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J.S. McCarthy Company
Augusta, Maine
1995

CHAPTER 627

H.P. 1355 - L.D. 1860

An Act to Amend the Petroleum Market Share Act

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

Sec. 1. 10 MRSA §1673, sub-§3, as amended by PL 1993, c. 613, §2, is further amended to read:

3. Repeal. This section is repealed September 1, ~~1996~~ 2000.

Sec. 2. 10 MRSA §1681, as amended by PL 1993, c. 613, §3, is further amended to read:

§1681. Fees

Annually by September 1st, a person who operates or causes to be operated an oil terminal facility within the State, as defined in Title 38, section 542, subsection 7, and a person who is required to register with the Commissioner of Environmental Protection pursuant to Title 38, section 545-B, shall pay to the Attorney General a fee for each 10,000 gallons of home heating oil and motor fuel oil transported into the State during the previous 12-month period ending June 1st. Home heating oil or motor fuel oil that is subsequently exported from the State is excluded from computation, except that home heating oil sold to a retailer or retail outlet located outside the State that sells home heating oil at retail within the State is not excluded. The fee that must be paid by September 1, ~~1992~~ 1996 and for each subsequent year is ~~45¢~~ 40¢ for each 10,000 gallons or portion thereof. ~~The fee that must be paid by September 1, 1993 is 75.15¢ for each 10,000 gallons or portion thereof. The fee for each subsequent year is 40¢ for each 10,000 gallons or portion thereof.~~ The fees must be deposited in a dedicated, nonlapsing account, known as the Petroleum Marketing Fund. The Attorney General shall administer the fund. This section is repealed September 1, ~~1996~~ 2000.

See title page for effective date.

CHAPTER 628

H.P. 1272 - L.D. 1750

An Act to Implement the Recommendations of the Maine Task Force on Interstate Banking and Branching

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

Sec. 1. 9-B MRSA §131, sub-§1-A is enacted to read:

1-A. Affiliate. "Affiliate" means any company that controls, is controlled by, or is under common control with another company. For purposes of this definition, "control" has the same meaning as in section 1011, subsection 4.

Sec. 2. 9-B MRSA §131, sub-§§2 and 3, as enacted by PL 1975, c. 500, §1, are amended to read:

2. Authorized to do business in this State. "Authorized to do business in this State" means that a financial institution or credit union is authorized to do the business of banking, if it is:

A. Organized under provisions of this Title;

B. Organized under provisions of prior laws of this State~~,~~ and subject to the provisions of this Title; ~~or~~

C. Organized under provisions of federal law and maintains ~~its principal office in~~ this State~~.~~ as its home state;

D. Organized under provisions of federal law or laws of another state and maintains a branch in this State; or

E. Organized under provisions of law of a foreign country and maintains a branch in this State.

3. Branch. "Branch" means any office or facility of a financial institution where the business of ~~such financial institution~~ banking is conducted other than the institution's main office.

Sec. 3. 9-B MRSA §131, sub-§12-A, ¶¶B and C, as enacted by PL 1975, c. 666, §2, are amended to read:

B. Organized under provisions of prior laws of this State and subject to the provisions of this Title; ~~or~~

C. Organized under provisions of federal law and maintains ~~its principal office in~~ this State~~.~~ as its home state;

Sec. 4. 9-B MRSA §131, sub-§12-A, ¶¶D and E are enacted to read:

D. Organized under provisions of federal law or laws of another state and maintains a branch in this State; or

E. Organized under provisions of law of a foreign country and maintains a branch in this State.

Sec. 5. 9-B MRSA §131, sub-§12-B is enacted to read:

12-B. Deposit production office. "Deposit production office" means a branch of a financial institution or credit union authorized to do business in this State that is used primarily to generate deposits and does not reasonably meet the credit needs of the community that the branch serves, as determined by the superintendent. For purposes of this subsection, deposits include credit union share accounts.

Sec. 6. 9-B MRSA §131, sub-§17-A, ¶¶B and C, as enacted by PL 1975, c. 666, §3, are amended to read:

B. Organized under provisions of prior laws of this State and subject to the provisions of this Title; ~~or~~

C. Organized under provisions of federal law and maintains ~~its principal office in~~ this State~~.~~ as its home state;

Sec. 7. 9-B MRSA §131, sub-§17-A, ¶¶D and E are enacted to read:

D. Organized under provisions of federal law or laws of another state and maintains a branch in this State; or

E. Organized under provisions of law of a foreign country and maintains a branch in this State.

Sec. 8. 9-B MRSA §131, sub-§§20-A, 20-B, 29-A and 29-B are enacted to read:

20-A. Home state. "Home state" means:

A. With respect to a financial institution or out-of-state financial institution, the state under whose laws the financial institution or out-of-state financial institution is organized; or

B. With respect to a national bank or federal association, the state in which the main office of the national bank or federal association is deemed to be located under federal law.

20-B. Host state. "Host state" means a state, other than the home state of an out-of-state financial institution, national bank or federal association, in which the financial institution maintains a branch or seeks to establish and maintain a branch.

29-A. Out-of-state. "Out-of-state" means a foreign country or a state other than this State.

29-B. Out-of-state financial institution. "Out-of-state financial institution" means a financial institution organized under provisions of law of a foreign country or a state other than this State that maintains, or seeks to establish and maintain, a branch in this State.

Sec. 9. 9-B MRSA §212, sub-§4 is enacted to read:

4. Contracts with other state and federal regulatory agencies. The superintendent may employ and engage experts, professionals or other personnel of other state and federal regulatory agencies as may be necessary to assist the bureau in carrying out its regulatory functions. Contracts for services under this subsection are designated sole source contracts and are not subject to the procurement requirements of Title 5, chapter 155.

Sec. 10. 9-B MRSA §214, sub-§2-A is enacted to read:

2-A. Assessment on interstate branches of out-of-state financial institutions. To provide for the balance of the reasonable expenses incurred to fulfill the bureau's duty pursuant to this Title, including general regulatory costs, overhead, general office and administrative expenses, the superintendent may assess a fee to be paid by each out-of-state financial institution that operates one or more branches in this State. The amount and timing of payment of this assessment must be determined through rulemaking by the bureau, but in no event may the amount exceed $500 per branch annually. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 11. 9-B MRSA §221, as amended by PL 1985, c. 763, Pt. A, §63, is repealed and the following enacted in its place:

§221. Examinations

1. Requirements. The superintendent shall examine each financial institution organized under the laws of this State at least once every 36 months or more frequently as the superintendent determines. The superintendent may examine an out-of-state financial institution operating branches in this State in order to determine compliance with the laws of this State and to ensure that the activities of each branch are conducted in a safe and sound manner.

The superintendent must have full access to the vaults, books and papers of the financial institution or branch of the out-of-state financial institution being examined. The superintendent may make any inquiries necessary to determine the condition of the financial institution or the branch of the out-of-state financial institution and its compliance with the laws of this State. The directors, corporators, officers, employees and agents of a financial institution and the officers, employees and agents of the out-of-state financial institution, the branch of which is being

examined, shall furnish statements and full information to the superintendent or the superintendent's examiners related to the condition and standing of the institution or branch being examined and all matters pertaining to its business and management.

2. Exception. Notwithstanding the requirements set forth in subsection 1, the superintendent may accept the examination reports of other state, federal or foreign regulatory agencies as a method of satisfying such requirements in whole or in part.

3. Joint examinations with other state, federal or foreign regulatory agencies. In satisfaction of the examination requirements of this section, the superintendent may conduct joint examinations of financial institutions organized under the laws of this State or branches of out-of-state financial institutions operating branches in this State with other state, federal or foreign regulatory agencies. For purposes of this section, "joint examination" means an examination conducted simultaneously by 2 or more regulatory agencies in which one examination report is issued.

Sec. 12. 9-B MRSA §222, sub-§§1 and 4, as enacted by PL 1975, c. 500, §1, are amended to read:

1. General requirement. In addition to the reports required pursuant to this section, the superintendent ~~shall have the power to~~ may require, from a financial institution ~~subject to his supervision and regulation~~ organized under the laws of this State and from an out-of-state financial institution authorized to do business in this State, reports and other information from ~~such~~ those institutions at ~~such~~ those times and in such form as ~~he deems~~ the superintendent considers appropriate for the proper supervision and regulation of ~~such~~ those institutions.

4. Use of reports prepared for other state or federal regulatory agencies. ~~The~~ At the discretion of the superintendent, the reporting requirements ~~imposed by~~ of this section may be complied with by submitting to the superintendent copies of reports prepared for other state or federal regulatory agencies by the institution ~~which~~ that contain the information requested~~, unless the superintendent shall otherwise require~~.

Sec. 13. 9-B MRSA §224, sub-§1, as enacted by PL 1975, c. 500, §1, is amended to read:

1. Records for superintendent. A financial institution authorized to do business in this State shall keep ~~within this State such~~ those books, accounts and records relating to all transactions ~~as will~~ that enable the superintendent to ~~insure~~ ensure full compliance with the laws of this State. ~~The superintendent may authorize such records to be maintained outside of this State for good cause.~~

Sec. 14. 9-B MRSA §226, sub-§3, as amended by PL 1975, c. 666, §7, is further amended to read:

3. Disclosure to others. The superintendent may disclose ~~such~~ the information specified in subsection 1 to the following persons or entities ~~set forth below; provided that~~. However, the recipients ~~thereof shall~~ of the information may not disclose or make public information so communicated, except as authorized by the superintendent or pursuant to other provisions of this Title:

A. The Treasurer of State and the Commissioner of ~~Business~~ Professional and Financial Regulation;

~~B. The advisory board established pursuant to section 216;~~

C. State departments ~~which~~ that, in the opinion of the superintendent, require ~~such~~ this information;

D. Other persons, including other state, foreign or federal regulatory officials, who, in the opinion of the superintendent, require ~~such~~ this information to facilitate the general conduct of supervisory activities of the ~~Bureau~~ bureau;

E. A court of law or equity ~~and then~~, but only with the written consent of the superintendent or pursuant to a special order of the court; and

F. To those persons or entities necessary in order to comply with provisions of this Title relating to disclosure or publication of certain applications, reports, statistics and information.

Sec. 15. 9-B MRSA §226-A is enacted to read:

§226-A. Cooperative agreements

The superintendent may enter into cooperative agreements with other state, federal or foreign regulatory agencies to facilitate the regulatory supervision of financial institutions authorized to do business in this State, including, but not limited to, information sharing, coordination of examinations and joint examinations.

Sec. 16. 9-B MRSA §231, sub-§1, as amended by PL 1985, c. 328, §§3 and 4, is repealed and the following enacted in its place:

1. Authority. The superintendent has the following authority over financial institutions, out-of-

state financial institutions, financial institution holding companies and subsidiaries thereof.

A. The superintendent may issue and serve an order upon an institution or company requiring the institution or company to cease and desist from the violation or practice if, in the opinion of the superintendent, a financial institution or its subsidiary, financial institution holding company or its subsidiary or out-of-state financial institution subject to the provisions of this Title is engaging in or has engaged in, or the superintendent has reasonable cause to believe that the institution or company is about to engage in, any of the following violations or practices:

(1) An unsafe or unsound practice in conducting the business of the financial institution or company;

(2) Violation of a law, rule or regulation relating to the supervision of the institution or company;

(3) Violation of any condition, imposed in writing, in connection with the approval of any application by the superintendent;

(4) Violation of any written agreement entered into with the superintendent; or

(5) An anticompetitive or deceptive practice, or one that is otherwise injurious to the public interest under chapter 24.

B. The superintendent may restrict the withdrawal of funds from one or more financial institutions in an order issued under paragraph A if, in the opinion of the superintendent, extraordinary circumstances make such action necessary and appropriate for the protection of depositors, shareholders or the public.

C. The order issued under paragraph A may require the officers or directors of the institution or company or subsidiary to take affirmative action to correct any violation or practice.

D. Before issuing a cease and desist order against an out-of-state financial institution operating one or more branches in this State, the superintendent shall request that the financial institution's home state regulatory agency undertake an enforcement action. If the home state regulatory agency is unwilling or unable to issue an enforcement action, the superintendent may then exercise the enforcement authority available under this section. The superintendent may take enforcement action against a branch of a foreign financial institution without requesting enforcement action be taken first by the foreign regulatory agency. Where, in the opinion of the superintendent, emergency conditions make such enforcement action immediately necessary for the protection of depositors, shareholders or the public, the superintendent may proceed without requesting enforcement by the home state regulatory agency.

Sec. 17. 9-B MRSA §232, first ¶, as enacted by PL 1975, c. 500, §1, is amended to read:

The superintendent ~~shall have the power to~~ may remove any officer or director of a financial institution organized pursuant to this Title or any officer of a branch of an out-of-state financial institution authorized to do business in this State, in accordance with the procedures and subject to the conditions and limitations set forth in this section.

Sec. 18. 9-B MRSA §241, sub-§§8 to 10 are enacted to read:

8. Deposit production offices prohibited. A financial institution or credit union authorized to do business in this State is prohibited from operating deposit production offices in this State. Each financial institution or credit union authorized to do business in this State shall submit an annual report to the superintendent providing deposit and loan information considered necessary by the superintendent to monitor compliance with this section. If the superintendent determines that a deposit production office is being operated, the superintendent may issue a cease and desist order pursuant to chapter 23. The superintendent shall adopt rules that set forth the factors that the bureau shall consider in determining whether a branch is being operated as a deposit production office. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

9. Restrictions on the use of the terms "savings," "bank" and derivatives of those terms. This subsection governs the use of the terms "savings," "bank" and derivatives of those terms.

A. A person, if duly authorized under the laws of this State, another state or the United States to conduct the business of banking, may use as a part of the name or title under which it conducts business in this State the terms "saving," "savings," "savings bank," "bank," "banker," "trust," "trust company," "banking" or "trust and banking company."

B. Except as provided in paragraph A, a person, without prior written approval of the superintendent, may not use the terms "saving," "savings," "savings bank," "bank," "banker," "trust," "trust company," "banking" or "trust and banking company" or any derivatives of those

terms as part of the name or title under which business is conducted or as a designation of such business. In determining whether to grant written permission, the superintendent shall consider whether the business to be conducted is similar to the business of banking and whether using those terms or any derivatives of those terms could be deceptive or otherwise injurious to public interest.

C. This subsection does not apply to out-of-state financial institutions, corporations or partnerships that, in the ordinary course of their business, have to file with the Secretary of State in processing the routine disposition of assets acquired by legitimate business dealings.

D. A person who violates any provision of this subsection is subject to a civil penalty of not more than $10,000 for each violation.

E. This subsection does not prohibit the use of any name of a person who was duly qualified to do business as a foreign corporation in that name under Title 13-A, section 1201 on February 1, 1996.

10. Deposit concentration. A financial institution authorized to do business in this State may not consolidate or merge or acquire all or part of a Maine financial institution or Maine financial institution holding company if, as the result of the consolidation, acquisition or merger, the financial institution would hold or control more than 30% of the total amount of deposits of financial institutions authorized to do business in this State that are attributable to branches located in this State; except, upon consideration of the decision-making criteria found in section 253, the superintendent may waive the 30% deposit concentration limit on a case-by-case basis. In calculating the amount of deposits that a financial institution authorized to do business in this State may hold or control under this section, credit union shares are added to the amount of deposits of financial institutions authorized to do business in this State that are attributable to branches located in this State. The 30% deposit concentration limit does not apply to credit unions authorized to do business in this State.

Sec. 19. 9-B MRSA §339-A, as enacted by PL 1987, c. 692, §4, is repealed and the following enacted in its place:

§339-A. Interstate branches and satellite facilities

1. Interstate branches. Except as provided for in chapter 37, this Title may not be construed as permitting a financial institution to establish a branch office or facility in any state other than this State and a financial institution not authorized to do business in this State may not establish or operate a branch office or facility in this State.

2. Satellite facilities. Satellite facilities operated by financial institutions not authorized to do business in this State are prohibited according to this section. A financial institution organized pursuant to the laws of this State must provide notice to the superintendent in accordance with chapter 33 prior to the establishment of a satellite facility. A financial institution organized pursuant to laws of other states or the United States and authorized to do the business of banking in this State must provide notice to the superintendent in accordance with chapter 37 prior to the establishment of a satellite facility.

Sec. 20. 9-B MRSA c. 37 is enacted to read:

CHAPTER 37

INTERSTATE BRANCHING, MERGERS, CONSOLIDATIONS AND ACQUISITIONS

§371. Applicability of chapter; fees

1. Applicability. The provisions of this chapter govern de novo establishment of interstate branches, interstate combinations and interstate branch acquisitions undertaken by a financial institution, out-of-state financial institution, federal association or national bank.

2. Fees. An application or notice required under this chapter is not complete unless accompanied by a fee 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 the requirements of section 373; the fee may not exceed $2,500.

§372. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. De novo branch. "De novo branch" means a branch of a financial institution, out-of-state financial institution, federal association or national bank, that is originally established by the financial institution as a branch and does not become a branch of that financial institution as a result of the acquisition by the financial institution of a financial institution or the acquisition of a branch of a financial institution or through the conversion, merger or consolidation with that institution or branch.

2. Interstate branch acquisition. "Interstate branch acquisition" means the purchase of one or more branches of a financial institution, out-of-state financial institution, federal association or national bank whose home state is different from the home

state of the acquiring financial institution, out-of-state financial institution, federal association or national bank and the transfer of any branches so acquired into branches of the acquiring financial institution, out-of-state financial institution, federal association or national bank.

3. Interstate combination. "Interstate combination" means the merger, acquisition or consolidation of financial institutions, out-of-state financial institutions, federal associations or national banks, that have different home states when the branches of the acquired financial institution, out-of-state financial institution, federal association, or national bank become branches of the resulting financial institution, out-of-state financial institution, federal association or national bank.

§373. Interstate combinations, branch acquisitions and de novo establishments

1. Authority. Interstate combinations are expressly authorized subject to the provisions of this chapter. Interstate branch acquisition and establishment of de novo branches are expressly authorized subject to the provisions of this chapter; however, the law of jurisdiction of any out-of-state financial institution, federal association or national bank proposing to establish or acquire one or more branches in this State must expressly authorize, under conditions no more restrictive than those imposed by the laws of this State as determined by the superintendent, the financial institution, federal association or national bank whose home state is this State to engage in interstate branch acquisition or establishment of de novo branches in that state.

2. Application requirements. When the resulting financial institution of any interstate combination, interstate branch acquisition or de novo branch establishment is a financial institution organized under the laws of this State, that financial institution must obtain prior approval of the superintendent before participating in the transaction. The application for the superintendent's approval must be filed in the form and manner prescribed by the superintendent in accordance with this chapter and chapters 33 and 35, as applicable. The superintendent shall approve or disapprove an application under this section in accordance with the requirements of section 252 and the superintendent may condition approval of the application, as necessary, to conform with the criteria set forth in section 253.

3. Notice requirements. When the resulting financial institution of any interstate combination, branch acquisition or de novo branch establishment is an out-of-state financial institution, federal association or national bank with a home state that is not this State, that out-of-state financial institution, federal association or national bank must provide prior notice to the superintendent before participating in the transaction. Notice to the superintendent must:

A. Be in a form and contain that information prescribed by the superintendent, including, but not limited to, proof of compliance with this chapter, as applicable;

B. Be provided no later than 3 days after the date of filing an application for that transaction with the appropriate state or federal regulatory agency;

C. Include a copy of any application filed with the appropriate state or federal regulatory agency; and

D. Include payment of the fee pursuant to section 371.

The superintendent shall provide written response within 30 days of receipt of the notice. If the superintendent finds that the interstate combination, acquisition or establishment does not comply with applicable state law, including, but not limited to, the conditions and requirements of this chapter, the superintendent may file an objection with the appropriate state or federal regulatory agency that has primary responsibility for the applicant. In addition, if the superintendent finds that an interstate combination, branch acquisition or de novo establishment would be adverse to the public interest, the superintendent may bring an action in the name of the State pursuant to chapter 24.

§374. Authority for expedited transactions

Notwithstanding any other provision of law, or any charter, certificate of organization, articles of association, articles of incorporation or bylaw of any participating institution, the superintendent may order that an interstate combination or branch acquisition pursuant to section 373, subsection 1 become effective immediately, if the superintendent determines that the action is necessary for the protection of depositors, shareholders or the public. A person aggrieved by an interstate combination or branch acquisition pursuant to this section is entitled to judicial review of the superintendent's order in accordance with Title 5, chapter 375, subchapter VII.

§375. Applicable concentration limits

Any interstate combination or branch acquisition authorized pursuant to this chapter is subject to the deposit concentration limitations set forth in section 241, subsection 10.

§376. Activities of interstate branches

1. Branches of financial institutions organized under the laws of this State. Pursuant to this chapter,

a financial institution organized under the laws of this State that establishes and operates a branch in another state may conduct any activity at that branch that is permissible for a financial institution organized under the laws of the "host state" as defined in section 131, subsection 20-B. The financial institution shall provide prior written notice of the branch activity to the superintendent if the activity is not permissible in this State.

2. Branches of out-of-state financial institutions. The laws of this State, including, but not limited to, the laws regarding consumer protection, fair lending and establishment of intrastate branches, apply to any state branch of an out-of-state financial institution, federal association or national bank to the same extent as those laws apply to a state branch of a financial institution organized under the laws of this State. An out-of-state financial institution that maintains, or seeks to establish and maintain, a branch in this State pursuant to this chapter may not conduct any activity at that branch that is not permissible for a financial institution organized under the laws of this State.

§377. Corporate filing requirements

1. Applicability of Title 13-A. An out-of-state financial institution, federal association or national bank with a home state other than this State that seeks to establish and operate a branch in this State as the result of an interstate combination, branch acquisition or de novo establishment pursuant to this chapter shall comply with the filing requirements for foreign corporations under Title 13-A. The approval of the filing of an out-of-state financial institution, federal association or national bank by the Secretary of State does not authorize the operation of a branch in this State by an out-of-state financial institution, federal association or national bank until the notice required pursuant to subsection 2 has been filed.

2. Notice to the superintendent required. An out-of-state financial institution, federal association or national bank is not authorized to do business in this State pursuant to this chapter until copies of the documents filed with the Secretary of State pursuant to Title 13-A have been received by the superintendent.

§378. Effective date

This chapter takes effect January 1, 1997.

Sec. 21. 9-B MRSA §418 is enacted to read:

§418. Acting as agent

A financial institution or a financial institution not authorized to do business in this State may act as agent for a financial institution, out-of-state financial institution, a financial institution organized under provisions of law of another state, federal association or national bank in accordance with this section.

1. Activities. A financial institution acting as agent may receive deposits, renew time deposits, close loans, service loans and receive payments on loans and other obligations. The list of permitted agency activities may be expanded through rulemaking. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

2. Limitations on activities. The agreement to act as agent must limit the activities to those specifically permitted under this section or as expanded through rulemaking. The institution acting as agent pursuant to an agency agreement may not be considered a branch of the contracting institution, nor is the contracting institution considered a branch of the institution acting as agent.

3. Notice required. A financial institution entering into an agency agreement shall file notice with the superintendent, in the form and manner prescribed by the superintendent, prior to engaging in the activities permitted under this section.

4. Relationship terms. An agency relationship between institutions must be on terms that are consistent with safe and sound banking practices and the superintendent may adopt rules to supplement the requirements of this section.

Sec. 22. 9-B MRSA §422, sub-§1, as amended by PL 1977, c. 621, is further amended to read:

1. Requirement. A financial institution organized under the laws of this State or a branch of an out-of-state financial institution authorized to do business in this State shall take ~~such~~ any action ~~as may be~~ necessary to have its deposits or accounts insured by ~~either~~ the Federal Deposit Insurance Corporation ~~or the Federal Savings and Loan Insurance Corporation,~~ or ~~by the~~ its successors ~~to such federal corporations~~. ~~The institution may have its deposits or accounts insured by whichever corporation insures the deposits or accounts of that type of institution. The superintendent may waive this requirement for a financial institution with assets of less than $500,000, if such institution demonstrates to the superintendent that it is satisfying a particular community need which cannot be sufficiently met by other financial institutions and that it has adequate security for its deposits or accounts.~~ For purposes of this section, a branch of an out-of-state financial institution does not include a branch of a foreign bank that is not eligible for insurance of accounts by the Federal Deposit Insurance Corporation or its successors.

Sec. 23. 9-B MRSA §427, sub-§12, as enacted by PL 1975, c. 500, §1, is amended to read:

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

Sec. 24. 9-B MRSA §572, as amended by PL 1985, c. 647, §8, is repealed.

Sec. 25. 9-B MRSA §673, as amended by PL 1985, c. 647, §9, is repealed.

Sec. 26. 9-B MRSA §1011, sub-§2, as enacted by PL 1975, c. 500, §1, is amended to read:

2. Maine financial institution holding company. "Maine financial institution holding company" means any company ~~which~~ whose home state is this State and that has control over any financial institution authorized to do business in this State or has control over a company ~~which~~ that controls ~~any such~~ a financial institution~~; provided that if a financial institution holding company described in section 1013, subsection 2 acquires control of a financial institution~~ authorized to do business in this State~~, it shall not be deemed a "Maine financial institution holding company" unless the operations of its financial institution subsidiaries are principally conducted in the State of Maine~~.

Sec. 27. 9-B MRSA §1011, sub-§7, as enacted by PL 1983, c. 302, §1, is amended to read:

7. Non-Maine financial institution holding company. "Non-Maine financial institution holding company" means a financial institution holding company~~, the operations of which are principally conducted outside~~ whose home state is not this State.

Sec. 28. 9-B MRSA §1011, sub-§8, as enacted by PL 1983, c. 302, §1, is repealed.

Sec. 29. 9-B MRSA §1011, sub-§§11 and 12 are enacted to read:

11. Home state. "Home state," with respect to a financial institution holding company, means the state in which the total deposits of all financial institution subsidiaries of that company are the largest on the later of July 1, 1966 or the date on which the company becomes a financial institution holding company under this Title.

12. Host state. "Host state," with respect to a financial institution holding company, means a state, other than the home state of the company, in which the company controls or seeks to control a financial institution subsidiary.

Sec. 30. 9-B MRSA §1013, sub-§1, ¶C, as enacted by PL 1985, c. 642, §5, is amended to read:

C. Acquisition of more than 5% of the voting shares of a financial institution, ~~the operations of which are principally conducted outside of~~ whose home state is not this State, by a Maine financial institution or a Maine financial institution holding company.

Sec. 31. 9-B MRSA §1013, sub-§2, as amended by PL 1987, c. 90, §1, is repealed.

Sec. 32. 9-B MRSA §1013, sub-§3, as amended by PL 1983, c. 597, §3, is further amended to read:

3. Requirements for acquisition or establishment. A ~~non-Maine~~ financial institution holding company may establish, acquire or maintain control of a Maine financial institution or Maine financial institution holding company with prior approval of the superintendent, ~~when and for as long as~~ subject to the following conditions ~~are satisfied~~.

A. The Maine financial institution or Maine financial institution holding company to be established or acquired shall enter into an agreement with the superintendent to provide reports and permit examination of its records to the extent ~~deemed~~ considered necessary by the superintendent to ensure compliance with this section and other relevant provisions of this Title and any ~~regulations promulgated thereunder~~ rules adopted under this Title. If the financial institution to be established or acquired is federally chartered, the agreement may provide that compliance examination information ~~shall~~ must be provided by the federal agency responsible for supervision of that financial institution. The superintendent may specify the information ~~which~~ that requires verification, and ~~shall~~ must be provided a report of that status of compliance by the federal agency.

B. A Maine financial institution or Maine financial institution holding company, control of which is to be acquired or held, ~~shall~~ must have, on the date of acquisition or establishment, and shall maintain a minimum equity capital ~~which~~ that the superintendent determines acceptable given the market area to be served and the general plan of business of the Maine financial institution or Maine financial institution holding company. ~~In no event shall such equity capital be less than $3,000,000 in the case of an establishment, or $1,000,000 in the case of an acquisi-~~

~~tion.~~ Equity capital ~~shall~~ must be maintained consistent with sound banking practices.

C. A financial institution holding company may not consolidate or merge with or acquire all or part of a Maine financial institution or Maine financial institution holding company if, as the result of the consolidation, acquisition or merger, the financial institution holding company would hold or control more than 30% of the total amount of deposits of financial institutions authorized to do business in this State; except, upon consideration of the decision-making criteria found in section 253, the superintendent may waive the 30% deposit concentration limits on a case-by-case basis. In calculating the amount of deposits that a financial institution holding company may hold or control under this section, credit union shares are added to the amount of deposits of financial institutions authorized to do business in this State. However, the 30% deposit concentration limit does not apply to credit unions authorized to do business in this State.

Sec. 33. 9-B MRSA §1013, sub-§4, as amended by PL 1983, c. 597, §4, is repealed.

Sec. 34. 9-B MRSA §1015, sub-§2, as amended by PL 1987, c. 90, §3, is further amended to read:

2. Criteria for approval. Applications for approvals required in subsection 1 ~~shall~~ must be filed pursuant to procedures established by the superintendent. Action on those applications ~~shall~~ must be taken in accordance with the requirements of section 252 and ~~shall be~~ is subject to the standards set forth in section 253. ~~An application filed by a non-Maine financial institution holding company for the acquisition or establishment of a Maine financial institution or Maine financial institution holding company is subject to the additional requirement that the superintendent find that the proposal would bring net new funds into the State. An application by a Maine financial institution holding company to acquire or establish an out-of-state financial institution or financial institution holding company is subject to the additional requirement that the superintendent find that deposits of citizens and businesses of this State, held in the holding company's Maine subsidiaries, will continue to be invested in Maine loans and investments in a manner consistent with the company's historical performance and current economic conditions. Such a transaction is subject to the requirements of section 1013, subsection 3, paragraph A, and the superintendent may require the application to contain some or all of the information required in section 1013, subsection 4.~~

Sec. 35. 9-B MRSA §1015, sub-§3, as amended by PL 1983, c. 201, §5, is further amended to read:

3. Application fee. ~~No~~ An application for approval required in subsection 1 may not be ~~deemed~~ considered complete by the superintendent unless accompanied by an application fee ~~of $2,500, payable to the Treasurer of State,~~ to be credited and used as provided in section 214. ~~No application for approval of an acquisition or establishment of a financial institution or financial institution holding company by an out-of-state company may be deemed complete by the superintendent unless accompanied by an application fee of $5,000, 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 subsection 1; the fee may not exceed $7,500.

Sec. 36. 36 MRSA §5206-B, sub-§2, as amended by PL 1987, c. 841, §6, is further amended to read:

2. Maine assets. "Maine assets" means, for any taxable year for any taxable entity for which this State is the home state, a taxable entity's total ~~end-of-year~~ end-of-year assets ~~as~~ required to be reported pursuant to the laws of the United States on Internal Revenue Service Form 1120, Schedule L, except for tangible personal property and real property located outside the State, loans secured by real or tangible personal property located outside the State if the entity operates a branch in the State where such property is located, loans not secured by real or tangible personal property if the customer's billing address is outside the State and the entity operates a branch in the state of the customer's billing address and credit card receivables if the customer's billing address is outside the State and the entity operates a branch in the state of the customer's billing address. For any financial institution for which this State is not the home state and that operates a branch in this State and is authorized to do the business of banking in this State pursuant to Title 9-B, section 131, subsection 17-A, "Maine assets" means that portion of the taxable entity's end-of-year assets required to be reported pursuant to the laws of the United States on Internal Revenue Service Form 1120, Schedule L comprising real and tangible personal property located in this State, loans secured by real or tangible personal property located in this State, loans not secured by real or tangible personal property if the customer's billing address is in this State and credit card receivables if the customer's billing address is in this State. The term includes, in the case of a unitary business, the tangible personal property and real property located in the State of any member of the affiliated group ~~which~~ that is not subject for the taxable year to taxation under Part 8. This property in the possession of a taxable entity at

year-end and located in the State is to be reported as a Maine asset by the possessor taxable entity.

Sec. 37. 36 MRSA §5206-B, sub-§4, as repealed and replaced by PL 1985, c. 783, §35, is amended to read:

4. Taxable entity. "Taxable entity" means any financial institution, including any federally chartered financial institution authorized to do business in this State, except a credit union~~, and~~; any service corporation or subsidiary as defined in Title 9-B, section 131 ~~and~~; any financial institution holding company as defined in Title 9-B, section 1011, except that "control," as defined in Title 9-B, section 1011, ~~shall mean~~ subsection 4, means ownership of more than 50% of the voting stock owned directly or indirectly, ~~which~~ that is organized under the laws of this State or authorized to do business in this State~~, which~~; or any financial institution for which Maine is not the home state and that operates a branch in this State and is authorized to do the business of banking in this State pursuant to Title 9-B, section 131, subsection 17-A, that at any time during the taxable year realized Maine net income or had Maine assets.

Sec. 38. Nonseverability. Notwithstanding the provisions of the Maine Revised Statutes, Title 1, section 71, if the reciprocity provision for the establishment of branches by out-of-state financial institutions in Title 9-B, section 373, subsection 1 is declared invalid or determined to be unenforceable for any reason by a final order of any state or federal court of competent jurisdiction and that order has the effect of permitting out-of-state financial institutions to establish branches in this State on any basis other than expressly provided in Title 9-B, section 373, subsection 1, then the reciprocity provision for the establishment of branches by out-of-state financial institutions of section 373, subsection 1 is invalid and unenforceable and has no force or effect whatever. Any transaction establishing a branch in this State pursuant to section 373, subsection 1 and consummated prior to a determination of invalidity is unaffected by that determination and remains valid.

Sec. 39. Application. The sections of this Act that amend the Maine Revised Statutes, Title 36, section 5206-B, subsections 2 and 4 apply to tax years beginning on or after January 1, 1997.

See title page for effective date.

CHAPTER 629

H.P. 1366 - L.D. 1875

An Act Regarding the Food Stamp and Low-Income Home Energy Assistance Program

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

Whereas, the link between the food stamp program standard utility allowance and the Low-Income Home Energy Assistance Program is under consideration by the Federal Government and may cease to exist; and

Whereas, that link has provided additional assistance to approximately 7,000 Maine households in the amount of $6,300,000 per year; and

Whereas, the Department of Human Services must be alerted to the risk to Maine households that would be caused by severing that link and must endeavor to secure higher benefit levels for those households; 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:

Sec. 1. 22 MRSA §3108 is enacted to read:

§3108. Standard utility allowance

When the department becomes aware of any decisions made by a public entity or an entity operating a publicly subsidized assistance program that adversely impacts eligibility for, or the amount of assistance to, households receiving assistance under the food stamp program pursuant to section 3104, the department shall work in cooperation with that entity to achieve a resolution that minimizes the adverse impact on households receiving food stamp assistance.

1. Examination of options. When federal law governing either the food stamp program or the Low-Income Home Energy Assistance Program is amended to eliminate the eligibility link whereby the food stamp standard utility allowance is automatically available to households receiving low-income home energy assistance benefits, the department shall immediately: