

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 2016 to August 2, 2017

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
NOVEMBER 1, 2017

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

Augusta, Maine
2017

11. The rule must be amended, as necessary, in section 11(A), section 21, section 24 and any other affected sections to incorporate the statutory requirement for the use of dry stack tailings management and the statutory prohibition against the permitting of a mining operation involving the use of wet mine waste units or tailings impoundments as provided in Title 38, section 490-OO, subsection 4, paragraph N;

12. The rule must be amended, as necessary, in section 11(A) and any other affected sections to incorporate the statutory prohibition against the permitting of a mining operation that uses open-pit mining as provided in Title 38, section 490-OO, subsection 4, paragraph O;

13. The rule must be amended in section 17 and any other affected sections to clarify the coverage and form of required financial assurance pursuant to Title 38, section 490-RR, subsection 2;

14. The rule must be amended in section 22 and any other affected sections to clarify the limited definition of "mining area" pursuant to Title 38, section 490-OO, subsection 4, paragraph D;

15. All necessary grammatical, formatting, punctuation or other technical nonsubstantive editing changes must be made to the rule, including, but not limited to, the addition of subsection headings in section 2 and the removal of strikethrough letters or words remaining from prior drafts and edits; and

16. All other necessary changes must be made to the rule to ensure conformity throughout the rule and consistency with the provisions of this Act.

Sec. 12. Maine Land Use Planning Commission rulemaking; certification of mining permit applications. By July 1, 2018, the Maine Land Use Planning Commission shall adopt rules related to commission certification of metallic mineral mining permit applications in accordance with the Maine Revised Statutes, Title 38, section 490-NN, subsection 2. Rules adopted pursuant to this section must include any additional provisions necessary to ensure consistency with the Maine Metallic Mineral Mining Act and rules related to the Maine Metallic Mineral Mining Act adopted by the Department of Environmental Protection.

See title page for effective date.

CHAPTER 143 H.P. 738 - L.D. 1055

An Act To Update the Statutes under Which Maine's Credit Unions Are Chartered

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

Sec. 1. 9-B MRSA §332, sub-§2-A, ¶A, as enacted by PL 1999, c. 218, §12, is amended to read:

A. For a branch being established in the State by a financial institution, approval 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~~ 831 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, the financial institution shall inform the superintendent at least 10 days prior to the proposed action. This notice must be accompanied by a recording fee not to exceed \$100.

Sec. 2. 9-B MRSA §335, sub-§1, as amended by PL 1997, c. 398, Pt. E, §4, is further amended to read:

1. Relocation. A main office, branch or agency office 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~~ 831 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.

Sec. 3. 9-B MRSA §445, sub-§6, as enacted by PL 1997, c. 22, §16, is amended to read:

6. Notice required. A financial institution seeking to invest in one or more service corporations shall notify the superintendent in writing at least ~~10~~ 30 days prior to such investment. ~~A financial institution seeking to establish or acquire one or more service corporations shall seek authorization to do so in accordance with the following:~~

~~A. If the services are to be performed only for other financial institutions authorized to do business in this State as defined in section 131, sub-~~

section 17 A, the financial institution shall notify the superintendent in writing, at least 10 days in advance, of its intent to establish or acquire the service corporation. This notice must contain information required by the superintendent.

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

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

Sec. 4. 9-B MRSA §816, sub-§1, ¶F, as enacted by PL 1983, c. 373, §1, is amended to read:

F. Needs Has a field of membership in Maine that would meet the requirements of section 814 if the credit union were organized under this chapter and needs to conduct business in this State to adequately serve its members in this State.

Sec. 5. 9-B MRSA §831, sub-§3, as enacted by PL 1975, c. 500, §1, is amended to read:

3. Surplus. "Surplus" or "total surplus" or "net worth" of a credit union means the sum of its guaranty fund, undivided profits and other surplus and reserve accounts balance of its retained earnings, which consists of undivided earnings, regular reserves, a guaranty fund and any other account approved by the superintendent.

Sec. 6. 9-B MRSA §831, sub-§§4 to 7 are enacted to read:

4. Requirement. A credit union shall establish and maintain adequate levels of net worth under rules adopted by the superintendent. Rules under this subsection must address, at a minimum, composition of net worth, net worth levels that must be maintained and procedures that must be followed to restore net worth if the net worth becomes impaired or falls below the minimum standards. Minimum net worth requirements established by the superintendent may be no less stringent than those applicable to a federally chartered institution with a similar charter.

5. Exception. The superintendent may approve in writing net worth levels below the required minimum as the superintendent considers necessary or appropriate under the particular circumstances of a credit union.

6. Approval. A proposed issuance of securities considered to be net worth under subsection 4 or under rules adopted under subsection 4 must be submitted to the superintendent for the superintendent's approval at

least 10 days prior to issuance and include any documentation the superintendent considers necessary.

7. Rulemaking. The superintendent may adopt rules to implement this section or to determine the amount of net worth required under this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. In the absence of rulemaking, a credit union shall follow the capital adequacy standards established by the National Credit Union Administration or a successor institution. In the event standards established by the National Credit Union Administration or a successor institution require the credit union to accumulate or maintain accounts in an amount in excess of the standard established by the superintendent, the credit union shall accumulate and maintain such accounts in a manner sufficient to satisfy the requirements of the National Credit Union Administration or a successor institution.

Sec. 7. 9-B MRSA §832, as amended by PL 2003, c. 322, §§20 and 21, is repealed.

Sec. 8. 9-B MRSA §833, sub-§1-A, as enacted by PL 2003, c. 322, §23, is amended to read:

1-A. Time for payment of dividends; method. At such intervals as the board of directors may authorize and after provision for the guaranty fund established the credit union establishes and maintains adequate levels of net worth pursuant to section 832 831, the board of directors may declare a dividend to be paid at different rates on different types of shares, at different rates and maturity dates in the case of share certificates and at different rates on different types of share draft accounts. Dividends credited may be accrued on various types of shares, share certificates and share draft accounts as authorized by the board of directors.

Sec. 9. 9-B MRSA §847, sub-§1, as enacted by PL 1975, c. 500, §1, is amended to read:

1. Grounds for expulsion. The board of directors A manager or chief executive officer of a credit union may expel from the credit union any member who has not carried out his the member's engagement with the credit union, or who has been convicted of a criminal offense, or who neglects or refuses to comply with the provisions of this Part or the bylaws or the official policies of the credit union, or who has deceived the credit union or a committee thereof of the credit union with regard to the use of borrowed money; but no member shall be expelled until he has been informed in writing of the charges against him and until an opportunity has been given him, after reasonable notice, to be heard thereon. The expelled member must be informed of the grounds for the expulsion and may appeal the expulsion to an expulsion committee established by the credit union. The board of directors of the credit union shall establish an ex-

pulsion committee to review expulsion appeals by members, and all decisions of the expulsion committee are final.

Sec. 10. 9-B MRSA §863, sub-§2, as enacted by PL 1975, c. 500, §1, is amended to read:

2. Limitation. The cost to the credit union of ~~such~~ lands, buildings, fixtures and equipment ~~shall described in subsection 1~~ may not exceed ~~50%~~ 60% of ~~such~~ the credit union's total surplus at the time ~~such~~ the investment is made; ~~provided~~ except that the superintendent may, for good cause shown, upon application by the credit union in writing, approve an amount in excess of ~~said 50%~~ 60% of total surplus, subject to such conditions as the superintendent ~~may deem~~ considers necessary.

Sec. 11. 9-B MRSA §864, sub-§2, as amended by PL 2005, c. 82, §11, is further amended to read:

2. Limitations. A credit union may invest ~~40%~~ 20% of its ~~share capital and surplus~~ net worth in any service corporation only if:

A. The service corporation is structured to limit the credit union's exposure to loss; and

B. The service corporation primarily serves credit unions and the membership of affiliated credit unions. A service corporation formed after July 31, 1994 primarily serves credit unions and the membership of affiliated credit unions within the meaning of this paragraph if at least 75% of the services provided within this State are to credit unions and members of credit unions.

The superintendent may approve an amount less than or in excess of ~~40%~~ 20%, subject to such terms and conditions as the superintendent determines necessary. The aggregate investment of a credit union in all service corporations may not exceed 50% of its net worth.

Sec. 12. 9-B MRSA §864, sub-§3, as amended by PL 1993, c. 99, §3, is repealed.

Sec. 13. 9-B MRSA §864, sub-§§4 and 5 are enacted to read:

4. Records. The books and accounts of a service corporation involving any credit union must be kept in such manner and form as the superintendent may prescribe, and any agreement between a credit union and a service corporation must provide that the books and accounts of the service corporation may be examined by the superintendent or the superintendent's designee.

5. Application; notice required. A credit union or credit unions seeking to organize as or invest in a service corporation shall notify the superintendent in

writing at least 30 days prior to organizing as or investing in the service corporation.

See title page for effective date.

CHAPTER 144

H.P. 246 - L.D. 332

An Act Regarding Service of Criminal Process on Electronic Communication Service Providers and Remote Computing Service Providers

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

Whereas, the business of electronic communication service providers and remote computing service providers is growing rapidly and their involvement with the criminal justice system is increasing; and

Whereas, for the purposes of the timely administration of criminal justice in this State, amendments to current law are needed immediately to explicitly provide a procedure for the service of criminal process on foreign and domestic entities that are providers of electronic communication service and providers of remote computing service; and

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

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

Sec. 1. 5 MRSA §113, sub-§6 is enacted to read:

6. Service of criminal process on providers of electronic communication service or providers of remote computing service. A commercial clerk or registered agent of a provider is an agent of the provider authorized to receive service of a grand jury subpoena or a search warrant required or permitted by law to be served on the entity. Service of criminal process must be accomplished as provided in this subsection.

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

(1) "Criminal process" means a grand jury subpoena or search warrant issued pursuant to this section, Title 15, section 55 or 56 or Rule