LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND SEVENTEENTH LEGISLATURE

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Augusta, Maine
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debt service costs for state subsidy purposes under section 15603, subsection 8. Such interest-only payments during the period of interim local financing may not be considered debt service costs as defined in section 15603, subsection 8, paragraph A for purposes of calculating amounts subject to the debt service limit established by section 15905, subsection 1, paragraph A.

The referendum question that is submitted to the voters for a project subject to interest-only interim local financing under this subsection must include, in addition to the information required by section 15904, an informational statement that sets forth the length of the period of interest-only interim financing established by the state board, an estimate of the annual interest cost during the period of interest-only interim local financing and a statement that the interest-only payments during the period of interim local financing is not eligible for inclusion in the debt service allocation of the school administrative unit for purposes of calculating state school construction subsidy to the unit.

The maximum period that securities for a school construction project may be outstanding under any applicable statute or rule must be extended by the length of the period of interest-only interim local financing approved by the state board under this subsection.

If the voters of a school administrative unit do not vote to approve a school construction project subject to interest-only interim local financing under this subsection, the unit's school construction project remains eligible for concept and funding approval from the state board at the time that the project would be eligible for such approval without interest-only interim location funding.

See title page for effective date.

CHAPTER 398

H.P. 1319 - L.D. 1869

An Act to Create a Universal Bank Charter

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

Whereas, the majority of Maine's banking assets are in state-chartered financial institutions and it is essential to the economy of Maine that its state banking charter be kept competitive, granting Maine financial institutions the powers and flexibility to effectively compete with other federally chartered and state-chartered financial institutions as well as other nonbank providers of financial services; and

Whereas, effective June 1, 1997, nationwide interstate banking and branching will be permitted for federally chartered financial institutions and, as a result, Maine's community banks will be confronted by new interstate competitors; 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:

PART A

Sec. A-1. 9-B MRSA §131, sub-§3, as amended by PL 1995, c. 628, §2, is further amended to read:

3. Branch. "Branch" means any office ~~or facility~~ of a financial institution where the business of banking is conducted other than the institution's main office. A branch includes an office or vehicle that is not permanent and that is capable of being moved or transferred from one location to another.

Sec. A-2. 9-B MRSA §131, sub-§6, as enacted by PL 1975, c. 500, §1, is amended to read:

6. Capital. "Capital ~~account~~" ~~or "total capital"~~ for a ~~stock~~ financial institution means the ~~sum of its paid in capital stock, paid in capital surplus, reduction surplus, if any, undivided profits, capital notes and debentures, and other capital reserves.~~ following:

A. For financial institutions organized as corporations, "capital" means the sum of common stock, paid-in common stock surplus, perpetual preferred stock, undivided profits and other capital reserves;

B. For financial institutions organized as limited liability companies, limited partnerships or limited liability partnerships, "capital" means the sum of members' or partners' contributions and undistributed earnings of the company or partnership; and

C. For financial institutions organized as mutual or cooperative institutions, "capital" means the sum of capital deposits, surplus and undivided earnings.

Sec. A-3. 9-B MRSA §131, sub-§6-A is enacted to read:

6-A. Closely related activities. "Closely related activities" means those activities that are part of the business of banking, are closely related to the business of banking, are convenient and useful to the business of banking, are reasonably related to the operation of a financial institution or are financial in nature. Activities reasonably related to the operation of a financial institution include, but are not limited to, business and professional services, data processing, courier and messenger services, credit-related activities, consumer services, real estate-related services, insurance and related services, securities brokerage, investment advice, securities underwriting, mutual fund activities, financial consulting, tax planning and preparation, community development and charitable activities and any activities reasonably related to these activities. Any activity that is authorized by statute or regulation for financial institutions to engage in as of June 30, 1997 is a closely related activity and any activity permitted under the Bank Holding Company Act of 1956, 12 United States Code, Sections 1841 to 1850 (1997) or the Home Owners' Loan Act, 12 United States Code, Sections 1461 to 1470 (1997) or regulations promulgated under either Act is deemed to be a closely related activity. The list of closely related activities may be expanded by rule or by order of the superintendent.

Sec. A-4. 9-B MRSA §131, sub-§7, as enacted by PL 1975, c. 500, §1, is amended to read:

7. Commercial bank. "Commercial bank" means a trust and banking company organized under prior laws of this State or the laws of another country or state or a national bank.

Sec. A-5. 9-B MRSA §131, sub-§10-A is enacted to read:

10-A. Cooperative financial institution. "Cooperative financial institution" means any financial institution organized pursuant to chapter 32 in which the earnings and net worth of the institution inure to the ultimate benefit of the members.

Sec. A-6. 9-B MRSA §131, sub-§13, as enacted by PL 1975, c. 500, §1, is amended to read:

13. Director. "Director" means a member of the ~~board of directors~~ governing body of a financial institution~~; and, in the case of a savings bank organized under provisions of prior law relating to savings banks, a member of the board of trustees of said institution~~.

Sec. A-7. 9-B MRSA §131, sub-§§14-A and 15-A are enacted to read:

14-A. Equity interest. "Equity interest" means common stock, preferred stock, members' or partners' interests or any other type of capital instrument that entitles the holder to vote pursuant to the financial institution's organizational documents.

15-A. FDIC. "FDIC" means the Federal Deposit Insurance Corporation or its successors.

Sec. A-8. 9-B MRSA §131, sub-§17, as amended by PL 1991, c. 670, §1, is further amended to read:

17. Financial institution. "Financial institution" means a universal bank or limited purpose bank organized under the provisions of this Title, trust company, nondepository trust company, savings bank, industrial bank or savings and loan association organized under the prior laws of this State~~; and each must represent a type of institution~~. As the term "financial institution" is used in Parts 1 and 2 and in chapter 46, it includes credit unions organized pursuant to the laws of this State.

Sec. A-9. 9-B MRSA §131, sub-§17-A, as amended by PL 1995, c. 628, §§6 and 7, is further amended to read:

17-A. Financial institution authorized to do business in this State. "Financial institution authorized to do business in this State" means a ~~commercial bank, savings bank, industrial bank or savings and loan association~~:

A. ~~Organized~~ Universal bank or limited purpose bank organized under provisions of this Title;

B. ~~Organized~~ Trust company, savings bank, savings and loan association or industrial bank organized under provisions of prior laws of this State and subject to the provisions of this Title;

C. ~~Organized~~ National bank, federal association or similar institution that is organized under provisions of federal law and maintains this State as its home state;

D. ~~Organized~~ Commercial bank, savings bank, savings and loan association or similar institution that is organized under provisions of federal law or laws of another state and maintains a branch in this State; or

E. ~~Organized~~ Commercial bank, savings bank, savings and loan association or similar institution that is organized under provisions of law of a foreign country and maintains a branch in this State.

Sec. A-10. 9-B MRSA §131, sub-§18-B is enacted to read:

18-B. Governing body. "Governing body" means the body that oversees the affairs of a financial

institution. The governing body may also be referred to as the "board of directors," "board of trustees," "board of managers," "partners' committee" or "managing partners' committee," depending upon the ownership structure of the financial institution.

Sec. A-11. 9-B MRSA §131, sub-§19, as enacted by PL 1975, c. 500, §1, is repealed.

Sec. A-12. 9-B MRSA §131, sub-§22-A, as enacted by PL 1993, c. 492, §1, is repealed.

Sec. A-13. 9-B MRSA §131, sub-§§23-A, 23-B and 23-C are enacted to read:

23-A. Investor. "Investor" means any person who has an ownership interest in a financial institution and is entitled to vote under the institution's organizational documents.

23-B. Investor-owned institution. "Investor-owned institution" means a financial institution organized under chapter 31.

23-C. Limited purpose bank. "Limited purpose bank" or "limited purpose institution" means an institution operating pursuant to Part 12.

Sec. A-14. 9-B MRSA §131, sub-§24, as amended by PL 1993, c. 492, §2, is repealed.

Sec. A-15. 9-B MRSA §131, sub-§26, as enacted by PL 1975, c. 500, §1, is repealed.

Sec. A-16. 9-B MRSA §131, sub-§27, as enacted by PL 1975, c. 500, §1, is amended to read:

27. Mutual financial institution. "Mutual financial institution" or "mutual institution" means any financial institution organized pursuant to chapter 32, in which the earnings and net worth of the institution inure to the ultimate benefit of the depositors or members.

Sec. A-17. 9-B MRSA §131, sub-§27-A is enacted to read:

27-A. Mutual voter. "Mutual voter" means a corporator or member as described in chapter 32.

Sec. A-18. 9-B MRSA §131, sub-§28-A, as enacted by PL 1991, c. 670, §2, is amended to read:

28-A. Nondepository trust company. "Nondepository trust company" means any financial institution organized under chapter ~~31~~ 121 with powers ~~expressly restricted or otherwise limited to the conduct of general trust business~~ generally limited to trust or fiduciary matters.

Sec. A-19. 9-B MRSA §131, sub-§29, as enacted by PL 1975, c. 500, §1, is repealed.

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

29-C. Officer. "Officer" means an employee of a financial institution who has been given managerial or other high-level duties by the governing body of the financial institution. Depending upon the ownership structure of the institution, an officer may include a person with the title of chair, president, vice-president, manager, managing partner or partner.

29-D. Organizational document. "Organizational document" means the charter, certificate of organization, articles of incorporation, articles of association, articles of organization, certificate of limited liability partnership, bylaws, operating agreement, partnership agreement or any other similar document required to be filed with and approved by the superintendent pursuant to section 314-A or 323.

Sec. A-21. 9-B MRSA §131, sub-§31, as enacted by PL 1975, c. 500, §1, is repealed.

Sec. A-22. 9-B MRSA §131, sub-§31-A is enacted to read:

31-A. Real estate-related services. "Real estate-related services" means:

A. Real estate investment and development, pursuant to section 419-A;

B. Maintenance and management of improved real estate;

C. Real estate appraising;

D. Real estate settlement services;

E. Real estate brokerage activities with respect to properties owned by a financial institution authorized to do business in this State, a financial institution holding company, or subsidiaries thereof, regardless of how the property is acquired or for what purpose; or

F. Any real estate-related service authorized by this Title or by rule or order of the superintendent or any real estate-related service authorized for any financial institution chartered by or otherwise subject to the jurisdiction of the Federal Government, pursuant to the authority granted under section 416.

Sec. A-23. 9-B MRSA §131, sub-§33 and 34, as enacted by PL 1975, c. 500, §1, are amended to read:

33. Savings and loan association. "Savings and loan association~~~~," "association" or "loan and building association" means a financial institution organized under the prior laws of this State that is authorized to

exercise the powers set forth in Part ~~7~~ 4, subject to ~~such~~ the conditions and limitations on the exercise of ~~said~~ those powers as ~~shall be~~ set forth ~~therein~~ in Part 4.

34. Savings bank. "Savings bank" or "institute for savings" means a financial institution organized under the prior laws of this State that is authorized to exercise the powers set forth in Part ~~5~~ 4, subject to ~~such~~ the conditions and limitations on the exercise of ~~said~~ those powers as ~~shall be~~ set forth ~~therein~~ in Part 4.

Sec. A-24. 9-B MRSA §131, sub-§35, as amended by PL 1987, c. 692, §2, is further amended to read:

35. Satellite facility. "Satellite facility" ~~or "off-premise facility"~~ means any facility, automated device or electronic terminal established by a financial institution authorized to do business in this State at which an existing financial institution customer may initiate banking transactions, including, but not limited to, cash deposits to and withdrawals from ~~his~~ that customer's account, cash advances on a preauthorized credit line, transfers between ~~his~~ checking and savings ~~account~~ accounts or payment transfers from ~~his~~ the customer's account to accounts of other financial institution customers. Such a facility is not permanently staffed and is not part of a main office or branch office of a financial institution. Such ~~an off-premise~~ a facility may be part of an electronic funds transfer system. Satellite facilities ~~or off-premise facilities~~ include facilities engaged in soliciting, receiving or accepting money or its equivalent on deposit from new and existing customers. The term satellite ~~facilities or off-premise facilities~~ facility does not include a cash dispensing machine, a point-of-sale terminal, a night depository or an office or facility engaged solely in the solicitation and origination of loans.

Sec. A-25. 9-B MRSA §131, sub-§36, as enacted by PL 1975, c. 500, §1, is repealed.

Sec. A-26. 9-B MRSA §131, sub-§37, as amended by PL 1997, c. 22, §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~~ rule or order 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. A-27. 9-B MRSA §131, sub-§39, as enacted by PL 1975, c. 500, §1, is repealed.

Sec. A-28. 9-B MRSA §131, sub-§42, as enacted by PL 1975, c. 500, §1, is amended to read:

42. Thrift institution. "Thrift institution" means a savings bank or a savings and loan association organized under the prior laws of this State.

Sec. A-29. 9-B MRSA §131, sub-§45-A is enacted to read:

45-A. Total capital. "Total capital" means the sum of capital, as defined in subsection 6, plus capital notes and debentures, other instruments approved by the superintendent and the allowance for loan losses or other similar reserves.

Sec. A-30. 9-B MRSA §131, sub-§46, as enacted by PL 1975, c. 500, §1, is amended to read:

46. Trust company. "Trust company" or "trust and banking company" means any financial institution organized under the prior laws of this State that is authorized ~~by its articles of incorporation~~ to exercise the powers set forth in Part ~~6~~ 4, subject to ~~such~~ the conditions and limitations on the exercise of ~~said~~ those powers as ~~shall be~~ set forth ~~therein~~ in Part 4.

Sec. A-31. 9-B MRSA §131, sub-§47 is enacted to read:

47. Universal bank. "Universal bank" means an investor-owned institution or a mutual financial institution authorized by its organizational documents to exercise all the powers granted in Part 4 and includes a trust company, a savings bank and a savings and loan association chartered by special act of the Legislature, established prior to the effective date of this Title or established pursuant to this Title.

PART B

Sec. B-1. 9-B MRSA c. 14, as amended, is repealed.

Sec. B-2. 9-B MRSA c. 14-A is enacted to read:

CHAPTER 14-A

BUSINESS DAYS AND HOURS OF OPERATION

§145. Business days; banking days; hours of operation

1. Business days. For purposes of this Title, unless otherwise provided under other state or federal law applicable to financial institutions, a business day is a calendar day other than the following:

A. Saturday and Sunday;

B. January 1st, New Year's Day;

C. The 3rd Monday in January, Martin Luther King, Jr. Day;

D. The 3rd Monday in February, President's Day;

E. The 3rd Monday in April, Patriot's Day;

F. The last Monday in May, Memorial Day, but if the United States Government designates May 30th as the date of observance of Memorial Day, then May 30th;

G. July 4th, Independence Day;

H. The first Monday of September, Labor Day;

I. The 2nd Monday in October, Columbus Day;

J. November 11th, Veterans' Day;

K. The 4th Thursday in November, Thanksgiving Day; and

L. December 25th, Christmas Day.

If January 1st, July 4th, November 11th or December 25th falls on a Sunday, then the next Monday is not a business day.

2. Days and hours of banking offices. A financial institution may, at its discretion, establish days and hours for its offices, including opening offices for business on days that are not defined as business days in subsection 1. The days and hours of operation must be established in accordance with section 332.

3. Disclosure of office hours. A financial institution shall post the days and hours of operation at or near the public entrances to its banking offices.

4. Closing for cause. A financial institution may temporarily close any of its offices for reasons that include but are not limited to good cause, emergency weather conditions and community events. If a financial institution temporarily closes any of its offices for all or any part of a banking day, the institution shall post a conspicuous notice of the closing at all points of public access to the closed offices. A closing may not become effective until such notice is posted at the office to be closed. Posting this notice relieves the institution from liability for failure to perform any of the business of the financial institution at the closed offices. The superintendent may, by adopting rules, which are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A, establish standards governing the form and content of the notice required under this subsection and may require dissemination of the notice of closing by any other reasonable means.

5. Limitation on liability. Any act authorized, required or permitted to be performed at, by or with respect to any institution on a day not defined as a business day or on a day the institution is closed pursuant to subsection 4 may be performed on the next succeeding business day and liability or loss of rights of any kind may not result from this delay.

6. Emergencies. The superintendent may require that financial institutions be closed as provided in chapter 15.

PART C

Sec. C-1. 9-B MRSA c. 31, as amended, is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 31

ORGANIZATION AND MANAGEMENT OF INVESTOR-OWNED INSTITUTIONS

Sec. C-2. 9-B MRSA §311, as amended by PL 1991, c. 670, §3, is further amended to read:

§311. Applicability of chapter

The provisions of this chapter govern the organization and management of ~~trust companies, nondepository trust companies, savings banks and savings and loan associations~~ financial institutions operating as ~~stock financial institutions~~ corporations, limited liability companies, limited partnerships and limited liability partnerships. Unless otherwise indicated in this Title, the provisions of Title 13-A apply to financial institutions operating as corporations; Title 31, chapter 11, applies to financial institutions operating as limited partnerships; Title 31, chapter 13 applies to financial institutions operating as limited liability companies and Title 31, chapter 15 applies to financial institutions operating as limited liability partnerships.

Sec. C-3. 9-B MRSA §312, sub-§1, as amended by PL 1987, c. 81, §1, is repealed.

Sec. C-4. 9-B MRSA §312, sub-§2, as amended by PL 1987, c. 81, §2, is repealed and the following enacted in its place:

2. Application. A corporation, limited liability company, limited partnership, limited liability partnership or the organizers of the entity shall apply to the superintendent to seek permission to conduct business as a financial institution. The application must contain the following information:

A. The name by which the financial institution is to be known;

B. The purpose for which it is to be formed, including whether a certificate of public convenience and advantage is sought to conduct business as a universal bank, a nondepository trust company, a merchant bank or an uninsured bank;

C. The city or town within this State where the institution's principal office is to be located;

D. The amount of its capital;

E. The names, addresses and occupations of the governing body or organizers of the institution;

F. The organizational documents appropriate to the proposed institution's organizational structure; and

G. Any additional information, including the reasons why an institution of the type specified in paragraph B is needed in the proposed location, as the superintendent may require by rule. Application for permission to conduct business as a financial institution may not be considered complete unless accompanied by an application fee as determined by the superintendent, payable to the Treasurer of State, to be credited and used as provided in section 214. In no event may that fee be less than $1,000 or greater than $5,000.

Sec. C-5. 9-B MRSA §312, sub-§3, as amended by PL 1987, c. 81, §3, is further amended to read:

3. Publication of notice. After determining that the application required in subsection 2 is complete, the superintendent shall advise the ~~incorporators~~ corporation, limited liability company, limited partnership, limited liability partnership or the organizers of the entity to publish, within 15 days of such advice, a notice in such form as the superintendent may prescribe. Such notice ~~shall~~ must appear at least once a week for 3 successive weeks in one or more newspapers of general circulation in the county where the financial institution is to be established, or in such other newspapers as the superintendent may designate. Such published notice ~~shall~~ must specify the names, addresses and occupations or businesses of each of the ~~incorporators and directors~~ organizers or members of the governing body, the type of financial institution to be organized, and the name of the institution and its location as set forth in the application for permission to ~~organize~~ conduct business as a financial institution. The superintendent may require individual notice to any person or corporation, and may require that one of such publications contain the information required under section 252, subsection 2.

Sec. C-6. 9-B MRSA §312, sub-§4, ¶¶B and C, as amended by PL 1987, c. 81, §4, are further amended to read:

B. In determining whether or not a certificate of public convenience and advantage ~~which~~ that permits the ~~incorporator or incorporators to organize the type of~~ corporation, limited liability company, limited partnership or limited liability partnership to conduct business as a financial institution ~~requested,~~ should be granted, the superintendent shall make ~~his~~ the decision in accordance with the requirements of section 253, pursuant to the procedures set forth in section 252.

C. A grant of a certificate of public convenience and advantage may include such terms and conditions as the superintendent determines necessary. These may include, but are not limited to, ~~an increase in the minimum capital stock pursuant to subsection 5~~ conditions regarding the organizational form of the financial institution under this chapter.

Sec. C-7. 9-B MRSA §312, sub-§5, as amended by PL 1987, c. 81, §5, is further amended to read:

5. Minimum capital required.

A. The certificate of public convenience and advantage~~, granted in writing by the superintendent, shall~~ and the superintendent's order granting permission to organize must set forth the minimum amount of paid-in capital ~~stock which~~ that a ~~stock~~ financial institution ~~shall~~ must have to begin business.

B. The minimum amount of paid-in capital ~~stock shall~~ must be determined by the superintendent, but in no event ~~shall~~ may it be less than $100,000.

C. In determining the minimum paid-in capital ~~stock~~ required, the superintendent may set different requirements for ~~trust companies, savings banks and savings and loan associations,~~ banks, nondepository trust companies, merchant banks and uninsured institutions and may consider such factors as the population of the city or town where the proposed institution is to be located, competition among financial institutions in that

locale, the projected volume and type of business to be conducted, the inherent risks in the business to be conducted and the need to protect depositors and other creditors of the institution.

D. All capital contributions must be in the form of cash, unless otherwise approved by the superintendent.

Sec. C-8. 9-B MRSA §312-A, as enacted by PL 1991, c. 34, §1, is amended to read:

§312-A. Expedited authority

Notwithstanding any other provision of law, the superintendent may grant a ~~charter~~ certificate of public convenience and advantage for a corporation, limited liability company, limited partnership or limited liability partnership to ~~organize a stock~~ conduct business as a financial institution effective immediately if the superintendent determines that such action is necessary for the protection of depositors~~, shareholders~~ or the public. This action may be taken only in conjunction with transactions processed under section 354-A or 355-A.

Sec. C-9. 9-B MRSA §313, as amended by PL 1987, c. 81, §§7 and 8, is repealed.

Sec. C-10. 9-B MRSA §313-A is enacted to read:

§313-A. Certificate to commence business

1. Requirements. A corporation, limited liability company, limited partnership or limited liability partnership that has received a certificate of public convenience and advantage to conduct business as a financial institution may not commence business until the superintendent certifies in writing that the required capital has actually been paid in and that all other terms and conditions contained in the certificate of public convenience and advantage have been satisfied.

2. Failure to commence business. The following provisions apply to an entity authorized to conduct business as a financial institution that fails to commence business.

A. Any corporation, limited liability company, limited partnership or limited liability partnership authorized to conduct business as a financial institution that fails to commence business as a financial institution within one year after receiving a certificate of public convenience and advantage forfeits that certificate and any other certificate to commence business and shall cease all activities. The superintendent shall certify to the Secretary of State that the certificate of public convenience and advantage and any certificate to commence business have been forfeited so that the institution's organizational documents may be terminated by the Secretary of State.

B. Upon a forfeiture pursuant to paragraph A, the subscribers to the stock of the institution are entitled to a return of any amounts they have paid to the institution as consideration for its shares. The original incorporators shall bear the expenses incurred in the organization.

C. Upon the failure to commence business within one year and the forfeiture of the certificate of public convenience and advantage and any other certificate to commence business, the corporation, limited liability company, limited partnership or limited liability partnership or the organizers of the entity may not submit another application for permission to conduct business as a financial institution under section 312 for at least one year from the date of this forfeiture.

D. Notwithstanding the time limitation in paragraph A, the superintendent may extend the period in which business must be commenced for a period not to exceed 6 months upon written application by the institution setting forth the reasons for the extension. If an extension is granted by the superintendent, the superintendent shall notify the Secretary of State.

Sec. C-11. 9-B MRSA §314, as enacted by PL 1975, c. 500, §1, is repealed.

Sec. C-12. 9-B MRSA §314-A is enacted to read:

§314-A. Organizational documents

1. Financial institutions organized as corporations. The following provisions apply to financial institutions organized as corporations.

A. The articles of incorporation must contain the statement required under Title 13-A, section 404. Articles of incorporation or amendments to articles of incorporation must have the prior written approval of the superintendent.

B. The original bylaws of the financial institution must be approved by the superintendent in writing. Amendments to bylaws must be submitted to the superintendent and become effective 10 days after receipt unless the superintendent indicates otherwise to the institution.

2. Financial institutions organized as limited liability companies. The following provisions apply to financial institutions organized as limited liability companies.

A. The articles of organization of a limited liability company must contain the following

statement: "The purpose of this limited liability company is to conduct the business of a financial institution as limited by the Maine Revised Statutes, Title 9-B or any rules, orders or certificates under Title 9-B." Articles of organization or amendments to articles of organization must have the prior written approval of the superintendent.

B. The original operating agreement of the financial institution must be approved by the superintendent in writing. Amendments to the operating agreement must be submitted to the superintendent and become effective 10 days after receipt unless the superintendent indicates otherwise to the institution.

3. Financial institutions organized as limited partnerships. The following provisions apply to financial institutions organized as limited partnerships.

A. A financial institution organized as a limited partnership shall register with the Secretary of State. The certificate of limited partnership must contain the following statement: "The purpose of this limited partnership is to conduct the business of a financial institution as limited by the Maine Revised Statutes, Title 9-B or any rules, orders or certificates under Title 9-B." Certificates of limited partnership or amendments to certificates of limited partnership must have the prior written approval of the superintendent.

B. A financial institution organized as a limited partnership shall operate pursuant to a written partnership agreement. The original partnership agreement of the financial institution must be approved by the superintendent in writing. Amendments to a partnership agreement must be submitted to the superintendent and become effective 10 days after receipt unless the superintendent indicates otherwise to the institution.

4. Financial institutions organized as limited liability partnerships. The following provisions apply to financial institutions organized as limited liability partnerships.

A. A financial institution organized as a limited liability partnership shall register with the Secretary of State. The certificate of limited liability partnership must contain the following statement: "The purpose of this limited liability partnership is to conduct the business of a financial institution as limited by the Maine Revised Statutes, Title 9-B or any rules, orders or certificates under Title 9-B." Certificates of limited liability partnership or amendments to certificates of limited liability partnership must have the prior written approval of the superintendent.

B. A financial institution organized as a limited liability partnership shall operate pursuant to a written partnership agreement. The original partnership agreement of the financial institution must be approved by the superintendent in writing. Amendments to a partnership agreement must be submitted to the superintendent and become effective 10 days after receipt unless the superintendent indicates otherwise to the institution.

Sec. C-13. 9-B MRSA §315, as amended by PL 1979, c. 663, §35, is repealed.

Sec. C-14. 9-B MRSA §316, as amended by PL 1997, c. 182, Pt. A, §§2 and 3, is repealed.

Sec. C-15. 9-B MRSA §316-A is enacted to read:

§316-A. Governing body

Except as provided in this section, the management and operations of a financial institution organized under this chapter are governed by Title 13-A; Title 31, chapter 11; Title 31, chapter 13; or Title 31, chapter 15, as appropriate, depending upon the organizational form of the financial institution operating under this chapter. The institution's organizational documents must address the powers and duties of the governing body.

1. Number of directors. The governing body of a financial institution must consist of 5 directors, except that the superintendent may approve fewer directors for good cause shown.

2. Executive committee. The governing body of a financial institution organized as a corporation may appoint by majority vote of the governing body an executive committee of no less than 5 members and may delegate to the committee the powers of the governing body in regard to the ordinary operations of the business of the institution. The superintendent may approve fewer members for good cause shown.

3. Frequency of meetings. A governing body of a financial institution organized as a corporation that has appointed an executive committee shall meet at least 6 times a year, including once each quarter, if the executive committee meets during the months in which the governing body does not meet. Minutes of executive committee meetings must be ratified by the governing body. The governing body of a financial institution organized as a corporation that has not appointed an executive committee or the governing body of any other financial institution shall meet at least monthly. The superintendent may approve less frequent meetings for good cause shown.

Sec. C-16. 9-B MRSA §317, as amended by PL 1993, c. 257, §2, is repealed.

Sec. C-17. 9-B MRSA §§317-A, 318 and 319 are enacted to read:

§317-A. Officers

Except as provided in this section, the powers and duties of officers of a financial institution organized under this chapter are governed by Title 13-A; Title 31, chapter 11; Title 31, chapter 13; or Title 31, chapter 15, as appropriate, depending upon the organizational form of the financial institution operating under this chapter. The institution's organizational documents must address the powers and duties of officers.

1. Appointment. The governing body of a financial institution shall appoint from its members or otherwise one or more officers to manage the day-to-day affairs of the institution. One of these officers must be designated the chief executive officer. The governing body shall report the name of the designated chief executive officer to the superintendent within 10 days of designation.

2. Bonds. The governing body of a financial institution shall require security for the fidelity and faithful performance of duties by its officers, employees and agents in an amount that the governing body considers necessary or that the superintendent requires. This security must consist of a bond executed by one or more surety companies authorized to transact business in this State. The superintendent may increase this amount from time to time as circumstances may require.

§318. Dividends, distributions and withdrawals

1. Limitation. A financial institution organized pursuant to this chapter may not authorize dividends, distributions or withdrawals that reduce capital below the higher of the amount required under the certificate of public convenience and advantage or section 412-A without the prior approval of the superintendent.

2. Form. Dividends, distributions and withdrawals must be in cash or in additional shares, members' interests or partnership interests unless otherwise authorized by the superintendent.

§319. Special provisions for subsidiary banks of mutual holding companies

1. Restriction. A subsidiary bank established pursuant to a reorganization under chapter 105 must be organized as a corporation.

2. Board of directors. With respect to a subsidiary bank established pursuant to a reorganization under chapter 105 from and after the time that subsidiary bank includes stockholders other than the mutual holding company, the articles of incorporation of the subsidiary bank must be amended to provide for proportionate representation of the minority stockholders on the board of directors of the subsidiary bank based on the percentage of common stock owned by the minority stockholders in the aggregate relative to the total amount of common stock then issued and outstanding, except that the minority stockholder representatives on the board of directors of the subsidiary bank may not be fewer than 2. A director or officer of a mutual holding company or subsidiary bank or any affiliate of that company or institution is prohibited from serving as a designated minority stockholder representative on the board of directors of the subsidiary bank. Shares of stock of the subsidiary bank owned directly or indirectly by an individual director or officer of the mutual holding company are deemed to be owned by the mutual holding company for purposes of determining proportionate representation of minority stockholders on the board of directors of the subsidiary bank. Representatives of the mutual holding company that serve on the board of directors of the subsidiary bank must be selected in accordance with chapter 105.

PART D

Sec. D-1. 9-B MRSA c. 32 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 32

ORGANIZATION AND MANAGEMENT OF MUTUAL AND COOPERATIVE FINANCIAL INSTITUTIONS

Sec. D-2. 9-B MRSA §321, as enacted by PL 1975, c. 500, §1, is amended to read:

§321. Applicability of chapter

The provisions of this chapter ~~shall~~ govern the organization and management of ~~trust companies, savings banks and savings and loan associations~~ financial institutions operating as mutual or cooperative financial institutions.

Sec. D-3. 9-B MRSA §322, sub-§§1 and 2, as enacted by PL 1975, c. 500, §1, are amended to read:

1. Organizers. Any number of persons, but not less than 20, all of whom ~~shall be residents of this State~~ must reside in or reside proximate to the geographic area to be served by the institutions, may agree in writing to associate themselves for the purpose of forming a mutual or cooperative financial institution pursuant to this chapter.

2. Application to organize. The organizers set forth in subsection 1 shall file with the superintendent an application for permission to organize a mutual or cooperative financial institution, which application ~~shall~~ must contain the following:

A. The name by which the institution ~~shall~~ will be known;

B. The purpose for which it is to be formed, including whether the organizers seek a certificate of public convenience and advantage to conduct business as a ~~trust company, savings bank or savings and loan association in mutual form~~ financial institution. The organizers shall indicate in the application whether the institution will be organized as a mutual or cooperative financial institution;

C. The city or town within this State where the institution's principal office is to be located;

D. The proposed minimum amount of initial capital contributions to be deposited;

E. The names, addresses and occupations of the directors of the institution who are to serve until the initial meeting of the members or corporators or until their successors are elected and qualified, and the names, addresses and occupations of the directors who ~~shall~~ will be voted on by the members or corporators at the initial meeting;

F. A statement setting forth the name, address~~,~~ and occupation of each organizer, together with the amount of initial capital ~~which~~ that such organizer shall deposit, subscribed to by said organizer; and

G. Such additional information, including the reasons why an institution of the type specified in paragraph B is needed in the proposed location, as the superintendent may require ~~by regulation~~.

~~No~~ An application for permission to organize a mutual or cooperative financial institution ~~shall~~ may not be ~~deemed~~ considered complete unless accompanied by an application fee of ~~$1,000~~ not more than $5,000, payable to the Treasurer of State, to be credited and used as provided in section 214.

Sec. D-4. 9-B MRSA §322, sub-§4, ¶A, as enacted by PL 1975, c. 500, §1, is repealed.

Sec. D-5. 9-B MRSA §322, sub-§4, ¶C, as enacted by PL 1975, c. 500, §1, is amended to read:

C. A grant of a certificate of public convenience and advantage and an order granting permission to organize may include such terms and conditions as the superintendent ~~deems~~ considers necessary, including, but not limited to, an increase in the amount of minimum capital deposits, pursuant to subsection 5.

Sec. D-6. 9-B MRSA §322, sub-§5, ¶¶A and C, as enacted by PL 1975, c. 500, §1, are amended to read:

A. The certificate of public convenience and advantage and the superintendent's order granting permission to organize~~, granted in writing by the superintendent, shall~~ must set forth the minimum amount of capital deposits ~~which~~ that the mutual or cooperative financial institution ~~shall~~ must have to begin business.

C. In determining the minimum amount of capital deposits, the superintendent may set different requirements for ~~trust companies, savings banks and savings and loan associations,~~ financial institutions and may consider such factors as the population of the city or town where the proposed institution is to be located, competition among financial institutions in that locale~~,~~ and the need to protect depositors and other creditors of the institution.

Sec. D-7. 9-B MRSA §323, sub-§2, ¶¶A and B, as enacted by PL 1975, c. 500, §1, are amended to read:

A. Within 30 days after receipt of a certificate of public convenience and advantage and an order granting permission to organize pursuant to section 322, the first meeting of the organizers of the financial institution ~~shall~~ must be called by a notice signed by that organizer who was designated in the application for that purpose, or by a majority of the organizers. Such notice ~~shall~~ must state the time, place and purposes of the meeting. A copy of the notice ~~shall~~ must be given to each organizer at least 3 days before the date appointed for the meeting, or left at ~~his~~ each organizer's residence or usual place of business, or deposited in the post office and addressed to ~~him~~ such an organizer at ~~his~~ that organizer's residence or usual place of business, and another copy thereof, together with an affidavit of one of the organizers that the notice has been duly served, ~~shall~~ must be recorded with the records of the institution. If all the organizers ~~shall~~, in writing indorsed upon the application to organize, waive such notice and fix the time and place of the meeting, no notice ~~shall be~~ is required.

B. At the first meeting and thereafter, the organizers of a mutual ~~trust company and a mutual savings bank shall be~~ financial institution are known as the "corporators" and the organizers of a ~~mutual savings and loan association shall be~~

cooperative financial institution are known as the "incorporators"."

Sec. D-8. 9-B MRSA §323, sub-§6, ¶A, as enacted by PL 1975, c. 500, §1, is amended to read:

A. Any mutual or cooperative financial institution ~~which~~ that fails to commence business as a financial institution within one year after receiving a certificate of public convenience and advantage ~~shall forfeit said~~ forfeits that certificate and any other certificate to commence business ~~so obtained~~ and shall cease all activities~~, which fact shall be certified~~. The superintendent shall certify to the Secretary of State ~~by the superintendent~~ that the certificate of public convenience and advantage and any certificate to commence business have been forfeited so that the institution's articles of incorporation may be terminated by ~~said~~ the Secretary of State.

Sec. D-9. 9-B MRSA §324, sub-§2, ¶B, as enacted by PL 1975, c. 500, §1, is amended to read:

B. A return of all or part of the capital reserve ~~shall~~ may not reduce the institution's ~~guaranty fund, established pursuant to sections 513, 612 or 713,~~ capital below the greater of the total initial capital contributions or ~~an amount equal to 5% of the institution's deposits or accounts~~ the minimum amount prescribed by the superintendent in accordance with section 412-A;

Sec. D-10. 9-B MRSA §325, sub-§1, as amended by PL 1975, c. 666, §14, is further amended to read:

1. Corporators of mutual financial institutions.

A. The persons named in the articles of incorporation ~~shall~~ constitute the original board of corporators of a mutual ~~trust company or mutual savings bank~~ financial institution. Membership on ~~such~~ this board ~~shall continue~~ continues until terminated by death, resignation or disqualification as provided ~~herein~~ in this section.

B. Corporators shall retire from membership on the board of corporators upon reaching 72 years of age. ~~This paragraph shall become effective 2 years after the effective date of this section, and any corporator who is 72 years of age or older shall immediately retire from such board on the effective date of this paragraph.~~

C. All corporators ~~shall~~ must be residents of ~~this State, and no~~ the geographic area that the financial institution serves or an area proximate to this geographic area. A person ~~shall~~ may not continue as a corporator ~~of a mutual trust company or mutual savings bank~~ after ceasing to be a resident of ~~this State~~ the financial institution's geographic area or an area proximate to this geographic area.

D. Any corporator failing to attend the annual meeting of the board of corporators for 2 successive years ~~shall cease~~ ceases to be a member of the board unless reelected by a vote of the remaining corporators.

E. The number of corporators may be fixed or altered by the bylaws of the financial institution, and vacancies may be filled by election at any annual meeting.

F. The superintendent ~~shall have~~ has the power to comment upon the sociological composition, as defined in section 131, of the board of corporators of any mutual ~~trust company or mutual savings bank, such~~ or cooperative financial institution. This comment ~~to~~ may be made in ~~such~~ the form and manner ~~as~~ the superintendent ~~deems~~ considers appropriate.

Sec. D-11. 9-B MRSA §325, sub-§2, as enacted by PL 1975, c. 500, §1, is amended to read:

2. Members of a cooperative financial institution; qualifications and voting rights.

A. The members of a ~~savings and loan association~~ cooperative financial institution organized pursuant to this chapter ~~shall~~ must be those in whose names accounts are established~~,~~ and persons borrowing from or assuming or obligated upon a loan held by such institution or purchasing property and assuming the secured loan held by such institution.

B. A single membership in ~~an association~~ a cooperative financial institution may be held by 2 or more persons, and a joint and survivorship relationship and successor relationship, whether investors or borrowers, ~~shall constitute~~ constitutes a single membership.

C. Each member 18 years of age or over ~~shall be~~ is entitled to one vote at any meeting of the ~~association~~ cooperative financial institution, regardless of the number of shares or accounts standing in ~~his~~ that member's name~~;~~, provided that only one vote ~~shall be~~ is allowed on an account held by 2 or more persons. ~~No~~ A member ~~shall~~ may not vote by proxy at any meeting, unless otherwise provided in this Title. The bylaws may prohibit voting by persons who have become members within 6 months of the date when the vote is cast. When accounts or shares are pledged, the pledgor may vote ~~thereon~~ the accounts or shares so pledged.

D. Membership ~~shall terminate~~ terminates when the amount of a member's shares or accounts has been paid in full to ~~him~~ that member, or when the transfer of ~~his~~ membership to other persons has been recorded on the books of the financial institution, or when ~~his~~ that member's status as a borrower from the institution terminates.

Sec. D-12. 9-B MRSA §325, sub-§3, ¶D, as enacted by PL 1975, c. 500, §1, is amended to read:

D. The bylaws ~~may~~ must prescribe the number of corporators or members ~~which shall~~ that constitute a quorum at any annual or special meeting. ~~In the absence of such provision, any number of corporators or members, but not less than 6, shall constitute a quorum.~~ The bylaws may also provide for voting by proxy.

Sec. D-13. 9-B MRSA §326, sub-§1, ¶A, as enacted by PL 1975, c. 500, §1, is amended to read:

A. The number of directors on the board of a mutual financial institution ~~shall~~ may not be less than 5, all of whom must be residents of ~~this State~~ the financial institution's geographic area or an area proximate to that geographic area.

Sec. D-14. 9-B MRSA §326, sub-§1, ¶D, as enacted by PL 1975, c. 500, §1, is repealed.

Sec. D-15. 9-B MRSA §326, sub-§1, ¶G, as amended by PL 1975, c. 666, §16, is further amended to read:

G. The superintendent ~~shall have~~ has the power to comment upon the sociological composition, as defined in section 131, of the board of directors of any mutual or cooperative financial institution ~~organized under this chapter, such~~. This comment ~~to~~ may be made in ~~such~~ the form and manner ~~as~~ the superintendent ~~deems~~ considers appropriate.

Sec. D-16. 9-B MRSA §327, sub-§1, as amended by PL 1981, c. 501, §31, is further amended to read:

1. Election. Unless another manner for election is provided in the bylaws, the board of directors shall elect annually from its members a ~~chairman~~ chair and, from its members or otherwise, a president, one or more vice presidents, a clerk or secretary, a treasurer and such other officers as it may ~~deem~~ consider advisable. ~~No more than 2 offices may be held by the same person without the approval of the superintendent.~~ Officers so elected ~~shall~~ serve for a term of not more than one year, but ~~shall~~ continue in office until their successors are elected and qualified. If any office becomes vacant during the year, the board may immediately fill the same for the period remaining until the next annual meeting for election of officers.

Sec. D-17. 9-B MRSA §327, sub-§4, as enacted by PL 1975, c. 500, §1, is repealed.

PART E

Sec. E-1. 9-B MRSA §§331 and 332, as enacted by PL 1975, c. 500, §1, are amended to read:

§331. Applicability of chapter; statewide branching

1. Applicability. The provisions of this chapter ~~shall~~ govern the establishment of a branch office~~,~~ or agency ~~or facility~~ by a financial institution subject to the laws of this State.

2. Statewide branching. Subject to the conditions and limitations contained in this chapter, a financial institution may establish a branch office ~~or facility~~ anywhere within this State.

§332. Branch offices

1. Approval of governing body. All or any part of the business of a financial institution authorized pursuant to the provisions of this Title may be transacted in a branch or agency office~~, as defined in section 131 if the board of directors of such institution decides accordingly~~. The financial institution's governing body is responsible for determining the scope of operations of each branch, including the services to be provided and the days and hours of operation. Customers must be provided reasonable advance notice of reduction in services or hours of operation.

2. Superintendent's approval. ~~No such~~ A financial institution ~~shall~~ may not establish a branch or agency office without prior approval of the superintendent~~, such~~. This approval ~~to~~ must be obtained pursuant to section 336, except that a financial institution that meets the minimum standards set forth in section 412-A or 832 and any rules adopted pursuant to these sections and is not under an enforcement action that requires the superintendent's prior approval of a branch establishment may establish a branch in this State without the prior approval of the superintendent. If the superintendent's approval is not required, then the financial institution shall inform the superintendent at least 10 days prior to the proposed action. This announcement must be accompanied by a recording fee not to exceed $100.

3. Bonded carrier. The use of a financial institution employee or a bonded carrier to transport deposits to a financial institution, whether paid for by the customer or the financial institution, may not be construed as the establishment or operation of a branch. In the event a bonded carrier is used to

transport deposits to a financial institution, the messenger must be considered the agent of the customer rather than of the financial institution. Deposits collected under this arrangement are not considered to have been received by the financial institution until they are actually delivered to a teller at the financial institution's premises.

Sec. E-2. 9-B MRSA §333, as amended by PL 1993, c. 492, §3, is repealed.

Sec. E-3. 9-B MRSA §334, as amended by PL 1997, c. 22, §§2 to 5, is further amended to read:

§334. Satellite facilities

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~~, relocate or close a satellite or off-premise facility, as defined in section 131, without the prior approval of or notification to the superintendent. ~~A financial institution or service corporation may not establish a satellite facility without prior notice to the superintendent, pursuant to this section.~~

~~**2. Manned or unmanned facility permitted.** A satellite facility may be unmanned and operated by the customer himself. Such a facility may be located in the premises of an establishment that is not a financial institution and may be manned by an employee of such establishment.~~

~~**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.~~

4. Use of established facilities by additional institutions. A satellite facility ~~established under this chapter~~ owned or operated by a financial institution must be made available for use by other financial institutions authorized to do business in this State, unless the satellite facility is located on the institution's premises. All financial institutions using the satellite facility must have equal access to the satellite facility, except that a financial institution owning an off-premise facility may ~~designate that facility as accepting cash deposits for its customers only~~ restrict the acceptance of deposits at the off-premise facility to its customers only or to customers of financial institutions with which it has an agency agreement pursuant to section 418. For the purposes of this subsection, an off-premise facility is a satellite facility that is not located physically on the premises of a main office or branch or one that is not an extension of or ancillary to an existing main office or branch. When a satellite facility is shared, the identification and promotion of that satellite 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.~~

5. Location of facilities on premises. Nothing may preclude a financial institution from locating an electronic terminal or satellite facility on the premises of its main office or of a branch office for its customers' convenience. 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 that is located physically on the premises of a main office or branch or one 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 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.

~~**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 network system must provide notice to the superintendent in the form and manner and containing the information required by the superintendent.~~

Sec. E-4. 9-B MRSA §335, as enacted by PL 1975, c. 500, §1, is amended to read:

§335. Change of office location; closing of an office

1. Relocation. ~~No~~ A main office, branch or agency office ~~or facility~~ of a financial institution may not be moved to a new location without the prior written approval of the superintendent, pursuant to section 336, except that a financial institution that meets the minimum standards set forth in section 412-A or 832 and any rules adopted pursuant to these sections and is not under an enforcement action that requires the superintendent's prior approval of a branch relocation, may relocate a main office or branch in this State without the prior approval of the superintendent. If the superintendent's approval is not required, then the financial institution must inform the superintendent at least 10 days prior to the proposed action. This announcement must be accompanied by a recording fee not to exceed $100.

2. Closing. Any branch or agency office ~~or facility~~ may be closed or discontinued with the prior written approval of the superintendent pursuant to

section 336 after such public notice of the closing as the superintendent ~~deems~~ considers necessary.

Sec. E-5. 9-B MRSA §336, sub-§1, as amended by PL 1997, c. 22, §6, is further amended to read:

1. Notification required; application upon request. ~~At~~ If the superintendent's approval is required pursuant to section 332, subsection 2 or section 335, subsection 1, at least 30 days prior to the relocation of a main office or the establishment, moving or closing of a branch or agency office authorized by this chapter, the institution shall notify the superintendent of the proposed action. A complete application for the 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~~. Within 30 days of the notice, any interested person may request that the superintendent require a complete application. If the superintendent denies any interested person's request for a complete application, the denial must be in writing with the reasons for denial. The notification, or the application if requested, 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 is deemed approved. A fee must accompany the notification in an amount established by the superintendent but not to exceed 1/2 of the application fee.

Sec. E-6. 9-B MRSA §336, sub-§4, as enacted by PL 1975, c. 500, §1, is amended to read:

4. Decision-making criteria. The superintendent shall approve or disapprove an application under this chapter in accordance with the requirements of section 252 and any rules adopted under section 252; and the superintendent may condition approval of such application, as necessary, to conform with the criteria as set forth in section 253.

Sec. E-7. 9-B MRSA §336, sub-§6, as amended by PL 1997, c. 22, §8, is further amended to read:

6. Notice of opening. Within 5 days after ~~an approved~~ a branch office approved pursuant to subsection 1 has opened for business, ~~a certificate of opening signed by the president and the clerk or secretary of the institution must be filed with~~ the financial institution shall inform the superintendent in writing of the exact date of opening.

Sec. E-8. 9-B MRSA §337, sub-§2, as amended by PL 1979, c. 429, §7, is further amended to read:

2. Limitations. Real estate, furniture, fixtures, equipment and capitalized leases, combined, ~~made~~ invested in pursuant to subsection 1 ~~shall~~ may not exceed 60% of ~~its~~ the total capital ~~and reserves in the case of an institution organized pursuant to chapter 31, or 60% of its surplus account in the case of an institution organized pursuant to chapter 32; provided that the~~. The superintendent may approve in writing, upon application by an institution and for good cause shown, a greater percentage.

Sec. E-9. 9-B MRSA §338, sub-§1, as enacted by PL 1975, c. 500, §1, is amended to read:

1. Permissible operating hours. A financial institution authorized to do business in the State may permit any of its branch offices, facilities, or walk-up or drive-up windows of its main office or branch offices to remain open, or open for limited functions only, during such hours as it may determine from time to time~~, after its main office is closed~~. Any hours in which said branch office, facility, or walk-up or drive-up window of its main office or branch office is open for limited functions only after its main office is closed ~~shall be~~ are, with respect to such institution, a holiday and not a business day.

Sec. E-10. 9-B MRSA §339, as amended by PL 1993, c. 492, §4, is repealed.

Sec. E-11. 9-B MRSA §339-A, sub-§2, as repealed and replaced by PL 1995, c. 628, §19, is amended to read:

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.~~

PART F

Sec. F-1. 9-B MRSA §341, as amended by PL 1983, c. 201, §3, is further amended to read:

§341. Applicability of chapter; fees

1. Applicability. The provisions of this chapter ~~shall~~ apply whenever a financial institution subject to the laws of this State seeks to convert or amend its charter in order to change its chartering authority, ~~adopt the powers granted by this Title to another type of institution,~~ change to a different form of ownership~~,~~ or adopt a new corporate name for the institution.

2. Fees. ~~No~~ An application made pursuant to section 342, subsection 1, 2 or ~~5~~ 6 or section 343, 344, 345 or ~~346~~ 345-A may not be deemed complete by the superintendent unless accompanied by an application fee payable to the Treasurer of State to be credited and used as provided in section 214. The amount of the fee ~~shall~~ must be established by the superintendent according to different application requirements, but in no instance ~~shall~~ may it exceed $2,000.

3. Superintendent's approval. Following approval by the governing body for changes under section 342, subsections 1, 2 or 6 or section 343, 344 or 345, the financial institution shall forward to the superintendent for approval or disapproval, pursuant to the procedures and requirements of section 252, a certified copy of the authorizing resolution adopted by the governing body and such other information as considered necessary by the superintendent. If the superintendent disapproves the conversion plan, the superintendent shall state the reasons for the disapproval in writing and furnish them to the institution. The institution must be given an opportunity to amend the conversion plan to obviate the reasons for disapproval.

Sec. F-2. 9-B MRSA §342, as amended by PL 1991, c. 386, §§5 and 6, is further amended to read:

§342. Conversion to new charter; federal to state; state to federal

1. Federal savings bank or savings and loan to state financial institution. Any federal association or federal savings bank may convert to a ~~savings bank or savings and loan association~~ financial institution organized under the laws of this State in the following manner.

A. At an annual meeting or a special meeting called for that purpose, ~~51%~~ a majority, or more if required by the institution's organizational documents, of the members or ~~shareholders~~ investors casting votes in person or by proxy must approve of the conversion. Notice of the meeting must be mailed to each member or ~~shareholder~~ investor at least 30 and not more than 60 days prior to the date of the meeting at the member's or ~~shareholder's~~ investor's last known address as shown on the books of the institution.

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

C. Within 10 days after the meeting, a copy of the minutes of the meeting, verified by affidavit of the clerk or secretary, together with such additional information as the superintendent may require, must be submitted to the superintendent for the superintendent's approval or disapproval in writing of the proposed conversion pursuant to the procedures and requirements of section 252. The verified copies of the minutes of the meeting when filed are presumptive evidence of the holding and action of the meeting.

D. Copies of the minutes of the meeting of members or ~~shareholders~~ investors, verified by affidavit of the clerk or secretary, and copies of the superintendent's written approval must be mailed to the ~~Federal Home Loan Bank Board~~ Office of Thrift Supervision or its successor within 10 days after approval.

E. Following compliance with all applicable requirements of federal law, if any, the directors elected pursuant to paragraph B shall execute 3 copies of the ~~articles of incorporation~~ organizational documents upon which the superintendent shall endorse approval and those ~~articles~~ documents must be filed in accordance with the provisions of ~~section 313 or 323~~ chapter 31 or 32. Each director shall sign and acknowledge the ~~articles,~~ documents as a subscriber to the ~~articles~~ documents.

F. So far as applicable, the provisions of this Title apply to the resulting institution.

G. The rights of dissenting investors of a converting federal savings bank or federal savings and loan are governed by federal law.

2. National bank to financial institution. A national bank ~~authorized to do business in this State~~ may convert to a ~~trust company~~ financial institution organized under the laws of this State in the following manner~~:~~.

A. ~~Such~~ The national bank must comply with the conditions and limitations imposed by the laws of the United States governing ~~such~~ the conversion~~;~~.

B. ~~Such~~ The converting national bank may apply for a State charter by filing with the superintendent an application signed by its president and by a majority of its ~~board of directors~~ governing body setting forth the corporate action taken in compliance with the laws of the United States in paragraph A, and affixing ~~thereto~~ to the application the ~~articles of incorporation, approved by the stockholders,~~ organizational documents governing the bank as a ~~trust company;~~ financial institution.

~~C. The superintendent shall approve or disapprove such conversion to a State chartered trust company pursuant to the procedures and requirements of section 252.~~

D. The rights of dissenting ~~stockholders~~ investors of a converting national bank ~~shall be~~ are governed by federal law.

~~**3. Thrift institution to federal savings and loan.** A savings bank or savings and loan association organized under the laws of this State may convert to a Federal institution pursuant to section 5 of the Home Owners' Loan Act of 1933, as amended, in the following manner:~~

~~A. At an annual meeting, or a special meeting called for that purpose, 51% or more of the votes of members, corporators or shareholders present and voting must approve such conversion. Notice of such meeting shall be mailed to each member, corporator or shareholder not less than 20 nor more than 30 days prior to such meeting at his last known address as shown on the books of the institution.~~

~~B. Within 10 days after such meeting, a copy of the minutes of such meeting, verified by affidavit of the clerk or secretary, shall be filed with the superintendent, and when so filed shall be presumptive evidence of the holding and action of such meeting.~~

~~C. Within 3 months after the date of such meeting, the institution shall take such action in the manner prescribed and authorized by the laws of the United States as shall make it a federal association.~~

~~D. Upon the grant to an institution of a charter by the Federal Home Loan Bank Board, the institution receiving such charter shall cease to be an institution organized pursuant to this Title and shall no longer be subject to supervision and regulation by the superintendent, except as authorized under Federal law or regulations or as otherwise provided herein.~~

~~E. A copy of the charter issued to the federal association or federal savings bank by the representative of the Federal Home Loan Bank, or a copy of a certificate showing the organization of such institution as a federal association, shall be filed immediately with the superintendent and with the Secretary of State. Upon receipt of a copy of the charter or certificate, the superintendent shall notify the Secretary of State that the conversion has been effected.~~

~~**4. Trust company to national bank.**~~

~~A. Nothing contained in the laws of this State shall restrict the right of a trust company to convert to a national bank. The action to be taken by a converting trust company and its rights and liabilities and those of its stockholders shall be the same as those prescribed for national banks at the time of such action by the laws of the United States and not by the laws of this State, except that a vote of the holders of 2/3 of each class of voting stock of a trust company shall be required for the conversion, and that, on conversion to a national bank, the rights of dissenting stockholders shall be those specified in section 352, subsection 5;~~

~~B. Upon completion of the conversion, the trust company shall certify, in writing, that such conversion has been completed under applicable Federal law. At such time as the superintendent receives such writing, the franchise of the converting trust company shall terminate automatically, which fact shall be certified by the superintendent to the Secretary of State.~~

~~**5. Other conversions.** The superintendent is authorized to promulgate regulations permitting the conversion of savings banks from state to federal charter, and from federal to state charter at such time as Federally chartered savings banks are authorized to do so pursuant to the laws of the United States.~~

6. State to federal charter. A financial institution organized under provisions of this Title may convert to a federal association or to a national bank in accordance with applicable federal laws and regulations and the following provisions.

A. A majority of the institution's investors or mutual voters, or more if required by the institution's organizational documents, must approve the conversion at an annual meeting or at a special meeting. Notice of the meeting must be mailed not less than 20 nor more than 30 days prior to the meeting to each investor or mutual voter at the investor's or voter's last known address as shown on the books of the institution.

B. Upon completion of the conversion, the financial institution shall certify in writing that the conversion has been completed under applicable federal law. The charter of the converting financial institution terminates automatically upon issuance of the federal charter or certificate. Upon receipt of a copy of the charter or certificate showing the organization of the institution as a federal institution, the superintendent shall notify the Secretary of State that the conversion has been effected.

C. The rights of dissenting investors of a financial institution converting to a federal charter are those specified in section 352, subsection 5.

Sec. F-3. 9-B MRSA §343, as amended by PL 1991, c. 670, §4, is further amended to read:

§343. Conversion of institutional charter

~~With the superintendent's approval, and in accordance with the provisions of this section and regulations promulgated hereunder, a~~ A financial institution organized under Part 12 may convert its charter to do business as ~~one type of financial institution to~~ another~~,~~ institution organized under Part 12 or as a universal bank, and a universal bank organized under chapter 31 may convert to a financial institution organized under Part 12 in the following manner~~:~~.

1. Adoption of plan. The institution's ~~board of directors~~ governing body shall adopt by a 2/3 vote of all members~~,~~ a conversion plan ~~which shall~~ that must include:

A. The name of the institution and its location;

B. The type of the institution ~~which the~~ that resulting institution is to be;

C. A method and schedule for terminating any ~~non-conforming~~ nonconforming activities ~~which~~ that would result from such conversion;

D. A statement of the competitive impact resulting from such conversion, including the loss of particular financial services~~, including home mortgage financing,~~ in the market area resulting from such conversion;

E. A statement that the conversion is subject to approval of the superintendent and the institution's ~~stockholders, corporators or members~~ investors; and

F. Such additional information as the superintendent may require, pursuant to regulations or otherwise.

2. Superintendent's approval. ~~Following approval by the board of directors, the conversion plan, together with a certified copy of the authorizing resolution adopted by the board of directors, shall be forwarded to the superintendent for his approval or disapproval pursuant to section 252. If the superintendent disapproves the plan, the reasons for such disapproval shall be stated in writing and furnished by the superintendent to the institution, which shall be given an opportunity to amend the plan to obviate such reasons for disapproval~~ The superintendent shall approve a conversion plan in accordance with section 341, subsection 3.

3. Vote of investors. The conversion plan ~~of a trust company, nondepository trust company or a mutual savings bank~~, as approved by the superintendent, must be submitted to the ~~stockholders or corporators~~ investors for their approval at an annual meeting, or at a special meeting called for that purpose, pursuant to the requirements of section 352, subsection 3 ~~or section 353, subsection 3~~. Approval requires a ~~2/3~~ majority vote or higher if required by the institution's organizational documents of those entitled to vote.

~~The conversion plan of a savings and loan association, as approved by the superintendent, must be submitted to the members for their approval at an annual meeting, or at a special meeting called for that purpose, pursuant to the requirements of section 352, subsection 3 or section 353, subsection 3. Approval by a savings and loan association requires a majority vote of those entitled to vote. Each holder of a savings account in a savings and loan association is entitled to cast one vote for each $100 or fraction thereof, of the withdrawable value of the holder's accounts, up to a maximum of 50 votes. A borrowing member of a savings and loan association is permitted, as a borrower, to cast one vote and to cast the number of votes to which the borrowing member may be entitled as the holder of savings accounts. The members who are entitled to vote at the meeting of the members to adopt the conversion plan must be holders of savings accounts and borrowing members of record on the books of the association as of such date as may be prescribed by the superintendent.~~

4. Executed plan; certificate; and effective date. The following provisions apply to the executed plan, certificate and effective date.

A. Upon approval by the ~~stockholders, corporators or members~~ investors of the institution, the ~~president or vice president and the clerk or secretary~~ institution shall submit the executed conversion plan to the superintendent, together with all necessary amendments to the institution's ~~articles of incorporation and bylaws~~ organizational documents, each certified by ~~such officers;~~ an executive officer, clerk or secretary.

B. The superintendent shall file one copy of the items set forth in paragraph A with the Secretary of State for record~~,~~ and issue to the resulting institution a certificate specifying the name of the converting institution and the name and organizational structure of the resulting institution. ~~Such~~ This certificate ~~shall be~~ is conclusive evidence of the conversion~~,~~ and of the correctness of all proceedings relating ~~thereto,~~ to the conversion in all courts and places. The certificate may be filed in any office for the recording of deeds

to evidence the new name in which property of the converting institution is to be held.

C. Unless a later date is specified in the conversion plan, the action ~~shall become~~ becomes effective upon the issuance of the certificate in paragraph B, and the former charter of the converting institution ~~shall terminate~~ terminates automatically.

~~**5. Effect of disapproval.** If the superintendent disapproves the plan, and any modifications thereof, the plan shall not be resubmitted for at least one year following the date of such disapproval.~~

Sec. F-4. 9-B MRSA §344, as amended by PL 1985, c. 251, is further amended to read:

§344. Conversion: mutual ownership change

With the superintendent's approval, and in accordance with the provisions of this section and regulations ~~promulgated hereunder~~ adopted under this section, a mutual financial institution may convert to a ~~stock~~ cooperative financial institution ~~of the same type charter; provided that such~~, a cooperative financial institution may convert to a mutual financial institution and either a cooperative or mutual financial institution may convert to a financial institution organized under chapter 31 or 81 if the conversion is conducted in a manner equitable to all parties ~~thereto~~ to the conversion, in the following manner~~:~~.

1. Adoption of plan. The financial institution's ~~board of directors~~ governing body shall adopt, by a 2/3 vote of all members of the ~~board~~ governing body, a conversion plan, the provisions of which ~~shall~~ must comply with the requirements set forth in regulations ~~promulgated~~ adopted by the superintendent and ~~which shall insure~~ that ensure that the interests of depositors and account holders in the net worth of the institution are equitably provided for ~~and that such conversion will not have an adverse impact on the stability of any other financial institution~~.

2. Public hearing. The following provisions govern a public hearing.

~~A. Following approval by the board of directors, the conversion plan, together with a certified copy of the authorizing resolution adopted by the board of directors, shall be forwarded to the superintendent for his approval or disapproval pursuant to section 252, and the requirements set forth in regulations promulgated under this section.~~

B. Public hearings on the conversion plan may be conducted by the superintendent in the community where the financial institution has its principal office. Such hearings ~~shall be for the purpose of determining~~ may be held to determine whether the plan provides fair and equitable treatment to the depositors and to the institution. Hearings pursuant to this paragraph may be combined with any hearing on the application that may be scheduled pursuant to section 252.

~~C. If the superintendent disapproves the plan, the reasons for such disapproval shall be stated in writing and furnished to the institution, which shall be given the opportunity to obviate such reasons for disapproval.~~

3. Account holders; informational meetings and approval. The conversion plan ~~shall~~ must be presented to the members who are eligible account holders at special informational meetings held in each county where a branch office of the financial institution is located. ~~These meetings shall be monitored by the superintendent.~~ The superintendent shall monitor these meetings. The conversion plan, as approved by the superintendent, ~~shall~~ must be submitted to the members who are eligible account holders of the financial institution for their approval at an annual meeting or at a special meeting called for that purpose, pursuant to the requirements of section 353, subsection 3, with such information in the notice as the superintendent may prescribe. A 2/3 vote of the members or eligible account holders is necessary to approve the conversion plan. Voting on the conversion plan may be in person or by written ballot. Any members or eligible account holders not present at the meeting in person or any member or eligible account holder not returning a written ballot ~~shall~~ must be regarded as having affirmatively voted for the conversion and ~~shall~~ must be counted among the required 2/3 vote~~; provided that~~ if notice of this fact ~~shall have~~ has been contained in the published and mailed notices~~;~~ and ~~provided further that~~ if the notice, along with a ballot, was mailed to the member or eligible account holder as required in section ~~353~~ 351, subsection ~~3~~ 4, paragraph A. The voting rights of account holders in a mutual ~~savings bank or trust company shall be~~ financial institution organized under chapter 32 are the same as granted to members of ~~a mutual savings and loan association~~ cooperative financial institution organized under chapter 32 pursuant to section 325.

The superintendent may waive, upon written request by the applicants and for good cause shown, the requirement for informational meetings for a mutual financial institution converting to a cooperative financial institution or a cooperative financial institution converting to a mutual financial institution.

4. Executed plan, certificate and effective date. Upon approval of the plan of conversion by the members or eligible account holders, the institution shall comply with section 343, subsection 4 for the

conversion to become effective~~;~~ provided that the superintendent shall determine as a condition precedent to issuing a certificate that all applicable requirements of federal law, if any, have been complied with by the converting institution.

~~**5. Effect of disapproval.** If the superintendent disapproves the plan and any modifications thereof, the plan shall not be resubmitted for at least one year following the date of such disapproval.~~

6. Superintendent's authority. In implementing this section, the superintendent ~~is hereby authorized to~~ may issue any and all rules, regulations and orders necessary to ~~insure~~ ensure that conversion to ~~a stock~~ an equity institution ~~shall be~~ or to another form of mutual organization is conducted in a fair and equitable manner, so as to ~~insure~~ ensure the safety and soundness of the institution and the protection of the institution's net worth including, but not limited to, restrictions on the transfer or disposition of shares in the resulting institution, or mergers or consolidations by the resulting institution.

Sec. F-5. 9-B MRSA §345, as enacted by PL 1975, c. 500, §1, is amended to read:

§345. Conversion; investor to mutual ownership

With the superintendent's approval, and in accordance with the provisions of this section and ~~regulations promulgated hereunder~~ rules adopted under this section, a ~~stock~~ financial institution organized under chapter 31 may convert to a ~~mutual~~ financial institution ~~of the same type charter; provided that such~~ organized under chapter 32, if this conversion is conducted in a manner fair and equitable to its ~~depositors and stockholders~~ investors, in the following manner~~:~~.

1. Procedure. The ~~method of adopting and approving a plan for a conversion under this section shall be as set forth in section 343, except that a conversion plan authorized pursuant to this section shall make adequate provision for the surplus account of the resulting institution~~ governing body must adopt and approve by a 2/3 vote a conversion plan that addresses conditions as the superintendent may require.

1-A. Vote of investors. The conversion plan, as approved by the superintendent, must be submitted to the investors for their approval at an annual meeting or at a special meeting called for that purpose. Approval requires a majority vote of investors, unless a higher percentage is required by the institution's organizational documents.

2. Dissenting investor. The rights of any ~~stockholders~~ investors not voting for the ~~plan of~~ conversion ~~shall be~~ plan are as set forth in section 352, subsection 5.

Sec. F-6. 9-B MRSA §345-A, as amended by PL 1987, c. 40, §1, is further amended to read:

§345-A. Authority for expedited charter conversions

Notwithstanding any other provision of law, or any ~~charter, certificate of organization, articles of association, articles of incorporation, or bylaw~~ organizational document of any participating institution, when a charter conversion is approved by the ~~directors~~ governing body of a financial institution authorized to do business in this State as a component of a plan of merger, consolidation or acquisition with another financial institution or financial institution holding company, regardless of this institution's or holding company's domicile, and following compliance with all applicable requirements of federal law, if any, the superintendent may order that the charter conversion become effective immediately. The superintendent may take such action if ~~he~~ the superintendent believes that it is necessary for the protection of depositors~~, shareholders~~ or the public. Any person aggrieved by a charter conversion executed pursuant to this section ~~shall be~~ is entitled to judicial review of the superintendent's order in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter VII.

Sec. F-7. 9-B MRSA §345-B is enacted to read:

§345-B. Conversion; investor to investor ownership

With the superintendent's approval and in accordance with the provisions of this section and rules adopted under this section, which are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A, an equity financial institution organized under chapter 31 may convert its ownership structure to another type of ownership structure permissible under chapter 31 if this conversion is conducted in a manner fair and equitable to its investors, in the following manner.

1. Procedure. The governing body must adopt and approve by a 2/3 vote a conversion plan that addresses conditions as the superintendent may require.

2. Vote of investors. The conversion plan, as approved by the superintendent, must be submitted to the investors for their approval at an annual meeting or at a special meeting called for that purpose. Approval requires a majority vote of investors, unless a higher percentage is required by the institution's organizational documents.

3. Dissenting investors. The rights of any investors not voting for the conversion plan are as set forth in section 352, subsection 5.

Sec. F-8. 9-B MRSA §346, sub-§§1 and 2 as enacted by PL 1975, c. 500, §1, are amended to read:

1. Authorization; prohibitions. Any financial institution may change its corporate name to another name~~; provided that such name is not in violation of the restrictions contained in sections 572, 673 and 711 and provided further that~~ if the name selected is not the same or deceptively similar to the name of any other financial institution authorized to do business in this State.

2. Requirements. A change in the name of a financial institution ~~shall require that~~ requires compliance with the following requirements ~~be complied with~~:

A. ~~An affirmative vote of its stockholders, corporators or members~~ Approval pursuant to section 314-A or 325 by investors or mutual voters and the superintendent to amend the name set forth in the institution's ~~articles of incorporation~~ organizational document; and

~~B. Duplicate certificates containing the former name and new name, and a copy of the vote to change names signed by the president and clerk or secretary, shall be submitted to the superintendent within 10 days of the vote for his approval or disapproval in accordance with section 252; and~~

C. The superintendent shall notify forthwith the institution of ~~his~~ the superintendent's decision; and, if ~~he~~ the superintendent approves the name change, ~~he~~ the superintendent shall file a certificate with the Secretary of State indicating ~~his~~ approval.

Sec. F-9. 9-B MRSA §347, as enacted by PL 1975, c. 500, §1, is amended to read:

§347. Effect of conversion or amendment; nonconforming activities

The financial institution resulting from any action taken pursuant to the authority granted in this chapter ~~shall be~~ is subject to the provisions of sections ~~356,~~ 357 and 358 and shall comply with the requirements ~~thereof~~ of these sections and ~~regulations promulgated thereunder~~ rules adopted under these sections.

PART G

Sec. G-1. 9-B MRSA §351, as amended by PL 1983, c. 201, §4, is further amended to read:

§351. Applicability of chapter; fees

1. Applicability. The provisions of this chapter ~~shall~~ govern mergers and consolidations undertaken by ~~savings banks, trust companies, savings and loan associations~~ financial institutions and industrial banks subject to the laws of this State~~,~~ and ~~shall~~ must set forth the procedures for~~,~~ and limitations on~~,~~ the acquisition of all or substantially all of the assets of such institutions by another institution.

2. Fees. ~~No~~ An application made pursuant to sections 352, 353, 354 ~~and~~, 354-A, 355 and 355-A may not be deemed 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.

3. Superintendent's approval. Following approval by the governing body of each participating institution, the plan of merger, consolidation, purchase or assumption, together with certified copies of the authorizing resolutions adopted by the governing body of each participating institution, must be forwarded to the superintendent for approval or disapproval pursuant to section 252. If the superintendent disapproves the plan, the superintendent shall state the reasons for the disapproval in writing and furnish them to the participating institutions. The institutions must be given an opportunity to amend the plan to obviate the reasons for disapproval.

4. Vote of investors or mutual voters. The plan of merger or consolidation, as approved by the superintendent, must be submitted to the investors or mutual voters of the participating institutions for their approval at an annual meeting or at a special meeting called for that purpose in the following manner.

A. Notice of such a meeting must be published at least once a week for 3 successive weeks in at least one newspaper of general circulation in the county or counties where each participating institution's principal office is located or in other newspapers as the superintendent may designate. The notice must be mailed to each investor of record or mutual voter at the address on the books of each participating institution at least 15 days prior to the date of the meeting.

B. A 2/3 vote of each class of investor or a 2/3 vote of the mutual voters of each participating institution is necessary to approve the plan of merger or consolidation at the meeting called for this purpose. The vote constitutes the adoption of the organizational documents of the resulting

institution, including amendments, contained in the merger or consolidation agreement.

5. Executed plan; certificate; effective date. The following provisions apply to the executed plan, certificate and effective date.

A. Upon approval by the investors or mutual voters of the participating institutions, the chief executive officer, president or vice-president and the clerk or secretary of each institution shall submit the executed plan of merger or consolidation to the superintendent, together with the resolutions of the investors or mutual voters approving it, each certified by these officers.

B. Upon receipt of the items in paragraph A and evidence that the participating institutions have complied with all applicable federal law and regulations, the superintendent shall issue to the resulting institution a certificate specifying the name of each participating institution and the name of the resulting institution and shall file a copy of the certificate and the certified votes with the Secretary of State for record. This certificate is conclusive evidence of the merger or consolidation and of the correctness of all proceedings relating to the merger or consolidation in all courts and places. The certificate may be filed in any office for the recording of deeds to evidence the new name in which property of the participating institutions is to be held.

C. Unless a later date is specified in the certificate, the merger or consolidation is effective upon issuance of the certificate in paragraph B and the charters of all but the resulting institution terminate automatically.

D. Any plan of merger or consolidation may contain a provision that, notwithstanding approval of the investors, mutual voters or the superintendent, the plan may be abandoned at any time prior to the effective date of the merger or consolidation by the governing body of any participating institution either at the absolute discretion of the governing body or upon the occurrence of any stated condition.

Sec. G-2. 9-B MRSA §352, as amended by PL 1985, c. 529, is further amended to read:

§352. Mergers and consolidations; investor-owned institutions

Any 2 or more ~~stock financial~~ investor-owned institutions authorized to do business in this State may merge or consolidate into one ~~stock financial~~ investor-owned institution organized under the laws of this State in accordance with the procedures, and subject to the conditions and limitations, set forth in this section.

1. Adoption of plan. The ~~board of directors~~ governing body of each participating institution shall adopt, by a majority vote or higher if required by its organizational documents, a plan of merger or consolidation on such terms as ~~shall be~~ mutually agreed upon. The plan ~~shall~~ must include:

A. The names of the participating institutions and their locations;

~~B. The type of institution which the resulting institution is to be;~~

C. With respect to the resulting institution: the name and location of its principal office, branch offices and facilities; the name, address and occupation of each director who is to serve until the next annual meeting of the ~~stockholders~~ investors; the name and address of each officer; the amount of capital, the number ~~of shares~~ and the par value of each ~~share~~ class of equity interest; ~~whether preferred stock is to be issued and the amount, terms and preferences relating thereto;~~ and the amendments required to be made to ~~its articles of incorporation and bylaws~~ the institution's organizational documents;

D. Provisions governing the manner and basis of converting the ~~shares~~ equity interests of the participating institutions into ~~shares~~ equity interests or other securities of the resulting institution and, if any ~~shares~~ equity interests of any of the participating institutions are not to be converted solely into ~~shares~~ equity interests or other securities of the resulting institution, provisions governing the amount of cash, property, rights or securities of any other institution or corporation ~~which~~ that is to be paid or delivered to the holders of the ~~shares~~ equity interests in exchange for or upon surrender of the ~~shares, which~~ equity interests. The cash, property, rights or securities of any other institution or corporation may be in addition to or in lieu of the ~~shares~~ equity interests or securities of the resulting institution;

E. A statement that the agreement is subject to approval of the superintendent and of the ~~stockholders~~ investors of each participating institution;

F. Provisions, if applicable, governing the manner of disposing of ~~shares~~ equity interests of the resulting institution~~, if any,~~ not taken by dissenting ~~stockholders~~ investors of the participating institutions; and

G. The anticipated effective date of such merger or consolidation; and such other provisions and details as may be necessary to perfect the merger or consolidation~~,~~ or as may be required by the superintendent.

~~**2. Superintendent's approval.** Following approval by the board of directors of each participating institution, the plan of merger or consolidation, together with certified copies of the authorizing resolutions adopted by the board of directors of each participating institution, shall be forwarded to the superintendent for his approval or disapproval pursuant to section 252. If the superintendent disapproves the plan, the reasons for such disapproval shall be stated in writing and furnished by the superintendent to the participating institutions, which shall be given an opportunity to amend the plan to obviate such reasons for disapproval.~~

2-A. Superintendent's approval. The superintendent shall approve the plan of merger or consolidation in accordance with section 351, subsection 3.

3. Vote of investors. The plan of merger or consolidation, as approved by the superintendent, ~~shall~~ must be submitted to the ~~stockholders~~ investors of the participating institutions for their approval at an annual meeting, or at a special meeting called for that purpose, in accordance with section 351, subsection 4 and the following ~~manner:~~ provisions.

~~A. Notice of such meeting shall be published at least once a week for 3 successive weeks in a newspaper or newspapers of general circulation in the county or counties where each participating institution's principal office is located, or in such other newspapers as the superintendent may designate; and the notice shall be mailed to each stockholder of record at his address on the books of each participating institution at least 15 days prior to the date of said meeting.~~ Notice required ~~hereunder shall~~ pursuant to section 351, subsection 4 must state that dissenting ~~stockholders~~ investors will be entitled to payment only for the value of those ~~shares which~~ equity interests that are voted against approval of the plan. Published notice may be waived if written waivers are received from the holders of 2/3 of the outstanding voting ~~shares~~ equity interests of each class stock of each participating institution.

~~B. A 2/3 vote of the outstanding voting shares of each class of each participating institution shall be necessary to approve the plan of merger or consolidation at the meeting called for such purpose, which vote shall constitute the adoption of the articles of incorporation and bylaws of the resulting institution, including amendments, contained in the merger or consolidation agreement.~~

4. Executed plan; certificate; effective date. The executed plan certificate and effective date must be in accordance with section 351, subsection 5.

~~A. Upon approval by the stockholders of the participating institutions, the president or vice president and the clerk or secretary of each institution shall submit the executed plan of merger or consolidation to the superintendent, together with the resolutions of the stockholders approving it, each certified by such officers.~~

~~B. Upon receipt of the items in paragraph A and evidence that the participating institutions have complied with all applicable federal law and regulations, the superintendent shall issue to the resulting institution a certificate specifying the name of the resulting institution and shall file a copy of the certificate and the certified votes with the Secretary of State for record. Such certificate shall be conclusive evidence of the merger or consolidation and of the correctness of all proceedings relating thereto in all courts and places. The certificate may be filed in any office for the recording of deeds to evidence the new name in which property of the participating institutions is to be held.~~

~~C. Unless a later date is specified in the certificate, the merger or consolidation shall be effective upon issuance of the certificate in paragraph B, and the franchises of all but the resulting institution shall terminate automatically.~~

5. Rights of dissenting investors. The rights of investors dissenting to the merger or consolidation are those specified in Title 13-A or Title 31, chapter 11, 13 or 15, depending upon the organizational form of the institution. To the extent that dissenters' rights are not addressed in Title 31 or these rights are less beneficial to the dissenting investors than those rights listed in the institution's organizational documents, the organizational documents govern.

~~A. The owners of shares of a financial institution which were voted against a merger or consolidation shall be entitled to receive their value in cash if and when the merger or consolidation becomes effective, upon written demand made to the resulting institution at any time within 30 days after the effective date of the merger or consolidation, accompanied by surrender of the stock certificates.~~

~~B. The value of such shares shall be determined, as of the date of the stockholders' meeting approving the merger or consolidation, by 3 appraisers, one to be selected by the owners of 2/3 of the shares involved, one by the board of directors of the resulting institution and the 3rd by the 2 so chosen. The valuation agreed upon by any 2 appraisers shall govern. If the appraisal is not completed within 90 days after the merger or consolidation becomes effective, the superintendent shall cause an appraisal to be made. The ex-~~

~~penses of appraisal shall be paid by the resulting institution.~~

~~C. The resulting institution may fix an amount which it considers to be not more than the fair market value of the shares of the participating institution at the time of the stockholders' meeting approving the merger or consolidation, which amount it will pay to dissenting stockholders of that institution entitled to payment in cash. Acceptance of such offer by a dissenting stockholder shall terminate the rights granted to the accepting stockholder in paragraphs A and B.~~

~~D. The amount due under the appraisal or the accepted offer shall constitute a debt of the resulting institution.~~

6. Federally chartered institution as participant. If one of the parties to a merger or consolidation is a ~~Federally chartered stock~~ federally chartered investor-owned institution, the participants shall comply with all requirements imposed by ~~Federal~~ federal law for such merger or consolidation in addition to the requirements contained in this Title~~,~~ and shall provide evidence of such compliance to the superintendent as a condition precedent to the issuance of a certificate in ~~subsection 4, paragraph B~~ section 351, subsection 5 relating to such merger or consolidation. The rights of dissenting ~~stockholders~~ investors in such ~~federally chartered~~ federally chartered institutions ~~shall be~~ are governed by federal law.

7. Merger of investor-owned institution with national bank.

A. Nothing contained in the law of this State ~~shall restrict~~ restricts the right of a ~~trust company~~ financial institution organized under chapter 31 to merge or consolidate into a resulting national bank. The action to be taken by the ~~trust company~~ investor-owned institution and its rights and liabilities and those of its ~~stockholders shall be~~ investors are the same as those prescribed for national banks at the time of the action by the law of the United States and not by the law of this State, except that a vote of the holders of 2/3 of each class of ~~voting stock~~ equity interest of ~~a trust company shall be~~ an investor-owned institution is required for ~~such~~ the merger or consolidation and that, on merger or consolidation into a national bank, the rights of dissenting ~~stockholders shall be~~ investors are those specified in ~~Federal~~ federal law for national banks.

B. Upon the completion of the merger or consolidation, the franchise of the participating ~~trust company shall terminate~~ investor-owned institution terminates automatically.

Sec. G-3. 9-B MRSA §353, as enacted by PL 1975, c. 500, §1, is amended to read:

§353. Mergers and consolidations; mutual financial institutions

Any 2 or more mutual financial institutions authorized to do business in this State may merge or consolidate into one mutual financial institution organized under ~~the laws of this State~~ chapter 32 in accordance with the procedures~~,~~ and subject to the conditions and limitations~~,~~ set forth in this section.

1. Adoption of plan. The ~~board of directors~~ governing body of each participating institution shall adopt, by a majority vote or higher if required by its organizational documents, a plan of merger or consolidation on such terms as ~~shall be~~ are mutually agreed upon. The plan ~~shall~~ must include:

A. The names of the participating institutions and their locations;

~~B. The type of institution which the resulting institution is to be;~~

C. With respect to the resulting institution, the name and location of its principal office, branch offices and facilities; the name, address and occupation of each director who is to serve until the next annual meeting of the ~~corporators or members~~ mutual voters; and the name and address of each officer;

D. The mode for carrying the plan into effect~~,~~ and the proposed effective date;

E. The manner of converting deposits, accounts~~,~~ or shares of such institutions into deposits, accounts or shares of the resulting institution;

F. A statement that the agreement is subject to the approval of the superintendent and of the ~~corporators or members~~ mutual voters of each participating institution; and

G. Such other provisions and details as may be necessary to perfect the merger or consolidation~~,~~ or as may be required by the superintendent.

~~**2. Superintendent's approval.** Following approval by the board of directors of each participating institution, the plan of merger or consolidation, together with certified copies of the authorizing resolutions adopted by the board of directors of each participating institution, shall be forwarded to the superintendent for his approval or disapproval pursuant to section 252. If the superintendent disapproves the plan, the reasons for such disapproval shall be stated in writing and furnished by the superintendent to the participating institutions, which shall be~~

~~given an opportunity to amend the plan to obviate such reasons for disapproval.~~

2-A. Superintendent's approval. The superintendent shall approve the plan of merger or consolidation in accordance with section 351, subsection 3.

3. Vote of mutual voters. The plan of merger or consolidation, as approved by the superintendent, ~~shall~~ must be submitted to the ~~corporators or members~~ mutual voters of the participating institutions for their approval at an annual meeting, or at a special meeting called for that purpose, in accordance with section 351, subsection 4 and with the following ~~manner:~~ requirements.

A. ~~Notice of such meeting shall be published at least once a week for 3 successive weeks in a newspaper or newspapers of general circulation in the county or counties where each participating institution's principal office is located, or in such other newspapers as the superintendent may designate, the last of which notices shall be published at least 15 days prior to the meeting.~~ Copies of ~~said~~ the notice ~~shall be mailed to each corporator or member at his last known address, and shall also~~ required under section 351, subsection 4, paragraph A, must be posted in a conspicuous place in all offices of the participating institutions, at least 15 days prior to the meeting.

B. ~~A 2/3 vote of the corporators or members of each participating institution shall be necessary to approve the plan of merger or consolidation presented by its board of directors.~~ Any ~~corporator or member~~ mutual voter not present at ~~such~~ the meeting in person ~~shall~~ must be regarded as having affirmatively voted for the merger or consolidation~~,~~ and ~~shall~~ be counted among the required 2/3 vote~~; provided that~~ if notice of this fact ~~shall have been~~ is contained in the published and mailed notices~~;~~ and ~~provided further that such~~ if this notice was mailed to the ~~corporator or member~~ mutual voter as required in section 351, subsection 4, paragraph A.

~~C. The vote of the corporators or members shall constitute the adoption of the articles of incorporation and bylaws of the resulting institution, including amendments, contained in the merger or consolidation agreement.~~

4. Executed plan; certificate; effective date. The executed plan, certificate and effective date must be in accordance with section 351, subsection 5.

~~A. Upon approval by the corporators or members of the participating institutions, the president or vice president and the clerk or secretary of each institution shall submit the executed plan or merger or consolidation to the superintendent, together with the resolutions of the corporators or members approving it, each certified by such officers.~~

~~B. Upon receipt of the items in paragraph A and evidence that the participating institutions have complied with all applicable federal law and regulations, the superintendent shall issue to the resulting institution a certificate specifying the name of each participating institution and the name of the resulting institution; and shall file a copy of the certificate and certified votes with the Secretary of State for record. Such certificate shall be conclusive evidence of the merger or consolidation, and of the correctness of all proceedings relating thereto in all courts and places. The certificate may be filed in any office for the recording of deeds to evidence the new name in which property of the participating institutions is to be held.~~

~~C. Unless a later date is specified in the certificate, the merger or consolidation shall be effective upon issuance of the certificate in paragraph B, and the franchises of all but the resulting institution shall terminate automatically.~~

5. Federally-chartered institution as participant. If one of the parties to a merger or consolidation is a ~~federally chartered~~ federally chartered mutual financial institution, the participants shall comply with all requirements imposed by federal law for such merger or consolidation and provide evidence of such compliance to the superintendent as a condition precedent to the issuance of a certificate in ~~subsection 4, paragraph B~~ section 351, subsection 5 relating to such merger or consolidation.

Sec. G-4. 9-B MRSA §354, as amended by PL 1997, c. 22, §10, is further amended to read:

§354. Mergers and consolidations; investor-owned and mutual financial institutions

1. Resulting mutual financial institution. ~~A stock~~ An investor-owned 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 in this subsection.

A. The acquiring mutual financial institution shall comply with the requirements of section 353, subsections 1 to 4, except that the plan of merger or consolidation must state the amount that institution will pay for the ~~shares of stock~~ equity interests in the ~~stock~~ investor-owned institution to be acquired and additional information the superintendent considers appropriate.

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

F. Sections ~~356 to~~ 357 and 358 apply to mergers or consolidations made pursuant to this section.

2. Resulting investor-owned institution. Except as the superintendent may authorize pursuant to section 354-A, a mutual financial institution may not merge into ~~a stock~~ an investor-owned institution organized under the laws of this State without prior compliance with section 344 and all rules adopted under that section.

Sec. G-5. 9-B MRSA §354-A, as enacted by PL 1981, c. 539, §2, is amended to read:

§354-A. Authority for expedited mergers and consolidations

Notwithstanding any other provision of law, or any ~~charter, certificate of organization, articles of association, articles of incorporation, or bylaw~~ organizational document of any participating institution, following approval of the plan of merger or consolidation by a majority vote of the ~~board of directors~~ governing body of each participating institution and receipt by the superintendent of certified copies of the authorizing resolutions adopted by the ~~board of directors~~ governing body of each participating institution, the superintendent may order that the merger or consolidation become effective immediately if ~~he~~ the superintendent believes that the action is necessary for the protection of depositors~~,~~ ~~shareholders~~ or the public. Any person aggrieved by a merger or consolidation pursuant to this section ~~shall be~~ is entitled to judicial review of the superintendent's order in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter VII.

Sec. G-6. 9-B MRSA §355, as amended by PL 1991, c. 386, §§7 to 10, is further amended to read:

§355. Acquisition of assets; assumption of liabilities

A financial institution organized under the laws of this State may acquire 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~~ in this section.

1. Adoption of plan. The ~~board of directors~~ governing body of the acquiring or assuming institution and the ~~board of directors~~ governing body of the transferring institution shall adopt~~,~~ by majority vote~~,~~ a plan for acquisition, assumption or sale on terms that are mutually agreed upon. The plan 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 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~~ investors or mutual voters;

E. If ~~a stock~~ an investor-owned institution is the transferring institution and the proposed sale is not for cash, a clear and concise statement that ~~stockholders~~ investors of 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 the acquisition, assumption or sale and all other information and provisions that are necessary to execute the transaction or that are required by the superintendent.

~~**2. Superintendent's approval.** Following approval by the respective board of directors of each participating institution, the plan, together with certified copies of the authorizing resolutions adopted by the board of directors of each participating institution, shall be forwarded to the superintendent for his approval or disapproval pursuant to section 252. If the superintendent disapproves the plan, the reasons for such disapproval shall be stated in writing and furnished by the superintendent to the participating institutions, which shall be given an opportunity to amend the plan to obviate such reasons for disapproval.~~

2-A. Superintendent's approval. The superintendent shall approve the plan of merger or consolidation in accordance with section 351, subsection 3.

3. Vote of investors or mutual voters. If the transaction involves all or substantially all of the assets or liabilities of the transferring institution or if the transferring institution's organizational documents require, the plan of acquisition, assumption or sale must be presented to the ~~stockholders, corporators or members~~ investors or mutual voters of the transferring institution for their approval, and their approval must

be obtained in accordance with section 351, subsection 4. If the ~~transferring institution is a stock institution,~~ approval ~~must be obtained in accordance with section 352, subsection 3; if the transferring institution is a mutual institution, approval must be obtained in accordance with section 353, subsection 3~~ of investors is required, then investors dissenting to the transaction have the rights set forth in section 352, subsection 5.

4. Executed plan; certificate; effective date.

A. If the plan is approved by the ~~stockholders, corporators or members~~ investors or mutual voters of the transferring institution, the chief executive officer, president or ~~vice president~~ vice-president and the clerk or secretary of such institution shall submit the executed plan to the superintendent, together with a copy of the resolution of the ~~stockholders, corporators, or members~~ investors or mutual voters approving it, each certified by ~~such~~ these officers.

B. Upon receipt of the items set forth in paragraph A and evidence that the participating institutions have complied with all applicable federal law and regulations, the superintendent shall certify, in writing, to the participants that the plan has been approved and is in compliance with the provisions of this Title.

C. Notwithstanding approval of the ~~stockholders, corporators or members,~~ investors or mutual voters or certification by the superintendent, the transferring institution's ~~board of directors~~ governing body may, in its discretion, abandon such a transaction without further action or approval by ~~stockholders, corporators, or members~~ the investors or mutual voters, subject to the rights of ~~third~~ 3rd parties under any contracts relating ~~thereto~~ to the transaction.

5. Federally chartered institution as participant. If one of the participants in a transaction under this section is a ~~Federally chartered~~ federally chartered institution, all participants shall comply with such requirements as may be imposed by federal law for such an acquisition, assumption or sale and provide evidence of such compliance to the superintendent as a condition precedent to the issuance of a certificate in subsection 4, paragraph B relating to such acquisition, assumption or sale; provided that if the purchasing or assuming institution is a ~~federally chartered~~ federally chartered institution, ~~no~~ approval ~~of~~ by the superintendent ~~shall be~~ is not required.

6. Investor-owned institution acquiring mutual financial institution. ~~Except as the Superior Court may authorize pursuant to section 367, subsection 7, a~~ A mutual financial institution ~~shall~~ may not sell all or substantially all of its assets to ~~a stock~~ an investor-owned institution without prior compliance with section 344 and all ~~regulations promulgated thereunder~~ rules adopted under section 344.

7. Other sections. Sections 357 and 358 ~~shall~~ apply to acquisitions, assumptions and sales made pursuant to this section.

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. G-7. 9-B MRSA §355-A, first ¶, as amended by PL 1991, c. 34, §3, is further amended to read:

Notwithstanding any other provision of law, or any ~~charter, certificate of organization, articles of association, articles of incorporation or bylaw~~ organizational document of any participating institution, the superintendent may order that the acquisition of assets and assumption of liabilities become effective immediately if the superintendent determines that the action is necessary for the protection of depositors~~, shareholders~~ or the public. This action may be taken upon receipt of the following:

Sec. G-8. 9-B MRSA §355-A, sub-§1, as enacted by PL 1991, c. 34, §3, is amended to read:

1. Authorizing resolutions and plan. Certified copies of the authorizing resolutions adopted by the respective ~~board of directors~~ governing bodies of the acquiring or assuming financial institution or financial institution holding company, and a copy of the plan of acquisition of assets and assumption of liabilities approved by a majority vote of the ~~boards of directors~~ governing bodies of the acquiring or assuming financial institution or financial institution holding company and the transferring institution; or

Sec. G-9. 9-B MRSA §356, as enacted by PL 1975, c. 500, §1, is repealed.

PART H

Sec. H-1. 9-B MRSA §361, as enacted by PL 1975, c. 500, §1, is amended to read:

§361. Applicability of chapter

The provisions of this chapter ~~shall~~ apply to ~~savings banks, trust companies, savings and loan associations, and industrial banks~~ financial institutions organized under the laws of this State.

Sec. H-2. 9-B MRSA §362, sub-§1, as enacted by PL 1975, c. 500, §1, is amended to read:

1. Application to court. Whenever it may become necessary to preserve the assets or protect depositors in a financial institution, the Superior Court

may, on application by the superintendent, the ~~directors~~ governing body of such institution~~,~~ or 3/4 of its depositors, members or ~~stockholders~~ investors or more if required by the institution's organizational documents, after due notice, issue an order restraining the institution from paying out its funds or any portion ~~thereof~~ of its funds or from declaring or paying any dividends or deposits for such time as the court ~~shall deem~~ considers advisable.

Sec. H-3. 9-B MRSA §364, sub-§§1, 3 and 4, as enacted by PL 1975, c. 500, §1, are amended to read:

1. Application to court. Whenever, in the opinion of the superintendent and a majority of the ~~directors~~ governing body of any financial institution~~,~~ or in the opinion of 3/4 of its depositors, members or ~~stockholders~~ investors or more if required by the institution's organizational documents, it is inexpedient for any reason for ~~said~~ the institution to continue the further prosecution of its business, the ~~directors~~ governing body may join with the superintendent in an application to the Superior Court for liquidation of the affairs of ~~said~~ the institution, or ~~such~~ the depositors, members or ~~stockholders~~ investors may file such an application.

3. Order to liquidate. If, after notice and hearing on ~~said~~ application, ~~such~~ the court is of the opinion that it is inexpedient for ~~said~~ the institution to continue the further prosecution of its business, it may make ~~such~~ orders and decrees as seem proper for liquidation of the institution's affairs, distribution of its assets, protection of its depositors, members and ~~stockholders~~ investors, if any, and the welfare of the community.

4. Liquidation proceedings. Further proceedings on such application may be in the manner provided for liquidation of an insolvent financial institution, or the court may authorize the chief executive officer, president and ~~directors~~ governing body of such institution then in office to liquidate its affairs under direction of the court.

Sec. H-4. 9-B MRSA §365, sub-§1-A, as enacted by PL 1991, c. 34, §5, is amended to read:

1-A. Appointment of receiver. If, upon examination of a financial institution, the superintendent is of the opinion that it is insolvent or that its condition renders its further proceedings hazardous to the public or to those having funds including trust assets in its custody, the superintendent may appoint a receiver who shall proceed to close the financial institution.

Sec. H-5. 9-B MRSA §365, sub-§10, as amended by PL 1991, c. 386, §11, is further amended to read:

10. Procedures in liquidation. When the superintendent appoints the ~~Federal Deposit Insurance Corporation~~ FDIC as receiver, federal law prescribes the procedures that the ~~Federal Deposit Insurance Corporation~~ FDIC follows in liquidation of the insolvent ~~bank~~ institution. 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~~ investors in ~~a stock~~ an investor-owned 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. H-6. 9-B MRSA §368, sub-§1, as enacted by PL 1991, c. 34, §8, is amended to read:

1. Rulemaking. The superintendent may adopt rules to carry out this chapter. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. H-7. 9-B MRSA §368-A, as enacted by PL 1993, c. 538, §3, is amended to read:

§368-A. FDIC; acquisition of stock

The superintendent may waive the provisions of ~~section 314; section 315, subsection 4;~~ section 1013~~;~~ and section 1015 when ~~common or preferred stock, including stock warrants or stock rights for common or preferred stock,~~ an equity interest is issued to or

acquired by the ~~Federal Deposit Insurance Corporation~~ FDIC in settlement of any liability, fixed or contingent, of a financial institution to the ~~Federal Deposit Insurance Corporation~~ FDIC or in connection with the insolvency or liquidation of the financial institution.

PART I

Sec. I-1. 9-B MRSA §411, as enacted by PL 1975, c. 500, §1, is amended to read:

§411. Applicability of chapter

The provisions of this chapter ~~shall~~ set forth the powers granted to all financial institutions organized pursuant to chapters 31 and 32. ~~Additional powers granted to savings banks, trust companies and savings and loan associations shall be as provided in Parts 5, 6 and 7, respectively.~~ The powers, privileges, duties and restrictions conferred and imposed in the charter or act of incorporation of any trust company, savings bank or savings and loan association organized under the prior laws of this State are abridged, enlarged or modified so that every such charter or act of incorporation conforms to this Title. Notwithstanding anything in a charter or act of incorporation of such an institution, every such institution possesses the powers, rights and privileges and is subject to the duties, restrictions and liabilities conferred and imposed by this Title.

Sec. I-2. 9-B MRSA §412, sub-§§1 and 10, as enacted by PL 1975, c. 500, §1, are amended to read:

1. Exist. To exist perpetually or as provided for in its organizational documents;

10. Corporate league; membership. To join the Federal Reserve System or the Federal Home Loan Bank or any cooperative league or other entity organized for the purpose of protecting and promoting the welfare of financial institutions ~~of the same type~~ and their depositors; and to comply with all conditions of membership therein.

Sec. I-3. 9-B MRSA §412-A, sub-§3 is enacted to read:

3. Notification. Any issuance considered as capital under subsection 1 or under those rules adopted under subsection 1 must be submitted to the superintendent for the superintendent's review at least 10 days prior to issuance and include such documentation as the superintendent considers necessary.

Sec. I-4. 9-B MRSA §413, first ¶, as enacted by PL 1975, c. 500, §1, is amended to read:

~~In addition to any general borrowing powers specified elsewhere in this Title, a~~ A financial institution may ~~obtain funds in the manner set forth below:~~ borrow money on such terms and conditions as it may determine, issue its notes, bonds and other obligations and secure any of its obligations by mortgage, pledge or other encumbrance of all or any part of its property.

Sec. I-5. 9-B MRSA §413, sub-§1, as amended by PL 1997, c. 22, §11, is repealed.

Sec. I-6. 9-B MRSA §413, sub-§2, as amended by PL 1975, c. 666, §19, is repealed.

Sec. I-7. 9-B MRSA §414, as enacted by PL 1975, c. 500, §1, is repealed.

Sec. I-8. 9-B MRSA §415, as enacted by PL 1975, c. 500, §1, is amended to read:

§415. Participation in public agencies

To the extent authorized by the superintendent pursuant to regulations, a financial institution ~~shall have~~ has the power to participate in a public agency ~~hereafter~~ created under the laws of this State or of the United States, the purpose of which is to afford advantages or safeguards to financial institutions, depositors or ~~shareholders,~~ investors and to comply with all requirements and conditions imposed upon such participants.

Sec. I-9. 9-B MRSA §417, as amended by PL 1983, c. 597, §1, is further amended to read:

§417. Equity interest in Maine financial institutions

~~A financial institution authorized to do business in this State may acquire control of any other financial institution authorized to do business in this State or of a Maine financial institution holding company with the prior approval of the superintendent.~~ A financial institution authorized to do business in this State may acquire more than 5% of the ~~voting shares~~ equity interest of any other financial institution authorized to do business in this State or of a Maine financial institution holding company with the prior approval of the superintendent.

~~Notwithstanding the investment limitations in section 554, and subject to any approval required under this section, and subject to any approval required by and any limitations contained in section 1013, a Maine financial institution may acquire control of a financial institution within or outside this State.~~

Sec. I-10. 9-B MRSA §§419 and 419-A are enacted to read:

§419. Investment powers

1. Investment and equity securities. A financial institution is authorized to purchase, sell, underwrite and hold investment securities and equity securities, consistent with safe and sound banking practices. For purposes of this section, the term "investment securities" includes credit instruments such as commercial paper, banker's acceptances, certificates of deposit, repurchase agreements and overnight federal funds, in addition to marketable obligations in the form of bonds, notes, debentures or other similar instruments that are commonly regarded as investment securities. A financial institution's holding of equity securities is limited to 100% of its total capital unless a higher limit is authorized by the superintendent. The purchase of speculative securities or equities is prohibited, except that a financial institution may make venture capital investments up to 20% of the institution's total capital unless a higher limit is authorized by the superintendent.

2. Written investment policy. A financial institution's governing body shall establish a written investment policy, which it shall review and ratify at least annually, that addresses, at a minimum, the following:

A. Investment quality parameters;

B. Investment mix and diversification;

C. Investment maturities; and

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

§419-A. Property ownership

In addition to real estate owned for offices and facilities pursuant to chapter 33, a financial institution may acquire all property, real, personal and mixed, by mortgage foreclosure, purchase or by any other means and may hold the property for investment purposes and may improve, develop, lease, contract, convey and otherwise exercise control over the property.

Sec. I-11. 9-B MRSA §421, sub-§1, as enacted by PL 1975, c. 500, §1, is amended to read:

1. Applicability. The sections of this chapter ~~shall~~ govern deposits or accounts in financial institutions subject to the provisions of this Title ~~and shall govern, when applicable, the deposit powers of specific types of institutions set forth in chapters 52, 62 or 72~~.

Sec. I-12. 9-B MRSA §421-A is enacted to read:

§421-A. General deposit powers

Unless otherwise prohibited by state law, a financial institution may establish the types and terms, including the minimum and maximum amounts that it may accept and the frequency and computation method of paying interest, of deposits that it solicits and accepts. A financial institution may refuse deposits at its pleasure and a financial institution may pledge or hypothecate any of its assets as security for deposits.

Sec. I-13. 9-B MRSA §422, as amended by PL 1995, c. 628, §22, is further amended to read:

§422. Insurance of deposits or accounts

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 any action necessary to have its deposits or accounts insured by the ~~Federal Deposit Insurance Corporation or its successors~~ FDIC. 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~~ FDIC.

4. Applicable law. A financial institution ~~which~~ that has its deposits or accounts insured pursuant to this section shall comply with all statutes and regulations governing the insurance of deposits or accounts by the ~~Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation; provided that nothing contained in this~~ FDIC. This section ~~shall~~ may not be construed as repealing, modifying or impairing any powers, duties, rights or responsibilities under the provisions of this Title of the superintendent or of the financial institution so insured.

5. Exception. A financial institution organized pursuant to Part 12 is not required to have its deposits or accounts insured by the FDIC.

Sec. I-14. 9-B MRSA §422-A, sub-§2, as enacted by PL 1981, c. 155, §2, is amended to read:

2. Transition period. Reserves held by a financial institution or credit union to meet the requirements of this section ~~shall~~ must be in the form prescribed by the Federal Reserve Act, Section 19(c), as amended, and any regulations promulgated under it~~; except that until September 1, 1987, such reserves may also be in the form of:~~.

~~A. Deposits held in commercial banks, savings banks and savings and loan associations;~~

~~B. Federal funds sold to banks pursuant to section 438;~~

~~C. The book value of investments in obligations of the United States; and~~

~~D. The book value of investments in obligations, notes and debentures issued by any agency or instrumentality of the United States.~~

~~The superintendent shall establish a maximum maturity period for investments in paragraphs C and D between 0 and 5 years as he deems necessary and conditions warrant.~~

Sec. I-15. 9-B MRSA §423, as amended by PL 1983, c. 34, is repealed.

Sec. I-16. 9-B MRSA §424, as amended by PL 1981, c. 155, §4, is repealed.

Sec. I-17. 9-B MRSA §425, as enacted by PL 1975, c. 500, §1, is repealed.

Sec. I-18. 9-B MRSA §426, sub-§§1 and 4, as enacted by PL 1975, c. 500, §1, are amended to read:

1. Withdrawal notice may be required. A financial institution may at any time, by resolution of its ~~board of directors~~ governing body, require written notice by a savings depositor not to exceed 90 days prior to the repayment of deposits or accounts, or may require similar notice before repaying deposits in excess of $50, or certain classes of savings deposits or accounts.

4. Interest earned until actual withdrawal. The written notice of withdrawal required pursuant to this section ~~shall~~ does not constitute a withdrawal from ~~such~~ the deposit or account ~~for purposes of section 425~~ until the amounts noticed ~~shall~~ have been actually withdrawn by the depositor giving such written notice, and interest ~~shall be~~ is earned ~~thereon~~ on these amounts for the period prior to actual withdrawal ~~as provided in section 425~~.

Sec. I-19. 9-B MRSA §426, sub-§5, as enacted by PL 1975, c. 500, §1, is repealed.

Sec. I-20. 9-B MRSA §431, as enacted by PL 1975, c. 500, §1, is amended to read:

§431. Applicability of chapter

The sections of this chapter ~~shall~~ govern loans made by financial institutions subject to the provisions of this Title ~~and shall be in addition to the lending powers set forth in chapters 53, 63 and 73 for each type of institution~~.

Sec. I-21. 9-B MRSA §431-A is enacted to read:

§431-A. Loan powers

1. General loan authority. Unless otherwise prohibited by state law, a financial institution may make, sell, purchase, arrange, participate in, invest in or otherwise deal in loans or extensions of credit, as defined in section 439-A, for any purpose.

2. Written loan policy. A financial institution's governing body shall establish a written loan policy, which must be reviewed and ratified at least annually, that addresses at a minimum, the following:

A. Individual lending officer authority;

B. Loan mix and diversification;

C. Loan quality parameters; and

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

Sec. I-22. 9-B MRSA §434, as amended by PL 1987, c. 785, §1, is repealed.

Sec. I-23. 9-B MRSA §437, as enacted by PL 1975, c. 500, §1, is repealed.

Sec. I-24. 9-B MRSA §438, as amended by PL 1979, c. 429, §9, is repealed.

Sec. I-25. 9-B MRSA §439-A, sub-§2, as amended by PL 1991, c. 681, §1, is further amended to read:

2. Limitations. A financial institution subject to this Title or a service corporation established pursuant to section 445 may not make loans or extensions of credit outstanding at one time to a person in excess of 20% of its total capital ~~and surplus~~. Total loans or other extensions of credit in excess of 10% of total capital ~~and surplus~~ must be approved by a majority of the ~~board of directors~~ governing body or the executive committee of that institution or corporation. Any loan made in violation of this section is subject to the remedies prescribed in section 465-A.

Sec. I-26. 9-B MRSA §439-A, sub-§5, as enacted by PL 1991, c. 34, §8, is amended to read:

5. Rulemaking. The superintendent may adopt rules to administer and carry out this section, including rules to define or further define terms used in this section and to establish limits or requirements other than those specified in this section if the superintendent determines that such action is necessary for the protection of depositors, ~~shareholders~~ investors or the public. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. I-27. 9-B MRSA §441, as enacted by PL 1975, c. 500, §1, is amended to read:

§441. Applicability of chapter

The provisions of this chapter ~~shall~~ govern the services and incidental activities offered by financial institutions~~, except as otherwise provided in Parts 5, 6 and 7~~.

Sec. I-28. 9-B MRSA §441-A is enacted to read:

§441-A. General powers

Unless otherwise prohibited or limited by this Title or rules adopted by the superintendent, a financial institution has and may exercise all powers necessary or convenient to effect the purposes for which the financial institution is organized or to further the businesses in which the financial institution is lawfully engaged.

Sec. I-29. 9-B MRSA §442, sub-§1, as amended by PL 1985, c. 588, §1, is further amended to read:

1. Authorization; limitation. ~~Savings banks and savings and loan associations~~ Financial institutions may act as trustee under a retirement plan established pursuant to the Act of Congress entitled "Self-employed Individuals Retirement Act of 1962," as amended; an individual retirement arrangement pursuant to the "Employee Retirement Income Security Act of 1974," as amended; a simplified employee pension plan pursuant to the "Revenue Act of 1978," as amended; or any similar qualified retirement plan pursuant to federal law. This section in no way limits the authority granted to trust departments of financial institutions.

Sec. I-30. 9-B MRSA §443, first ¶, as enacted by PL 1975, c. 500, §1, is amended to read:

In addition to all customer services financial in nature or incidental to, reasonably related to or convenient and useful to the powers granted in its ~~articles of incorporation~~ organizational documents, a financial institution authorized to do business in this State may offer the services set forth below to its customers, depositors or members.

Sec. I-31. 9-B MRSA §443, sub-§§1 to 6, as enacted by PL 1975, c. 500, §1, are repealed.

Sec. I-32. 9-B MRSA §443, sub-§§8 to 10, as enacted by PL 1987, c. 405, §1, are repealed.

Sec. I-33. 9-B MRSA §444, as enacted by PL 1975, c. 500, §1, is repealed.

Sec. I-34. 9-B MRSA §446, as amended by PL 1997, c. 22, §§17 and 18, is repealed.

Sec. I-35. 9-B MRSA §446-A is enacted to read:

§446-A. Closely related activities

A financial institution authorized to do business in this State may engage, directly or indirectly, in closely related activities as defined in section 131, subsection 6-A. The financial institution may engage in those activities directly, or indirectly through a subsidiary, unless the superintendent determines that an activity must be conducted through a subsidiary with appropriate corporate firewalls and safeguards, as determined by the superintendent, that limit the financial institution's exposure by emphasizing the subsidiary's independent legal structure.

1. Application required. A financial institution shall make application to the superintendent in accordance with section 252 for authority to engage in a closely related activity, except that an application is not necessary if all of the following conditions are satisfied:

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

B. At the time of the transaction, the acquiring financial institution is well managed, which means that in connection with the financial institution's most recent examination:

(1) The financial institution received a composite rating of one or 2 pursuant to the uniform financial institution rating system adopted by the Bureau of Banking; and

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

C. 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;

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

E. During the 12-month period prior to the proposed transaction, the acquiring institution has not been under an enforcement action nor is there an enforcement action pending;

F. The acquiring institution provides written notification to the superintendent not later than 10 business days after consummating the transaction; and

G. The activity is authorized pursuant to this Title or by rule or order of the superintendent.

2. Joint ownership. A subsidiary corporation formed pursuant to this section may be owned jointly with one or more persons, if the superintendent approves the joint ownership.

3. Investment limits. The amount of investment in any one subsidiary corporation may not exceed 20% of the financial institution's total capital. The aggregate investment in all subsidiary corporations may not exceed 50% of the financial institution's total capital. The superintendent may approve higher limits upon request.

Sec. I-36. 9-B MRSA §451, as enacted by PL 1975, c. 500, §1, is amended to read:

§451. Applicability of chapter

The provisions of this chapter ~~shall~~ apply to financial institutions organized under ~~Parts 5, 6, 7 and 9,~~ chapters 31 and 32 and ~~shall~~ establish minimum ~~recordkeeping~~ record-keeping requirements for ~~such~~ these financial institutions.

Sec. I-37. 9-B MRSA §452, as enacted by PL 1975, c. 500, §1, is amended to read:

§452. Maintenance of records; accounting and assets

1. Safekeeping of assets and records. Every financial institution shall make provisions to secure the safekeeping of the financial institution's assets and its books, accounts and records~~;~~ and ~~to~~ shall keep them separate and apart from the assets or property of others. ~~An~~ A financial institution may use the services of ~~a correspondent bank as a depository for securities owned or held as collateral, of a computer service organization for accounting, or the practice of nominee registration of title of securities,~~ other entities when reasonably appropriate to accomplish the duties imposed by this section.

2. Books and accounting. The clerk or treasurer of every financial institution, or such other officer as may be designated in the bylaws or by a duly recorded vote of its directors, shall cause the books and accounts of the financial institution to be kept in ~~such manner and form as will most accurately and promptly reflect its condition and earnings~~ accordance with generally accepted accounting principles unless the superintendent otherwise prescribes. The superintendent may prescribe the manner and form of keeping such books and accounts, which need not be uniform.

~~**3. Assets.**~~

~~A. No asset shall be entered on the books of a financial institution at a figure in excess of its actual cost to the institution; nor shall the book value of any such asset be thereafter increased, except upon the written authorization of the superintendent or as may be provided below.~~

~~B. The directors may in their discretion authorize the carrying of any item of assets of the institution at a value less than its cost to the institution, may authorize such provision for depreciation of physical assets as in their judgment may be required, and may provide for systematic amortization of premiums of bonds or other obligations acquired at a cost other than the par value thereof, or the directors may provide for accretion in accordance with generally accepted accounting principles for financial institutions.~~

4. Fair value. The superintendent may require any of the assets of a financial institution to be charged down to such sum as in ~~his~~ the superintendent's judgment represents its fair value.

Sec. I-38. 9-B MRSA §453, sub-§1, as enacted by PL 1975, c. 500, §1, is amended to read:

1. Selection of auditor. The ~~board of directors~~ governing body of a financial institution subject to the provisions of this Title shall employ an independent public accountant or accountants at least annually.

Sec. I-39. 9-B MRSA §454, as enacted by PL 1975, c. 500, §1, is amended to read:

§454. Destruction of deposit records

~~When a~~ Any statement of account ~~has been~~ rendered by a financial institution to a depositor ~~accompanied by vouchers, if any, which are the basis for debit entries in such account, or the depositor's~~ or any account book or passbook that has been written up by the financial institution ~~showing~~ to show the condition of the depositor's account and ~~delivered to such depositor with like accompaniment of~~ accompanied by vouchers~~, if any, such account, after the period of 6 years from the date of its rendition, in the event no objection thereto has been made theretofore by the depositor, shall be~~ that are the basis for debit entries to the account are deemed finally adjusted and settled and ~~its correctness~~ are conclusively presumed ~~and such depositor shall thereafter be barred from questioning the correctness of such account for any cause~~ to be correct after a period of 6 years from rendition if the depositor has not questioned the correctness of the account. ~~Nothing herein shall~~ The depositor is thereafter barred from questioning the account. This section may not be construed to relieve the depositor from the duty now imposed by law of exercising due diligence in the examination of such account and vouchers, if any, when rendered by the financial institution and of immediate notification to the financial institution upon discovery of any error

~~therein~~ in such account, nor from the legal consequences of neglect of such duty, nor to prevent the application of Title 11 to cases governed ~~thereby~~ by Title 11. ~~Financial~~ Accordingly, financial institutions ~~shall accordingly~~ are not ~~be~~ required to preserve or keep their records or files relating ~~thereto~~ to these accounts and vouchers for a longer period than 6 years.

Sec. I-40. 9-B MRSA §468 is enacted to read:

§468. Restrictions on transactions with affiliates

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Covered transaction" means, with respect to an affiliate of a financial institution:

(1) A loan or extension of credit to the affiliate;

(2) A purchase of or an investment in securities issued by the affiliate;

(3) A purchase of assets, including assets subject to agreement to repurchase, from the affiliate unless exempted by rule or order of the superintendent;

(4) The acceptance of securities issued by the affiliate as collateral security for a loan or extension of credit to any person; or

(5) The issuance of a guarantee, acceptance or letter of credit, including an endorsement or standby letter of credit, on behalf of an affiliate.

B. "Transaction with an affiliate" means any transaction by a financial institution or its subsidiary with any person if any of the proceeds of the transaction are used for the benefit of, or transferred to, an affiliate.

2. Authorization. A financial institution and its subsidiaries may engage in a transaction with an affiliate subject to the following conditions:

A. The terms and circumstances, including credit standards, are substantially the same, or at least as favorable to the institution or its subsidiary, as those prevailing at the time for comparable transactions with or involving other nonaffiliated companies; or

B. In the absence of comparable transactions, the terms and circumstances, including credit standards, would in good faith be offered to, or would apply to, nonaffiliated companies.

3. Covered transactions. In addition to the requirements of subsection 2, a financial institution and its subsidiaries may engage in a covered transaction with an affiliate subject to the following limitations:

A. In the case of an individual affiliate, the aggregate amount of covered transactions may not exceed 10% of the financial institution's total capital;

B. In the case of all affiliates, the aggregate amount of covered transactions may not exceed 20% of the financial institution's total capital;

C. A financial institution and its subsidiaries may not purchase a low-quality asset from an affiliate;

D. Any covered transactions and any other transactions between a financial institution and its affiliates permitted by the superintendent pursuant to subsection 6 must be on terms and conditions that are consistent with safe and sound banking practices; and

E. Each loan or extension of credit to, or guarantee, acceptance or letter of credit issued on behalf of, an affiliate by a financial institution or its subsidiary must be fully secured at the time of the transaction by eligible collateral.

4. Prohibited transactions. The following transactions are prohibited.

A. A financial institution or its subsidiary may not purchase as fiduciary any securities or other assets from any affiliate unless this purchase is permitted under the instrument creating the fiduciary relationship, the purchase is pursuant to court order or the purchase is pursuant to law of the jurisdiction governing the fiduciary relationship.

B. A financial institution or its subsidiary, whether acting as principal or fiduciary, may not knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate, any security if a principal underwriter of that security is an affiliate of the financial institution, unless the purchase or acquisition of this security has been approved, before this security is initially offered for sale to the public, by a majority of the governing body of the financial institution who are not officers or employees of the financial institution or any affiliate of the financial institution.

5. Violations. Any transaction made in violation of this section is subject to the remedies prescribed in section 465-A.

6. Rulemaking. The superintendent may, by rule or order, define or further define terms used in this section and establish limits, requirements or exceptions to this section other than those specified in this section, if the superintendent determines such action is necessary for the protection of depositors or the public and is consistent with the purposes of this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. I-41. 9-B MRSA c. 47 is enacted to read:

CHAPTER 47

TRUST ACTIVITIES OF FINANCIAL INSTITUTIONS

§471. General

A financial institution may act as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates or in any other fiduciary capacity. Assets held in any fiduciary capacity must be segregated from the general assets of the financial institution and the financial institution shall keep a separate set of books and records showing in proper detail all transactions engaged in under this section. The trust activities of financial institutions are governed by this chapter and the Probate Code.

§472. Notice

A financial institution shall provide the superintendent 60 days' notice prior to conducting trust activities. The superintendent may prescribe the form and content of the notice, including, but not limited to, business plans, financial projections and management. Notice is not required if trust activities are limited to retirement plans established pursuant to the federal Self-employed Individuals Tax Retirement Act of 1962, Public Law 87-792, 76 Stat. 809, the Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 1001-1461 (1997) or other acts if the retirement funds are invested exclusively in the deposit accounts of the financial institution.

§473. Trust assets

1. Separation of trust assets. Except as otherwise provided, all securities, money and property received by any financial institution to be held in trust or in any other fiduciary capacity must be kept separate and apart from the other assets of the financial institution.

2. Separation of trust account investments. The investments of each account must be kept separate from those of all other accounts, except that:

A. They may be placed in the custody of any other financial institution or trust company, whether within or without this State, and may, while so held, be commingled with other securities of other such accounts, if records are kept that show the share of each account in the commingled securities;

B. They may be commingled with similar securities of other accounts, if records are kept to show the share of each account in the commingled securities. The ownership of and other interests in the securities credited to such account may be transferred by entries on the books of the financial institution without physical delivery of any securities;

C. Assets held by a trustee, executor, administrator, guardian or other fiduciary may be invested in a common trust fund established under Title 18-A, section 7-501;

D. Securities, the principal and interest of which the United States or any department, agency or instrumentality of the United States has agreed to pay or has guaranteed the payment of, may be deposited with the Federal Reserve Bank in the district in which this State is located, to be credited to one or more fiduciary or safekeeping accounts on the books of that Federal Reserve Bank in the name of the financial institution and to which accounts other similar securities may be credited. A financial institution that deposits securities with a Federal Reserve Bank is subject to rules with respect to the making and maintenance of these deposits the superintendent may from time to time adopt;

E. Any cash, whether principal or income, or both, may be deposited in the financial institution in an account, either time or demand, specifically stating the trust to which the cash belongs; and

F. Any cash, whether principal or income, or both, may be deposited in the financial institution in an aggregate deposit, either time or demand, including balances from other trusts, if the books of the trust department show the specific interest of each trust in this aggregate deposit.

3. Record of trust account. A record of all matters relating to each trust account must be kept separately in the trust department and must indicate the particulars respecting each account as the superintendent directs.

4. Exclusion from other financial institution liabilities. The trust assets held by any financial institution are not subject to any other liabilities of the financial institution.

§474. Bond

A surety is not necessary on the bond of the financial institution in its capacity as trustee, executor, administrator, conservator, guardian, assignee or receiver, or in any other capacity, unless the court or officer approving the bond requires it.

§475. Rulemaking

The superintendent may adopt rules governing the trust activities of financial institutions. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

§476. Transfer of fiduciary relationships to and from affiliated financial institutions

A financial institution may transfer its fiduciary relationships to another affiliate if the affiliate to which the fiduciary relationships are being transferred is authorized to conduct trust activities in the manner described in this section.

1. Petition. The following provisions govern the petition process.

A. The transferee affiliate may apply by petition to the Superior Court or Probate Court in and for the county in which its principal office is located requesting that it be substituted for its affiliate specified in the petition in every existing fiduciary capacity designated in the petition and, in the case of the first petition, in every fiduciary capacity that may take effect after the date on which that petition is filed.

B. Each transferor affiliate shall join in the petition. Notice of the filing of the petition must be given to the superintendent prior to the filing.

C. The petition must indicate the county in which the principal office of each transferor affiliate joining in the petition is located and must designate each fiduciary relationship existing at the date of the petition with respect to which the transferee affiliate, referred to in this section as the "petitioner," requests substitution. The petition additionally must set forth, with regard to each existing fiduciary relationship designated in the petition, the name and address last known to the petitioner of each person entitled to receive notice of hearing on the petition, as follows:

(1) In a case in which the transferor affiliate specified in the petition is acting with one or more cofiduciaries in respect to the fiduciary relationship, each cofiduciary;

(2) In a case in which the instrument creating the fiduciary relationship so provides, each person who, alone or together with others, may revoke, terminate or amend the instrument or remove the corporate fiduciary;

(3) In the case of any trust not described in subparagraph (2), each beneficiary entitled or permitted, on the date the petition is filed, to receive income from the trust pursuant to the terms of the trust and each person who would be presumptively entitled to any portion of the principal of the trust if all income interests in the trust terminated on the date the petition was filed;

(4) In the case of the estate of any decedent, each person who would have a claim to succession to any property of the decedent under the testacy status upon which the fiduciary has been authorized to proceed;

(5) In the case of any conservatorship, each person whose assets are the subject of the conservatorship and each guardian of the person, if any guardian has been appointed and is a person other than a transferor affiliate;

(6) In the case of any person described in subparagraphs (1) to (5) that is a charitable institution or a charitable trust located within the State, the Attorney General; and

(7) In all cases, the superintendent.

D. The court may appoint one or more guardians ad litem to represent the interests of a person:

(1) Entitled to receive notice pursuant to paragraph C, who is a minor or who is known by the petitioner or any transferor affiliate to be subject to any other disability, including confinement in a penal institution, and for whom no guardian, other than a transferor affiliate, has been appointed;

(2) Of whose estate a transferor affiliate is conservator and for whom no guardian, other than a transferor affiliate, has been appointed; and

(3) Whose identity or whereabouts is unknown.

Title 18-A, section 1-403 governs in determining the propriety of any such appointments.

2. Notice. When any petition described in subsection 1 has been filed, the court in which the petition has been filed shall enter an order fixing a date and time for hearing on the petition, which may not be earlier than 35 days after the filing of the petition, and

approving the form of notice to be given by the petitioner as provided in this section. At least 25 days prior to the hearing date, the petitioner shall cause a copy of the notice to be mailed by first class mail to each person identified in the petition as being entitled to receive notice under this section, at that person's last known address as set forth in the petition. In addition, the petitioner shall cause a copy of the notice to be published at least once a week for 3 successive weeks preceding the hearing date, the first publication to be at least 25 days prior to the hearing date. This publication must be in a newspaper of general circulation in each county in which the principal office of the affiliated bank specified in the petition is located.

3. Contents of notice. The notice mailed and published with respect to each petition must state the time and place of the hearing, the name of the subsidiary trust company that has filed the petition, the name of each transferor affiliate that has joined in the petition, that the petition requests that the petitioner be substituted for each of its transferor affiliates specified in the petition in every existing fiduciary capacity designated in the petition and, if appropriate, in every fiduciary capacity that may take effect after the petition has been filed and that any person to whom the notice is addressed may file an objection in accordance with subsection 4. All costs incurred in connection with the printing, mailing and publishing of the notice must be borne by the petitioner.

4. Objections. A person entitled to receive notice under this section may object to the substitution of the petitioner as fiduciary. Any such person wishing to object must file a written objection to the substitution, setting forth the reasons for the objection, with the court in which the petition has been filed and serve a copy upon the attorney for the petitioner at least 3 days before the date of hearing and must appear at the hearing in person or by an attorney.

5. Order. On the date fixed for the hearing on the petition, upon making a determination that notice has been properly given as required by this section, the court shall enter an order substituting the petitioner for each of its specified affiliated banks in every designated existing fiduciary capacity and, in the case of the first petition by the petitioner, in every fiduciary capacity that takes effect after the filing of the petition, except fiduciary capacities in any existing relationship with respect to which an objection has been filed in accordance with subsection 4. In the case of a fiduciary relationship when more than one person is entitled under this section to object to substitution of the petitioner, the properly made objection by fewer than all of the persons must be considered by the court, which shall in its sole discretion determine whether the substitution will be ordered. In the case of a fiduciary relationship in respect of which an objection has been properly made by any person who is entitled pursuant to this section to object to the substitution, the court may in its discretion determine that the resignation of the transferor affiliate will be accepted in respect of the fiduciary relationship. If the court determines that the resignation will be accepted, it shall enter an order substituting a different financial institution or nondepository trust company that has given its written consent to such a substitution prior to the entry of the order. In construing the language of any instrument that is the subject of a proceeding pursuant to this section, this section may not be considered to abrogate or affect the terms of the instrument creating the fiduciary relationship. Upon entry of the court's order, the petitioner, without further act, is substituted in every such fiduciary capacity.

6. Substitution. In respect of each fiduciary capacity, existing and future, as to which substitution has been ordered pursuant to this section, each designation of an affiliated bank as fiduciary in any capacity contained in any contract, will, order of any court or other document or instrument is deemed a designation of the petitioner substituted for the transferor affiliate pursuant to this section.

A. Any grant in any such contract, will, order or other document or instrument of any rights, powers, duties or authorities, whether or not discretionary, is deemed conferred upon the petitioner deemed designated as the fiduciary pursuant to this section.

B. Following the entry of an order pursuant to this section, the petitioner, with respect to each fiduciary relationship affected by the order that is an estate of a deceased person, guardianship or conservatorship, shall notify in writing the register of probate for the county in which the affected affiliated bank was appointed to the affected fiduciary relationship of the substitution of the petitioner for the affected affiliated bank in this fiduciary capacity. The notification must contain the name of the affected estate, guardianship or conservatorship, the date on which the order was entered and the name of the court that entered it and must state that the order was entered pursuant to this section.

7. Assets. Upon substitution pursuant to this section, each transferor affiliate shall deliver to the petitioner all assets held by the transferor affiliate as fiduciary, except assets held in capacities with respect to which there has been no substitution pursuant to this section and, upon substitution, the assets become the property of the petitioner without the necessity of any instrument of transfer or conveyance. Notwithstanding any provision in this Title, after a substitution of existing fiduciary capacities pursuant to this

section, a transferor affiliate remains jointly liable with the petitioner that has been substituted for it in respect of each of the existing fiduciary relationships as to which the substitution has been ordered, but the transferor affiliate is entitled to a right of indemnification against the petitioner for all amounts paid by the transferee affiliate as a result of the joint liability.

PART J

Sec. J-1. 9-B MRSA c. 107, as enacted by PL 1997, c. 66, §6, is repealed.

Sec. J-2. 9-B MRSA Pt. 12 is enacted to read:

PART 12

SPECIALTY OR LIMITED PURPOSE FINANCIAL INSTITUTIONS

CHAPTER 121

NONDEPOSITORY TRUST COMPANIES

§1211. General purpose and authority

A nondepository trust company is a financial institution organized under the provisions of this Title whose activities are generally limited to trust or fiduciary matters. Unless otherwise indicated in this chapter or to the extent inconsistent with this chapter or with the general purpose of a nondepository trust company, a nondepository trust company has all the powers, duties and obligations of a financial institution under this Title.

§1212. Organization of nondepository trust companies

1. Organization. A nondepository trust company must be organized pursuant to chapter 31.

2. Organizational documents. The organizational documents of a nondepository trust company that are filed with the Secretary of State must contain the following statement: "This corporation, limited liability company, limited partnership or limited liability partnership is subject to the Maine Revised Statutes, Title 9-B, chapter 121 and does not have the power to solicit, receive or accept money or its equivalent on deposit or to lend money except for lending reasonably related to and deriving from its service as fiduciary or its conduct of trust business." This statement in the organizational documents of a nondepository trust company may not be amended.

3. Conversion. A nondepository trust company may convert to any other type of investor-owned financial institution pursuant to chapter 34.

§1213. Capital

A nondepository trust company shall maintain minimum capital in accordance with chapter 31 and section 412-A and any rules adopted under these provisions, except the superintendent may provide for a different amount for nondepository trust companies by order or rule.

§1214. Business of nondepository trust companies

1. General powers. A nondepository trust company has all of the powers of and is entitled to engage in the business of a financial institution, including, without limitation, powers with respect to fiduciary and trust functions and transactions except that a nondepository trust company does not have the power to solicit, receive or accept money or its equivalent on deposit as a regular business within the meaning of section 131, subsection 5 and does not have the power to lend money except in transactions reasonably related to and deriving from its service as fiduciary or its conduct of trust business.

2. Closely related activities. A nondepository trust company may conduct closely related activities, as defined in section 131, subsection 6-A and provided for in chapter 44, except that the superintendent may exclude those activities closely related to lending and taking deposits.

3. Cash deposits. A nondepository trust company may deposit cash, whether constituting principal or income, in any financial institution whether within or without this State, including any affiliated financial institution, if the account is held either in the name of the trust to which the cash belongs or in the name of the nondepository trust company and is composed entirely of cash belonging to trust accounts, the respective contributions of which are reflected in the books and records of the nondepository trust company.

4. Name. A nondepository trust company may not use as a part of the name or title under which its business is conducted or in designating its business the word or words "bank," "banker" or "banking" or the plural of or any abbreviation of those words. A nondepository trust company shall include as a part of its name the word "trust" unless otherwise approved by the superintendent for good cause shown.

5. Additional offices. Notwithstanding chapters 33 and 37, a nondepository trust company may establish additional offices without the superintendent's approval.

§1215. Holding companies of nondepository trust companies

If the holding company is not deemed to be a financial institution holding company under chapter 101 by virtue of controlling financial institutions other than nondepository trust companies or merchant banks, a holding company of a nondepository trust company is not subject to the provisions of chapter 101, except for section 1013, subsection 1 and the application requirements of section 1015 relevant to section 1013, subsection 1.

If the holding company is not deemed to be a financial institution holding company under chapter 101 by virtue of controlling financial institutions other than nondepository trust companies, the superintendent may examine the holding company to the extent necessary to determine the soundness and viability of the nondepository trust company.

§1216. Rules

The superintendent may prescribe rules governing the activities of nondepository trust companies and implementing this chapter. These rules must take into account the general business purpose and nondepository nature of nondepository trust companies. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

CHAPTER 122

MERCHANT BANKS

§1221. General purpose and authority

A merchant bank is a financial institution organized under the provisions of this Title whose activities are generally limited to lending and investing as well as trust or fiduciary matters. Deposit activity is prohibited. Unless otherwise indicated in this chapter, a merchant bank has all the powers, duties and obligations of a financial institution under this Title. As one of the purposes of merchant banks is to provide needed capital or investments to businesses that may be impermissible or imprudent for depository financial institutions, its lending and investment activities are less restricted.

§1222. Organization of merchant banks

1. Organization. A merchant bank must be organized pursuant to chapter 31 and must be managed and governed pursuant to this Title and the applicable provisions of Title 13-A and Title 31, chapters 11, 13 and 15, depending upon the organizational form selected.

2. Organizational documents. The organizational documents of a merchant bank that are filed with the Secretary of State must contain the following statement: "This corporation, limited liability company, limited partnership or limited liability partnership is subject to the Maine Revised Statutes, Title 9-B, chapter 122 and does not have the power to solicit, receive or accept money or its equivalent on deposit." This statement in the organizational documents of a merchant bank may not be amended.

3. Conversion. A merchant bank may convert to any other type of investor-owned financial institution pursuant to chapter 34.

§1223. Capital

1. Initial capital. The minimum amount of initial capital for a merchant bank is $20,000,000, of which at least $10,000,000 must be common stock or equity interest. The balance may be composed of qualifying subordinated or similar debt.

2. Capital maintenance. A merchant bank shall maintain minimum capital in accordance with section 412-A or any rules adopted under that section. The superintendent may establish different standards for merchant banks than for other financial institutions organized under this Title. The minimum capital standards for a merchant bank may not be less than a level equal to 150% of the tier 1 risk-based capital and 150% of total risk-based capital established from time to time by the Board of Governors of the Federal Reserve System for a well-capitalized bank.

§1224. Business of merchant banks; power; limitations

1. Business of merchant banks. Except as provided in this chapter, a merchant bank has all the powers of and is entitled to engage in the business of a financial institution, including, without limitation, powers with respect to investments, loans, fiduciary and trust functions and transactions.

2. Deposit activities. A merchant bank may not solicit, receive or accept money or its equivalent on deposit as a regular business within the meaning of section 131, subsection 5 or engage in deposit-like activities as determined by the superintendent. A merchant bank may deposit cash, whether constituting principal or income, in any financial institution, whether within or without this State, if the account is held either in the name of the trust to which the cash belongs or in the name of the merchant bank and is composed entirely of cash belonging to trust accounts, the respective contributions of which are reflected in the books and records of the merchant bank.

3. Treasurer's checks. A merchant bank may issue drafts drawn on itself in the form of treasurer's or cashier's checks.

4. Name. Notwithstanding section 241, subsection 9, a merchant bank may use as a part of its name the word or words "bank," "banker" or "banking" or the plural of or any abbreviations of those words.

5. Offices. At least 30 days prior to the establishment of any office or branch office for the transaction of its business, a merchant bank shall notify the superintendent.

6. Provisions inapplicable. The following provisions of this Title are inapplicable to merchant banks: sections 223, 316-A, 439-A, 445, 446-A and 465-A and chapters 33, 37 and 42.

§1225. Insider loans and investments

The terms of any loans by a merchant bank to or investments by a merchant bank in any of the following must be disclosed to the governing body of the merchant bank:

1. Percentage of common stock. A person who owns 25% of more of the merchant bank's common stock or similar equity capital;

2. Member of governing body. A member of the governing body of the merchant bank;

3. Policy-making officer or manager. A policy-making officer or manager of the merchant bank; or

4. Percentage of voting shares owned by certain person or entity. A company 25% of the voting shares or other similar voting equity of which is owned by a person or entity listed in subsections 1 to 3.

§1226. Holding companies of merchant banks

If the holding company is not deemed to be a financial institution holding company under chapter 101 by virtue of controlling financial institutions other than a merchant bank or a nondepository trust company, a holding company of a merchant bank is not subject to the provisions of chapter 101, except for section 1013, subsection 1 and the application requirements of section 1015 relevant to section 1013, subsection 1.

If the holding company is not deemed to be a financial institution holding company under chapter 101 by virtue of controlling financial institutions other than a merchant bank, the superintendent may examine the holding company to the extent necessary to determine the soundness and viability of the merchant bank.

§1227. Rules

The superintendent may prescribe rules governing the activities of merchant banks and implementing this chapter. These rules must take into account the objective of merchant banks to provide needed capital to businesses and the nondepository nature of merchant banks. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

CHAPTER 123

UNINSURED BANKS

§1231. General authority and purpose

A financial institution that does not accept retail deposits and for which insurance of deposits by the FDIC is not required may be organized pursuant to chapter 31. Unless otherwise indicated in this chapter, an uninsured bank has all the powers, rights, duties and obligations as a financial institution under this Title. An uninsured bank is not a nondepository trust company or a merchant bank.

§1232. Organization of uninsured banks

1. Organization. An uninsured bank must be organized pursuant to chapter 31.

2. Organizational documents. The organizational documents of an uninsured bank that are filed with the Secretary of State must contain the following statement: "This corporation, limited liability company, limited partnership or limited liability partnership is subject to the Maine Revised Statutes, Title 9-B, chapter 123 and does not have the power to solicit, receive or accept retail deposits." This statement in the organizational documents of an uninsured bank may not be amended.

3. Conversion. An uninsured bank may convert to any other type of investor-owned financial institution pursuant to chapter 34.

§1233. Capital

An uninsured bank shall maintain capital in accordance with section 412-A or rules adopted under section 412-A, except that the superintendent may establish different capital requirements for uninsured banks than those required for insured financial institutions.

§1234. Cash reserves on deposits and accounts

An uninsured bank shall maintain reserves in accordance with section 422-A. The superintendent may establish by rule or order additional reserve requirements for uninsured banks.

§1235. Lending limits

An uninsured bank's lending limit is governed by section 439-A or rules adopted under section 439-A, except that loans or extensions of credit to a person are limited to 15% of total capital.

§1236. Deposits

An uninsured bank may not engage in retail deposit activities. The superintendent shall define deposit activities that do not constitute retail deposit activities by rule, taking account of the size or nature of depositors and deposit accounts.

§1237. Disclosure of uninsured status

1. Sign that deposits not insured. An uninsured bank shall display conspicuously at each window or place where deposits are usually accepted a sign stating that deposits are not insured by the FDIC.

2. Statement that deposits not insured. An uninsured bank shall either include in boldface conspicuous type on each signature card, passbook and instrument evidencing a deposit the following statement: "This deposit is not insured by the FDIC" or require each depositor to execute a statement that acknowledges that the initial deposit and all future deposits at the bank are not insured by the FDIC. The bank shall retain this acknowledgment as long as the depositor maintains any deposit with the bank.

3. Statement on deposit-related advertising that deposits not insured. An uninsured bank shall include on all its deposit-related advertising a statement that deposits are not insured by the FDIC.

§1238. Rules

The superintendent may prescribe rules governing the activities of uninsured banks and implementing this chapter. These rules must take into account the uninsured status of these banks. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

PART K

Sec. K-1. 9-B MRSA §214, sub-§2-B is enacted to read:

2-B. Assessment on nondepository trust companies. Nondepository trust companies that are not affiliated with a financial institution shall pay an annual assessment of not less than $2,000 or an amount determined by the superintendent not to exceed 6¢ for every $10,000 of fiduciary assets under its management, custody or care. These assessments must be paid annually by February 15th of each year on fiduciary assets outstanding December 31st of the prior year.

Sec. K-2. 9-B MRSA §222, sub-§2, as amended by PL 1979, c. 429, §1, is repealed.

Sec. K-3. 9-B MRSA §252, sub-§1, as enacted by PL 1975, c. 500, §1, is amended to read:

1. Definition. "Decision-making" is that process by which the superintendent determines whether an application for a charter, branch, merger, acquisition, conversion, subsidiary formation~~, change of name~~ or other similar request submitted to the bureau should be approved or disapproved, but ~~shall~~ does not include applications for a change in a financial institution's ~~articles of incorporation or bylaws~~ organizational documents, changes in the capital structure of any institution, conversions of investor ownership pursuant to section 345-B or such other matters of a similar nature as the superintendent may determine, unless otherwise provided in this Title.

Sec. K-4. 9-B MRSA §252, sub-§2-A is enacted to read:

2-A. Preliminary review. Prior to the filing of an application pursuant to subsection 2, a potential applicant may request a preliminary review of the prospective application. If the review is undertaken, the bureau may assess the prospective applicant a fee in accordance with the bureau's fee schedule. A fee paid for the preliminary review may be credited to the application fee if and when an application is filed within a reasonable time.

Sec. K-5. 9-B MRSA §252, sub-§6, as repealed and replaced by PL 1977, c. 694, §161, is amended to read:

6. Decision. After consideration of all relevant matters presented in the application, in any written comments, in an investigation conducted by the bureau to examine and evaluate facts related to the application to the extent necessary to make an informed decision and at the hearing, if any, the superintendent shall promulgate, in accordance with the Maine Administrative Procedure Act, the final order. Within 5 days of promulgation, notice of the final order setting forth the name of the applicant, the nature of the application and the superintendent's action thereon, together with a statement that copies of the order are available to the public at cost, ~~shall~~ must be published by the superintendent in those newspapers in which the notice required by subsection 2 was published. Unless the superintendent ~~shall specify~~ specifies a later date in the final notice relating thereto, the effective date of the final order ~~shall be~~ is 30 days after its promulgation. The superintendent may waive all or part of the 30-day waiting period following promulgation of the final order, if the superintendent

determines that extraordinary or unusual conditions exist ~~which~~ that warrant that action. The superintendent shall set forth in writing the circumstances and reasons for ~~his~~ waiving all or part of the 30-day waiting period, provided, however, the superintendent shall, within 60 days of the close of the comment period or within 60 days of the conclusion of the hearing if such was held, whichever period is greater, promulgate the final order either approving or disapproving the application.

Sec. K-6. 9-B MRSA §253, first ¶, as enacted by PL 1975, c. 500, §1, is amended to read:

The superintendent shall take into account, but ~~shall~~ is not ~~be~~ limited to, the criteria set forth in this section in considering applications ~~to change name, branch, merge, consolidate or consummate an acquisition; or to engage in any closely related or incidental activity; or to obtain a charter, or to convert from an existing to a different charter; or to invest in a subsidiary corporation~~ filed pursuant to section 252.

Sec. K-7. 9-B MRSA Pts. 5 to 7, as amended, are repealed.

Sec. K-8. 9-B MRSA §875, as enacted by PL 1975, c. 500, §1, is amended to read:

§875. Conversion: change in type of state charter

A credit union subject to the laws of this State may convert its charter to do business as a credit union into a charter to do business as a ~~savings bank, trust company or savings and loan association as a mutual~~ financial institution ~~under the laws of this State; provided that~~ organized under chapter 32 if any plan of conversion authorized by this section ~~shall be~~ is adopted and approved in accordance with the requirements of section 343.

Sec. K-9. 9-B MRSA §1014, sub-§1, as amended by PL 1987, c. 90, §2, is further amended to read:

1. Permissible activities. A Maine financial institution holding company ~~shall not~~ may engage in any closely related activity or any other activity ~~other than managing or controlling financial institutions, except such activities as are deemed permissible by the superintendent~~ with the prior permission of the superintendent. ~~The superintendent shall adopt rules specifying which activities are permissible. Except to the extent that certain activities are prohibited or limited by state law, these rules shall authorize activities which are no more restrictive than those permitted under the United States Bank Holding Company Act of 1956, Public Law 511, or the United States National Housing Act, Public Law 479, Section 408. Those rules may establish different permissible activities dependent upon the type of financial institutions controlled by a Maine financial institution holding company. The superintendent shall establish procedures for applications by individual companies for approval to engage in those activities in Maine.~~

Sec. K-10. 9-B MRSA §1015, sub-§1, as amended by PL 1997, c. 22, §25, is further amended to read:

1. Requirements. Except as provided in subsection ~~4~~ 5, approval of the superintendent 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~~ acquire or establish a subsidiary to engage in a ~~closely related~~ closely related activity or any other activity; or

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

Sec. K-11. 9-B MRSA §1015, sub-§4, as enacted by PL 1997, c. 22, §26, is repealed.

Sec. K-12. 9-B MRSA §1015, sub-§5 is enacted to read:

5. Exceptions for closely related and other activities. Notwithstanding subsection 1, a Maine financial institution holding company may acquire or establish a subsidiary to engage in any activity and a

financial institution holding company controlling a Maine financial institution may acquire or establish a subsidiary in Maine to engage in any activity without the prior approval of the superintendent subject to the following conditions.

A. If the assets of the company being acquired are less than 15% of the financial institution holding company's total consolidated assets and the company being acquired is not a financial institution or financial institution holding company, approval or notice is not required.

B. If the assets of the company being acquired are between 15% and 50% of the holding company's total consolidated assets, the holding company must notify the superintendent at least 10 days prior to consummating the transaction. The superintendent may require that an application be filed pursuant to section 252 if the following conditions are not satisfied and, based on a preliminary analysis, the superintendent concludes that the transaction may have a material adverse effect on the financial condition of the financial institution holding company and its ability to act as a source of strength to the financial institution:

(1) Before and immediately after the proposed transaction, the acquiring financial institution and financial institution holding company are well capitalized, as determined by the superintendent; and

(2) At the time of the transaction, the acquiring financial institution and financial institution holding company are well managed, as defined in section 446-A.

C. If the assets of the company being acquired are greater than 50% of the financial institution holding company's total consolidated assets, the holding company must file an application pursuant to section 252.

PART L

Sec. L-1. 5 MRSA §138, 3rd ¶, as amended by PL 1991, c. 780, Pt. Y, §10, is further amended to read:

The Treasurer of State, with the approval of the Commissioner of Administrative and Financial Services, the Superintendent of Banking and the Attorney General, has the power to enter into contracts or agreements approved by the Governor with any national bank, trust company or safe deposit company located in New England or New York City for custodial care and servicing of the securities belonging to the permanent trust funds of this State. Such services must consist of the safekeeping of those securities, collection of interest and dividends, periodical checks of the portfolio deposited for safekeeping to determine all calls for redemption, in whole or in part, of any bonds owned by such funds, and any other fiscal service that is normally covered in a custodial contract or agreement. In performing services under any such contract or agreement, the contracting bank has all of the powers and duties prescribed for trust companies by Title 9-B, section ~~623~~ 473.

Sec. L-2. 5 MRSA §139, 2nd ¶, as amended by PL 1991, c. 780, Pt. Y, §11, is further amended to read:

The Treasurer of State, with the approval of the Commissioner of Administrative and Financial Services, the Superintendent of Banking and the Commissioner of Education, has the power to enter into a contract or agreement approved by the Governor with any national bank, trust company or safe deposit company located in New England or New York City for custodial care and servicing of the securities belonging to any trust fund created from funds derived or that may be derived from the sale and lease of lands reserved for public uses. Such services must consist of the safekeeping of those securities, collection of interest and dividends, periodical checks of the portfolio deposited for safekeeping to determine all calls for redemption, in whole or in part, of any bonds owned by such funds, and any other fiscal service that is normally covered in a custodial contract or agreement. In performing services under any such contract or agreement, the contracting bank has all of the powers and duties prescribed for trust companies by Title 9-B, section ~~623~~ 473.

Sec. L-3. 5 MRSA §17110, sub-§1, ¶A, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

A. A contracting bank performing services under a contract or agreement pursuant to this section shall comply with Title 9-B, section ~~623~~ 473.

Sec. L-4. 9-A MRSA §1-301, sub-§6-A, as enacted by PL 1987, c. 129, §16, is amended to read:

6-A. "Business day" means a day on which a creditor's offices are open to the public for carrying on substantially all of its business functions. For purposes of rescission, the term means all calendar days, except Sundays and the holidays established by Title 9-B, section ~~141~~ 145, subsection 1.

Sec. L-5. 9-B MRSA §131, sub-§25, as enacted by PL 1975, c. 500, §1, is amended to read:

25. Making a loan. "Making a loan" means a loan made to a borrower by a single financial institu-

tion, or the purchase of a loan as authorized in section ~~434~~ 431-A.

Sec. L-6. 9-B MRSA §161, sub-§1, ¶B, as amended by PL 1985, c. 647, §1, is further amended to read:

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

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

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

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

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

Sec. L-7. 9-B MRSA §465-A, sub-§6, as enacted by PL 1991, c. 681, §3, is amended to read:

6. Liability for making. Every principal stockholder, officer, agent or employee of a financial institution who authorizes or assists in procuring or granting or who causes the granting of a loan in violation of this section or section ~~539-A or~~ 854, to the extent that the financial institution is subject to the provisions of section ~~539-A~~ 439-A or 854, or who pays or willfully permits the payment of any funds of that institution on such a loan; every director of a financial institution who votes on a loan in violation of any of the provisions of this section; and every director, principal stockholder, officer, agent or employee who knowingly permits or causes any of those actions to be done is personally responsible for payment of the loan and is guilty of a Class E crime. For purposes of this subsection, "agent" or "employee" does not include an individual who is incidentally involved in the preparation of documents or title work related to a loan.

Sec. L-8. 9-B MRSA §833, sub-§1, ¶B, as enacted by PL 1975, c. 500, §1, is amended to read:

B. Such dividends ~~shall~~ must be paid on all paid-up shares outstanding at the end of the period for which the dividend is declared. Shares ~~which~~ that become fully paid up during such dividend period and are outstanding at the close of the period ~~shall be~~ are entitled to a proportional part of such dividend for each month of the period ~~in accordance with section 425~~.

Sec. L-9. 9-B MRSA §851, sub-§2, as enacted by PL 1975, c. 500, §1, is amended to read:

2. Applicability of other sections. In addition, a credit union ~~shall be~~ is subject to section 432 relating to interest absent in writing~~; and to section 434 relating to loan participations~~.

Sec. L-10. 9-B MRSA §858, as enacted by PL 1975, c. 500, §1, is amended to read:

§858. Federal funds loans or sales

A credit union may lend or sell to any member bank of the Federal Reserve System, or to any ~~trust company incorporated under the laws of this State, such deposits as it maintains with a member bank or trust company, in accordance with the provisions of section 438~~ bank, savings bank or savings and loan association whose deposits are insured by the Federal Deposit Insurance Corporation.

Sec. L-11. 9-B MRSA §862, sub-§2-A, ¶E, as enacted by PL 1987, c. 405, §33, is amended to read:

E. A credit union may invest in ~~guaranteed loans pursuant to section 532, subsections 3 and 4~~ United States or State Government guaranteed loans.

Sec. L-12. 9-B MRSA §872, sub-§5, as enacted by PL 1975, c. 500, §1, is amended to read:

5. Effect of merger. Upon the issuance by the superintendent of a certificate to the surviving credit union, all property rights and interests of the merged credit union ~~shall~~ vest in the surviving credit union, without deed, endorsement or other instruments of transfer; and all debts, obligations and liabilities of the merged credit unions are assumed by the surviving credit union. Thereafter, the charter of any merged credit union is void, and existence of the merged credit union as a legal entity separate from the surviving credit union ~~shall~~ terminate. Sections ~~356,~~ 357 and 358 ~~shall~~ apply to such mergers.

Sec. L-13. 9-B MRSA §873, sub-§3, as enacted by PL 1975, c. 500, §1, is amended to read:

3. Applicability of other sections. A credit union converting to a ~~State~~ state charter pursuant to this section ~~shall be~~ is subject to the provisions contained in sections ~~356,~~ 357 and 358~~,~~ governing resulting institutions.

Sec. L-14. 9-B MRSA §915, sub-§1, as enacted by PL 1975, c. 500, §1, is amended to read:

1. Mergers and consolidations. An industrial bank may merge or consolidate with another industrial bank or a financial institution organized under the laws of this State~~; provided~~ except that any such merger or consolidation ~~shall~~ must be executed pursuant to the provisions of ~~sections~~ section 352 or 354 and ~~shall be~~ is subject to the provisions of sections ~~356,~~ 357 and 358.

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

Effective June 5, 1997.

CHAPTER 399

H.P. 1090 - L.D. 1533

An Act to Make Certain Changes to Post-conviction Review

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

Sec. 1. 15 MRSA §2122, as enacted by PL 1979, c. 701, §15, is amended to read:

§2122. Purpose

This chapter ~~shall provide~~ provides a comprehensive and, except for direct appeals from a criminal ~~judgement~~ judgment, the exclusive method of review of those criminal judgments and of post-sentencing proceedings occurring during the course of sentences. It is a remedy for illegal restraint and other impediments specified in section 2124 ~~which~~ that have occurred directly or indirectly as a result of an illegal criminal judgment or post-sentencing proceeding. It replaces the remedies available pursuant to post-conviction habeas corpus, to the extent that review of a criminal conviction or proceedings ~~were~~ are reviewable, the remedies available pursuant to common law habeas corpus, including habeas corpus as recognized in Title 14, sections 5501 and 5509 to 5546, coram nobis, writ of error, declaratory judgment and any other previous common law or statutory method of review, except appeal of a judgment of conviction or juvenile adjudication and remedies ~~which~~ that are incidental to proceedings in the trial court. The substantive extent of the remedy of post-conviction review ~~shall be as~~ is defined in this chapter and not ~~as~~ defined in the remedies ~~which~~ that it replaces; provided that this chapter ~~shall provide~~ provides and ~~shall be~~ is construed to provide ~~such~~ relief for those persons required to use this chapter as ~~is~~ required by the Constitution of Maine, Article 1, Section 10.

Sec. 2. 15 MRSA §2124, first ¶, as repealed and replaced by PL 1983, c. 235, §4, is amended to read:

An action for post-conviction review of a criminal judgment of this State or of a post-sentencing proceeding following the criminal judgment~~,~~ may be brought if the person seeking relief demonstrates that the challenged criminal judgment or post-sentencing proceeding is causing a present restraint or other specified impediment as described in subsections 1 to 3:

Sec. 3. 15 MRSA §2128, sub-§5, as repealed and replaced by PL 1995, c. 286, §4, is repealed and the following enacted in its place:

5. Filing deadline for direct impediment. A one-year period of limitation applies to initiating a petition for post-conviction review seeking relief from a criminal judgment under section 2124, subsection 1 or 1-A. The limitation period runs from the latest of the following:

A. The date of final disposition of the direct appeal from the underlying criminal judgment or the expiration of the time for seeking the appeal;

B. The date on which the constitutional right, state or federal, asserted was initially recognized by the Law Court or the Supreme Court of the United States, if the right has been newly recognized by that highest court and made retroactively applicable to cases on collateral review; or

C. The date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

The time during which a properly filed petition for writ of certiorari to the Supreme Court of the United States with respect to the same criminal judgment is pending is not counted toward any period of limitation under this subsection.

Sec. 4. 15 MRSA §2128, sub-§6 is enacted to read:

6. Filing deadline for indirect impediment. A one-year period of limitation applies to initiating a petition for post-conviction review seeking relief from a criminal judgment under section 2124, subsection 3. The limitation period runs from the date of imposition of a sentence for the new crime resulting in the indirect impediment.

Sec. 5. Application. Those sections of this Act that repeal and replace the Maine Revised Statutes, Title 15, section 2128, subsection 5 and that