LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

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PUBLIC LAWS

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Sec. 9. 24-A MRSA §1101, as amended by PL 1989, c. 846, Pt. B, §1 and affected by Pt. E, §4, is repealed and the following enacted in its place:

§1101. Scope of chapter

1. Subject to subsection 2 and section 1137, this chapter applies to all insurers except life or health insurers that transact business of a type described in section 409, subsection 3.

2. Each domestic all lines insurer, as defined in section 409, subsection 2, shall, for accounting and financing purposes, establish and maintain distinct accounts dedicated exclusively to the insurance it transacts under its life or health insurance authority and to the remainder of its business. Each account must include reserves and surplus funds adequate to financially support the underwriting activity. All assets allocated to life accounts and health accounts are subject to chapter 13-A rather than this chapter. The books and records of any insurer writing more than one kind of business must reflect the assets and operations relating to each underwriting activity in detail sufficient to demonstrate compliance with this chapter and chapter 13-A.

Sec. 10. 24-A MRSA §1151, as repealed and replaced by PL 1989, c. 846, Pt. B, §8 and affected by Pt. E, §4, is amended to read:

§1151. Scope of chapter

Except as provided in sections 1101 and 1161, this chapter applies only to a domestic ~~insurers~~ life or health insurer that ~~transact~~ transacts business ~~exclusively~~ of a type described in ~~sections 702, 703 or 704, or any combination of those types~~ section 409, subsection 3.

Sec. 11. 24-A MRSA §2452 is enacted to read:

§2452. Employee benefit excess insurance; nondiscrimination; prohibited clauses

1. Discrimination prohibited. A policy of employee benefit excess insurance may not discriminate unfairly among or against beneficiaries of the underlying benefit plan, or treat conditions related to the Human Immunodeficiency Virus, or HIV, more restrictively than other sicknesses or disabling conditions.

2. Commutation clause. A policy of employee benefit excess insurance may not contain a commutation clause that extinguishes the excess carrier's gross claims liability to the insured person through the recapture of loss reserves, unless the policy contains a provision giving the insured the option of requiring that the funds transferred in support of such a commutation have been evaluated by a qualified health actuary who is a member of the American Academy of Actuaries and has certified that the aggregate value of reserves to be recaptured are reasonably adequate to discharge the insured's expected liability for future costs of the health benefits covered by the excess policy.

3. Review. An employee benefit excess insurance form is not exempt from the review provisions otherwise applicable under section 2412 on the ground that the form is designed for insurance on a particular subject.

See title page for effective date.

CHAPTER 386

S.P. 608 - L.D. 1612

An Act to Revise the Laws Governing Banking Institutions

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

Sec. 1. 9-B MRSA §334, sub-§1, as amended by PL 1981, c. 352, §3, is further amended to read:

1. Superintendent's approval. A financial institution or a service corporation wholly owned by one or more financial institutions ~~authorized to do business in this State~~ may establish or participate in the ~~establishment~~ use of a satellite or off-premise facility, as defined in section 131~~; provided that no such facility shall be established~~. A financial institution or service corporation may not establish a satellite facility without prior approval of the superintendent, pursuant to section 336.

Sec. 2. 9-B MRSA §334, sub-§4, as amended by PL 1985, c. 647, §4, is repealed and the following enacted in its place:

4. Use of established facilities by additional institutions. A satellite facility established under this chapter must be made available for use by other financial institutions authorized to do business in this State. The superintendent may not approve the establishment of any satellite facility unless all financial institutions using the facility have equal access to the facility. When a facility is shared, the identification and promotion of that facility must be generic to the facility or network system, not to a specific financial institution.

Sec. 3. 9-B MRSA §334, sub-§5, as amended by PL 1983, c. 614, §1, is amended to read:

5. Location of facilities on premises. Nothing ~~shall~~ may preclude a financial institution from locating an electronic terminal on the premises of its main office or of a branch office for its customers' convenience. ~~Access by other financial institutions to such on-premise facilities shall be at the discretion of said financial institution.~~ At the discretion of that financial institution, customers of other financial institutions may have access to those on-premise facilities.

An on-premise facility is a facility ~~which~~ that is located physically on the premises of a main office or branch or one ~~which~~ that is an extension of or ancillary to an existing main office or branch. Only one ancillary or extended facility is

permitted at each main office or branch. For purposes of this section, a facility is considered ~~to be~~ ancillary to or an extension of an existing office if it is situated on the parcel of land on which the branch or main office is located and not across a public way, or within 500 feet, whichever is greater, and not operational from within the confines of another establishment.

Sec. 4. 9-B MRSA §334, sub-§6 is enacted to read:

6. Notification required. A financial institution participating in the use or discontinuing the use of a satellite facility or network system must provide notice to the superintendent in the form and manner and containing the information required by the superintendent.

Sec. 5. 9-B MRSA §342, sub-§1, ¶A, as amended by PL 1991, c. 34, §2, is further amended to read:

A. At an annual meeting or a special meeting called for that purpose, 51% or more of the members or shareholders ~~present and voting~~ casting votes in person or by proxy must approve of the conversion. Notice of the meeting must be mailed to each member or shareholder ~~not less than 20 nor~~ at least 30 and not more than ~~30~~ 60 days prior to the date of the meeting at the member's or shareholder's last known address as shown on the books of the institution.

Sec. 6. 9-B MRSA §342, sub-§1, ¶B, as enacted by PL 1975, c. 500, §1, is amended to read:

B. At the meeting required in paragraph A, the members or shareholders shall vote upon directors who shall be the directors of the state-chartered institution after conversion becomes effective~~,~~ and also vote upon corporators if a board of corporators is to be established for the resulting state-chartered institution ~~is to be a mutual savings bank~~.

Sec. 7. 9-B MRSA §355, first ¶, as enacted by PL 1975, c. 500, §1, is amended to read:

A financial institution organized under the laws of this State may acquire ~~all or substantially all of~~ the assets of, or assume the liabilities of, any other financial institution authorized to do business in this State, in accordance with the procedures and subject to the conditions and limitations set forth below~~:~~ .

Sec. 8. 9-B MRSA §355, sub-§1, as amended by PL 1979, c. 663, §40, is further amended to read:

1. Adoption of a plan. The board of directors of the acquiring or assuming institution and the board of directors of the transferring institution shall adopt, by majority vote, a plan for ~~such~~ acquisition, assumption or sale on ~~such~~ terms ~~as shall be~~ that are mutually agreed upon. The plan ~~shall~~ must include:

A. The names and types of the institutions involved;

B. A statement setting forth the material terms of the proposed acquisition, assumption or sale, including, if applicable, the plan for disposition of all assets and liabilities not subject to the plan;

C. A statement, if applicable, of the plan governing liquidation of the transferring institution pursuant to section 364 upon execution of the plan, with ~~said~~ that liquidation being a required provision of the plan;

D. A statement that the entire transaction is subject to written approval of the superintendent~~;~~ and, if the transaction involves all or substantially all of the assets or liabilities of the transferring institution, the approval of the transferring institution's stockholders, corporators~~;~~ or members;

E. If a stock institution is the transferring institution and the proposed sale is not ~~to be~~ for cash, a clear and concise statement that stockholders of ~~said~~ the institution voting against the proposed sale are entitled to rights set forth in section 352, subsection 5; and

F. The proposed effective date of ~~such~~ the acquisition, assumption or sale and ~~such~~ all other information and provisions ~~as may be~~ that are necessary to execute the transaction~~;~~ or ~~as may be~~ that are required by the superintendent.

Sec. 9. 9-B MRSA §355, sub-§3, as enacted by PL 1975, c. 500, §1, is amended to read:

3. Vote of stockholders, corporators or members. ~~The~~ If the transaction involves all or substantially all of the assets or liabilities of the transferring institution, the plan of acquisition, assumption or sale ~~shall~~ must be presented to the stockholders, corporators~~;~~ or members of the transferring institution for their approval. If the transferring institution is a stock institution, ~~such~~ approval ~~shall~~ must be obtained in accordance with section 352, subsection 3; ~~and~~, if the transferring institution is a mutual institution, approval ~~shall~~ must be obtained in accordance with section 353, subsection 3.

Sec. 10. 9-B MRSA §355, sub-§8 is enacted to read:

8. Applicability. This section does not apply to a transfer of assets of a financial institution in the ordinary course of business that does not include any assumption of deposit liabilities.

Sec. 11. 9-B MRSA §365, sub-§10, as enacted by PL 1991, c. 34, §5, is amended to read:

10. Procedures in liquidation. When the superintendent appoints the Federal Deposit Insurance Cor-

poration as receiver, federal law prescribes the procedures that the Federal Deposit Insurance Corporation follows in liquidation of the insolvent bank. When an insolvent stock institution or an insolvent mutual institution is liquidated, assets must be distributed in the following priority:

A. First, the payment of the costs and expenses of the liquidation;

B. Second, the payment of claims for deposits, including, but not limited to, the claims of depositors in a mutual institution for the return of their deposits;

C. Third, the payment of all debts, claims and obligations owed by the institution and not accorded priority pursuant to paragraphs A and B;

D. Fourth, the payment of claims otherwise proper that were not filed within the prescribed time; and

E. Fifth, the payment of any obligation expressly subordinated to deposits and to claims entitled to the priority established by paragraphs A and B.

Any funds remaining must be divided among the stockholders in a stock institution according to their respective interests or, in the case of a mutual institution, pro rata among the depositors in proportion to the respective amount of their deposits.

Interest must be given the same priority as the claim on which it is based, but interest may not be paid on any claim until the principal of all claims within the same class and all higher-priority classes has been paid or adequately provided for in full.

Sec. 12. 9-B MRSA §445, sub-§1, as amended by PL 1983, c. 63, §3, is further amended to read:

1. Authorization. A financial institution may ~~form~~ establish, acquire or 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. Except as provided in subsection 5, a financial institution may not establish or acquire a service corporation without prior approval of the superintendent pursuant to section 252.

Sec. 13. 9-B MRSA §445, sub-§2, as amended by PL 1975, c. 666, §20, is further amended to read:

2. Limitations. The stock of a service corporation formed pursuant to this section ~~shall~~ may be owned only by institutions engaged in the business of banking. The aggregate investment of a financial institution in ~~such~~ those service corporations ~~shall~~ may not exceed ~~50 percent~~ 50% of its total capital and reserves or its total surplus account. For purposes of applying the legal lending limit prescribed in this Title, a financial institution's investment in a service corporation, if majority owned, must be consolidated with the financial institution on a line-for-line basis proportionate to the financial institution's ownership interest in the service corporation.

Sec. 14. 9-B MRSA §445, sub-§4, as amended by PL 1983, c. 63, §4, is further amended to read:

4. Ownership. A service corporation formed pursuant to this section may be owned by ~~2~~ one or more institutions engaged in the business of banking~~; provided that~~ if the superintendent ~~shall approve such joint~~ approves that ownership in accordance with section 252. 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~~ that ownership. An application for approval required by this subsection is not complete unless accompanied by an application fee to be credited and used as provided in section 214.

Sec. 15. 9-B MRSA §445, sub-§5 is enacted to read:

5. Exception for debt-acquired real property. Notwithstanding subsection 1, a financial institution may establish, acquire or invest in one or more service corporations whose sole purpose is to hold interest in real property acquired in satisfaction of a debt provided that:

A. At least 30 days prior to the establishment or acquisition of any such service corporation, notice must be provided to the superintendent in a manner and containing such information as required; and

B. The service corporation holds property not intended for real estate investment purposes and it is expected that the property will be disposed of in a timely fashion.

A financial institution that has submitted notice pursuant to this subsection may thereafter establish, acquire or invest in additional service corporations operated for similar purposes provided that the financial institution notifies the superintendent in writing within 14 days after doing so. The notice must be in the manner and containing such information as required by the superintendent. Any filing made pursuant to this subsection must be accompanied by a fee as prescribed by the superintendent.

Sec. 16. 9-B MRSA §467, sub-§2, as enacted by PL 1975, c. 500, §1, is amended to read:

2. Other outside business interests. ~~No treasurer or assistant treasurer~~ A policy-making officer of a financial institution ~~shall~~ may not 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.

Sec. 17. 9-B MRSA §526 is enacted to read:

§526. Pledge of assets for deposits

A savings bank does not have the powers to pledge or hypothecate any of its assets as security for deposits made with it, except for the following deposits:

1. Public funds. Federal, state, county or municipal funds, United States postmaster funds, postal funds or other public funds;

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

3. Fiduciary funds. Funds deposited by a savings bank in its own bank that are being held by the savings bank in a fiduciary capacity.

Sec. 18. 9-B MRSA §534, sub-§2, as amended by PL 1991, c. 34, §12, is further amended to read:

2. Limitations. Loans made pursuant to this section are subject to lending limits set forth in section 439-A. The aggregate amount of loans made pursuant to this section ~~and section 535~~ may not exceed 40% of ~~deposits~~ assets.

Sec. 19. 9-B MRSA §535, sub-§2, ¶A, as amended by PL 1981, c. 646, §3, is repealed.

Sec. 20. 9-B MRSA §539, sub-§1, as enacted by PL 1975, c. 500, §1, is amended to read:

1. Limitation. After ~~the effective date of this chapter~~ October 1, 1975, the aggregate total of all loans made by a savings bank under this Title ~~shall~~ may not exceed 100% of ~~the~~ its total ~~of its deposits and undivided profits~~ assets, as determined by the superintendent. In determining the aggregate of loans hereunder, there ~~shall~~ must be excluded mortgage loans backing any security in the issuance of which the association participates pursuant to section 413.

Sec. 21. 9-B MRSA §735, sub-§2, ¶A, as amended by PL 1981, c. 646, §10, is repealed.

Sec. 22. 9-B MRSA §812, sub-§2, as enacted by PL 1975, c. 500, §1, is amended to read:

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

A. The name by which the credit union ~~shall~~ will be known, which ~~name shall~~ must 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~~ All other information ~~as~~ that the superintendent ~~may deem~~ determines necessary and appropriate.

~~No~~ An application for permission to organize a credit union ~~shall be deemed~~ is not considered 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. The superintendent shall establish the amount of the fee according to different application requirements, but in no instance may it exceed $1,000.

Sec. 23. 9-B MRSA §845, sub-§2, as enacted by PL 1975, c. 500, §1, is amended to read:

2. Loan officers.

A. ~~When so provided by the bylaws, the credit committee~~ The board of directors 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~~ board of directors may delegate to the loan officer or officers ~~such~~ the authority ~~as~~ that is within the limits ~~set for the committee by the board of directors, as it may vote~~ established under a written loan policy. The authority granted to any loan officer ~~shall~~ must be ~~reported to and~~ included in the minutes of the meetings of the board of directors.

C. ~~No~~ A loan officer ~~shall~~ may not disapprove any loan application, but shall refer ~~such~~ those applications to the board of directors or the full credit committee. ~~All~~ Each loan ~~officers~~ officer shall furnish to the board of directors or credit committee a record of each application acted upon by ~~him~~ that loan officer at the next meeting of ~~said~~ the board of directors or committee after the date of filing of the application ~~therefor~~. ~~No~~ A loan officer ~~shall have authority to~~ may not disburse funds of the credit union for any loan approved by ~~him~~ that loan officer in ~~his~~ the capacity as loan officer.

Sec. 24. 9-B MRSA §862, sub-§5 is enacted to read:

5. Federal Home Loan Bank membership. A credit union may become a member and stockholder in a Federal Home Loan Bank within the Federal Home Loan Bank district where that credit union is situated.

Sec. 25. 9-B MRSA §862, last ¶, as enacted by PL 1975, c. 500, §1, is amended to read:

Nothing contained in this section ~~shall~~ may be construed as authorizing a credit union to purchase or invest in the stock of any corporation,except for the purchase of stock in the Federal Home Loan Bank for purposes of establishing membership in that system.

Sec. 26. 9-B MRSA §1011, sub-§4, as amended by PL 1985, c. 642, §3, is further amended to read:

4. Control. A company ~~shall be deemed to control~~ controls another company ~~(referred~~ , referred to in this chapter as a ~~"subsidiary")~~ "subsidiary," if it owns 25% or more of the voting shares of the subsidiary or if under the federal Bank Holding Company Act of 1956, as amended, under ~~section 407 or 408 of the National Housing Act~~ the federal Home Owners' Loan Act, Section 1467A, as amended, or under the Federal Deposit Insurance Act, as amended, or regulations or policy statements issued thereunder, ~~it~~ that company is presumed to control the subsidiary or a determination has been made by the superintendent that ~~it~~ the company exercises a controlling influence over the management and policies of the subsidiary.

Sec. 27. 9-B MRSA §1019-A, as enacted by PL 1987, c. 90, §4, is amended to read:

§1019-A. Notification of superintendent; purchase of own shares

A Maine financial institution holding company shall ~~notify the superintendent at least 10 business days before issuing preferred stock or capital notes or debentures with an original maturity of 3 years or greater. A copy of any United States Securities and Exchange Commission filings, private placement memoranda or other documents describing the proposed issue to potential investors shall be provided with that notification.~~ provide the superintendent with prior notification regarding the following transactions:

1. Issuance of stock, capital notes or debentures. The issuance of preferred stock, capital notes or debentures with an original maturity of 3 years or greater. Notice must be provided at least 10 days prior to issuance and must contain a copy of any United States Securities and Exchange Commission filings, private placement memoranda or other documents describing the proposed issue to potential investors; and

2. Purchase of own capital stock. The purchase of shares of any type of its own capital stock. Notice must contain such information as required by the superintendent.

Sec. 28. 14 MRSA §2602, sub-§9 is amended to read:

9. Safe deposit box. By reason of the renting as a national bank, trust company, savings bank, savings and loan association, credit union or safe deposit company of any safe deposit box or on account of the contents thereof; and

See title page for effective date.

CHAPTER 387

H.P. 86 - L.D. 121

An Act to Implement the Recommendations of the Travel Information Advisory Council Concerning Informational Signs

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

Sec. 1. 23 MRSA §1913-A, sub-§2, ¶¶D and E, as enacted by PL 1981, c. 318, §3, are amended to read:

D. Signs erected by nonprofit historical and cultural institutions. Each institution which has certified its nonprofit status with the commissioner, may erect not more than 2 signs with a surface area not to exceed 50 square feet per sign; ~~and~~

E. Signs bearing political messages.; and

Sec. 2. 23 MRSA §1913-A, sub-§2, ¶F is enacted to read:

F. Signs erected by growers of fresh fruit and vegetable crops advertising those fresh fruits and vegetable crops when crops are offered for sale on premises where those crops are grown from June 15th to November 1st of each year. Signs may advertise only those fruits and vegetables that are available for immediate purchase. A grower may not erect more than 4 signs. A sign may not exceed 8 square feet in size and must be located within 5 miles of the farm stand.

The signs must be erected on private property with the landowner's written consent, except that the signs may be erected within but at the edge of the right-of-ways of highways that receive no federal aid.

See title page for effective date.
