

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE
1954

1955 SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 2

Place in Pocket of Corresponding
Volume of Main Set

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1955

of chapter 59, with reference to joint accounts, shall apply to credit unions. (R. S. c. 51. 1945, c. 273. 1955, c. 380, § 3.)

Effect of amendment.—The 1955 amendment substituted, in the last sentence, the reference to subsection V of § 19-G of chapter 59 for a reference to § 40 of chapter 59.

Chapter 59.

Banks and Banking.

Sections 19-A to 19-L. Savings Banks.

Sections 246-248. Nominees.

The Bank Commissioner. Deputy.

Sec. 1. Bank commissioner; appointment; salary; not to disclose information; fees.—A bank commissioner, as heretofore appointed, shall be appointed by the governor, with the advice and consent of the council, and shall hold his office for 4 years and until his successor is appointed and qualified, and may be removed from office by the governor and council for cause. He shall engage in no other business or profession and shall not during his continuance in office hold any office in any bank in the state, nor receive directly or indirectly any remuneration or fee of any kind from any bank, banking house, corporation, association or individual for examining any property or properties or securities. He shall receive an annual salary of \$8,000 and his actual traveling expenses incurred in the performance of his duties.

(1955, c. 473, § 14.)

Effect of amendment.—The 1955 amendment increased the annual salary of the bank commissioner from \$7,000 to \$8,000. As only the first paragraph was changed by the amendment, the rest of the section is not set out.

General Provisions.

Sec. 18-A. Receipt of commissions or gifts for procuring loans.—Whoever, being an officer, director, employee, agent or attorney of any bank, savings bank, trust company, loan and building association, Morris plan bank, credit unions and all other financial institutions under the supervision of the bank commissioner, stipulates for or receives or consents or agrees to receive any fee, commission, gift or thing of value, from any person, firm or corporation, for procuring or endeavoring to procure for such person, firm or corporation, or for any other person, firm or corporation from any such bank or corporation, any loan or extension or renewal of loan or substitution of security, or the purchase or discount or acceptance of any paper, note, draft, check or bill of exchange by any such bank or corporation shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Nothing contained in this section shall be construed to refer to the expenses of examining titles, drafting conveyances and mortgages and the performance of other purely legal services. (1955, c. 117.)

Savings Banks.

Sec. 19-A. Definition.—Whenever the words "savings banks" or "savings bank" shall appear they shall be held to mean also "institutions for savings" or "institution for savings." (1955, c. 380, § 1.)

Sec. 19-B. Organization.—

I. Any number of persons, not less than 20, may associate themselves for the

purpose of organizing a savings bank in accordance with the provisions of this chapter. All incorporators shall be residents of the state.

II. Persons so associating themselves shall execute triplicate certificates, to be sent to the bank commissioner, in which shall be set forth:

- A.** The name of the proposed bank.
- B.** The proposed location of such bank.
- C.** The names, residences and occupations of the proposed incorporators.
- D.** The reasons why such a bank is needed in that location.

III. A notice of intention to organize such savings bank signed by all the incorporators, shall be published once a week for 3 consecutive weeks in some newspaper published in the county where said bank is to be located, if any; otherwise, in some newspaper published in an adjoining county. The bank commissioner shall cause such other notice to be given to banks located within the area to be served by such proposed bank as in his judgment may be necessary.

IV. When any such certificate of incorporation, in proper form, shall have been filed, the bank commissioner shall thereupon ascertain, by such investigation as he may deem necessary, with or without a public hearing:

- A.** Whether the character, responsibility and general fitness of the persons named in such certificate are such as to command the confidence of the community and to warrant belief that the business of the proposed corporation will be honestly and efficiently conducted.
- B.** That public convenience and advantage will be promoted by the organization of such bank.
- C.** That such bank has reasonable promise of sufficient volume of deposits for successful operation.

V. After making such determination, the bank commissioner shall, within 60 days after the filing of the certificate of incorporation, endorse upon each certificate, over his official signature, the word "Approved" or "Disapproved" as the case may be, and shall forthwith notify the proposed incorporators. In the case of approval, one of the triplicate certificates shall be filed by the bank commissioner in his own office, another with the secretary of state, and the third shall be returned to the incorporators after they have complied with the provisions of the following section. Such certificate so returned shall constitute the authorization to commence business.

In case of disapproval, the application may be renewed in the manner provided above after a period of not less than one year.

VI. The incorporators shall deposit to the credit of the savings bank in cash, as an initial surplus fund, such sum, not less than \$50,000, as the bank commissioner may require. If the population of the town or city in which such bank is authorized to begin business is in excess of 20,000, the amount of such required surplus shall be not less than \$150,000, and if such population is in excess of 30,000, it shall be not less than \$200,000. The bank commissioner, in ascertaining the number of inhabitants of such town or city for the purpose of determining the sufficiency of such surplus, may require such proof in addition to the last preceding United States census as he may deem necessary; but no charter, once granted, shall ever be deemed void for any error in computing the population.

Such contributions and such dividends as may be subsequently declared thereon may be returned to the corporators, or their heirs, executors, administrators or assigns, upon the conditions and in the manner hereinafter provided.

VII. Any corporation which shall not commence business within 6 months after the date on which its approved certificate of organization is issued shall forfeit its rights and privileges as a corporation, and its corporate powers shall cease, which fact the commissioner shall certify to the secretary of state, provided that the commissioner may, for satisfactory cause to him shown, extend

by order for not more than one year the time within which business may be commenced, such order to be so certified and filed as in the case of the organization certificate. (1955, c. 380, § 1.)

Sec. 19-C. Branches.—Savings banks may conduct branch offices. A savings bank may open and conduct branches in the city or town where its main business is located and in other cities or towns in the county of its location, or the adjoining counties; provided that before opening a branch in any other city or town, it shall have received a warrant to do so from the bank commissioner, who shall issue such warrant only when satisfied that public convenience and advantage will be promoted by the establishment of such a branch. He may require such notice on an application for a branch as he deems proper. If granted, the commissioner shall issue his warrant in duplicate, 1 copy to be delivered to the bank and the other to the secretary of state for record. Within 10 days after opening a branch, the bank shall file with the commissioner a certificate thereof signed by its president and treasurer. The right to open a branch shall lapse at the end of 1 year from the date of filing the commissioner's warrant with the secretary of state, unless it shall have been opened and business actually begun in good faith. An application for permission to open a branch shall not be acted upon until the petitioning bank shall have paid to the treasurer of state the sum of \$50 for the benefit of the state, to be credited and used as provided in section 102. Any such branch may be closed or discontinued with the consent of the commissioner, after such notice and hearing, if any, as in his judgment the public interest may require. (1955, c. 380, § 1.)

Sec. 19-D. Powers.—

I. Each savings bank, lawfully organized, shall be subject, except as herein otherwise provided, to the provisions of the laws of Maine regulating corporations in general. The powers, privileges, duties and restrictions conferred and imposed upon any savings bank, by whatever name known, in its charter or act of incorporation, are so far abridged, enlarged or modified, that every such charter or act shall conform to the provisions of this chapter; and every such corporation possesses the powers, rights and privileges, and is subject to the duties, restrictions and liabilities herein conferred and imposed, anything in their respective charters or acts of incorporation to the contrary notwithstanding.

II. Every savings bank, subject to the restrictions and limitations contained in this chapter, shall have the following powers:

A. To have perpetual succession by its corporation name.

B. To sue and to be sued, complain and defend, in any court of law or equity.

C. To adopt and use a common seal.

D. To make and amend by-laws consistent with law for the management of its property and the conduct of its business. Within 10 days of the adoption of any by-laws or amendments thereto, the clerk shall file with the bank commissioner a copy thereof.

E. To receive and repay deposits, to lend and invest the same in the manner and upon the conditions prescribed in sections 19-A to 19-L, inclusive, to declare dividends in the manner hereinafter prescribed, and to exercise by its board of trustees or duly authorized officers or agents, subject to law, all such powers as are reasonably incidental to the business of a mutual savings bank.

F. To hold real estate in the cities or towns in which such bank or any branches thereof are located, to a total amount not exceeding 5% of its deposits or to an amount not exceeding its reserve fund; but these limitations shall not apply to real estate acquired by the foreclosure of mortgages thereon, or upon judgments for debts or in settlements to secure debts.

G. To borrow money within or without the state when in the judgment of the trustees such action is necessary to pay depositors and to prevent loss by sales of assets, and to pledge bonds, notes or other securities as collateral therefor. Such action shall be taken only by duly recorded vote of the trustees, a copy of which shall be sent forthwith by the clerk to the bank commissioner, who shall also be promptly notified of any action thereunder.

H. To collect promissory notes or bills of exchange.

I. To deposit on call in banks or banking associations incorporated under the authority of this state, or the laws of the United States, or in any bank of the federal reserve system located anywhere in the United States; and to deposit, subject to the approval of the bank commissioner, with such banks or banking associations, any securities received as collateral for loans made to any person or corporation without the state.

J. To act as agent for the sale of travelers' checks.

K. To participate with other lending institutions in the making of loans which savings banks can lawfully make under the provisions of this chapter, to service such loans for themselves and other participants, and to agree to the servicing thereof by any other such participating institutions.

L. Any savings bank may, from time to time, issue capital notes or debentures upon such terms and conditions as its trustees may upon a majority vote prescribe, and sell the same to any officer, board, commission, corporation or body created by the federal government, or pledge any such capital notes or debentures as security for any loan or loans of money from any such officer, board, commission, corporation or body, and may, from time to time, extend, refund or renew any such capital notes or debentures; provided that such capital notes or debentures may, in whole or in part or to any degree, be subordinated to claims of the depositors or other creditors of any such savings bank, or be made prior to the claims or interests of depositors in and to the surplus of any such savings bank; provided further, that no such capital notes or debentures shall be so issued, sold or pledged without the approval of the bank commissioner; and provided further, that nothing in this section contained shall be deemed or construed to require the approval by the bank commissioner of the acceptance by any such savings bank of such loans, secured or unsecured, from any such officer, board, commission, corporation or body, or other source, as it may from time to time require in the transaction of its business in the usual course.

M. To provide for, and rent to its depositors and other persons, safe deposit boxes or other receptacles for the safekeeping or storage of personal property, subject to general laws and regulations applicable to safe deposit boxes.

N. To become a member of the federal reserve bank of the district in which such bank is located, to purchase and hold so much of the stock of, and assume and discharge such obligations to, such federal reserve bank as may be necessary for that purpose, and to have and exercise all powers, not in conflict with the laws of this state, which may be required of member banks of that system. Such savings bank and its trustees and officers shall, however, continue to be subject to all liabilities and duties imposed upon them by the laws of this state and the provisions of this chapter relating to savings banks.

O. To assume and discharge such obligations due to the federal deposit insurance corporation as may be necessary or required for the purpose of maintaining deposit insurance in such corporation, without otherwise limiting or impairing in any way the authority conferred upon the bank commissioner under the laws of this state.

P. To become a member of the federal home loan bank and to purchase and hold the stocks, bonds, debentures and other securities of such bank; to com-

ply with any condition of membership therein, and to have and exercise all rights, powers and privileges, not in conflict with the laws of this state, which are or may be conferred upon any member or borrower by the federal home loan bank act and amendments and supplements thereto. Such savings bank and its trustees and officers shall continue to be subject, however, to all liabilities and duties imposed upon them by the laws of this state and all the provisions of this chapter relating to savings banks.

Q. To contribute to community funds, or to charitable, philanthropic, educational or benevolent instrumentalities conducive to public welfare, or civic betterment, or the economic advantage of the community, such sums as a majority of the board of trustees may deem expedient. (1955, c. 380, § 1.)

Sec. 19-E. Management.—

I. Corporators.

A. The persons named in the original certificate of organization shall constitute the original board of corporators of a savings bank. Membership on such board shall continue until terminated by death, resignation or disqualification as hereinafter provided.

B. The number of corporators may be fixed or altered by the by-laws of the bank. Vacancies may be filled by election at any annual meeting.

C. No person shall continue to be a member after ceasing to be a resident of the state of Maine. Any member failing to attend the annual meeting of the corporation for 2 successive years ceases to be a member, unless re-elected by vote of the corporation.

D. The corporators shall hold regular annual meetings at a time to be fixed by the by-laws of the bank. At least 7 days notice of such meetings shall be given by public advertisement in some newspaper published within the county where the bank is located, if any; otherwise, in a newspaper published in an adjoining county. Similar notice shall be sent by mail to each corporator at his last known address. Special meetings of the board of corporators may be called at any time by the president, on 7 days notice by mail to each corporator, stating therein the purpose of the meeting. The president shall preside at all meetings of the corporation.

II. Trustees.

A. The management and control of the affairs of a savings bank shall be vested in a board of not less than 5 trustees, to be elected by the board of corporators at each annual meeting. Vacancies occurring during the official year in the membership of the board of trustees may be filled by that board until the next annual meeting of the board of corporators, and shall be immediately filled whenever the number of trustees shall fall below the minimum required by law or by the by-laws of the bank. The persons named as trustees in the original certificate of incorporation shall constitute the first board of trustees.

B. No person shall be a trustee of a savings bank if he is not a resident of this state, or is a trustee, officer or employee of any other savings bank. Not more than 2 of said trustees shall be directors of any one national bank, trust company or other banking institution.

C. Each trustee shall annually take an oath, to be recorded in the records of its meetings, that he will, so far as it devolves upon him, diligently and honestly administer the affairs of the bank, and will not knowingly violate, or willingly permit to be violated, any of the provisions of law applicable to such bank.

D. Trustees shall hold regular meetings at least monthly, at a time fixed by the by-laws of the bank, and shall cause full and complete records of their proceedings to be kept.

A quorum at any meeting shall consist of not less than a majority of the board, but less than a quorum shall have power to adjourn from time to time until the next regular meeting.

E. The trustees shall see to the proper investment of available funds of the bank in the manner hereinafter prescribed. No loan shall be made directly or indirectly to any trustee, or to any partnership of which he is a member. The trustees, in their discretion, may appoint an investment board to have charge of the loans and investments of the bank, but all doings of such board shall be reported to the trustees at their next regular meeting, and incorporated in the records of such meetings.

F. Provisions for securing continuity of tenure on the board of trustees, or for establishing rotation in office, may be made in the by-laws of the bank, with the written approval of the bank commissioner.

G. Trustees may receive such compensation for services performed by them in their capacity as may be fixed by the corporation at any legal meeting thereof, or as may be fixed by the board of trustees and approved by the bank commissioner in writing.

H. The board of trustees of a savings bank may, from time to time, make and amend by-laws, rules and regulations, not inconsistent with law, for transacting, managing and directing the affairs of a savings bank. A copy of such by-laws, rules and regulations and amendments thereto shall be promptly transmitted by the clerk, upon their adoption, to the bank commissioner.

I. The trustees of each savings bank shall annually employ an auditor or auditors, who may be either an independent public accountant or accountants, or an elected or appointed official of the bank, who shall be solely responsible to the trustees.

Said auditor or auditors shall examine and analyze the books, accounts, notes, mortgages, securities and operating systems of the bank, at such times and in such manner as in their judgment is necessary and appropriate, or as the trustees may direct, for the protection of depositors and the efficient operation of the bank, and shall make written report of the condition of the bank to the president, for the board, at such time, in such manner, and to such extent as the board may require, or as said auditor or auditors may deem necessary or proper, but at least once each year.

The bank commissioner, in the course of his regular official examination of the bank shall, and at such other times as he deems advisable, may investigate the work of such auditor or auditors to determine its adequacy for the purposes above set forth, and in case he deems it inadequate he shall forthwith report his findings, with recommendations, in writing to the trustees, who shall, within 30 days thereafter, give full consideration to such findings and recommendations, and take such steps relative thereto as in their judgment the situation requires.

Such audit may include a verification of accounts of depositors, which, if deemed adequate by the commissioner, shall relieve him from all responsibility for such verification imposed upon him by section 19-I, so far as applicable to said savings bank; and shall relieve said bank of the expense of such verification by the banking department which might otherwise have been assessed against it under the provisions of section 2.

In lieu of the employment, election or appointment of an auditor or auditors in the manner hereinbefore provided, the bank may enter into an arrangement with the bank commissioner, approved by the trustees by duly recorded vote, and by the commissioner in writing, under which the auditing function may be assumed and discharged by the bank commissioner, who, unless otherwise stipulated in the agreement, shall have sole responsibility for its supervision and operation. The expense of such audit shall be charge-

able to and paid by the bank. Such arrangement may be terminated by either party on at least 30 days notice in writing.

Whenever the trustees of a savings bank shall have provided for such audit by either of the methods above prescribed, and, in the case of the employment, election or appointments of an auditor or auditors by them, shall have taken such action to remedy conditions as may reasonably be deemed necessary in the light of information disclosed by any report of said auditor or auditors, and shall have complied with all reasonable recommendations of the commissioner relative thereto within the time hereinbefore prescribed, they shall not be personally liable for any loss suffered by such bank, due to any subsequent wrongdoing by any officer or employee of the bank, in the absence of other facts indicating negligence on the part of said trustees.

III. Officers.

A. The board of trustees shall annually elect, from their membership or otherwise, a president, one or more vice presidents, clerk, treasurer, one or more assistant treasurers, and such other officers as they may deem advisable, may determine their respective duties and functions when not fixed by law or the by-laws of the bank, and may fix their compensation. All officers shall retain their official responsibilities until their successors are elected and qualified.

Any such officer may be removed by the board whenever in its judgment the best interests of the savings bank will be served thereby, but the removal shall be without prejudice to the contract rights, if any, of the person so removed.

B. The trustees of every savings bank shall require security for the fidelity and faithful performance of duties of its officers, employees and agents in such amount as the trustees shall deem necessary or the bank commissioner may require. Such security shall consist of a bond executed by one or more surety companies authorized to transact business in this state. The bank commissioner may increase such amount from time to time as circumstances may require. The expense of such bond shall be assumed by the bank.

C. No president, treasurer, clerk or employee of any savings bank shall act as agent or representative of any corporation engaged in the business of selling or negotiating any stocks, bonds, mortgages, notes or other securities, nor receive directly or indirectly any fee, commission, bonus, or other compensation for the sale or transfer of any security. No treasurer or assistant treasurer shall, directly or indirectly, engage in any other business or occupation without the consent of the majority of the trustees evidenced by duly recorded resolution. No loan shall be made directly or indirectly to any officer of the corporation or to any partnership of which such officer is a member. No gift, fee, commission or brokerage shall be received by any officer of a savings bank, on account of any transaction to which the bank is a party; provided, however, that nothing herein contained shall be held to prohibit the payment of attorneys' fees for examining titles, drafting conveyances and mortgages, and the performance of other purely legal services. No cashier of a national bank or treasurer of a trust company shall be treasurer of any savings bank.

D. If any office becomes vacant during the year the trustees may immediately fill the same for the period intervening until the next annual meeting.

E. All conveyances, leases, assignments, releases, transfers of stock certificates and registered bonds, and all other written instruments authorized or required by law or vote of the trustees, may be executed by the president or treasurer, or by any other official authorized and empowered by the by-laws of the bank or duly recorded vote of the trustees.

F. The president of the bank shall be president of the board of corporators, and when present shall preside at all meetings of the board. In the ab-

sence of a contrary provision in the by-laws, he shall preside, when present, at all meetings of the board of trustees. He shall exercise such other powers and functions as may be required by the by-laws of the bank.

G. The vice president, or if there be more than one the senior available vice president, shall exercise the powers and functions of the president in his absence, and such other powers and functions as may devolve upon him under the by-laws of the bank or vote of the trustees.

H. The clerk shall record or cause to be recorded the proceedings and actions of all meetings of the corporators and trustees, and give or cause to be given all notices required by law or action of the trustees for which no other provision is made. If no other person is elected to this office, the treasurer, or in his absence the assistant treasurer, or the senior available assistant treasurer if there be more than one, shall be ex officio clerk of the corporation and of the trustees.

Within 30 days after the annual meeting the clerk shall cause to be published in some local newspaper, if any, otherwise in the nearest newspaper, a list of the officers and corporators thereof. He shall also return a copy of such list of officers and corporators to the bank commissioner within said 30 days which shall be kept on file in his office for public inspection. (1955, c. 380, § 1.)

Sec. 19-F. Segregation and location of assets.—

I. All coins, bills, notes, bonds, securities and other evidences of debt, comprising the assets of any savings bank, and all books, accounts and records of such bank shall be at all times kept separate and apart from the assets or property of any other bank, of any corporation, partnership or individual.

II. All securities owned or held by savings banks shall be kept within the state except as provided in paragraphs G and I of subsection II of section 19-D, and except that for greater security and for the purpose of facilitating the sale or exchange of securities, they may be deposited without the state; and the place of their deposit shall be selected with reference to securing their safekeeping. Provided, however, that the approval of the bank commissioner before such deposit for safekeeping is made shall be obtained; and provided further, that said depository shall maintain adequate insurance against loss. (1955, c. 380, § 1.)

Sec. 19-G. Deposits.—

I. General provisions. A bank, savings bank or trust company may receive on deposit, for the use and benefit of depositors, all sums of money offered for that purpose. The by-laws of the bank, or the trustees or directors by duly recorded vote, may establish minimum and maximum amounts which may be received. The trustees or directors may refuse any deposit at their pleasure.

II. Notice before withdrawal. A savings bank may at any time, by resolution of its board of trustees, require a written notice by the depositor of not more than 90 days of repaying deposits, or may require a similar notice before repaying deposits in excess of a specified amount, in which event no such deposit shall be due or payable during the required period after the notice shall have been given; and such deposits, if not withdrawn within 15 days after the expiration of the required period after notice, shall not be due and payable under that notice. The bank may, however, receive any deposit or deposits before the expiration of the required period, subject to such regulations as may be imposed by the bank commissioner.

III. Minor's deposits. Money deposited in the name of a minor is his or her property, and the corporation may, in the discretion of the officer making or authorizing the payment, pay the same to such minor or to his or her order or

his or her guardian. The receipt of such minor, or his or her guardian, for any such payment is a valid release and shall discharge the bank.

IV. Deposits of trustees. Whenever a deposit is made in trust, the name and residence of the person for whom it is made, or the purpose for which the trust is created, shall be disclosed in writing to the bank, and the deposit shall be credited to the depositor as trustee for such person or purpose; and if no other notice of the existence and terms of a trust has been given in writing to the corporation, the deposit, with the interest thereon may, in the event of the death of the trustee, be paid to the person for whom such deposit was made, or to his legal representative, or to some trustee appointed by the court for that purpose.

V. Deposits or loan and building shares in 2 or more names.

A. When a deposit has been made or shall hereafter be made in any bank, savings bank or trust company, or shares have been already issued or shall be hereafter issued in any loan and building association transacting business in this state, in the names of 2 or more persons, payable to either, or payable to either or the survivor, such deposit, or any part thereof, or the interest or dividends thereon may be paid to any or either of said persons, whether the other or others be living or not, or to the legal representative of the survivor of said persons, and the receipt or acquittance of the persons to whom said payment is so made shall be a valid and sufficient release and discharge to such bank, savings bank, trust company or loan and building association for any payment so made.

B. All such accounts opened or such shares in loan and building associations issued on or after the 1st day of August, 1929, payable to either of 2 or more or the survivor, up to, but not exceeding an aggregate value of \$3,000, exclusive of interest and dividends, in the name of the same persons in all banks, savings banks, loan and building associations or trust companies within this state, together with the additions thereto and increment thereof, including interest and dividends, shall, in the absence of fraud or undue influence, upon the death of any of such persons, become the sole and absolute property of the survivor or survivors, even though the intention of all or any one of the parties be in whole, or in part, testamentary and though a technical joint tenancy be not in law or fact created.

C. Accounts so opened and shares so issued prior to August 1st, 1929 may be brought within the provisions of this section by written declaration in form to be prescribed by the bank commissioner, executed by all such depositors or share owners, and delivered to any such bank, savings bank, trust company or loan and building association, which declaration shall bind each and every signer thereof, his heirs, executors, administrators and assigns. In case such declaration be signed by one or more, but not all of the depositors named in such account or share owners, such declaration shall be effective as against the person or persons signing the same, his and their heirs, executors, administrators and assigns; but shall not be effective as against those not so signing.

D. All such accounts opened or such shares in loan and building associations issued on or after the 1st day of September, 1949, payable to either of 2 or more or the survivor, up to, but not exceeding an aggregate value of \$5,000, including interest and dividends, in the name of the same persons in all banks, savings banks, loan and building associations or trust companies within this state shall, in the absence of fraud or undue influence, upon the death of any of such persons, become the sole and absolute property of the survivor or survivors, even though the intention of all or any one of the parties be in whole, or in part, testamentary and though a technical joint tenancy be not in law or fact created. The said amount which so becomes

the sole and absolute property of the survivor or survivors pursuant to provisions of this paragraph shall be exclusive of, and in addition to, any amounts to which such survivor or survivors are entitled under common law as contributors to such account or accounts, share or shares.

E. Accounts so opened and shares so issued prior to September 1, 1949 may be brought within the provisions of paragraph D by written declaration in form to be prescribed by the bank commissioner, executed by all such depositors or share owners, and delivered to any such bank, savings bank, trust company or loan and building association, which declaration shall bind each and every signer thereof, his heirs, executors, administrators and assigns. In case such declaration be signed by one or more, but not all of the depositors named in such account or share owners, such declaration shall be effective as against the person or persons signing the same, his and their heirs, executors, administrators and assigns; but shall not be effective as against those not so signing.

F. The provisions of paragraphs B, C, D and E apply only to accounts opened in banks, savings banks or trust companies, or shares in loan and building associations, made payable to persons or to either or the survivor who are husband and wife, parent and child and brothers and sisters; except that the provisions of paragraphs B, C, D and E, as to brothers and sisters, shall apply only to accounts opened after September 1, 1955 and to accounts opened prior to September 1, 1955 which may be brought within the provisions of these paragraphs by written declaration, in form prescribed by the bank commissioner, executed by all such depositors or share owners, and delivered to any such bank, savings bank, trust company or loan and building association, which declaration shall bind each and every signer thereof, his heirs, executors, administrators and assigns. In case such declaration be signed by one or more, but not all of the depositors named in such account or share owners, such declaration shall be effective as against the person or persons signing the same, his and their heirs, executors, administrators and assigns; but shall not be effective as against those not so signing.

VI. Payments of accounts of deceased persons. If any depositor shall die, leaving in a savings bank an account on which the balance due him shall not exceed \$500, and no executor of his will or administrator of his estate shall be appointed, the savings bank may pay the balance of his or her account to the surviving spouse, next of kin, funeral director or other preferred creditor or creditors who may appear to be entitled thereto. For any payment so made the savings bank shall not be held liable to the decedent's executor or administrator thereafter appointed, unless the payment shall have been made within 6 months after the decedent's death and an action to recover the amount shall have been commenced within one year after the date of the payment.

VII. Loss of pass-book. If a savings bank or trust company receives a notice in writing that a book of deposit in its savings department is lost, together with a request that a duplicate book of deposit be issued, such notice and request being signed by the appropriate person or persons as hereinafter provided, said bank or trust company at the expiration of a period of 10 days from the receipt of such notice, if the missing book is not sooner presented, may issue a duplicate book of deposit to the persons signing said notice and request, and the delivery of such duplicate book relieves said savings bank or trust company from all liability on account of the missing original book of deposit. Such notice and request shall be signed:

A. If the book was issued to a single depositor, then by him, or by his guardian, conservator, executor or administrator;

B. If the book was issued to 2 or more depositors, then by all such de-

positors then surviving, or by the last survivor or the executor or administrator of the last survivor of such depositors; provided, however, that a guardian or conservator shall sign for any of the foregoing persons respecting whom he has been appointed.

VIII. Payment of orders. Any bank, savings bank or trust company may pay any order drawn by any person who has funds on deposit to meet the same, notwithstanding the death of the drawer in the interval of time between signing such order and its presentation for payment, when said presentation is made within 30 days after the date of such order; and at any subsequent period, provided the corporation has not received actual notice of the death of the drawer.

IX. Inactive accounts. The treasurer of every savings bank shall hereafter on or before the 1st day of November cause to be published in a newspaper in the place where the bank is located, if any, otherwise in a newspaper published in the nearest place thereto, a statement containing the name, the amount standing to his credit, the last known place of residence or post office address, and the fact of death, if known, of every depositor in said bank who shall not have made a deposit therein or withdrawn therefrom any part of his deposit, or any part of the dividends thereon, for a period of more than 20 years next preceding, provided, however, that this section shall not apply to the deposits of persons known to the treasurer to be living, to a deposit the deposit book of which has during such period been brought into the bank to be verified or to have the dividends added, or to a deposit which with the accumulations thereon shall be less than \$10. Such publication, in addition to the above required information, shall state that 2 years after the date of publication, all moneys in such inactive accounts shall be paid into the state treasury. Said treasurer shall also transmit a copy of such statement to the bank commissioner, to be placed on file in his office for public inspection. Any treasurer neglecting to comply with the provisions of this section shall be punished by a fine of \$50. Two years after the date of such publication, all moneys in such inactive accounts shall be deemed presumptively abandoned and shall be paid into the state treasury and credited to the general fund for the use of the state, and there shall also be paid into the state treasury, and so credited at the end of 20 years after the last deposit, all deposits, inactive as aforesaid, which with accumulations thereon shall be less than \$10. After payment into the state treasury of such deposits, no action at law or in equity shall be maintained in any court in this state by any depositor or his heirs, successors or assigns against any bank making such payments, provided, however, that thereafter any lawful claimants may petition the governor and council for payment of such moneys to the claimants. In his petition the claimant shall state fully the facts showing the basis of his right, title and interest in such deposit. The governor and council, after a hearing, shall determine who are lawful claimants and shall authorize payment by the Treasurer of state from the general fund to such claimants. (1955, c. 380, § 1.)

Sec. 19-H. Loans.—Savings banks may hereafter invest their funds in loans to individuals, partnerships and corporations, on the following terms and conditions:

I. Mortgage loans.

A savings bank may make loans to individuals or corporations, to be secured by a first mortgage of real estate located in any of the New England states, upon the following conditions and within the following limitations, viz:

A. In an amount not exceeding 60% of the market value of such real estate.

B. In an amount not exceeding 70% of such market value, providing the

note or other obligation evidencing the loan shall require monthly payment of the interest and principal thereon, and of the excess of the principal over 60% of the market value, at a rate of amortization sufficient to repay the entire loan within a period not exceeding 20 years, or shall require full payment of such loan within a period of 3 years. No such loan of 3 years or less shall be renewed for any sum in excess of 60% of the then existing market value.

C. Without regard to any other provision of law, savings banks of this state are authorized to make or buy and sell any loan, secured or unsecured, which is insured or guaranteed in any manner in part or in full by the United States or any instrumentality thereof, or by this state or any instrumentality thereof, or for which there is a commitment to so insure or guarantee, or for which a conditional guarantee has been issued. The disability of minority of any person otherwise eligible for a loan, or guaranty or insurance of a loan, pursuant to the act of the congress of the United States entitled the servicemen's readjustment act of 1944, as heretofore or hereafter amended, and of the minor spouse of any eligible veteran, in connection with any transaction entered into pursuant to said act of the congress of the United States, as heretofore or hereafter amended, shall not affect the binding effect of any obligation incurred by such eligible person or spouse as an incident to any such transaction, including incurring of indebtedness and acquiring, encumbering, selling, releasing or conveying property, or any interest therein, if all or part of any such obligation be guaranteed or insured by the government or the administrator of veterans' affairs pursuant to said act and amendments thereto; or if the administrator be the creditor, by reason of a loan or a sale pursuant to said act and amendments. The provisions of this section shall not create, or render enforceable, any other greater rights or liabilities than would exist if neither such person nor such spouse were a minor.

D. A savings bank may make loans to individuals secured by first mortgage of real estate in any state in the United States, to an amount not in excess of the market value thereof, or purchase such notes, bonds or other obligations secured by such a mortgage, if such loans have been guaranteed or insured by the federal housing administration, or if the federal housing administration has made a commitment to guarantee or insure them, all such loans to conform to the provisions of federal legislation pertaining thereto and to regulations established thereunder.

E. No savings bank shall have more than 60% of its deposits invested in real estate mortgages; except that it may invest up to 75% therein provided that the excess over 66% of its deposit is invested in real estate mortgages that are guaranteed or insured by the federal housing administration, or by the federal government under the provisions of sections 500 to 505, inclusive, of title III of the servicemen's readjustment act of 1944.

F. Any interest in real property which may now be mortgaged to a savings bank under the provisions of paragraphs A to E, inclusive, of this subsection may be mortgaged to secure existing debts or obligations, to secure debts or obligations created simultaneously with the execution of the mortgage, to secure future advances necessary to protect the security and to secure future advances to be made at the option of the parties up to a total amount stated in the mortgage, and all such debts, obligations, and future advances shall, from the time the mortgage is filed for record as provided by law, be secured by such mortgage equally with, and have the same priority over the rights of all persons who subsequent to the recording of such mortgage acquire any rights in or liens upon the mortgaged real estate, as the debts and obligations secured thereby at the time of the filing of the mortgage for record; except that:

The provisions of this paragraph shall apply to all banks and trust companies.

1. The mortgagor or his successor in title is hereby authorized to file for record, and the same shall be recorded in the same recording office as the original mortgage, notice limiting the amount of optional future advances secured by such mortgage to not less than the amount actually advanced at the time of such filing, provided a copy of such filing is also filed with the mortgagee, and

2. If any optional future advance shall be made by the mortgagee to the mortgagor or his successor in title after written notice is received by the mortgagee of any mortgage, lien or claim against such real property which is junior to such mortgage, then the amount of such advance shall be junior to such mortgage, lien or claim of which such written notice was given.

II. Collateral loans.

A. A savings bank may make loans to individuals or corporations, to be secured by collateral other than a first mortgage on real estate, upon the following conditions and within the following limitations, viz:

1. The note or other obligation evidencing the loan shall be secured by a pledge of any securities which the institution itself may lawfully purchase under the provisions of section 19-I provided the amount of the loan does not exceed 90% of the market value of such securities.

2. The note or other obligation shall be secured with a pledge as collateral of any savings deposit book issued by any savings bank, trust company or national bank in any New England state or the state of New York, or of a passbook or share certificate issued by any loan and building association, savings and loan association, or cooperative bank in any New England state or the state of New York, to such an amount, not in excess of the book value thereof, as in the judgment of the trustees will afford an ample margin of security.

3. The note or other obligation evidencing the loan shall be secured by war veterans' compensation certificates issued in accordance with the provisions of any adjusted compensation act of the United States, now existing or hereafter enacted, to an amount not in excess of the value of such certificates at the time of the loan, according to the United States table of values as stated in said certificates.

4. The note or other obligation shall be secured by a pledge as collateral of insurance policies on the life of the borrower, issued by any life insurance company licensed to do business in the state of Maine, having a present cash or loan value in excess of the amount of the loan.

5. The note or other obligation shall be secured by a pledge of collateral of such other obligations, individual or corporate, or such corporate stocks as in the judgment of the trustees it is safe and for the interests of the bank to accept, to an amount not exceeding 80% of the market value thereof.

6. The aggregate of all collateral loans made by any savings bank, other than those secured by obligations of the United States government, shall at no time exceed 10% of its deposits and not more than 1% of its deposits shall be loaned on the obligations and stock of any single corporation.

III. Unsecured loans.

A. A savings bank may make loans to individuals or corporations, without the security of a real estate mortgage or pledge of collateral, upon the following conditions and within the following limitations, viz:

1. To any municipal or quasi-municipal corporation in this state when duly authorized by such municipality or corporation.
2. To any religious, charitable, educational or fraternal association.
3. To any responsible individual borrower or borrowers, evidenced by their notes or other obligations upon the following conditions, viz:
 - a. To an amount not exceeding \$1,000 directly or indirectly for any one individual, providing the obligation is signed or endorsed by 2 sureties or endorsers approved by the board of trustees.
 - b. To an amount not exceeding \$500 for any one individual as maker or co-maker, provided the note or other obligation is signed or endorsed by one such surety or endorser, or by parties who are husband and wife, and provided that the note or other obligation requires monthly or quarterly amortization of the principal within a period not exceeding 3 years from date.

The aggregate of loans under this division to any one individual as maker or co-maker or endorser shall not exceed \$1,000.
 - c. To an amount within the discretion of the trustees, providing the loan is eligible for insurance under the national housing act and seasonable application is made under the provisions of title I of that act.

The aggregate of all loans made under the provisions of this division shall not exceed 5% of the deposits of the bank. (1955, c. 380, § 1.)

Sec. 19-I. Investments.—Savings banks may hereafter invest their funds in securities, in addition to loans authorized under the provisions of section 19-H, in accordance with the following provisions, viz:

I. Government obligations.

A. In the bonds and other interest-bearing obligations of the United States; and in the interest-bearing obligations of any debtor or promisor for the payment of the principal and interest of which the faith and credit of the United States government are pledged.

B. In bonds and other interest-bearing obligations of the dominion of Canada and in the interest-bearing obligations of any body politic or corporation in Canada the payment of the principal and interest of which are unconditionally guaranteed by the dominion of Canada; provided that the principal and interest of all the obligations of Canadian origin that may be brought under the authority of this section are payable in the United States at not less than their face value in United States funds.

II. Obligations of states.

In the fixed interest-bearing bonds and other obligations of any state in the United States and in the fixed interest-bearing obligations of any body politic or instrumentality of such state for the payment of the principal and interest of which the full faith and credit of the state are pledged provided such state is not in default on any of its outstanding funded obligations.

III. Obligations of provinces of Canada.

In the fixed interest-bearing bonds or other obligations of any province of the dominion of Canada and in the fixed interest-bearing obligations of any body politic or instrumentality of such province for the payment of the principal and interest of which the full faith and credit of the province is pledged, provided the province is not in default on any of its outstanding funded obligations and that principal and interest of such obligations are payable at not less than their face value in United States funds.

IV. Obligations of counties.

A. In the bonds or other interest-bearing obligations of any county in this state.

B. In the bonds or other interest-bearing obligations of any county in

any other state in the United States which at the date of the investment has more than 50,000 inhabitants and the net debt of which does not exceed 3% of the last preceding valuation of the taxable property therein; provided, however, that such county shall not have defaulted for more than 90 days in payment of principal or interest of any funded obligation within a period of 5 years immediately preceding the investment, and that the principal and interest are payable from a direct tax to be levied on all the taxable property within such county.

The term "net debt" shall be construed to include all bonds which are a direct obligation of the county, less the amount of any sinking fund available for the reduction of such debt.

V. Municipal obligations.

A. In the bonds or other interest-bearing obligations of any municipal or quasi-municipal corporation of this state not in default on any of its outstanding funded obligations.

B. In the bonds or other interest-bearing obligations of any city or town in any other state in the United States, incorporated at least 25 years prior to the date of investment, and having according to each of the last 2 censuses of the federal government, a population of not less than 10,000; provided that within a period of 10 years immediately preceding the investment such municipality shall not have been in default for more than 90 days in the payment of principal or interest of any outstanding funded obligations and that the net debt of any such municipality whose population is less than 500,000 shall not exceed 5% of the assessed valuation of the taxable property therein, and that the net debt of any such municipality whose population is in excess of 500,000 shall not exceed 8% of the assessed valuation of the taxable property therein.

C. In the bonds or other interest-bearing obligations of any quasi-municipal corporation, other than an irrigation or drainage district, within the territorial limits of any city or town whose obligations are eligible under the provisions of paragraph B of this subsection, or comprising within its limits one or more such municipalities; provided, however, that such corporation shall not be in default on any of its outstanding funded obligations and that the population and valuation of any such quasi-municipal corporation incorporated within a single city or town shall be at least 75% of the population and valuation of the city or town in which it is located; and provided further, that payment of such obligations shall be enforceable by a direct tax levied on all the taxable property within such corporation.

D. The term "net debt" as applied to a municipality shall be construed to include not only all bonds which are a direct obligation of the municipality, but also all bonds of quasi-municipal corporations within the same, exclusive of any such debt created for providing a water supply and exclusive of the amount of any sinking funds available for the reduction of such debt.

E. The securities of any municipality or quasi-municipal corporation shall not be held to be a direct obligation on all the taxable property thereof within the meaning of the foregoing provisions in any state which by statute or constitutional provision prevents the levying of sufficient taxes to meet such obligations.

VI. Obligation of railroads.

A. In the bonds and other fixed interest-bearing obligations of any Maine corporation owning and operating a railroad located principally within this state having a mileage of not less than 500 miles of road, exclusive of sidings, provided such corporation shall not be in default of any of its outstanding funded obligations.

B. In the fixed interest-bearing obligations assumed or guaranteed by a

corporation coming within the coverage of paragraph A hereof and issued by any lessor, subsidiary, or affiliated corporation, provided that the assumption or guarantee thereof shall have been authorized and approved in the manner and to the extent required by state or federal law at the time of such assumption or guaranty.

C. In the bonds and other fixed interest-bearing obligations issued, or assumed, by any railroad corporation organized under the laws of any other state in the United States; provided such corporation is not in default on any of its outstanding funded obligations and that,

1. Such corporation shall own in fee not less than 500 miles of standard gauge railroad, exclusive of sidings, within the United States, or shall own not less than 100 miles and have received each year for a period of 5 successive years next preceding the investment gross revenue plus other income of not less than \$10,000,000.

2. Such obligations shall be secured

a. by a first mortgage, or a mortgage or trust indenture which is in effect a first mortgage, or

b. by a refunding mortgage providing for the retirement of all prior lien obligations outstanding at the date of issue, or

c. by a mortgage prior to a refunding mortgage above described covering some part of the railroad property included under such refunding mortgage, if the refunding mortgage contains a provision for the refunding of bonds issued under such prior mortgage, or

d. by a first mortgage on the property leased to a railroad corporation any of the bonds of which qualify under this subsection provided that the bonds issued under such mortgage have a maturity prior to the expiration of the lease.

3. Such corporation shall have earned and received in the 3 successive fiscal years next preceding the investment an average annual income available for fixed charges equal to not less than twice the current annual fixed charges and during the same period have had an average of net income after fixed charges, but before such taxes as may be computed upon the basis of incomes or profits, of not less than 10% of the sum of gross revenue plus other income.

For the purposes of this subparagraph income available for fixed charges shall be determined by deducting from the sum of gross revenues plus other income all operating expenses including maintenance, depreciation, joint facility and equipment rents, railway, but not income or excess profits, taxes and miscellaneous rents and charges; fixed charges shall include any rents for leased property not properly included in operating expenses, net interest charges and amortization of debt discount and expense; net income shall be computed by deducting operating expenses and fixed charges as defined herein from gross operating revenues plus other income.

D. In equipment trust certificates or other instruments issued under the Philadelphia plan, so called, in connection with the acquisition of standard railroad equipment by any railroad corporation in the United States not in default on any of its outstanding funded obligations; provided, however, that the amount of such securities outstanding does not exceed 80% of the cost of the equipment for the acquisition of which such securities are issued.

E. In the first mortgage bonds of any terminal company or bridge company guaranteed as to principal and interest by any railroad corporation, any of the mortgage obligations of which are eligible under the provisions of paragraph A, B or C of this subsection.

F. In such other obligations issued, assumed or guaranteed by any railroad corporation organized under the laws of any state in the United States, secured by a mortgage, or trust indenture which is in effect a mortgage, on standard gauge railroad operated by such corporation or a lessee corporation as the bank commissioner may deem suitable investments for savings banks provided he has received the written recommendation of such obligations from a special committee of the savings banks association of Maine appointed or elected for such purpose.

Not more than 30% of the deposits of any one bank shall be invested in obligations of railroads and not more than 2% of such deposits shall be invested in the obligations of any single railroad corporation the mileage of which is located principally outside this state.

VII. Public utility obligations.

A. In the bonds or other fixed interest-bearing obligations issued or assumed by any Maine corporation subject to the jurisdiction of the Maine public utilities commission, and not in default on any of its outstanding funded obligations, carrying on in this state the business for which it was organized; provided, however, that issuance of such securities shall first have been authorized by said commission under the laws of this state, if at the time of their issuance such authorization was required by law.

B. In the bonds, or other fixed interest-bearing obligations issued or assumed by any corporation at least 75% of the gross revenue of which is derived from the sale of electric light and power, gas or water, or a combination of such service; provided:

1. Such corporation shall not be in default on any of its outstanding funded obligations, shall be subject to the jurisdiction of a public utilities commission, public service commission, or some other governmental agency exercising supervisory or regulatory functions, ordinarily incident to the duties of such a commission, and the issuance of the securities in question shall have been authorized by such commission, if at the time of their issuance such authorization was required by law.
2. At least 51% of the corporation's property shall be located in, and 51% of its business transacted within, the United States.
3. Such corporation shall own in fee not less than 51% of the property used by it in the carrying on of its business.
4. Such corporation shall have earned and received average gross revenue plus other income of at least \$500,000 per year in the 3 fiscal years, next preceding investment.
5. Such obligations shall be secured:
 - a. by a first mortgage, or a mortgage or trust indenture which is in effect a first mortgage, or
 - b. by a refunding mortgage providing for the retirement of all prior liens outstanding at the date of investment and covering at least 75% of the property owned in fee by said corporation; provided, however, that all obligations secured by said refunding mortgage shall mature at a date later than the maturity of any bond which it is given to refund.
 - c. by a mortgage having a lien prior to a refunding mortgage above described covering some part of the public utility property included under such refunding mortgage provided that the refunding mortgage contains a provision for the refunding of such prior mortgage, or
 - d. by a first mortgage on property leased to a public utility corporation and forming a substantial portion of the system of the operating

company provided the bonds secured by such mortgage mature prior to the expiration of the lease.

6. Such corporation shall have earned and received for a period of the 3 fiscal years next preceding such investment an average annual income available for fixed charges of not less than twice its current annual fixed charges and have had for the same period average net income after fixed charges of not less than 10% of gross revenue plus other income.

For the purposes of this subparagraph income available for fixed charges shall be determined by subtracting from the sum of gross revenue plus other income all operating expenses including maintenance, depreciation and taxes, except such taxes as are computed on the basis of net incomes or profits; fixed charges shall include rents for leased property, other miscellaneous rents not properly included in operating expenses, net interest charges and amortization of debt discount and expense; net income shall be computed by subtracting the fixed charges from the income available for fixed charges, both as defined herein.

Not more than 45% of the deposits of any one bank shall be invested in the obligations of public utility corporations and not more than 2% of such deposits shall be invested in the obligations of any one such corporation, the business of which is transacted principally outside this state.

VIII. Obligations of telephone companies.

A. In the bonds and other fixed interest-bearing obligations issued, assumed or guaranteed as to principal and interest by any company incorporated under the laws of any state of the United States or of Canada the principal business of which is the supplying of telephone service and at least 51% of the property of which is located in the United States or Canada; provided:

1. Such corporation shall have received average gross revenue of at least \$5,000,000 per year in each of its 5 fiscal years next preceding the investment.

2. Such corporation shall have earned and received for a period of the 3 fiscal years next preceding such investment average annual income available for fixed charges of not less than twice its current annual fixed charges and have had for the same period average net income after fixed charges not less than 10% of gross revenue plus other income.

For the purposes of this subparagraph income available for fixed charges shall be determined by subtracting from the gross revenue plus other income all operating expenses including maintenance, depreciation and taxes, except such taxes as are computed on the basis of net incomes or profits; fixed charges shall include rents for leased property, other miscellaneous rents not properly included in operating expense, net interest charges and amortization of debt discount and expense; net income shall be computed by subtracting the fixed charges from the income available for fixed charges, both as defined herein.

Not more than 15% of the deposits of any bank shall be invested in obligations of telephone companies, and not more than 2% of the deposits may be invested in the obligations of any single telephone company.

IX. Industrial bonds. In the bonds or other fixed interest-bearing obligations of any corporation the property of which is located principally within the United States and which is primarily engaged in the production, manufacture and distribution of products in the United States or is engaged in any combination of such of these activities as are usually incident to the operation of an industrial company provided,

A. Such corporation shall not be in default as to any of its outstanding obligations and shall have had average gross annual revenues during the last 5 years of not less than \$100,000,000.

B. Such corporation shall have earned and received for a period of 5 fiscal years next preceding the investment and average income available for fixed charges of not less than four times the current fixed charges and shall have had for the same period an average net income after such fixed charges equal to not less than 10% of gross revenue plus other income.

For the purposes of this paragraph income available for fixed charges shall be determined by subtracting from the sum of gross revenue plus other income all operating expenses including maintenance, depreciation and taxes, except such taxes as are computed on the basis of net income or profits; fixed charges shall include rents for leased property, other miscellaneous rents not properly included in operating expenses, net interest charges and amortization of debt discount and expense; net income after fixed charges shall be computed by subtracting the fixed charges from the income available for fixed charges all as defined herein.

C. Such corporation shall not have outstanding at the time of the investment total funded obligations in excess of 50% of the total of the following items:

1. All fixed funded obligations taken at par values.

2. All securities junior to those included in subparagraph 1 including all shares of preferred or preference stock taken at par values and other classifications of stock taken at fair market values, all as of the date of the last year-end balance sheet.

Not more than 10% of the deposits of a bank shall be invested in the bonds or obligations of industrial corporations and not more than 1% of the deposits of a bank shall be invested in the bonds or obligations of any one such corporation.

X. Bonds of Maine corporations. In the bonds or other interest-bearing obligations of any Maine corporation, other than those hereinbefore specifically mentioned, actually conducting in this state the business for which such corporation was created, which for a period of 3 successive fiscal years, or 3 nearer periods of 1 year, next preceding the investment, has earned and received an average net income of not less than twice the interest on the obligations in question and all prior liens. Not more than 25% of the deposits of any one bank shall be invested in the obligations of such corporations and not more than 2% of such deposits in the obligations of any single corporation.

XI. Stock of Maine corporations.

A. In the stock of any Maine corporation other than a banking corporation actually conducting in this state the business for which such corporation was created, provided such corporation has for a period of 3 years next preceding the investment earned and received an average net income equivalent to at least 6% upon the entire outstanding issue of the stock in question.

B. Not more than 5% of the deposits of a bank shall be invested in stocks of Maine corporations and not more than 1% of the deposits of such bank shall be invested in the stock of any single corporation. No such bank shall hold by way of investment or as security for loans, or both, more than 1/5 of the capital stock of any corporation; but this limitation shall not apply to assets acquired in good faith upon judgments for debts or in settlements to secure debts, nor to any of such capital stock acquired subsequent to the making of the original loan in good faith for the sole purpose of improving the security for such loan.

XII. Bank stocks and obligations.

A. In the bonds or other interest-bearing obligations of any federal land bank or joint stock land bank organized under any act of congress enacted prior to the 4th day of April, 1923.

B. In the stock, bonds or debentures issued by any federal home loan bank.

C. In obligations issued, assumed or guaranteed by the international bank for reconstruction and development.

D. In the capital stock of any bank doing business within this state incorporated under the laws of this state or the United States.

E. In the capital stock of any bank doing business within the continental United States provided:

1. Such bank shall be a member of the federal reserve system.

2. Such bank shall have no securities outstanding senior to the stock qualifying as legal under this subsection of the law.

3. Such bank shall have capital funds including capital stock, surplus, undivided profits and reserves of not less than \$10,000,000 and not less than 6% of the deposit liability of the bank.

Savings banks shall not hereafter acquire bank stock both by way of investment and as security for loans, which, together with its holdings, shall be in excess of 10% of its deposits; nor shall hereafter acquire stock of any one bank which, together with its present holdings, shall have a book value of more than 1% of its deposits; nor shall hereafter acquire bank stock which, together with its present holdings, shall exceed 10% of the capital stock of any bank.

XIII. National mortgage associations.

In the bonds or other interest-bearing obligations of national mortgage associations.

XIV. Mortgages Under Bankhead-Jones farm tenant act.

In obligations secured by mortgages insured, or with respect to which commitments to insure have been made, under title I of the Bankhead-Jones farm tenant act.

XV. Obligations of development credit corporation of Maine.

In notes or other interest-bearing obligations issued by development credit corporation of Maine in accordance with, and by virtue of, the charter and by-laws of said corporation, up to, but in no case exceeding, 2½% of the reserve funds of any such bank.

XVI. Insurance company stocks.

A. In the capital stock of any insurance company authorized to conduct business in this state provided:

1. In the period consisting of the 5 fiscal years immediately preceding the date of investment not less than 50% of the net premiums written by the company and its subsidiaries shall have been in respect to risks involving loss of or damage to property belonging to or in the custody of the insured, which risks are hereinafter referred to as fire and allied risks. Not over 1/3 of the net premiums written in the same period shall have been in respect to liability of owners or operators of motor vehicles for personal injuries or property damage. For the purpose of this subsection, a fire insurance company subsidiary shall be construed to mean any insurance company 50% or more of the capital stock of which is owned by said fire insurance company or by any other subsidiary thereof;

2. At the end of the fiscal year immediately preceding the date of investment, the combined total of capital stock and surplus of the company

plus the voluntary reserves, as the latter term is hereinafter defined, of the company and its insurance subsidiaries shall be at least 80% of the sum of all of the unearned premiums in respect to all fire and allied risks plus $\frac{1}{2}$ of the unearned premiums in respect to accident and health policies and policies covering liability of the insured for injury or damage to the person or property of others. As used herein, the term voluntary reserves shall be construed to mean all sums allocated to reserve accounts other than unearned premium and loss reserves required by the existing laws and regulations relating to insurance companies doing business in this state.

B. Not more than 10% of the deposits of a mutual savings bank may be invested in stocks of fire insurance companies and not over 1% of the deposits of a mutual savings bank may be invested in the stock of any one insurance company or subsidiary thereof.

XVII. Preferred stock of public utilities. In the fully cumulative preferred stock of any corporation at least 75% of the gross revenue of which is derived from the sale of electric light and power, gas, water or telephone service, or a combination of such services provided:

A. Such corporation shall not be in arrears as to dividends on any preferred stock outstanding, shall be subject to the jurisdiction of a public utilities commission or some other governmental agency exercising supervisory or regulatory functions ordinarily incident to the duties of such a commission and the issuance of the securities in question shall have been duly authorized by such commission, if at the time of their issuance such authorization was required by law.

B. At least 51% of the corporation's property shall be located in, and 51% of its business transacted within the United States.

C. Such corporation shall own in fee not less than 51% of the property used by it in the carrying on of its business.

D. Such corporation shall have earned and received average gross revenue plus other income of at least \$500,000 per year in the 3 fiscal years, next preceding investment.

E. Such corporation shall have earned and received for a period of 3 fiscal years next preceding such investment average annual income available for fixed charges and preferred dividend accruals of not less than twice such current annual fixed charges and preferred dividend accruals and have had for the same period an average balance available after such fixed charges and preferred dividend accruals of not less than 10% of the gross revenue plus other income.

For the purposes of this subsection income available for fixed charges and preferred dividend accruals shall be determined by subtracting from the sum of gross revenue plus other income all operating expenses including maintenance, depreciation and all taxes including taxes computed on the basis of net income; fixed charges shall include rents for leased property, other miscellaneous rents not properly included in operating expense, net interest charges and amortization of debt discount and expense; accruals of preferred dividends shall include dividend accruals on all preferred stocks outstanding; balance after fixed charges and preferred dividend accruals shall be computed by subtracting fixed charges and preferred dividend accruals from the income available for fixed charges and preferred dividend accruals, all as defined herein.

Not more than 10% of the deposits of a bank shall be invested in preferred stocks of public utilities and not more than one-half of 1% of such deposits shall be invested in the preferred stocks of any one company.

XVIII. Securities approved by bank commissioner. In such securities

as may be approved as suitable investments for savings banks by the bank commissioner provided he has received a written recommendation of such securities from a special committee of the savings banks association of Maine appointed or elected for such purpose.

Not more than 5% of the deposits of a bank shall be invested in securities coming within the coverage of this subsection.

XIX. Other securities. In such other securities as the trustees of a bank may consider to be sound prudent investments.

Not more than 3% of the deposits of a bank shall be invested in securities within the coverage of this subsection.

XX. Department certificates of legality. Within the first 15 days of June of each year the bank commissioner shall ascertain what securities qualify as legal investments under subsections I to XVIII, inclusive, of this section and shall publish for distribution to all savings banks and other interested parties a list of such securities. Such findings may be based upon information derived from any source which the bank commissioner deems reliable and need not include information furnished directly by officers of the company issuing or assuming the obligations or other securities included in the list. The publication of such a list shall be prima facie evidence of the legality of such securities and shall so continue until the issuance of another list by the commissioner or issuance of an intermediate certificate correcting or changing the list. Any person or corporation financially interested in any such finding of the bank commissioner may take an appeal therefrom to any justice of the superior court, who, after such notice and hearing as he deems proper, may inquire into and render a judgment whether such security is a legal investment for savings banks under the provisions of this section.

In carrying out the provisions of this section the bank commissioner may make any proper or necessary expenditures including compensation to any person or persons especially employed for the purpose.

XXI. When savings banks, etc., may acquire and hold securities not authorized by law. Savings banks, loan and building associations and trusts companies organized under the provisions of this chapter may acquire and hold securities not authorized by law but which have been acquired in settlements, reorganizations, recapitalizations, mergers, consolidations, by receipt of stock dividends or by the exercise of rights applicable to securities held by said banks, associations and trust companies and may continue to hold such securities at the discretion of the trustees or the directors of such savings banks, loan and building associations and trust companies. (1955, c. 380, § 1.)

Sec. 19-J. Accounting, surplus and dividends.—

I. The treasurer of every savings bank, or such other officer as may be designated by by-laws or by duly recorded vote of its trustees, shall cause the books and accounts of the bank to be kept in such manner and form as will most accurately and promptly reflect its condition and earnings. The bank commissioner may prescribe the manner and form of keeping such books and accounts, which, however, need not be uniform. The treasurer shall, annually, and as much oftener as the bank commissioner may require, make return of the condition and standing of the bank at such time as the bank commissioner designates, which return shall be made to said commissioner within 15 days after the day designated in the blank form of such return to be furnished by the commissioner.

II. No item of assets shall be entered on the books of the bank at a figure in excess of its actual cost to the bank; nor shall the book value of any such item be thereafter increased, except upon the written authorization of the bank commissioner, or as may be provided in the following paragraph:

The trustees in their discretion may authorize the carrying of any item of

assets of the bank at a value less than its cost to the bank, may authorize such provision for depreciation of physical assets as in their judgment may be required, and may provide for systematic amortization of premiums or discounts of bonds or other obligations acquired at a cost other than the par value thereof.

III. The bank commissioner may require any item of the assets of a savings bank to be charged down to such sum as in his judgment represents its fair value.

IV. Every savings bank shall close its books, for the purpose of computing its net earnings, at the end of the period for which a dividend is to be paid, and in no event less frequently than semiannually.

The treasurer shall cause such net earnings to be computed in a manner to reflect most accurately and completely, and in accordance with the best available methods and systems, the actual income and expenditures of the bank. Such accounting may be either upon the cash or accrual basis. All such accounting shall be subject to the direction and control of the bank commissioner.

V. Every savings bank shall establish and maintain a surplus, reserve or guaranty fund, which at all times shall exceed 5% of its existing deposits. The fund shall be kept constantly on hand as a security against losses and contingencies, and all losses not otherwise absorbed shall be charged against it. Should this fund become impaired and fall below 5% of the bank's deposits, it shall be restored by setting aside from current net income an amount which together with other amounts so set aside for this purpose during the year shall be equal to at least $\frac{1}{2}$ of 1% of its deposits, until the fund is restored to the required amount.

Contributions of corporators to the surplus fund, together with dividends declared thereon, may be repaid pro rata to them or their heirs, executors, administrators or assigns, in such amounts as will not reduce the surplus fund below 5% of the amount due depositors, provided the written approval of the bank commissioner shall be required before any such repayments can be made. In case of the liquidation of the bank before such contributions have been repaid, any portion of such contributions not needed for the repayment of the expenses of liquidation and the payment of depositors and creditors in full may be repaid pro rata.

VI. After passing to the surplus, reserve or guaranty fund that part of the income required in the preceding paragraph, if any, the trustees may declare such dividends as in their judgment should be declared in the light of the bank's condition and earning power, and as may be permitted or required by their by-laws, provided:

A. That the surplus, reserve or guaranty fund may be established and maintained at such figure in excess of 5% of the deposits of the bank as their judgment may indicate.

B. That no dividend may be declared at a rate of more than 5% per annum.

C. That no dividend may be declared that will make its aggregate amount greater than the income and capital gains actually collected in the period covered by it, except that for the purpose of maintaining an established rate the trustees may deduct from earnings and carry as a special fund such sums as they may deem wise.

VII. The trustees, in their discretion, when in their opinion the accumulated surplus of the bank is more than adequate for the protection of its depositors, may declare an extra dividend, payable from any surplus, reserve or undivided profits account of the bank.

Such action shall not become effective until formal approval thereof has been given by the bank commissioner. The clerk shall promptly notify said commissioner of such contemplated action by sending a copy of such vote of the

trustees, duly certified by him, by registered mail. Within 10 days after the receipt thereof, the commissioner shall notify the trustees, through the clerk, of his approval or disapproval of such action.

VIII. Dividends may be declared, and credited and paid to depositors, only as authorized by a vote of the board of trustees, entered upon their records whereon shall be recorded the yeas and nays upon such vote.

IX. The treasurer of every savings bank shall, within 60 days after a dividend is declared, and as much earlier as possible, credit the same to the deposit account.

In computing dividends on deposits in banks, savings banks and trust companies, interest shall be figured on the balance that has remained on deposit for the full dividend period, with additions for all deposits, less withdrawals, remaining in the bank from their respective monthly dates to the dividend date. Withdrawals shall be deducted from the last deposit made in each case. Deposits made on other than the 1st day of each month may draw interest on the 1st or last day of the month or from date of deposit, as the trustees or directors may determine.

X. The amounts contributed by corporators to the surplus fund shall be credited with dividends at the same rate as those credited to accounts of depositors.

XI. Savings banks may contract, on terms to be agreed upon, for the deposit at intervals within a period of 12 months, of sums of money and for the payment of interest on the same at a rate not more than the rate of their last regular dividends on savings deposits; or for the receipt of such deposits without the right to dividends thereon. (1955, c. 380, § 1.)

Sec. 19-K. Retirement allowances and other benefits for officers and employees.—

I. A savings bank, by vote of its trustees, may retire any officer or employee who shall have given his whole time to the service of the bank and shall have been continuously in receipt of a regular salary from the bank for 20 or more years and shall have arrived at the age of 65 years or has been continuously in the employ of the bank for not less than 15 years and has become incapacitated for any cause for further service in his office or position; or at any time, if he shall become so incapacitated by reason of injuries suffered by him in the discharge of his duties to the bank. The trustees may pay to him during the remainder of his life, in equal monthly installments, a yearly allowance of such amount as shall be deemed reasonable, based on the character and length of service rendered and other relevant circumstances. If the trustees decide to pay such allowances entirely from the bank's funds, they shall immediately set aside from the reserve fund or other surplus earnings, a special fund sufficient in amount, according to actuarial standards, to meet the cost thereof for any member or members of the bank's staff whose time for retirement has arrived or is near; and yearly, or oftener thereafter, shall appropriate from the current earnings and credit to such special fund amounts sufficient to create, as soon as may be, and maintain, for the payment of the allowances to the other members of the bank's staff, a fund sufficient therefor according to said standards; or, if the trustees prefer, they may enter into an agreement with an insurance company for the setting up of such reserves and the payment of the pensions or may carry out the foregoing provisions by means of an agreement with a trustee which may permit combination with funds similarly held for other banking and trust institutions all as approved by the bank commissioner. The trustees may also, subject to the approval of the bank commissioner, set up a retirement plan, by means of an agreement with a trustee which may permit combination with funds similarly held for other banking and trust institutions,

for the payment of retirement benefits to employees, irrespective of the period of service of such employees, which plan may also permit the employee to elect to receive an optional form of annuity which provides for actuarially reduced monthly payments commencing at retirement date of the employee and continuing during the employee's lifetime, and for the continuance of such payments, or a specified percentage thereof, to a provisional payee, if living, after the employee's death.

II. The trustees may also insure the lives of those officers and employees who give their whole time to the service of the bank. Such insurance shall be placed with a life insurance company and shall be for such an amount for each beneficiary thereof as the trustees may decide.

III. The cost of such allowances or insurance may be paid wholly by the bank; or the trustees may adopt a plan which will provide that some part thereof shall be contributed by the beneficiaries.

IV. The plan adopted by the trustees and the insurance company selected to cooperate in its administration shall be subject to the approval of the bank commissioner.

V. The benefits conferred upon any recipient of such allowances or upon the beneficiary of such insurance shall not be subject to trustee process, or brought into suit by his creditors or otherwise; nor may he assign or alienate them.

VI. If, in the case of a sale of the assets of the bank, or of its merger with another bank, or if its standing and condition shall induce or oblige the commissioner or the trustees to have recourse to any of the proceedings provided by sections 69, 70, 71, 72, 73, 74 and 75, any rights to accrued or future retirement allowances vested in any officer or employee under action taken by the trustees of any savings bank under the provisions of subsection I, or under any agreement with an insurance company then in force, shall be a preferred claim upon the assets of the bank, unless such special fund is in the hands of a trustee for the benefit of such officer or employee.

VII. Provided, however, that where an insurance or pension plan is underwritten by one or more life insurance companies, as authorized by this section, by a contract for the purpose made either with an individual bank or with an association duly empowered so to act for and on behalf of the individual banks in the association, the rights of such bank or association and of any individual member or beneficiary of such plan as against the insurance company or companies and the obligations of such insurance company or companies shall, in the situations enumerated in subsection VI, be determined by and limited to the rights and obligations of the respective parties as set forth in the insurance or pension contract by which the plan was underwritten.

VIII. The trustees may also make such provision for the payment of medical, surgical and hospital expenses of officers and employees, due to accident or illness, as in their judgment is reasonably required. (1955, c. 380, § 1.)

Sec. 19-L. Supervision.—

I. Verification of deposits. The bank commissioner, at least once in every 3 years, shall cause the books of the savings depositors in savings banks and in every trust company to be verified by such methods and under such rules as he may prescribe.

The bank commissioner, deputy bank commissioner and all examiners and employees of the department acting under the foregoing provisions shall have full access to every part of the savings bank or trust company under examination, and to all books, papers, vouchers, resources and all other records and property belonging to said savings bank or trust company, whether in its immediate possession or otherwise, for the purpose of facilitating such verification.

If any representative of the banking department designated to make such audit or verification as herein specified shall communicate or impart to any person or persons, except to said bank commissioner or as witness in court, any information obtained by said audit or verification, he shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than 11 months, or by both such fine and imprisonment.

II. Examination. Savings banks are under the charge of the bank commissioner for the purposes of examination. He shall visit every savings bank, incorporated by authority of the state, once in every year and as much oftener as he deems expedient. At such visits he shall have free access to the vaults, books and papers, and thoroughly inspect and examine all the affairs of each of said corporations, and make such inquiries as are necessary to ascertain its condition and ability to fulfill all its engagements, and whether it has complied with the law, and its officers shall, whenever required to do so by the bank commissioner, furnish him with statements and full information relating to the condition and standing of their institution, and of all matters pertaining to its business affairs and management. He shall preserve, in a permanent form, a full record of his proceedings, including a statement of the condition of each of said corporations, a copy of which statement shall be published by such corporation immediately after the examination of the same, in a newspaper in the place where it is established, if any, otherwise in a newspaper published in the nearest place thereto. Joint examinations of state and national banking institutions occupying the same rooms shall be made at least once in each year at such times and under such conditions as the 2 departments may, from time to time, agree upon. (1955, c. 380, § 1.)

Organization of Savings Banks.

Secs. 20-27. Repealed by Public Laws 1955, c. 380, § 2.

Cross reference.—For present provisions re savings banks, see §§ 19-A to 19-L.

Management of Savings Banks.

Secs. 28-68. Repealed by Public Laws 1955, c. 380, § 2.

Cross reference.—For present provisions re savings banks, see §§ 19-A to 19-L.

Trust Companies.

Sec. 90. Organization of trust companies; powers.

XI. To contribute to community funds, or to charitable, philanthropic, educational or benevolent instrumentalities conducive to public welfare, or civic betterment or the economic advantage of the community, such sums as a majority of the board of directors may deem expedient. [1955, c. 140] (R. S. c. 55, § 86. 1943, c. 360. 1945, c. 72, § 2. 1951, c. 157, § 6. 1955, c. 140.)

Effect of amendment.—The 1955 amendment added the above subsection XI to this section. As the rest of the section was not changed, only the subsection added by the amendment is set out.

Sec. 107. Board of directors; executive committees; vacancies among directors; election of president, clerk and treasurer; false return; bonds of officials.—All the corporate powers of any trust company shall be exercised by a board of not less than 5 directors, 2/3 of whom shall be residents of this state, whose number and term of office shall be determined and who shall be elected by a vote of the stockholders at the 1st meeting held by the incorporators and at each annual meeting thereafter. Directors shall hold a

regular meeting at least once each month. The stockholders at any annual meeting may elect from the full board of directors an executive committee of not less than 5 members, $\frac{2}{3}$ of whom shall be residents of this state, and delegate to such committee the powers of the directors in regard to the ordinary operations of the business of the company; such powers to be exercised by such committee at all times when said board of directors is not in session; subject always, however, to any specific vote of said board of directors. All such committees shall keep full minutes of all business transacted by them and shall make such reports of their transactions at each monthly meeting of the board as said board or the bank commissioner may require. The directors shall be annually sworn to the proper discharge of their duties, and they shall hold office until others are elected and qualified in their stead. If any vacancy occurs in the board of directors or executive committee through death, resignation or otherwise, the remaining directors may elect a person to fill the vacancy until the next annual meeting of the corporation. The oath of office of any director shall be taken within 30 days of his election or his office shall become vacant. The clerk of such company shall, within 10 days, notify such directors of their election and within 30 days shall publish the list of all persons who have taken the oath of office as directors. The removal of any director from this state shall immediately vacate his office if such removal leaves less than $\frac{2}{3}$ of the membership resident in the state. The board of directors shall elect a president from its number, a clerk who shall be sworn to the faithful performance of his duties, a treasurer and such other officers as they may deem necessary. Any officer or employee of any trust company who shall willfully or knowingly make a false return to the bank commissioner in response to any call for information issued by said commissioner or by the deputy bank commissioner, or upon making or filing of any regular or special report, shall be punished by a fine of not more than \$500 or by imprisonment for not more than 11 months, or by both such fine and imprisonment. The president, treasurer, assistant treasurer and all other officials and employees having access to moneys or securities shall be bonded as in the case of similar officials in savings banks, and the provisions of paragraph B of subsection III of section 19-E, so far as applicable, shall apply to the bonds of trust company officials and employees. (R. S. c. 55, § 102. 1955, c. 380, § 4.)

Effect of amendment.—The 1955 amendment substituted the reference to paragraph B of subsection III of § 19-E for a reference to § 33 in the last sentence.

Sec. 121. Authority of bank commissioner over trust companies; annual report.—The bank commissioner shall at all times have the same authority over all trust companies incorporated under the laws of this state that he now has over savings banks, and shall perform, in reference to such companies, the same duties as are required of him in reference to savings banks. He shall, annually, make a report to the governor and council of the general conduct and condition of each of said companies, making such suggestions as he deems expedient or the public interest requires. Such report shall be printed and laid before the legislature at its next session and 1 copy sent to each trust company in the state. The provisions of subsection II of section 19-L, and sections 70 to 76, inclusive, shall apply to trust companies, excepting so much as relates to the distribution of assets after a decree of sequestration, as provided in section 73. Such distribution of assets of trust companies shall be made under order of the court. (R. S. c. 55, § 116. 1955, c. 380, § 5.)

Effect of amendment.—The 1955 amendment substituted the reference to subsection II of § 19-L for a reference to § 68 in the next to last sentence.

Bank Holidays. Saturday Closing.

Sec. 155. Bank holidays.—Any day of public thanksgiving, appointed by the governor and council or by the President of the United States, the 1st day

of January, the 22nd day of February, the 19th day of April, the 30th day of May, the 4th day of July, the 1st Monday of September, veterans day, November 11th, and the 25th day of December are declared to be bank holidays. If a bank holiday falls on Sunday, the following Monday shall be deemed a bank holiday for the purposes of this chapter. (R. S. c. 55, § 140. 1955, c. 405, § 35.)

Effect of amendment.—The 1955 amendment substituted "veterans day" for "armistice day."

Loan and Building Associations.

Sec. 173. Security for loans; condition of note and mortgage; shares alone pledged as security; if borrower fails to offer security, loan forfeited; notes and mortgages assigned in exchange for home owners' loan corporation bonds.—For every loan made by a loan and building association, a note secured by first mortgage of real estate shall be given, accompanied by a transfer and pledge of the shares of the borrower. The shares so pledged shall be held by the association as collateral security for the performance of the conditions of the note and mortgage. Said note and mortgage shall recite the number of shares pledged and the amount of money advanced thereon, and shall be conditioned for the payment, at the stated meetings of the corporation, of the monthly dues on said shares, and the interest and premiums upon the loan, together with all fines on payments in arrears, until said loan has been repaid; provided that the shares, without other security, may, in the discretion of the directors, be pledged as security for loans to an amount not exceeding their value as adjusted in the last adjustment and valuation of shares before the time of the loan. If the borrower neglects to offer security satisfactory to the directors within the time prescribed by the by-laws, his right to the loan shall be forfeited, and he shall be charged with 1 month's interest and 1 month's premium at the rate bid by him together with all expenses, if any, incurred, and the money appropriated for such loan may be reloaned at the next or any subsequent meeting. Any such note and mortgage taken by any loan and building association may, in the discretion of the directors thereof, be assigned to the home owners' loan corporation as created by an act of congress known as the home owners' loan act of 1933, in exchange for bonds issued or to be issued by said home owners' loan corporation or said note and mortgage so taken by any loan and building association may, in the discretion of its directors, be exchanged for said bonds so issued or to be issued by the home owners' loan corporation under the provisions of said act of congress known as home owners' loan act of 1933.

Any interest in real property which may now be mortgaged to such associations may be mortgaged to secure existing debts or obligations, to secure debts or obligations created simultaneously with the execution of the mortgage, to secure future advances necessary to protect the security and to secure future advances to be made at the option of the parties up to a total amount stated in the mortgage, and all such debts, obligations and future advances shall, from the time the mortgage is filed for record as provided by law, be secured by such mortgage equally with, and have the same priority over the rights of all persons who subsequent to the recording of such mortgage acquire any rights in or liens upon the mortgaged real estate, as the debts and obligations secured thereby at the time of the filing of the mortgage for record; except that:

I. The mortgagor or his successor in title is hereby authorized to file for record, and the same shall be recorded in the same recording office as the original mortgage, notice limiting the amount of optional future advances secured by such mortgage to not less than the amount actually advanced at the time of such filing, provided a copy of such filing is also filed with the mortgagee, and

II. If any optional future advance shall be made by the mortgagee to the

mortgagor or his successor in title after written notice is received by the mortgagee of any mortgage, lien or claim against such real property which is junior to such mortgage, then the amount of such advance shall be junior to such mortgage, lien or claim of which such written notice was given. (R. S. c. 55, § 156. 1953, c. 177, § 2. 1955, c. 354, §§ 1, 2.)

Effect of amendment.—The 1955 amendment deleted the former second sentence, relating to additional loans upon the same real estate, and added the second paragraph, containing subsections I and II.

Sec. 177. Unpledged shares of deceased shareholders; distribution.

If any depositor or shareholder shall die, leaving in an association an account on which the balance due him shall not exceed \$500, and no executor of his will or administrator of his estate shall be appointed, the association may pay the balance of his or her account to the surviving spouse, next of kin, funeral director or other preferred creditor or creditors who may appear to be entitled thereto. For any payment so made the association shall not be liable to the decedent's executor or administrator thereafter appointed, unless the payment shall have been made within 6 months after the decedent's death and an action to recover the amount shall have been commenced within one year after the date of the payment. (R. S. c. 55, § 160. 1955, c. 354, § 3.)

Effect of amendment.—The 1955 amendment added the above paragraph at the end of this section. As the original paragraph of the section was not changed, only the paragraph added by the amendment is set out.

Sec. 179. Profits and losses; guaranty fund.—The profits and losses of a loan and building association may be distributed annually, semiannually or quarterly to the shares then existing, but shall be distributed at least once in each year. Profits and losses shall be distributed to the various serial and permanent plan shares existing at the time of such distribution, in proportion to their value at that time, and shall be computed upon the basis of a single share, fully paid to the date of distribution, or on the value at the time of distribution of each individual share exclusive of payments in advance. Such interest or dividends may be paid on other shares or types of investments, as the board of directors may determine. No dividend shall be paid at a rate per cent which will make the aggregate amount of said dividend greater than the actual earnings of the association, actually collected; provided, however, that a temporary deficiency in actual collections may be supplemented by taking from the guaranty fund, with the written consent of the bank commissioner, an amount sufficient to maintain the customary dividend rate. At each periodical distribution of profits, before declaring dividends, the directors shall reserve as a guaranty fund a sum not less than 3% of the net income accruing since the last adjustment, until such fund amounts to 5% of the capital dues including advance payments, and all other classes of shares issued by such association, which fund shall thereafter be maintained and held and said fund shall be at all times available to meet losses in the business of the association from depreciation in its securities or otherwise. After such fund has reached said amount of 5%, additional amounts may be added from time to time to said fund by appropriate resolution or vote of the board of directors of the association. (R. S. c. 55, § 162. 1947, c. 111. 1953, c. 177, §§ 2-A, 3. 1955, c. 354, § 4.)

Effect of amendment.—The 1955 amendment deleted "nor more than 10%" formerly appearing after "3%" in line three of the fifth sentence.

Sec. 180. Association may purchase real estate upon which it has a lien; sale within 5 years; branches.

An association may open and conduct branches in the city or town where its main business is located and in other cities or towns in the county of its location, or the adjoining counties; provided that before opening a branch in any

other city or town, it shall have received a warrant to do so from the bank commissioner, who shall issue such warrant only when satisfied that public convenience and advantage will be promoted by the establishment of such a branch. He may require such notice on an application for a branch as he deems proper. If granted, the commissioner shall issue his warrant in duplicate, one copy to be delivered to the association and the other to the secretary of state for record. Within 10 days after opening a branch, the association shall file with the commissioner a certificate thereof signed by its president and treasurer. The right to open a branch shall lapse at the end of one year from the date of filing the commissioner's warrant with the secretary of state, unless it shall have been opened and business actually begun in good faith. An application for permission to open a branch shall not be acted upon until the petitioning association shall have paid to the treasurer of state the sum of \$50 for the benefit of the state, to be credited and used as provided in section 102. Any such branch may be closed or discontinued with the consent of the commissioner, after such notice and hearing, if any, as in his judgment the public interest may require. (R. S. c. 55, § 163. 1953, c. 177, § 4. 1955, c. 354, § 5.)

Effect of amendment.—The 1955 amendment added the above paragraph at the end of this section. As the original paragraph of the section was not changed, only the paragraph added by the amendment is set out.

Sec. 181. Audit.—The directors of each association shall annually employ an auditor or auditors, who may be either an independent public accountant or accountants, or an elected or appointed official of the association, who shall be solely responsible to the directors.

Said auditor or auditors shall examine and analyze the books, accounts, notes, mortgages, securities and operating systems of the association, at such times and in such manner as in their judgment is necessary and appropriate, or as the directors may direct, for the protection of depositors and shareholders and the efficient operation of the association, and shall make written report of the condition of the association to the president, for the board, at such time, in such manner, and to such extent as the board may require, or as said auditor or auditors may deem necessary or proper, but at least once each year.

The bank commissioner, in the course of his regular official examination of the association shall, and at such other times as he deems advisable, may, investigate the work of such auditor or auditors to determine its adequacy for the purposes above set forth, and in case he deems it inadequate he shall forthwith report his findings, with recommendations, in writing to the directors, who shall, within 30 days thereafter, give full consideration to such findings and recommendations, and take such steps relative thereto as in their judgment the situation requires.

Such audit may include a verification of accounts of depositors and shareholders which, if deemed adequate by the commissioner, shall relieve him from all responsibility for such verification imposed upon him by section 182, so far as applicable to said association; and shall relieve said association of the expense of such verification by the banking department which might otherwise have been assessed against it under the provisions of section 2.

In lieu of the employment, election or appointment of an auditor or auditors in the manner hereinbefore provided, the association may enter into an arrangement with the bank commissioner, approved by the directors by duly recorded vote, and by the commissioner in writing, under which the auditing function may be assumed and discharged by the bank commissioner, who, unless otherwise stipulated in the agreement, shall have sole responsibility for its supervision and operation. The expense of such audit shall be chargeable to and paid by the association. Such arrangement may be terminated by either party on at least 30 days' notice in writing.

Whenever the directors of an association shall have provided for such audit

by either of the methods above prescribed and, in the cases of the employment, election or appointments of an auditor or auditors by them, shall have taken such action to remedy conditions as may reasonably be deemed necessary in the light of information disclosed by any report of said auditor or auditors, and shall have complied with all reasonable recommendations of the commissioner relative thereto within the time hereinbefore prescribed, they shall not be personally liable for any loss suffered by such association, due to any subsequent wrongdoing by any officer or employee of the association, in the absence of other facts indicating negligence on the part of said directors. (R. S. c. 55, § 165. 1955, c. 354, § 6.)

Effect of amendment.—The 1955 amendment rewrote this section.

Sec. 187. Loss of passbook or certificate.—If an association receives a notice in writing that a book of deposit or certificate of shares is lost, together with a request that a duplicate book of deposit or certificate be issued, such notice and request being signed by the appropriate person or persons as hereinafter provided, said association at the expiration of a period of 10 days from the receipt of such notice, if the missing book or certificate is not sooner presented, may issue a duplicate book of deposit or certificate to the persons signing said notice and request, and the delivery of such duplicate book or certificate relieves said association from all liability on account of the missing original book of deposit or certificate. Such notice and request shall be signed:

I. If the book or certificate was issued to a single depositor or shareholder, then by him, or by his guardian, conservator, executor or administrator.

II. If the book or certificate was issued to 2 or more depositors or shareholders, then by all such depositors or shareholders then surviving, or by the last survivor or the executor or administrator of the last survivor of such depositors or shareholders; provided, however, that a guardian or conservator shall sign for any of the foregoing persons respecting whom he has been appointed. (R. S. c. 55, § 171. 1955, c. 354, § 7.)

Effect of amendment.—The 1955 amendment rewrote this section.

Industrial or Morris Plan Banks.

Sec. 208. Supervision and control of bank commissioner; expenses incurred in examination of industrial banks.—Every corporation organized under the provisions of section 201 shall be subject to the examination, supervision and control of the bank commissioner and shall report to him in the manner provided for savings banks, and the provisions of paragraph C of subsection III of section 19-E, subsections I and II of section 19-L and sections 69 to 75, inclusive, shall apply to industrial banks. The expenses of the banking department necessarily incurred in the examination of industrial banks shall be chargeable to such institutions under the provisions of section 2, and they shall be subject to the same semiannual assessments as provided in section 2, on the same basis as applies to loan and building associations. (R. S. c. 55, § 188. 1955, c. 92; c. 380, § 6.)

Effect of amendments.—The first 1955 amendment added the second sentence. The second 1955 amendment, which did not refer to the first amendment or incorporate the sentence added by it, inserted

the references to §§ 19-E and 19-L and substituted "69" for "64" in the first sentence. Both amendments are given effect in the section as set out above.

Nominees.

Sec. 246. Investments registered.—Any state or national bank or trust

company, when acting in this state as a fiduciary or a co-fiduciary with others, may with the consent of its co-fiduciary or co-fiduciaries, if any, who are hereby authorized to give such consent, cause any investment held in any such capacity to be registered and held in the name of a nominee or nominees of such bank or trust company. Such bank or trust company shall be liable for the acts of any such nominee with respect to any investment so registered. (1955, c. 90.)

Sec. 247. Investment kept separate; records.—The records of such bank or trust company shall at all times show the ownership of any such investment, which investment shall be in the possession and control of such bank or trust company and be kept separate and apart from the assets of such bank or trust company. (1955, c. 90.)

Sec. 248. Application.—The provisions of sections 246 to 248, inclusive, shall govern fiduciaries and co-fiduciaries acting under wills, agreements, court orders and other instruments now existing or hereafter made, provided that nothing contained in sections 246 to 248, inclusive, shall be construed as authorizing any departure from or variation of the express words or limitations set forth in any will, agreement, court order or other instrument creating or defining the fiduciary's duties and powers. (1955, c. 90.)

Chapter 60.

Insurance and Insurance Companies.

Section 131-A. Prohibiting Certain Forms of Dividend Life Insurance.

The Insurance Commissioner. Powers and Duties.

Sec. 2. Commissioner, appointment, term and duties; deputy commissioners.—An insurance commissioner, as heretofore appointed and hereinafter in this chapter called the "commissioner," shall be appointed by the governor and council and shall hold his office for 4 years and until his successor has been appointed and qualified, but shall not at the same time be bank commissioner. His office shall be at the state capitol. He may administer oaths in the performance of his official duties in any part of the state and at any time. He shall keep a correct account of all his doings and of all fees and moneys received by him by virtue of his office, and pay over the same to the treasurer of state forthwith. He shall receive an annual salary of \$8,000. He may appoint, subject to the provisions of the personnel law, not to exceed 2 deputy commissioners, one of whom, by virtue of such appointment, shall be and perform all the duties of the first deputy insurance commissioner. In the event of a vacancy in the office of the insurance commissioner or during the absence or disability of that officer, the first deputy insurance commissioner so appointed under the provisions of this section shall become during such vacancy, absence or disability of that officer the acting insurance commissioner. (R. S. c. 56, § 2. 1947, cc. 182, 387. 1949, c. 349, § 90. 1951, c. 412, § 15. 1955, c. 473, § 15.)

Effect of amendment.—The 1955 amendment increased the annual salary of the insurance commissioner from \$7,000 to \$8,000.

Organization of Companies under General Law.

Sec. 32. Merger of domestic mutual insurance companies.—

IV. When said agreement is so signed, acknowledged, adopted, recorded and filed, the separate existence of all of the constituent companies or all of such constituent companies except the one into which such constituent companies shall have been consolidated shall cease; and the constituent companies,