

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

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

J.S. McCarthy Company
Augusta, Maine
1997

judgment debtor by any method by which service of civil summons may be made at least 10 days prior to the disclosure hearing.

See title page for effective date.

CHAPTER 22

S.P. 239 - L.D. 808

An Act to Amend the Laws Governing Banking Institutions

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

Sec. 1. 9-B MRSA §131, sub-§37, as amended by PL 1993, c. 99, §1, is further amended to read:

37. Service corporation. "Service corporation" means a corporation substantially all the activities of which consist of originating, purchasing, selling and servicing loans and participation interests therein; or clerical, bookkeeping, accounting and statistical or similar functions related to a financial institution or real estate activities; or management, personnel, marketing or investment counseling related to a financial institution or real estate activities; or establishing or operating one or more satellite facilities; or any activity authorized by the superintendent by regulation that has been authorized under federal law for service corporations owned or controlled by national banks, federally chartered savings and loan associations, federally chartered savings banks or federally chartered credit unions. The purpose of authorizing any such activity is to maintain competitive equality between federally chartered and state-chartered institutions.

Sec. 2. 9-B MRSA §334, sub-§1, as amended by PL 1991, c. 386, §1, is further amended to read:

1. Superintendent's approval. A financial institution or a service corporation wholly owned by one or more financial institutions may establish or participate in the use of a satellite or off-premise facility, as defined in section 131. A financial institution or service corporation may not establish a satellite facility without prior approval of notice to the superintendent, pursuant to section 336 this section.

Sec. 3. 9-B MRSA §334, sub-§3, as enacted by PL 1975, c. 500, §1, is amended to read:

3. Ownership. Such a facility may be wholly or partly owned by the institution; or may be owned by 2 or more such financial institutions; ~~provided that the superintendent shall approve such joint ownership.~~

Sec. 4. 9-B MRSA §334, sub-§4, as amended by PL 1993, c. 139, §1, is further amended to read:

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~~ All financial institutions using the facility must have equal access to the facility, except that a financial institution owning an off-premise facility may designate that facility as accepting cash deposits for its customers only. When a facility is shared, the identification and promotion of that facility must include the name or logo of the network system and may include the name of the sponsoring financial institution. If the name of the sponsoring financial institution is displayed, it must be equal in prominence to the name of the network system or logo.

Sec. 5. 9-B MRSA §334, sub-§6, as enacted by PL 1991, c. 386, §4, is amended to read:

6. Notification required. A financial institution shall notify the superintendent at least 10 days before the establishment, moving or closing of a satellite facility. The notification must be filed in the form and manner and containing information prescribed by the superintendent. 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. 6. 9-B MRSA §336, sub-§1, as repealed and replaced by PL 1983, c. 614, §2, is amended to read:

1. Notification required; application upon request. At least 30 days prior to the relocation of a main office or the establishment, moving or closing of a branch or agency office ~~or facility~~ authorized by this chapter, the institution shall notify the superintendent of the proposed action. A complete application for the ~~action~~ branch establishment, moving or closing may be required only when the superintendent or any interested person requests that a complete application be filed within 30 days of notice. The notification, ~~or the application,~~ if requested, ~~shall~~ must be filed with the superintendent in the form and manner and containing information as the superintendent may prescribe. If no application is requested within the 30-day period, the change ~~shall be~~ is deemed approved. A fee ~~shall~~ must accompany the notification in an amount established by the superintendent but not to exceed 1/2 of the application fee.

Sec. 7. 9-B MRSA §336, sub-§5, as amended by PL 1985, c. 647, §5, is further amended to read:

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

Sec. 8. 9-B MRSA §336, sub-§6, as enacted by PL 1975, c. 500, §1, is amended to read:

6. Notice of opening. Within 5 days after an approved branch office ~~or facility~~ has opened for business, a certificate of ~~such~~ opening signed by the president and the clerk or secretary of the institution ~~shall must~~ be filed with the superintendent ~~and the Secretary of State.~~

Sec. 9. 9-B MRSA §342-A is enacted to read:

§342-A. Authority for expedited conversion to new charter; federal to state

Notwithstanding any other provision of law or any charter, certificate of organization, articles of association, articles of incorporation or bylaw of any participating institution, when a charter conversion is approved by the directors of a financial institution authorized to do business in this State and that charter conversion is necessary for the protection of depositors, shareholders or the public and following compliance with any applicable requirements of federal law, the superintendent may order that the charter conversion become effective immediately. Any person aggrieved by a charter conversion executed pursuant to this section is entitled to judicial review of the superintendent's order in accordance with Title 5, chapter 375, subchapter VII.

Sec. 10. 9-B MRSA §354, sub-§§1 and 2, as enacted by PL 1975, c. 500, §1, are amended to read:

1. Resulting mutual institution. A stock financial institution may be merged into or consolidated

with a mutual financial institution organized under the laws of this State; in accordance with the procedures and subject to the conditions and limitations set forth below: in this subsection.

A. The acquiring mutual institution shall comply with the requirements of section 353, subsections 1 ~~through 3~~ to 4, except that the plan of merger or consolidation shall must state the amount ~~which such that~~ institution will pay for the shares of stock in the stock institution to be acquired and ~~such~~ additional information as the superintendent ~~may deem~~ considers appropriate.

~~B. After approval of such plan by both the superintendent and the incorporators or members of the acquiring institution, the board of directors of such institution shall cause to be published, as it deems necessary, a tender offer to the shareholders of the stock institution to be acquired. Such tender offer shall contain the following information:~~

- ~~(1) The price to be paid for the shares;~~
- ~~(2) A statement that the acquiring institution seeks to acquire a minimum of 90 percent of the outstanding shares of each class of stock of the institution to be acquired;~~
- ~~(3) The period during which the offer shall remain open;~~
- ~~(4) A statement that in the event 90% of such shares are not tendered to the acquiring institution, all shares previously tendered shall be returned to the parties who tendered such shares;~~
- ~~(5) A provision that if the price offered for any shares is increased, all parties who previously tendered shares of the same class shall receive such increase;~~
- ~~(6) A provision requiring the escrow of such shares until the acquiring institution's purchase is consummated or the tender offer is terminated;~~
- ~~(7) A provision for withdrawal of tendered shares until 60 days prior to the close of the offer; and~~
- ~~(8) Such other provisions as the superintendent may deem necessary to insure the fairness of the transaction.~~

~~C. If the institution receives 90% or more of the stock of each class in the institution to be acquired as a result of its tender offer, it shall upon the close of the offer merge the institution so ac-~~

quired into itself, pursuant to Title 13-A, section 904.

~~D. Upon completion of the merger in paragraph C, the acquiring institution shall comply with the requirements set forth in section 353, subsections 4 and 5, and all other requirements of this chapter applicable to such mergers and consolidations.~~

E. The stock institution to be acquired shall comply with section 352, subsections 1 to 6.

F. Sections 356 to 358 apply to mergers or consolidations made pursuant to this section.

2. Resulting stock institution. Except as the superintendent may authorize pursuant to ~~section 367, subsection 7~~ section 354-A, a mutual institution ~~shall~~ may not merge into a stock institution organized under the laws of this State without prior compliance with section 344 and all ~~regulations promulgated thereunder~~ rules adopted under that section.

Sec. 11. 9-B MRSA §413, sub-§1, ¶¶A and B, as enacted by PL 1975, c. 500, §1, are amended to read:

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

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

Sec. 12. 9-B MRSA §445, sub-§1, as amended by PL 1991, c. 386, §12, is further amended to read:

1. Authorization. A financial institution may 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~~ A service corporation may be owned by one or more institutions engaged in the business of banking.

Sec. 13. 9-B MRSA §445, sub-§2, as amended by PL 1991, c. 386, §13, is further amended to read:

2. Limitations. The stock of a service corporation formed pursuant to this section may be owned only by institutions engaged in the business of banking. The maximum amount of investment in any one such service corporation may not exceed 20% of the institution's total capital and reserves or its total surplus account. The aggregate investment of a financial institution in ~~those~~ all service corporations may not exceed 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 1991, c. 386, §14, is repealed.

Sec. 15. 9-B MRSA §445, sub-§5, as enacted by PL 1991, c. 386, §15, is repealed.

Sec. 16. 9-B MRSA §445, sub-§6 is enacted to read:

6. Application; notice required. A financial institution seeking to invest in one or more service corporations shall notify the superintendent in writing at least 10 days prior to such investment. A financial institution seeking to establish or acquire one or more service corporations shall seek authorization to do so in accordance with the following.

A. If the services are to be performed only for other financial institutions authorized to do business in this State as defined in section 131, subsection 17-A, the financial institution shall notify the superintendent in writing, at least 10 days in advance, of its intent to establish or acquire the service corporation. This notice must contain information required by the superintendent.

B. If the services are to be performed for the public as well as other financial institutions, the financial institution shall file an application in accordance with section 252. The superintendent may, in addition to the criteria set forth in section 253, consider the type of institution making application and the competitive effect of that ownership.

An application or notice required by this subsection is not complete unless accompanied by a fee to be credited and used as provided in section 214.

Sec. 17. 9-B MRSA §446, first ¶, as enacted by PL 1975, c. 500, §1, is amended to read:

A financial institution authorized to do business in this State ~~which is not a subsidiary of a financial institution holding company, as defined in chapter 401,~~ may engage in those activities deemed permissible for Maine financial institution holding companies pursuant to section 1014, subject to the conditions and limitations set forth in this section.

Sec. 18. 9-B MRSA §446, sub-§1, as enacted by PL 1975, c. 500, §1, is amended to read:

1. Application required. ~~Except as provided in section 1015, subsection 4, a~~ financial institution shall make application to the superintendent in accordance with section 252 for authority to engage in any activity permissible under section 1014. In determining whether ~~such to grant~~ authority ~~shall be granted~~, the superintendent shall consider those criteria set forth in section 253, except that size of ~~such the~~ financial institution alone ~~shall is not be~~ the determining factor in the superintendent's decision to approve or disapprove the application.

Sec. 19. 9-B MRSA §465-A, sub-§2, as enacted by PL 1991, c. 681, §3, is amended to read:

2. Terms and credit worthiness. A financial institution may not make a loan to any of its principal stockholders, policy-making officers or directors, or to any related interest of that person, unless the loan is made on substantially the same terms, including interest rates and collateral, as those generally available to the public, ~~or to employees of the financial institution pursuant to a benefit or compensation program~~, and does not involve more than the normal risk of repayment or present other unfavorable features.

Sec. 20. 9-B MRSA §467, sub-§1, as amended by PL 1989, c. 502, Pt. D, §6, is repealed.

Sec. 21. 9-B MRSA §522, sub-§4, as enacted by PL 1975, c. 500, §1, is repealed.

Sec. 22. 9-B MRSA §539-A, sub-§4, as amended by PL 1987, c. 405, §13, is further amended to read:

4. Maturity of credit line. A line of credit given pursuant to this section ~~shall~~ must be reviewed at least annually by the board of directors or trustees or ~~a~~ by a committee of board members or by bank officers or a committee of bank officers.

Sec. 23. 9-B MRSA §722, sub-§4, as enacted by PL 1975, c. 500, §1, is repealed.

Sec. 24. 9-B MRSA §739-A, sub-§4, as amended by PL 1987, c. 405, §30, is further amended to read:

4. Maturity of credit line. A line of credit given pursuant to this section ~~shall~~ must be reviewed at least annually by the board of directors or trustees or ~~a~~ by a committee of board members or by bank officers or a committee of bank officers.

Sec. 25. 9-B MRSA §1015, sub-§1, as amended by PL 1989, c. 16, §§2 and 3, is further amended to read:

1. Requirements. ~~Approval~~ Except as provided in subsection 4, approval of the superintendent ~~shall~~ must be obtained for the following actions:

A. Acquisition by a person or company of control of a Maine financial institution or any financial institution or financial institution holding company controlling, directly or indirectly, a Maine financial institution, or establishment by a person or company of a Maine financial institution or Maine financial institution holding company;

B. Acquisitions by a financial institution or financial institution holding company of interests in a Maine financial institution or any financial institution or financial institution holding company controlling, directly or indirectly, a Maine financial institution in excess of 5% of the voting shares of such financial institution or financial institution holding company;

C. Acquisition or establishment by a Maine financial institution holding company of a financial institution outside of the State of Maine in excess of 5% of the voting shares of such institution;

D. Authority for a Maine financial institution holding company to engage in a closely-related activity, or acquisition or establishment of a subsidiary to engage in a closely-related activity; or

E. Authority for any financial institution holding company controlling a Maine financial institution to engage in a closely-related activity in Maine, or acquisition or establishment of a subsidiary in Maine to engage in a closely-related activity.

Sec. 26. 9-B MRSA §1015, sub-§4 is enacted to read:

4. Exceptions for permissible activities. Notwithstanding subsection 1, a Maine financial institution or a Maine financial institution holding company may engage in a closely related activity or acquire or

establish a subsidiary to engage in a closely related activity and a financial institution holding company controlling a Maine financial institution may engage in a closely related activity in Maine or acquire or establish a subsidiary in Maine to engage in a closely related activity without the prior approval of the superintendent subject to all of the following conditions:

A. Before and immediately after the proposed transaction, the acquiring financial institution and the financial institution holding company are well-capitalized, as determined by the superintendent;

B. At the time of the transaction, the acquiring financial institution and the financial institution holding company are well-managed, which means:

(1) The institution received a CAMEL composite rating of 1 or 2 in connection with its most recent examination; and

(2) The institution received at least a satisfactory rating for management;

C. The proposed activities are permissible under section 1014;

D. The book value of the total assets to be acquired does not exceed 15% of the consolidated total risk-weighted assets of the acquiring institution;

E. The consideration to be paid for the securities or assets to be acquired does not exceed 15% of the consolidated Tier 1 capital of the acquiring institution;

F. During the 12-month period before the proposed transaction, the acquiring financial institution and the financial institution holding company have not been under an enforcement action and there is no enforcement action pending; and

G. The acquiring institution must provide written notification to the superintendent not later than 10 business days after consummating the transaction.

See title page for effective date.

CHAPTER 23

S.P. 249 - L.D. 818

An Act to Amend the Small Claims Court Laws

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

Sec. 1. 14 MRSA §7482, first ¶, as amended by PL 1993, c. 401, §3, is further amended to read:

A "small claim" means a right of action cognizable by a court if the debt or damage does not exceed ~~\$3,000~~ \$4,500 exclusive of interest and costs. It does not include an action involving the title to real estate.

See title page for effective date.

CHAPTER 24

H.P. 832 - L.D. 1137

An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1998 and June 30, 1999

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

PART A

Sec. A-1. Appropriations and allocations.

In order to provide for necessary expenditures of State Government and other purposes for the fiscal years ending June 30, 1998 and June 30, 1999, the following sums as designated in the following tabulations are appropriated or allocated out of any money not otherwise appropriated or allocated.

Sec. A-2. Allotments required. Upon receipt of allotments duly approved by the Governor based upon work programs submitted to the State Budget Officer, the State Controller shall authorize expenditures of these funds, together with expenditures for other purposes necessary to the conduct of State Government on the basis of these allotments and not otherwise. Allotments for Personal Services, Capital Expenditures and amounts for All Other departmental expenses may not exceed the amounts shown in the budget document or as they may be revised by the joint standing committee of the Legislature having jurisdiction over these appropriations and allocations, unless recommended by the State Budget Officer and approved by the Governor in accordance with established law.

Sec. A-3. Personal Services funding. The amounts provided for Personal Services in