as enacted by PL 1981, c. 646, §2, is repealed.

Sec. 9. 9-B MRSA §534-B is enacted to read:

§534-B. Individual borrower loan limitations

1. Savings banks; loans. No savings bank may loan to any person, firm, business syndicate or corporation or person and affiliated corporation or corporations, or invest in securities issued by a firm, business syndicate or corporation, in amount or amounts, at any time outstanding, in excess of 10% of its total surplus and reserve accounts, except on the approval of a majority of its entire board of directors or executive committee, unless the debt or security is secured by collateral which shall be of value equal to the excess of the loans or securities above 10%; and in no event shall the total amount of loans to any person, firm, business syndicate or corporation or person and affiliated corporation or corporations exceed 20% of the amount set forth in this section.

2. Amount of loan. In determining the amount, and in addition to the persons or parties described in subsection 1 who are original promisors, every person, firm, syndicate or corporation appearing on any loan as endorser, guarantor or surety shall also be regarded as an original promisor. A lessee whose lease is taken by assignment by the savings bank as security therefor may be regarded as the original promisor for purposes of this section, but only to a fraction of the applicable loan, the fraction being the amount of annual basic rent payable by the lessee over the annual gross income produced by the security.

3. Exclusions. 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 discount, the renewal or renewals in whole or in part of the 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 loan, made by any federal reserve bank or by the United States, the 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; any loan or loans to the extent that they are participated out by a savings bank according to law; and any loan or loans by a savings bank to the extent that they are legally committed to be purchased by any financial institution, corporation or other business entity or governmental department, authority or agency duly

authorized by any federal law or state law of the United States;

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, not to include certificates of deposit and clearings; and

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

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

Sec. 10. 9-B MRSA §535, sub-§3, as enacted by PL 1975, c. 500, §1, is amended to read:

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 the limitations set forth in section 534-B. Loans made pursuant to this section shall be included with those made pursuant to section 534 for purposes of determining the limit as set forth in section 534.

Sec. 11. 9-B MRSA §536, as amended by PL 1979, c. 663, §44, is repealed.

Sec. 12. 9-B MRSA §537, as amended by PL 1981, c. 646, §4, is repealed.

Sec. 13. 9-B MRSA §539-A, as enacted by PL 1983, c. 251, §1, is amended to read:

§539-A. Commercial lines of credit

1. Authorization; limitations. A savings bank may grant to any person or syndicate a commercial line of credit to an amount not exceeding 20% of its total surplus and reserve accounts the limits set forth in section 534-B, subject to the restrictions set forth in sections section 465 and 532.

2.—Record of approval. The records of the institution shall show the approval or disapproval of a line of credit, in the amount of \$10,000 or more, and if approved, unless otherwise specified, it shall be assumed that all directors or trustees voted in the affirmative.

2-A. Approval. Commercial lines of credit may be approved by the board of directors, or responsibility for approval may be delegated to certain officers or committees as authorized by section 224, subsection 2.

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 be reviewed at least annually by the board of directors or trustees or a committee of board members.

Sec. 14. 9-B MRSA c. 55, as amended, is repealed.

Sec. 15. 9-B MRSA c. 55-A is enacted to read:

CHAPTER 55-A

INVESTMENT IN SECURITIES

§559-A. Investments in general

1. Authorization. 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 terms and conditions in this chapter.

2. Investment policy. The board of directors or trustees of a savings bank shall establish a written policy under which the bank's investment activities shall be conducted. At a minimum, this policy shall address the following:

A. Investment quality parameters;

B. Investment mix and diversification;

C. Investment maturities; and

D. Delegation of authority to officers and committees responsible for administering the investment portfolio.

This policy shall be reviewed and ratified by the board of directors or trustees at least annually.

§559-B. Retention of unauthorized securities

Financial institutions organized under Part 3 may acquire and hold securities not authorized by the 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 the financial institutions, and may continue to hold the securities at the discretion of the directors of the financial institutions; provided that this section may not be construed as affecting the limitations set forth in chapter 101. Financial institutions organized under this Title may continue to hold at the discretion of their directors securities under authorization of law.

§559-C. 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 rules promulgated under those sections are complied with.

§559-D. Common and preferred stock

A savings bank may invest in common and preferred stock of corporations subject to the following restrictions.

1. Common and preferred stock. The aggregate amount of common and preferred stock, as determined on an original cost basis, in which a savings bank may invest shall not exceed 100% of the bank's surplus or capital.

2. Limitation. The amount, as determined on an original cost basis, invested in the common stock of any one corporation shall not exceed 5% of the bank's surplus or capital.

3. Bank portfolio. The bank's portfolio of common and preferred stocks shall be accounted for on a lower of cost or market basis.

This section shall become effective on June 30, 1988.

Sec. 16. 9-B MRSA §625, as enacted by PL 1975, c. 500, §1, is repealed.

Sec. 17. 9-B MRSA §633, sub-§1, as enacted by PL 1975, c. 500, §1, is amended to read:

1. Limitations. No stock trust company shall may loan to any person, firm, business syndicate or corporation an amount or amounts, at any time outstanding, or invest in the securities issued by a firm, business syndicate or corporation, 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 or security 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 and securities to any person, firm, business syndicate or corporation exceed 20% of the amount set forth above.

Sec. 18. 9-B MRSA §633, sub-§3, ¶E, as enacted by PL 1975, c. 500, §1, is amended to read:

E. Sales of Federal federal funds, interbank deposits, not to include certificates of deposit, and clearings; and

Sec. 19. 9-B MRSA §636, as amended by PL 1983, c. 251, §2, is further amended to read:

§636. Commercial 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, if applicable, 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. Approval. The records of the institution shall show the approval or disapproval of a line of credit, in the amount of \$10,000 or more, and if approved, unless otherwise specified, it shall be assumed that all directors voted in the affirmative. Commercial lines of credit may be approved by the board of directors or responsibility for approval may be delegated to certain officers or committees as authorized by section 224, subsection 2.

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 be reviewed at least annually by the board of directors or trustees, or a committee of board members.

Sec. 20. 9-B MRSA §665, as enacted by PL 1975, c. 500, §1, is repealed.

Sec. 21. 9-B MRSA §666, as enacted by PL 1975, c. 500, §1, is repealed.

Sec. 22. 9-B MRSA §731, sub-§1 is enacted to read:

1. Lending policy. The board of directors or trustees of a savings and loan association shall establish a written policy under which the association's lending activities shall be conducted. At a minimum, this policy shall address the following:

A. Individual officer lending authority;

B. Loan mix and diversification;

C. Loan quality parameters; and

D. Delegation of authority to officers and committees responsible for administering the loan portfolio.

This policy shall be reviewed and ratified by the board of directors or trustees at least annually.

Sec. 23. 9-B MRSA §732, sub-§10, as enacted by PL 1975, c. 500, §1, is repealed.

Sec. 24. 9-B MRSA §734, as enacted by PL 1975, c. 500, §1, is repealed and the following enacted in its place:

§734. Other loans

1. Authorization. A savings and loan association may make loans to any person, firm, business syndicate or corporation, evidenced by a note or other obligation, with or without security, in addition to loans provided for in section 732 and subject to the conditions of this chapter.

2. Limitations. Loans made pursuant to this section shall be subject to the individual borrower loan limitations set forth in section 734-B. The aggregate amount of loans made pursuant to this section and section 735 shall not exceed 40% of deposits.

Sec. 25. 9-B MRSA §734-A, as enacted by PL 1981, c. 646, §9, is repealed.

Sec. 26. 9-B MRSA §734-B is enacted to read:

§734-B. Individual limitations

1. Loans. No savings and loan association may loan to any person, firm, business syndicate or corporation or person and affiliated corporation or corporations, or invest in securities issued by a firm, business syndicate or corporation, in amount or amounts, at any time outstanding, in excess of 10% of its total net worth, except on the approval of a majority of its entire board of directors or executive committee, unless the debt or security is secured by collateral which shall be of value equal to the excess of the loans or securities above 10%; and in no event shall the total amount of loans or securities to any person, firm, business syndicate or corporation or person and affiliated corporation or corporations exceed 20% of the amount set forth in this section.

2. Amount. In determining the amount and in addition to the persons or parties described in subsection 1, who are original promisors, every person, firm, syndicate or corporation appearing on any loan as endorser, guarantor or surety shall also be regarded as an original promisor. A lessee whose lease is taken by assignment by the savings and loan association as security therefor may be regarded as the original promisor for purposes of this section, but only to a fraction of the applicable loan, the fraction being the amount of annual basic rent payable by the lessee over the annual gross income produced by the security.

3. Exclusions. 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 discount, the renewal or renewals in whole or in part of the 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 loan or loans, 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; any loan or loans to the extent that they are participated out by a savings and loan association according to law and any loan or loans by a savings and loan association to the extent that they are legally committed to be purchased by any financial institution, corporation or other business entity or governmental department, authority or agency duly authorized by any federal law or state law of the United States;

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, not to include certificates of deposit and clearings; and

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

4. Records. In all cases where loans in excess of the 10% are granted without collateral, the records of the institution shall show who voted in favor of the decision, and the records and those required by section 222 shall constitute prima facie evidence of the truth of all facts stated in the records in prosecutions and civil actions to enforce the several provisions and penalties enumerated in section 465, subsection 1.

Sec. 27. 9-B MRSA §735, sub-§3, as enacted by PL 1975, c. 500, §1, is amended to read:

3. Limitations. Total participations in loans to any one borrower shall not exceed ~~10% 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~~ the limitations set forth in section 734-B. Loans made pursuant to this section shall be included with those made pursuant to section 734 for purposes of determining the limit as set forth in section 734.

Sec. 28. 9-B MRSA §736, as amended by PL 1979, c. 663, §52, is repealed.

Sec. 29. 9-B MRSA §737, as amended by PL 1981, c. 646, §11, is repealed.

Sec. 30. 9-B MRSA §739-A, as enacted by PL 1983, c. 251, §3, is amended to read:

§739-A. Commercial lines of credit

1. Authorization; limitations. A savings and loan association may grant to any person or syndicate a com-

mercial line of credit to an amount not exceeding 20% of its total surplus and reserve accounts the limits set forth in section 734-B, subject to the restrictions set forth in sections section 465 and 732.

2. Record of approval. The records of an institution shall show the approval or disapproval of a line of credit, in the amount of \$10,000 or more, and if approved, unless otherwise specified, it shall be assumed that all directors or trustees voted in the affirmative.

2-A. Approval. Commercial lines of credit may be approved by the board of directors or responsibility for approval may be delegated to certain officers or committees as authorized by section 224, subsection 2.

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 be reviewed at least annually by the board of directors or trustees or a committee of board members.

Sec. 31. 9-B MRSA §857-A, sub-§1, as enacted by PL 1979, c. 133, §2, is amended to read:

1. Authorization; limitations. Subject to the limitations set forth in section ~~853~~ sections 854 and 855, 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 that member within the limits of that extension of credit. A line of credit given pursuant to this section, other than a line of credit secured by real estate, shall expire no later than 12 months after its approval unless renewed in the same manner in which it was originally given, but 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 that extension of credit.

Sec. 32. 9-B MRSA §862, sub-§2, as amended by PL 1985, c. 533, §2, is repealed.

Sec. 33. 9-B MRSA §862, sub-§2-A is enacted to read:

2-A. Other legal investments for credit unions. A credit union may legally invest in the following.

A. Credit unions are authorized to invest in government unit bonds:

(1) 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 Congress or any executive order;

(2) 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) The bonds and other obligations issued or guaranteed by this State, or issued by an instrumentality or agency of this State or any political subdivision of this State which is not in default on any of its outstanding funded obligations; and

(4) The bonds and other obligations issued or guaranteed by the Dominion of Canada, or issued or guaranteed by any province or political subdivision of a province; 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.

B. Credit unions are allowed to invest in the bonds and other obligations of any United States corporation, provided that such securities are rated within the 3 highest grades by any rating service approved by the superintendent. Not more than 2% of the shares of a credit union shall be invested in the securities of any one such corporation and the total of all such investments shall not exceed 20% of the shares of a credit union.

C. Credit unions are authorized to invest in the following:

(1) The bonds, debentures, acceptances and commercial paper 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 registered under chapter 101. For the purposes of this subsection, the out-of-state owners of Maine financial institutions or financial institution holding companies are not to be considered Maine financial institutions or financial institution holding companies;

(2) The bonds, debentures, acceptances and commercial paper of banks or bank holding companies principally domiciled outside the State, provided that the bank's or holding company's bonds and debentures are rated in the 3 highest grades by a rating service approved by the superintendent. In the case of commercial paper, the commercial paper should be rated in the 2 highest grades. In the case of acceptances, the bank's or holding company's ratings of its other obligations so listed should be within the above parameter. These banks should also be insured by the Federal Deposit Insurance Corporation and holding companies should be registered under the Bank Holding Company Act of 1956; and

(3) Capital notes or debentures issued by any 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, provided that these institutions are insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or issued by a thrift institution holding company registered under the United States Housing Act, Section 408. These obligations shall be rated in the 3 highest grades by a rating service approved by the superintendent.

A credit union shall not acquire obligations described in this paragraph both by way of investment as security for loans in excess of 30% of its shares; nor shall it acquire such obligations of any one bank or thrift, or bank or thrift holding company, not principally domiciled in this State in excess of 5% of its shares.

D. A credit union may invest in mutual funds or trusts, provided that all of the investments of those mutual funds or trusts are permissible investments under this section.

E. A credit union may invest in guaranteed loans pursuant to section 532, subsections 3 and 4.

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

Sec. 34. 24 MRSA §2308 is repealed.

Sec. 35. 24 MRSA c. 19, sub-c. III is enacted to read:

SUBCHAPTER III

INVESTMENTS

§2351. Investments in general

1. Authority. Corporations subject to this chapter may invest their funds in accordance with the provisions of this subchapter, subject to the conditions and limitations set forth in this subchapter.

2. Diversification. Except as otherwise provided in this subchapter, no corporation subject to this chapter may invest more than 10% of its admitted assets in the securities of any single person.

3. Overall limitation on stock. Notwithstanding any other provision of this subchapter, no corporation subject to this chapter may invest in the aggregate an amount exceeding 50% of its reserves in common stock.

§2352. Definitions

As used in this subchapter, unless otherwise indicated, the following terms have the following meanings.

1. Admitted assets. "Admitted assets" means the

definition of "assets" as in Title 24-A, section 901. For purposes of this subchapter, such asset value shall be that contained in the annual statement of the corporation as of December 31st of the year next preceding the making of the investment or contained in any audited financial report, as defined in Title 24-A, section 221-A, of more current origin.

2. Reserves. "Reserves" means those reserves held by corporations subject to this chapter for the protection of subscribers. For purposes of this subchapter, such reserve value shall be that contained in the annual statement of the corporation as of December 31st of the year next preceding the making of the investment or any audited financial report as defined in Title 24-A, section 221-A, of more current origin.

§2353. Government unit bonds

Corporations subject to this chapter are authorized to invest an amount not greater than 70% of the corporation's admitted assets in aggregate amount in any of the following governmental entities:

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 an agency, association, authority or instrumentality created by the United States Congress or any executive order;

2. States. The bonds and other obligations issued or guaranteed by any state or by an 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 of this State which is not in default on any of its outstanding funded obligations, provided that investments pursuant to this subsection may not exceed 25% of the corporation's admitted assets; and

4. Canada. The bonds and other obligations issued or guaranteed by Canada or issued or guaranteed by any province or political subdivision of Canada, 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. Investments pursuant to this subsection may not exceed 20% of the corporation's admitted assets and not more than 2% of the corporation's admitted assets may be invested in any one issue.

§2354. Corporate securities

Corporations subject to this chapter 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 60% of the admitted assets of any corporation subject to this chapter may be invested in such obligations and not more than 2% of the admitted assets of the corporation may be invested in the securities of any one such corporation;

2. Corporate stocks. The stock 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. Not more than 50% of the reserves of any corporations subject to this chapter may be invested in such securities and not more than 5% of those reserves may be invested in the securities of any single corporation;

3. 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 Public Utilities Commission, an average net income of not less than 1 1/2 times the interest on the obligations in question and all prior liens. Not more than 20% of the admitted assets of the corporation may be invested in such securities of Maine corporations and not more than 2% of such admitted assets may be invested in the securities of any single corporation; or

4. Maine corporate stocks. Maine corporate stocks, provided that they meet the following requirements:

A. The stock of any Maine corporation actually conducting in this State the business for which the corporation was created, provided that the corporation, for a period of 3 years immediately preceding the investment, has 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. Not more than 10% of the reserves of the corporation may be invested under this section in stocks of Maine corporations and not more than 5% of the reserves of the corporation may be so invested in the stock of any single corporation. No corporation subject to this chapter may hold by way of investment more than 20% of the capital stock of any corporation; and

C. Nothing in this section may be construed to prohibit or limit a corporation from acquiring or investing in related corporations pursuant to section 2359.

§2355. Financial institution stock and other obligations

1. General provisions. Corporations subject to this chapter are authorized to invest in the securities of financial institutions to the extent permitted by this section, except that no investments may be made in any financial institution which has total capital and reserves of less than \$50,000,000.

2. Bonds and other obligations. Corporations subject to this chapter may invest in the bonds and other obligations of Maine financial institutions and Maine financial institution holding companies, subject to the eligibility criteria and limitations set forth in section 2354, subsection 3. Corporations subject to this chapter may invest in the bonds or other obligations of non-Maine financial institutions or non-Maine financial institution holding companies subject to the eligibility criteria and limitations set forth in section 2354, subsection 1.

3. Stock investments. Corporations subject to this chapter may invest in the stock of Maine financial institutions and Maine financial institutions holding companies, subject to the eligibility criteria and limitations in section 2354, subsection 4. Corporations subject to this chapter may invest in the stock of non-Maine financial institution holding companies, subject to the eligibility criteria and limitations set forth in section 2354, subsection 2. No corporation subject to this chapter may acquire more than 10% of the stock of any single financial institution or financial institution holding company.

4. Certificates of deposit. Corporations subject to this chapter are authorized to invest in certificates of deposit issued by financial institutions meeting the standards of this section, provided that certificates of deposit issued by savings and loan associations shall be fully insured by the Federal Savings and Loan Insurance Corporation. No corporation subject to this chapter may invest an amount greater than 2% of its admitted assets or the maximum insured amount under the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, whichever is greater, in certificates of deposit in any single financial institution.

§2356. Other securities investments

Corporations subject to this chapter are authorized to invest in:

1. Preferred stock of public utilities. The preferred stock of any public utility corporation if all of the publicly issued bonds of such corporation qualify as legal investments under section 2354, subsection 1 or 3. Not more than 40% of the reserves of a corporation may be invested in preferred stocks of public utilities and not more than 2% of such reserves may be invested in the preferred stocks of any one corporation;

2. 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 admitted assets of

a corporation may be invested in securities coming within the coverage of this subsection and not more than 1% of the admitted assets of a corporation may be invested in securities of any one such association or corporation;

3. Small business investment companies. The stock of small business investment companies licensed under the United States Small Business Investment Act of 1958, as amended, and commercially domiciled in this State and doing business primarily in this State. Not more than 1% of the reserves of a corporation may be invested in the stock of small business investment companies and any single corporation shall not own more than 10% of the stock of any one small business investment company; and

4. Maine Capital Corporation. The stock of the Maine Capital Corporation, established under Title 10, chapter 108, in an amount not to exceed 1% of admitted assets of a corporation.

§2357. Other prudent securities

Corporations subject to this chapter 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 8% of the admitted assets of a corporation may be invested in securities within the coverage of this section and investments in the stock of Maine financial institutions may 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. This section does not limit the authority of corporations subject to this chapter to invest in securities specifically regulated by this subchapter. This section gives additional authority to invest 8% of the corporation's admitted assets in any type of prudent security.

§2358. Retention of unauthorized securities

Corporations subject to this chapter 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 the corporations and may continue to hold such securities at the discretion of their directors provided that the securities shall be treated as a nonadmitted asset.

§2359. Real estate

1. For offices and facilities. A corporation subject to this chapter may invest in improved or unimproved real estate and in the erection or improvement of buildings on the real estate, together with furniture, fixtures, equipment and capitalized leases on any fixed asset items for the purpose of providing offices or facilities for transaction of the corporation's authorized business and these buildings may include space for rental purposes. The

book value of real estate, furniture, fixtures, equipment and capitalized leases, combined, made pursuant to this subsection shall not exceed 60% of the corporation's reserves, provided that the superintendent may approve, in writing, upon application by a corporation and for good cause shown, a greater percentage.

2. Investment realty. In addition to real estate owned for offices and facilities, corporations subject to this chapter may acquire real estate or interests in real estate which is located within the State by purchase or by any other means and may hold the real estate or interests in real estate for investment purposes and may improve, develop, lease, contract, convey and otherwise deal with real estate or interests in real estate, as long as the book value of the real estate does not exceed 15% of its reserves and provided that the real estate is income producing.

3. Aggregate limitation. The aggregate value of all real estate invested in pursuant to this section shall not exceed 60% of the reserves of the corporation.

§2360. Related corporations

1. Authorization. A corporation subject to this chapter, in accordance with this section, may form or invest in the capital stock, obligations or other securities of a related corporation, as defined in subsection 7, or otherwise participate in or utilize the services of such a corporation.

2. Limitations. The stock of a related corporation formed pursuant to this section shall be owned only by entities involved in the provision of health care or health care financing. The aggregate investment of a corporation subject to this chapter in the related corporations shall not exceed 20% of its reserves.

3. Records. The books and accounts of a related corporation involving any corporations subject to this chapter shall be kept in such manner and form as the superintendent may prescribe and these books and accounts may be examined by the superintendent or his designee.

4. Joint ownership. A related corporation formed pursuant to this section may be owned by 2 or more entities involved in the provision of health care or health care financing, provided that the superintendent shall approve such joint ownership. In approving or disapproving joint ownership, the superintendent may consider the type of entities making application and the competitive effect of such joint ownership.

5. Application required. A corporation subject to this chapter shall make application to the superintendent for authority to form or invest in a corporation to engage in any activity authorized by this section. The applicant must demonstrate that the operation of and investment in the related corporation is in the public interest and that the operation of and investment in the related corporation shall not unduly strain the financial viability of the applicant.

6. Limitations on permissible activities. In determining which activities shall be permissible for corporations subject to this chapter, the superintendent may limit activity for all such corporations. The superintendent shall also have authority to adopt rules setting forth those activities for which he will accept applications by type of corporation, provided that nothing in this section may be construed to prohibit the corporation from making an application in the absence of rules. In adopting rules, the superintendent shall consider the public interest, including the impact on the financial viability of the corporation.

7. Related corporation defined. "Related corporation" means a Maine corporation substantially all the activities of which consist of clerical, bookkeeping, accounting, statistical, management, personnel, marketing or similar functions related to the provision of health care.

Sec. 36. 24-A MRSA §1108, sub-§10-A is enacted to read:

10-A. African Development Bank; and

Sec. 37. 30 MRSA §5051-A, sub-§1, ¶A, as enacted by PL 1983, c. 98, §3, is amended to read:

A. Accounts and deposits exceeding an amount equal to 25% of the capital, surplus and undivided profits of any trust company or national bank or a sum exceeding an amount equal to 25% of the reserve fund and undivided profit account of a mutual savings bank or state or federal savings and loan association on deposit at any one time shall be secured by the pledge of certain securities as collateral, or fully covered by insurance. The collateral shall be in an amount equal to the excess deposit. The value of the securities so pledged shall be determined by the municipal officers on the basis of market value. The municipal officers shall review the value of these securities pledged on the first business day of January and July of each year. The collateral shall only consist of securities in which savings banks may invest as provided in Title 9-B, sections 551 to 559 article 1-B. The securities shall be held in a depository institution approved by the municipal officers and pledged to indemnify the municipalities against any loss. Notice of the hypothecation at the time of deposit shall be given to the municipal officers by the depository institution and a copy of the notice shall be mailed to the Department of Audit;

Sec. 38. 30 MRSA §5051-A, sub-§2, as enacted by PL 1983, c. 98, §3, is amended to read:

2. Savings bank investments. Invested according to the law governing the investment of funds of savings banks in Title 9-B, chapter 55 article 1-B.

A. For the purpose of this subsection, the words "deposits of a bank" or their equivalent, as used in Title 9-B, chapter 55 article 1-B, mean the total assets

of the permanent reserve fund, permanent trust fund or other permanent fund being invested, but the limitation concerning the maximum amount which may be invested in a security or type of security under Title 9-B, chapter 55 article 1-B, applies only to an investment in that security or type of security which exceeds \$20,000;

Sec. 39. 30 MRSA c. 241, sub-c. II, art. 1-B is enacted to read:

ARTICLE 1-B. INVESTMENTS IN SECURITIES

§5071. Investments in general

Municipalities may hereafter invest their funds in securities in accordance with this article, subject to the conditions and limitations set forth in this article or the terms of the instrument, order or article creating the fund being invested. Limitations set forth in this article concerning the maximum amount which may be invested in a security or type of security shall apply only to an investment in that security or type of security which exceeds \$20,000. Investments made pursuant to this article shall be made by the treasurer upon direction of the municipal officers.

§5072. Government unit bonds

Municipalities may 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 of Banking;

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 of the State which is not in default on any of its outstanding funded obligations; and

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 of a province; provided that such securities are rated within the 3 highest grades by any rating service approved by the Superintendent of Banking and are payable in United States funds.

§5073. Corporate securities

Municipalities may 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 of Banking and are payable in United States funds. Not more than 2% of the total assets of the permanent reserve fund, permanent trust fund or other permanent fund being invested 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 Public Utilities Commission, an average net income of not less than 1 1/2 times the interest on the obligations in question and all prior liens. Not more than 20% of the total assets of the permanent reserve fund, permanent trust fund or other permanent fund being invested shall be invested in such securities of Maine corporations; and not more than 2% of such fund in the securities of any single corporation; and

3. Maine corporate stocks. Maine corporate stocks which have the following characteristics.

A. 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. Not more than 10% of the deposits of the total assets of the permanent reserve fund, permanent trust fund or other permanent fund being invested shall be invested under this section in stocks of Maine corporations; and not more than 1% of the total assets of the permanent reserve fund, permanent trust fund or other permanent fund being invested shall be so invested in the stock of any single corporation. Such fund shall be invested in no more than 20% of the capital stock of any corporation.

§5074. Financial institution stock and other obligations

1. Municipalities may invest in:

A. The debentures 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;

B. The capital stock, preferred stock, debentures and acceptances 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. Capital notes or debentures issued by any municipalities 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 total assets of the permanent reserve fund, permanent trust fund or other permanent fund being invested shall be so invested; and

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

2. Limitations. A municipality shall not acquire or hold stock and obligations described in subsection 1 in excess of 30% of the total assets of the reserve fund, permanent trust fund or other permanent fund being invested; nor shall it acquire or hold stock and obligations of any one bank or holding company not operating in this State in excess of 5% of the total assets of the reserve fund, permanent trust fund or other permanent fund being invested; nor shall any such fund be invested in such stock in excess of 10% of the capital stock of any one bank or holding company.

§5075. Other stock investments

Municipalities may 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 5073, subsection 1 or 2. Not more than 10% of the permanent reserve fund, permanent trust fund or other permanent fund being invested shall be invested in preferred stocks of public utilities; and not more than 1% of any such fund may be invested in the preferred stocks of any one corporation;

2. 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 total assets of the permanent reserve fund, permanent trust fund or other permanent fund being invested may be invested in securities coming within the coverage of this subsection; and not more than 1% of the total assets of the permanent reserve fund, permanent trust fund or other permanent fund being invested may be invested in securities of any one such association or corporation;

3. Small business investment companies. The stock of small business investment companies licensed under the United States Small Business Investment Act of 1958, as amended, and commercially domiciled in Maine and doing business primarily in Maine. Not more than 1% of the total assets of the permanent reserve fund, permanent trust fund or other permanent fund being invested may be invested in the stock of small business investment companies and any such fund shall not be invested in more than 10% of the stock of any one small business investment company; and

4. Maine Capital Corporation. The stock of the Maine Capital Corporation, established under Title 10, chapter 108, in an amount not to exceed 1% of the total assets of the permanent reserve fund, permanent trust fund or other permanent fund being invested.

§5076. Other prudent securities

Municipalities may invest in such securities as the municipal officers 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 total assets of the permanent reserve fund, permanent trust fund or other permanent fund being invested may 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. This section does not limit the authority of municipalities to invest in securities specifically regulated by this article; rather, this section gives additional authority to invest 10% in any type of prudent security.

§5077. Retention of unauthorized securities

Municipalities 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 the exercise of rights applicable to securities held by the municipalities, and may continue to hold such securities at the discretion of the municipal officers. Municipalities may continue to hold at the discretion of the municipal officers securities under authorization of law.

Effective September 29, 1987.

CHAPTER 406

H.P. 1055 — L.D. 1425

AN ACT to Strengthen the Lobster Hatchery Program.

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

Whereas, the cycle for lobster hatcheries starts up in the spring and early summer and anticipated funding lev-

el for the hatcheries must be known before the cycle begins; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

12 MRSA §6451, sub-§6, as enacted by PL 1985, c. 237, §3, is repealed and the following enacted in its place:

6. Lobster hatcheries. The commissioner, with the advice of the Lobster Advisory Council, may authorize expenditure of money from the Lobster Fund, any available funds and, as appropriated by the Legislature, the General Fund to make grants in support of the establishment and operation of lobster hatcheries. The grants shall be for a one-year period and shall be renewable indefinitely upon successful reapplication. There shall be no more than 5 lobster hatcheries supported under this section. The commissioner shall develop rules, including biological and economic criteria for evaluating proposals. The commissioner shall require the grantee to keep a log of activities regarding the hatchery and shall require a written report at the termination of each grant.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective June 24, 1987.

CHAPTER 407

H.P. 1344 — L.D. 1838

AN ACT to Provide for the Inventory of State-owned Land for Various Uses.

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

Sec. 1. 5 MRSA §1742, sub-§21, as amended by PL 1985, c. 785, Pt. A, §68, is further amended to read:

21. **Rules.** To make rules, subject to the approval of the Commissioner of Administration for the purposes of carrying out this subchapter, ~~and;~~

Sec. 2. 5 MRSA §1742, sub-§22, as enacted by PL 1985, c. 481, Pt. A, §12, is amended to read:

22. **Drug-related seized property.** To review and comment on all records provided by the Commissioner of Public Safety relating to the disposition of drug-related seized property pursuant to Title 22, section 2387, sub-section 5; and