

# MAINE STATE LEGISLATURE

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REVISED STATUTES  
OF THE  
STATE OF MAINE  
1954

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1959 CUMULATIVE SUPPLEMENT

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ANNOTATED

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IN FIVE VOLUMES

VOLUME 2

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**Place in Pocket of Corresponding  
Volume of Main Set**

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THE MICHIE COMPANY  
CHARLOTTESVILLE, VIRGINIA  
1959

lot or lots, or their appurtenances, which sum shall be entered upon the books of the treasurer and invested and held in accordance with the provisions of section 21 of chapter 90-A. (R. S. c. 54, § 17. 1949, c. 66. 1957, c. 405, § 11.)

**Effect of amendment.** — The 1957 "section 120 of chapter 91" to "section 21 amendment changed the reference from of chapter 90-A".

## Chapter 59.

### Banks and Banking.

Sections 1 to 2-A. The Bank Commissioner. Deputy.

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

Sections 154-A to 154-G. Mutual Trust Investment Company Act.

Sections 246-248. Nominees.

Sections 249-260. Motor Vehicle Sales Finance Act.

#### The Bank Commissioner. Deputy.

**Sec. 1. Bank commissioner; appointment; salary; not to disclose information; fees.**—A bank commissioner, as heretofore appointed and hereinafter in this chapter called the "commissioner," 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. No person shall be eligible for said office unless he shall have had at the time of his appointment at least 7 years practical experience in one or more of the following capacities, as an executive officer, director or trustee of a bank or loan and building association doing business in Maine, or as an employee in the banking department of this or some other state, or as an employee of a federal examining authority charged with examining financial institutions. 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 to be determined by the governor and confirmed by the council and his actual traveling expenses incurred in the performance of his duties.

No information derived by or communicated to the bank commissioner, deputy bank commissioner or any examiner or employee of the department in the course of official duty shall be disclosed except:

- I. To United States government officials charged with the duty of supervising national banks, officials and examiners of the federal deposit insurance corporation, federal home loan bank and federal savings and loan insurance corporation;
- II. To federal reserve officials;
- III. To banking departments of other states;
- IV. To the governor and treasurer of state;
- V. To an advisory board, to be made up of mutual savings banks executive officials or trustees, or both, chosen by the savings banks association of Maine, so far as such information may relate to the conditions, policies and practices of mutual savings banks under his supervision and in such manner and to such extent as in the judgment of the commissioner will tend to assist him in the discharge of his obligations under this chapter. Any information so communicated to such advisory board shall be held by each member thereof in strict confidence;

**VI.** To an advisory committee to be made up of state chartered trust company officials or directors, or both, chosen by the Maine bankers association, so far as such information may relate to the conditions, policies and practices of trust companies under his supervision and in such manner and to such extent as in the judgment of the commissioner will tend to assist him in the discharge of his obligations under this chapter. Any information so communicated to such advisory board shall be held by each member thereof in strict confidence;

**VII.** To officials and employees of public accounting firms authorized to do business in Maine charged with the duty of performing audits or examinations of banks or loan and building associations doing business in Maine, either separately or concurrently with the banking department.

Whoever violates the provisions of the preceding paragraph shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 6 months, or by both.

The bank commissioner shall collect the legal and usual fees payable to him by virtue of his office, and account for and pay over the same to the treasurer of state forthwith for deposit in the general fund.

He shall receive in behalf of the state:

For a certificate of authorization of a loan and building association, \$5.

For each license authorizing a foreign banking corporation to conduct its business in this state, and each renewal thereof, \$20.

For receiving service of process against such corporation or against a foreign corporation acting as trustee of a mortgage given by a domestic corporation, \$2, which shall be paid by the plaintiff at the time of such service, and shall be recovered by him as a part of his taxable costs, if he prevails in the suit.

For granting license to foreign corporations selling securities on the partial payment or installment plan, and for each renewal thereof, \$20.

For registration or renewal of registration of dealers in securities, \$50, which shall be returned if application is not granted.

For certified copies of dealer's certificate, 50¢ each.

For registration or renewal of registration of salesmen or agent of dealer in securities, \$10 each. (R. S. c. 55, § 1. 1945, c. 103; c. 297, § 18; c. 365. 1951, c. 412, § 14. 1955, c. 473, § 14. 1957, c. 418, § 17. 1959, c. 178, § 1.)

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

The 1957 amendment, effective July 1, 1957, increased his salary from \$8,000 to \$9,000.

The 1959 amendment added "and hereinafter in this chapter called the 'commis-

sioner' " in the first sentence, added the second sentence, rewrote the last sentence of the first paragraph which formerly provided a definite sum as his annual salary, added all of subsection I following "national banks," added subsections VI and VII and made other minor changes.

**Sec. 2. Deputy bank commissioner; examiners, etc.; training of employees; expenses; bank's failure to pay its portion.**—The bank commissioner may employ, subject to the provisions of the personnel law, a deputy bank commissioner and as many examiners, assistant examiners and clerks as the business of the office may require. The commissioner may train his employees or have them trained in such manner as he deems desirable, at the expense of the department. The deputy bank commissioner shall perform the duties of the commissioner whenever the latter shall be absent from the state, or whenever he shall be directed by the commissioner, or whenever there shall be a vacancy in the office of commissioner. The deputy bank commissioner and all examiners and assistant

examiners shall receive their actual expenses incurred in the performance of official duties.

(1959, c. 178, § 3.)

**Effect of amendment.**—The 1959 amendment added the second sentence of the first paragraph. As the rest of this section was not affected by the amendment, it is not set out.

**Sec. 2-A. Department regulations.**—The bank commissioner, with the advice and joint consent of the advisory committees of the savings banks and trust companies, as provided for in section 1, may from time to time make and shall enforce rules and regulations relating to said banks and trust companies, subject to the provisions of this chapter. (1959, c. 178, § 2.)

### General Provisions.

**Sec. 4. Banking business authorized; banking defined.** — No person, copartnership, association or corporation shall do a banking business unless duly authorized under the laws of this state or the United States. The soliciting, receiving or accepting of money or its equivalent on deposit as a regular business by any person, copartnership, association or corporation, or a corporation intended to derive profit from the loan of money except as a reasonable incident to the transaction of other corporate business or when necessary to prevent corporate funds from being unproductive, shall be deemed to be doing a banking business, whether such deposit is made subject to check or is evidenced by a certificate of deposit, a passbook, a note, a receipt or other writing; provided that nothing herein shall apply to or include money left with an agent, pending investment in real estate or securities for or on account of his principal.

(1959, c. 363, § 34.)

**Effect of amendment.**—The 1959 amendment struck out the words "except as provided by section 5", formerly appearing after the words "United States" at the end of the first sentence of the first paragraph. As the rest of this section was not affected by the amendment, it is not set out.

**Sec. 5.** Repealed by Public Laws 1957, c. 41.

**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.)

**Sec. 19. Inactive accounts in national banks; paid to state.** — All moneys in savings and demand accounts in national banks, to which no deposit has been made and from which no part of the deposit or dividends has been withdrawn for a period of more than 22 years 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. Thereafter 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 for any deposit so paid, against any bank making such payments. Thereafter any lawful claimant may petition the governor and council for payment of such moneys to the claimant. 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.

This section shall not apply to the deposits of persons known to the cashiers of national banks to be living, or to a deposit the deposit book of which has during the 22-year period been brought into the bank to be compared or to have the dividends added. (1949, c. 44, § 1. 1959, c. 29, § 1.)

**Effect of amendment.**—Prior to the 1959 first paragraph into two sentences and amendment this section applied only to deleted “The provisions of” at the beginning of the second paragraph. The 1959 amendment also divided the second sentence of the

### 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 incorporators, 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 comply 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.

**R.** To act as collection agent and to receive and transmit payments made on accounts of quasi-municipal corporations, public utility corporations or nonprofit hospital or medical service corporations, subject to such regulations as the bank commissioner may prescribe. (1955, c. 380, § 1. 1959, c. 5.)

**Effect of amendment.**—The 1959 amendment added paragraph R to subsection II of this section.

## **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-L 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 chargeable 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 absence 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, grandparent and grandchild 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 and

shares acquired after September 1, 1955 and to accounts opened and shares acquired 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; except that the provisions of paragraphs B, C, D and E, as to grandparent and grandchild, shall apply only to accounts opened after September 1, 1957 and to accounts opened prior to September 1, 1957 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. (1957, ch. 39, § 1; c. 413; c. 429, § 51.)

**VI. Payments of accounts of deceased persons.** If any depositor shall die, leaving in a bank, savings bank or trust company a savings or other 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 bank, savings bank or trust company 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 bank, savings bank or trust company 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. (1959, c. 45.)

**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 depositors 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 funds to such claimants. (1955, c. 380, § 1. 1957, c. 39, § 1; c. 413; c. 429, § 51. 1959, c. 45.)

**Effect of amendments.**—The first 1957 amendment added the words "and shares acquired" in two places in the first sentence of paragraph F of subsection V. The second 1957 amendment, which did not refer to or give effect to the first amendment, inserted the provisions pertaining to grandparents and grandchildren in paragraph F of subsection V. The third 1957 amendment, however, referred to and gave effect to the 1955 and first two 1957

amendments in re-enacting paragraph F of subsection V, as amended, without further change.

The 1959 amendment rewrote subsection VI of this section, which formerly applied only to savings banks and savings accounts.

**Effective date.**—P. L. 1957, c. 429, became effective on its approval, October 31, 1957.

**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, 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 and as of the time the mortgage is filed for record as provided by law, be secured by such mortgage and have 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 to the extent the aggregate amount outstand-

ing at any one time of such debts, obligations and future advances shall not exceed the total amount stated in the mortgage; except that:

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. The priority of such debts, obligations and future advances shall not include any future optional advances secured by such mortgage made by such bank after any such person, in addition to acquiring such subsequent right or lien, sends the bank by registered mail or delivers to an officer of the bank and secures a receipt therefor express written notice stating that any such optional advances thereafter made will be junior to such person's mortgage or lien upon or rights in such real estate.

"Future advances" referred to in this paragraph F shall include only those made to recipients designated in the mortgage.

The provisions of this paragraph F shall apply to all banks and trust companies. (1957, c. 245. 1959, c. 211.)

**G.** A savings bank may make loans to individuals or corporations, secured by first mortgage of real estate to any amount not in excess of the purchase price thereof, if such loans are made to enable the mortgagor to purchase from the bank real estate by it acquired through foreclosure or by deed in lieu of foreclosure. (1959, c. 7.)

## 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 \$2,000 directly 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 \$1,000 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 will be paid in full in one year or 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 divisions a and b to any one individual as maker or co-maker or endorser shall not exceed \$4,000.

**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.

**d.** To an amount within the discretion of the trustees, providing the loan is made to assist the borrower to further his higher education and is guaranteed in full or in part by the New England higher education assistance foundation. (1955, c. 380, § 1. 1957, c. 245. 1959, cc. 7, 26, 55, 211.)

**Effect of amendments.** — The 1957 amendment rewrote the opening statement of paragraph F of subsection I and moved the sentence as to the application of the paragraph to the end of such paragraph, following rather than preceding exception subparagraphs 1 and 2.

This section was amended four times by the 1959 legislature. The first 1959 amendment added paragraph G to subsection I of this section. The second 1959 amendment

added division d to subparagraph 3 of paragraph A of subsection III. The third 1959 amendment rewrote divisions a and b of subparagraph 3 of paragraph A of subsection III, increasing the amounts of the limitations in both divisions. The fourth 1959 amendment rewrote subparagraph 2 of paragraph F of subsection I and added the definition of "future advances" to paragraph F.

**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 average 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 the amount of such securities outstanding shall at no time exceed 80% of the cost of the equipment by which they are secured.

**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. (1957, c. 72, §§ 1, 2)

## **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 cor-



poration 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, including consolidated bonds, issued by federal land banks, the debentures, including consolidated debentures, issued by the federal intermediate credit banks, and the debentures, including consolidated debentures, issued by the banks for cooperatives organized under the laws of the United States.

**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. (1957, c. 78)

#### **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 com-

mitments 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 ½ 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 last 15 days of September of each year the bank commissioner shall ascertain what securities qualify as legal investments under subsections I to XVIII, inclusive, 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. (1957, c. 72, § 3)

**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. 280, § 1. 1957, c. 72, §§ 1-3; c. 78.)

**Effect of amendments.**—Sections 1 to 3 of the first 1957 amendment made changes in subparagraph 3 of paragraph C and in paragraph D of subsection VI, and also made changes in the first sentence of subsection XX. Section 4 of

such amendment provided for the issuance within the last fifteen days of September, 1958, of the first list to be published after the effective date of the act. The second 1957 amendment rewrote paragraph A of subsection XII.

**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 pay-

ment 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 com-

missioner 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, trustees and employees, due to accident or illness, as in their judgment is reasonable. (1955, c. 380, § 1. 1959, c. 8.)

**Effect of amendment.**—The 1959 amendment added the word “trustees” after the word “officers” and before the word “and”, and substituted the word “reasonable” for the words “reasonably required”, formerly appearing at the end of subsection VIII.

### **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 con-

dition 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.

**Sec. 73. After decree of sequestration, commissioners appointed; duties and powers; payment of claims.**—After a decree of sequestration is passed as provided in section 71, the court shall appoint commissioners who shall give such notice of the times and places of their sessions as the court orders; receive and decide upon all claims against the institution, and make report to the court at such time as the court orders of the claims allowed and disallowed and of the amount due each depositor, which shall be subject to objections and amendment as reports of masters in chancery. On application of any person interested, the court may extend the time for hearing claims by the commissioners as justice may require. When the amount due each person is established, the court shall cause others than depositors to be paid in full, and after deducting expenses the balance to be ratably distributed among depositors. When it appears upon the settlement of the account of the receiver of such an institution that there is remaining in his hands funds due depositors who cannot be found and whose heirs or legal representatives are unknown, the court may order such unclaimed funds to be paid into the state treasury, together with a statement giving the names of such depositors and the amount due each, the same to be held in trust for 20 years thereafter to be paid to the person or persons having established a lawful right thereto when made to appear upon proper proceedings instituted in the court ordering such disposition of such unclaimed funds; provided, however, that whenever any such unclaimed fund is in an amount less than \$200, the claimant thereto may make application to any justice of the supreme judicial court or of the superior court who may, after identification to him satisfactory, issue an order under the seal of the supreme judicial court or of the superior court directing the treasurer of state to pay said fund to the claimant therein named; and said fund shall be paid as directed. Any income earned on such funds shall be paid into the general fund as compensation for administration. (R. S. c. 55, § 69. 1959, c. 77; c. 317, § 28.)

**Effect of amendments.** — This section was amended twice by the 1959 legislature. The first 1959 amendment added the last sentence. The second 1959 amendment deleted the references to “justice”, formerly appearing in two places in the first clause of the first sentence, and substituted the word “objections” for the word “except-

tion”, formerly appearing near the end of the first sentence.

**Effective date and applicability of Public Laws 1959, c. 317.** — Section 420, chapter 317, Public Laws 1959, provides as follows: “This act shall become effective December 1, 1959. It shall apply to all actions brought after December 1, 1959 and also to all fur-



ther proceedings in actions at law or suits in equity then pending, except to the extent that in the opinion of the court the application of this act in a particular ac-

tion pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail."

### 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. 103. Minimum amount of capital stock authorized to begin business; par value of shares.

—The minimum amount of paid-in capital stock on which a trust company may be authorized to begin business shall be \$50,000 for a town or city of not more than 5,000 inhabitants, \$75,000 for a town or city having from 5,000 to 10,000 inhabitants, \$100,000 for a town or city having from 10,000 to 20,000 inhabitants, \$150,000 for a town or city having from 20,000 to 30,000 inhabitants and \$200,000 for a town or city of more than 30,000 inhabitants. The bank commissioner, in ascertaining the number of inhabitants of such town or city for the purpose of determining the sufficiency of the capital stock, 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. The par value of the shares of stock shall be not less than \$10 each and not more than \$100 each and may be changed at any time by vote of the stockholders with the approval of the bank commissioner. (R. S. c. 55, § 98. 1957, c. 99.)

**Effect of amendment.** — The 1957 amendment changed the minimum par

value of shares of stock from \$25 to \$10 in the last sentence.

#### 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, 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 com-

pany 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. 120. Treasurer to annually publish statement of inactive accounts; payment to state.**—The treasurer of every trust company shall on or before the first 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 savings or demand 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. 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 \$50. 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 or section 119 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 \$50. 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. 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. (R. S. c. 55, § 115. 1949, c. 44, § 3. 1959, c. 29, § 2.)

**Effect of amendment.**—The 1959 amendment rewrote this section, which formerly applied only to savings depositors and savings deposits, dividing the first and former sixth sentences each into two sentences and increasing the maximum balances in the second and sixth sentences from \$10 to \$50.

**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.

**Sec. 122. Affairs of the company examined annually.**—Two of the directors, at least, of a trust company shall once in each year thoroughly examine the affairs of the company, settle the treasurer's account and report under oath to the bank commissioner the standing of the company, the situation of its funds and all other matters which the said commissioner requires, in the manner and according to the form that he prescribes, and publish an abstract thereof, if required. The said commissioner shall seasonably give notice of the time and furnish blanks for said examination and report. In lieu of an examination by said directors, a trust company may either employ an independent public accounting firm approved by the commissioner to perform said examination and render said report or may use an internal audit program approved by the commissioner. (R. S. c. 55, § 117. 1959, c. 159.)

**Effect of amendment.**—The 1959 amendment added the last sentence to this section.

### Mutual Trust Investment Company Act.

**Sec. 154-A. Definition.**—As used in sections 154-A to 154-G, the term "mutual trust investment company" means a corporation which is:

- I. An investment company as defined by an Act of Congress entitled "Investment Company Act of 1940" approved August 22, 1940, as amended; and
- II. Incorporated in compliance with sections 154-A to 154-G to constitute a medium for the common investment of trust funds held in a fiduciary capacity and for true fiduciary purposes, either alone or with one or more co-fiduciaries, by state banks with trust powers, trust companies and national banks with trust powers which are located in this state. (1959, c. 322, § 1.)

**Sec. 154-B. Authority to incorporate.**—Any 5 or more state banks with trust powers, trust companies and national banks with trust powers located in this state are authorized, subject to the approval of the bank commissioner and subject to such regulations as he may from time to time prescribe, to cause a mutual trust investment company to be organized and incorporated. (1959, c. 322, § 1.)

**Sec. 154-C. Application of general corporation law; articles of incorporation.**—Such a mutual trust investment company shall be incorporated under and be subject to the general corporation laws of this state except as otherwise provided in sections 154-A to 154-G. The incorporators subscribing and acknowledging the articles of incorporation shall consist of 5 or more persons who are officers or directors of the banks and trust companies causing such mutual trust investment company to be incorporated. (1959, c. 322, § 1.)

**Sec. 154-D. Corporate powers; ownership of stock.—**

**I.** The stock of a mutual trust investment company shall be owned only by state banks with trust powers, trust companies and national banks with trust powers located in this state, acting as fiduciaries, and their individual co-fiduciaries, if any, but may be registered in the name of their nominee or nominees.

**II.** The stock of a mutual trust investment company shall not be subject to transfer or assignment except to the mutual trust investment company or to a fiduciary or co-fiduciary which becomes successor to the stockholder or its nominee provided such successor fiduciary or co-fiduciary or its nominee is qualified to hold such stock under subsection I.

**III.** A mutual trust investment company shall have not less than 5 directors who need not be stockholders but shall be officers or directors of banks or trust companies located in this state.

**IV.** A mutual trust investment company may invest its assets only in those investments in which a trustee may invest under the laws of this state and its assets shall constitute personal property held in trust within the meaning of chapter 91-A, section 9, subsection VI.

In addition to the foregoing restriction it shall make no investment in:

**A.** The note of an individual or individuals, whether or not it is secured;

**B.** The note, bond or other obligation of any firm, corporation or other issuer if the total original issue of such notes, bonds or other obligations is less than \$500,000;

**C.** Any stocks, bonds or other obligations issued or guaranteed by any one firm, corporation or other issuer in excess of 10% of the total assets of the mutual trust investment company as increased by the proposed investment, provided that this limitation shall not apply to obligations of the United States, or for the payment of the principal and interest of which the full faith and credit of the United States is pledged;

**D.** Shares of stock of any one corporation which would cause the total number of such shares held by the mutual trust investment company to exceed 10% of the number of such shares outstanding.

**V.** A mutual trust investment company may acquire, purchase or redeem its own stock and shall by means of contract or of its by-laws, bind itself to acquire, purchase or redeem its own stock, but it shall not vote upon shares of its own stock.

**VI.** A mutual trust investment company shall not be responsible for ascertaining the investment powers of any fiduciary who may purchase its stock and shall not be liable for accepting funds from a fiduciary in violation of the restrictions of the will, trust indenture or other instrument under which such fiduciary is acting in the absence of actual knowledge of such violation, and shall be accountable only to the bank commissioner and the fiduciaries who are the owners of its stock. (1959, c. 322, § 1.)

**Sec. 154-E. Purchase of stock by fiduciaries; authority and restrictions.—**

**I.** State banks with trust powers, trust companies and national banks with trust powers located in this state, acting in a fiduciary capacity and for true fiduciary purposes, either alone or with one or more individual co-fiduciaries, may, if exercising the care of a prudent investor and with the consent of such individual co-fiduciary or co-fiduciaries, if any, invest and reinvest funds held in such fiduciary capacity in the shares of stock of a mutual trust investment company except where the will, trust indenture or other instrument under which such fiduciary is acting prohibits such investment. No investment

in the stock of a mutual trust investment company may be made by any bank or trust company which operates its own common trust fund under the laws of this state. The stock shall not be subject to sections 228 to 242.

**II.** No funds of any estate, trust or fund shall be invested in the stock of a mutual trust investment company in an amount which would result in any bank or trust company having an aggregate holding in excess of 25% of the total issued and outstanding stock of such mutual trust investment company as increased by the amount of the proposed investment. In the event that by reason of reduction of the holdings of stock by other banks or trust companies, mergers of banks or trust companies, or for other reasons the aggregate holding of stock in the mutual trust investment company by any bank or trust company shall become greater than 25% of the total issued and outstanding stock, such bank or trust company may retain the stock then held by it but may not make further investments in such stock until its aggregate holdings have become less than such 25%.

**III.** A mutual trust investment company shall be permitted to rely on the written statement of any bank or trust company purchasing its stock, that the purchase complies with the foregoing requirements except that the mutual trust investment company shall be responsible to see that the limit on the holding of stock by any one bank or trust company as provided in subsection II is not exceeded. (1959, c. 322, § 1.)

**Sec. 154-F. Powers of the bank commissioner.—**

**I.** The bank commissioner shall have authority to adopt and issue reasonable and uniform rules and regulations to govern the conduct and management of all mutual trust investment companies formed pursuant to sections 154-A to 154-G and to prescribe, among other things:

**A.** The records and accounts to be kept by the mutual trust investment company;

**B.** The methods and standards to be employed in establishing the value of the shares of stock in the mutual trust investment company and of its assets;

**C.** The procedure to be followed in the sale and redemption of its stock.

**II.** The bank commissioner shall at least once in each calendar year, and whenever he deems it necessary or expedient, examine every such mutual trust investment company. On every such examination of a mutual trust investment company the bank commissioner shall make inquiry as to its financial condition, the policies of its management, whether it is complying with the laws of this state and such other matters as the bank commissioner may prescribe. The reasonable expenses of each examination of a mutual trust investment company pursuant to this section shall be borne and paid for by such company.

**III.** In the enforcement of sections 154-A to 154-G and the fulfillment of his responsibilities hereunder, the bank commissioner shall have the same powers and authorities over and with respect to mutual trust investment companies and their directors, officers and employees, including the power to compel the attendance of witnesses and the production of books, records, documents and testimony, the power to require the submission to him of reports and information in such form and at such times as he may prescribe, the power to direct the discontinuation of any practice which he may consider illegal, unauthorized or unsafe, and all other powers and authorities, whether or not specifically mentioned herein, as are given the bank commissioner by the laws of this state with respect to banks and trust companies, in the same manner and with like effect as if mutual trust investment companies were expressly named therein. (1959, c. 322, § 1.)

**Sec. 154-G. Short title.**—Sections 154-A to 154-G may be cited as the “Mutual Trust Investment Company Act.” (1959, c. 322, § 1.)

**Editor’s note.**—P. L. 1959, c. 322, adding sections 154-A to 154-G, provided in section 2 thereof as follows:

“Sec. 2. Severability. If any provision of this act or the application of such provision to any person, corporation or circum-

stance shall be held invalid, the remainder of this act or the application of such provisions to persons, corporations or circumstances other than those as to which it is held invalid, shall not be affected thereby.”

### 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 first day of January, the 22nd day of February, the 19th day of April, the 30th day of May, the 4th day of July, the 2nd 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. 1959, c. 230, § 2.)

**Effect of amendments.**—The 1955 amendment substituted “Veterans Day” for “Armistice Day.”

The 1959 amendment substituted “first” for “1st”, formerly appearing after the word “the” and before the word “day”, and also substituted “2nd” for “1st”, formerly appearing after the word “the” and before the word “Monday” in the first sentence of this section.

**Effective date.** — P. L. 1959, c. 230, amending this section, provided in section 5 thereof as follows: “This act shall take effect on January 1, 1961, provided that on

or before said date the majority of the following states, Massachusetts, New Hampshire, Vermont, Rhode Island, Connecticut, New York, New Jersey and Pennsylvania, shall have provided by legislation or otherwise for the observance of Labor Day on the same day as provided in this act and provided further that on or before January 1, 1961 the Governor, after determining that a majority of the above-named states has provided for the observance of Labor Day on the same day as provided in this act, shall by proclamation proclaim that this act is effective.”

**Sec. 157. Saturday closing.** — Any savings bank, trust company, industrial bank, loan and building association, savings and loan association or credit union organized under the laws of the state, also any national banking association, federal savings and loan association, federal credit union or licensed small loan agency doing business in the state, may remain closed, open, or may open for limited functions only, on any Saturdays as it may determine from time to time. Any Saturday on which such institution remains closed or open for limited functions only, shall be, with respect to such institution, a holiday and not a business day.

Any act authorized, required or permitted to be performed at or by, or with respect to, any such institution on a Saturday on which the institution is closed or open for limited functions only may be so performed on the next succeeding business day, and no liability or loss of rights of any kind shall result from such delay.

Nothing in any law of this state shall in any manner whatsoever affect the validity of, or render void or voidable, the payment, certification or acceptance of a check or other negotiable instrument or any other transaction by a bank or trust company in this state, because done or performed on a Saturday. (1947, c. 345. 1951, c. 215. 1957, c. 109.)

**Effect of amendment.** — The 1957 amendment added the provisions as to opening or opening for limited functions

only in the first and second paragraphs and added the third paragraph.

### Loan and Building Associations.

**Sec. 158. Organization; powers.**— Loan and building associations may be organized in the manner provided for the organization of savings banks, except that the provisions relative to capitalization as contained in subsection VI of section 19-B shall not apply to organization of loan and building associations. Upon the filing of any certificate of authorization of a loan and building association with the secretary of state, as so provided, the persons therein named, their associates, successors and assigns shall, thereupon and thereby, be constituted a body corporate and politic, and such body may adopt and use a common seal, hold, manage and convey real and personal property, sue and be sued, prosecute and defend suits in law or in equity, have perpetual succession each by its corporate name and make and ordain by-laws for its government, not repugnant to the constitution and laws. The secretary shall file with the bank commissioner a copy of such by-laws and all amendments thereto. All by-laws and amendments adopted shall be submitted to the bank commissioner for his approval and shall not take effect until such approval is given. In case of refusal to give such approval, the directors of the association may appeal to a justice of the superior court, whose decision shall be final. (R. S. c. 55, § 142. 1957, c. 39, § 2.)

**Effect of amendment.**— The 1957 subsection VI of section 19-B in the first amendment added the exception as to sentence of this section.

**Sec. 167. Board of directors to invest funds and fix rates of interest; members may make loans; rate of interest; investment of balance.**—The board of directors of a loan and building association shall see to the proper investment of the funds of the association, as provided in this section. After due allowance for all necessary and proper expenses and for the withdrawal of shares, the moneys of the association shall be loaned to the members at a rate of monthly premium to be fixed by the directors, which shall in no case exceed 40c a share. Any member may, upon giving security satisfactory to the directors, receive a loan of \$200 or \$300 for each share held by him, or such fractional part of \$200 or \$300 as the by-laws may allow. Any association may provide in its by-laws that instead of interest and premium, a stated rate of annual interest determined by the directors may be charged upon the sum desired. Such rates shall include the whole interest and premium to be paid upon the loan. Loans on real estate may be made to members repayable in monthly installments sufficient to amortize the same, paying off interest and principal in not more than 20 years. The mortgage and mortgage note shall require a monthly payment sufficient to amortize the debt in said periods and such payments shall be applied first to the interest on the unpaid balance of the debt, and the remainder to the unpaid principal of the debt, until the same is paid in full. Any balance remaining unloaned to members may be invested in such securities as are legal for the investment of deposits in savings banks or, with the approval of the bank commissioner, may be loaned in whole or in part to other loan and building associations in this state. No loan shall be made on the gross premium plan.

Funds may be invested in notes or bonds secured by mortgages issued under sections 500 to 505, inclusive, of Title III of the Servicemen's Readjustment Act of 1944, as amended, more familiarly known as "The G. I. Bill of Rights," and as such act may be interpreted and operated under rules to be promulgated. (R. S. c. 55, § 151. 1943, c. 160. 1945, c. 72, § 3. 1951, c. 109, § 1; c. 157, § 8. 1959, c. 147, § 1.)

**Effect of amendment.**—The 1959 amendment struck out the words "payable in monthly installments", formerly appearing at the end of the fourth sentence. It also struck out the word "also", formerly appearing after the word "may" and before the word "be" in the sixth sentence of this section.

**Sec. 172. Rate of interest charged.**— A borrowing member of a loan and building association, for each share borrowed upon, shall, in addition to his

dues and premium if such premium be charged, pay interest on his loan, except as otherwise provided in the by-laws of such association under section 167, at such rate of interest as the directors may determine until the loan has been repaid. When shares of a borrowing member, with dividends credited thereon, shall have reached the value of  $\frac{1}{4}$  of the amount borrowed, the association, upon request of the borrowing member, may at its option reduce thereafter by  $\frac{1}{4}$  the amount of said borrowing member's original monthly dues' payment, and when said shares of a borrowing member shall have reached the value of  $\frac{1}{2}$  the original amount borrowed, the association may thereafter reduce by  $\frac{1}{2}$  the original amount of the borrowing member's original dues' payment and when said shares shall have reached the value of  $\frac{3}{4}$  of the original amount borrowed, the association may thereafter reduce by  $\frac{3}{4}$  the borrowing member's original monthly dues' payment. (R. S. c. 55, § 155. 1959, c. 147, § 2.)

**Effect of amendment.**—The 1959 amendment rewrote the first sentence of this section, striking out the word "monthly", formerly appearing three times in the sentence.

**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. Additional loans upon the same real estate or a portion thereof may, however, be made provided any mortgage securing such loan shall contain a provision to the effect that the premises described are subject to such prior mortgage or mortgages to the mortgagee and provided further that there shall be no intervening mortgage or encumbrance other than those held by the association concerned. 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 mort-



gage 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. 1957, c. 39, § 3.)

**Effect of amendments.**—The 1957 amendment which had been deleted by the 1955 amendment restored the second sentence, amendment.

**Sec. 177. Unpledged shares of deceased shareholders; distribution.**—Upon the death of a shareholder of a loan and building association, his legal representatives shall be entitled to receive the amount of his unpledged shares, to be ascertained as provided in section 165 for withdrawal of shares. No fines shall be charged or profits credited to a deceased member's account from and after his decease, unless his legal representatives assume the future payments on such shares, which they may assume under the same rights and liabilities as those of the deceased.

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. 1959, c. 147, § 3.)

**Effect of amendments.**—The 1955 amendment added the second paragraph to this section.

The 1959 amendment repealed the for-

mer last sentence of the first paragraph of this section, providing for the descent and distribution of shares or money received for them.

**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; limitations on real estate holdings; branches.**—Any loan and building association may purchase at any sale, public or private, any real estate upon which it may have a mortgage, judgment, lien or other encumbrance, or in which it may have an interest, and may sell, convey, lease or mortgage at pleasure, the real estate so purchased, to any person or persons whatsoever. Any real estate however acquired by any such association may be sold, and such association in the discretion of its board of directors may accept the note or notes of the purchasers thereof in whole or part payment therefor, maturing within 3 years from the date thereof, and upon such other terms and conditions as said directors may determine. Said note or notes may be secured by a first mortgage in common form of the conveyed premises. Any loan and building association may hold real estate in the municipalities in which such association or any branches thereof are located, to a total amount not exceeding 5% of its shareholders' accounts 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.

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. 1957, c. 39, § 4.)

**Effect of amendments.** — The 1955 amendment added the second paragraph of this section. The 1957 amendment repealed the former fourth sentence of the first paragraph and inserted the present fourth sentence in lieu thereof.

**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. 185. Foreign associations authorized to do business in this state; deposit of securities in trust for benefit of creditors; duty of bank commissioner to make examinations.**—The bank commissioner may authorize any association or corporation as described in section 184, duly established under the laws of another state, to carry on such business in this state, but said association or corporation shall not transact such business in this state unless it shall first deposit with the treasurer of state the sum of \$25,000, and thereafter a sum equal to 15% of the deposits made in such association or corporation by citizens of the state, the amount of percentage of deposits so required to be de-

terminated from time to time by the bank commissioner; or in lieu thereof the whole or any part of said sum may consist of any of the securities in which savings banks may invest, as regulated in section 19-I, at their par value, and the said deposit shall be held in trust by said treasurer for the protection and indemnity of the residents of the state with whom such associations or corporations respectively have done or may transact business. Said moneys or property shall be paid out or disposed of only on the order of some court of competent jurisdiction, made on due notice to the attorney general of the state, and upon such notice to the creditors and shareholders of such association or corporation as the court shall prescribe. For the purpose of ascertaining the business and financial condition of any such association or corporation doing or desiring to do such business, the bank commissioner may make examinations of such associations or corporations, at such times and at such places as he may desire, the expense of such examinations being paid by the association or corporation examined, and may also require returns to be made in such form and at such times as he may elect. Whenever, upon examination or otherwise, it is the opinion of the bank commissioner that any such association or corporation is transacting business in such manner as to be hazardous to the public, or its condition is such as to render further proceedings by it hazardous to the public, said bank commissioner shall revoke or suspend the authority given to said association or corporation; but this section shall not prevent such association, corporation or institution incorporated under the laws of another state from loaning money upon mortgages of real estate located within the state. (R. S. c. 55, § 169. 1957, c. 397, § 37.)

**Effect of amendment.** — The 1957 first sentence from “section 42” to “section 19-I”.

**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.

### Protection of Banks in Particular Transactions.

**Sec. 197-A. Retention of bank records.**—All records of institutions subject to supervision by the banking department, and of national banks insofar as this section does not contravene paramount federal law, shall be retained for such minimum periods as the bank commissioner may prescribe.

The bank commissioner may from time to time issue regulations classifying all records kept by these institutions and prescribing the minimum period for which these records shall be retained. Such periods may be permanent or for a

lesser term. Such regulations may from time to time be amended or repealed, but any amendment or repeal shall not affect any action taken prior to such amendment or repeal. Prior to issuing any such regulations the commissioner shall consider:

- I. Court and administrative proceedings in which the production of these records might be necessary or desirable;
- II. State and federal statutes of limitation applicable to such proceedings;
- III. The availability of information from other sources; and
- IV. Such other matters as the bank commissioner shall deem pertinent in order that the regulations will require retention of records for as short a period as is commensurate with the interest of customers, depositors, stockholders and the people of this state in having such records available.

Reproductions, as defined by chapter 113, section 146 shall be deemed acceptable in lieu of the originals for purposes of the prescribed periods for which records shall be retained.

Institutions may dispose of any record which has been retained for the minimum period prescribed by the bank commissioner. (1959, c. 87.)

**Sec. 199. Fiduciary's transactions by check, personal and as fiduciary.**—If a check drawn or endorsed by a fiduciary is received by a drawee bank or other bank, including a check for payment in cash or for the personal credit of such fiduciary, such bank may assume, without inquiry, that the fiduciary has acted within the scope of his authority.

- I. Fiduciary includes a trustee under any trust, express, implied, resulting or constructive, executor, administrator, guardian, conservator, receiver, trustee in bankruptcy, assignee for the benefit of creditors, partner, agent, officer of a corporation, public or private, public officer or any other person acting in a fiduciary capacity for any person, trust or estate.
- II. Person includes a corporation, partnership or other association, and 2 or more persons having a common interest.
- III. For the purposes of this section, such bank may rely upon, though it need not require, any writing certified by the clerk or secretary of the corporation as to such officer.

Nothing contained in this section shall be deemed to modify or otherwise affect chapter 188, section 56, nor to relieve such bank from any liability imposed upon it by law to the extent of any payment or amount which such bank may receive for its benefit from any of such checks or funds represented thereby. (1949, c. 277. 1959, c. 201.)

**Effect of amendment.**—The 1959 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, which did not refer to the first amendment or incor-

porate 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.

### Licensed Small Loan Agencies.

**Sec. 215. Reports.**—Every person, copartnership or corporation licensed under sections 210 to 227 shall annually on or before the 15th day of April file with the bank commissioner a report for the preceding calendar year, or for such portion of the preceding calendar year during which said person, copartnership or corporation has been licensed under sections 210 to 227. Such report shall give information with respect to the financial condition of such licensee and shall include: the name and address of the licensee; balance sheets at the end of the accounting period; a statement of income and expenses for said period; a reconciliation of surplus or net earnings with the balance sheets; a schedule of assets used and useful in the small loan business; an analysis of charges, size of loans and types of security on loans of \$2,500 or less; an analysis of delinquent accounts; an analysis of suits, repossessions and sales of chattels and such other relevant information as the bank commissioner may reasonably require concerning the business and operations during the preceding calendar year for each licensed place of business conducted by such licensee within the state. Such report shall be made under oath and shall be in the form prescribed by the bank commissioner who shall make and publish biennially an analysis and summary of such reports. In the event any person or corporation holds more than one license in the state, a composite annual report, covering all such licensed offices, may be filed.

In addition to the foregoing report, the bank commissioner may require reports from licensees at any time, containing such information as he deems necessary to the proper supervision of licensees under this section.

Each licensee shall keep such books and records as may be prescribed by the commissioner and shall preserve books and records used in such business for a period of at least 2 years after making the final entry of, or relative to any loan recorded therein. (R. S. c. 55, § 195. 1959, c. 111.)

**Effect of amendment.**—The 1959 amendment rewrote this section.

### 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. The term "fiduciary" as used in this section shall include, but shall not be limited to, executors, administrators, guardians, conservators, trustees, agents, custodians and each of them. (1955, c. 90. 1957, c. 240.)

**Effect of amendment.** — The 1957 amendment added the last sentence.

**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.)

### Motor Vehicle Sales Finance Act.

**Effective date.**—The act inserting this that the act should become effective subheading provided in section 3 thereof January 1, 1958.

**Sec. 249. Definition of terms.**—In sections 249 to 259, inclusive, unless the context or subject matter otherwise requires:

“Cash sale price” means the price stated in a retail instalment contract for which the seller would have sold to the buyer, and the buyer would have bought from the seller, the motor vehicle which is the subject matter of the retail instalment contract, if such sale had been a sale for cash instead of a retail instalment transaction. The cash sale price may include any taxes, registration, license and other fees and charges for accessories and their installation and for delivery, servicing, repairing or improving the motor vehicle.

“Documentary fees” mean the fees for filing, recording or investigating, perfecting and releasing or satisfying a retained title or a lien created by a retail instalment contract, and shall not exceed \$4.

“Finance charge” means the amount agreed upon between the buyer and the seller, as limited in sections 249 to 259, inclusive, to be added to the cash sale price, the amount, if any, included for insurance and other benefits, if a separate charge is made therefor, and documentary fees, in determining the time price.

The “holder” of a retail instalment contract means the retail seller of the motor vehicle under or subject to the contract or, if the contract is purchased by a sales finance company or other assignee, the sales finance company or other assignee.

“Motor vehicle” means any device propelled or drawn by any power other than muscular power, in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting power shovels, road machinery, buses, agricultural machinery and house trailers.

“Person” means an individual, partnership, corporation, association and any other group however organized.

“Retail buyer” or “buyer” means a person who buys a motor vehicle from a retail seller and who executes a retail instalment contract in connection therewith.

“Retail instalment contract” or “contract” means an agreement, entered into in this state, pursuant to which the title to, the property in or a lien upon the motor vehicle, which is the subject matter of a retail instalment transaction, is retained or taken by a retail seller from a retail buyer as security, in whole or in part, for the buyer's obligation. The term includes a chattel mortgage, a conditional sales contract, a Holmes note and a contract for the bailment or leasing of a motor vehicle by which the bailee or lessee contracts to pay as compensation for its use a sum substantially equivalent to or in excess of its value and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner of the motor vehicle upon full compliance with the provisions of the contract.

“Retail instalment transaction” means any transaction evidenced by a retail instalment contract entered into between a retail buyer and a retail seller wherein the retail buyer buys a motor vehicle from the retail seller at a time price payable in one or more deferred instalments for purposes other than resale. The cash sale price of the motor vehicle, the amount included for insurance and other benefits if a separate charge is made therefor, documentary fees and the finance

charge, which may include insurance and other benefits, shall together constitute the time price.

“Retail seller” or “seller” means a person who sells a motor vehicle to a retail buyer under or subject to a retail instalment contract.

“Sales finance company” means a person engaged, in whole or in part, in the business of purchasing retail instalment contracts from one or more retail sellers. The term includes but is not limited to a bank, trust company, finance company, lending agency, industrial bank or investment company, if so engaged. The term also includes a retail seller engaged in whole or in part in the business of holding retail instalment contracts which in the aggregate exceed the sum of \$25,000 in any one calendar year. The term does not include the pledgee of an aggregate number of such contracts to secure a bona fide loan thereon. (1957, c. 386, § 1.)

**Sec. 250. Licensing of sales finance companies and retail sellers required.—**

**I.** No person shall engage in the business of a sales finance company or retail seller in this state without a license therefor as provided in sections 249 to 259, inclusive. No bank, trust company or industrial bank shall be required to obtain such a license but shall comply with all of the other provisions of sections 249 to 259, inclusive.

**II.** The application for such license shall be in writing, under oath and in the form prescribed by the bank commissioner. The application shall contain the name of the applicant; date of incorporation, if incorporated; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the name and resident address of the owner or partners or, if a corporation or association, of the directors, trustees and principal officers, the trade name, if any, under which the applicant proposes to conduct such business, and such other pertinent information as the bank commissioner may require.

**III.** The license fee for each calendar year or part thereof shall be as follows:

**A.** For a retail seller, the sum of \$10 for the principal place of business of the licensee within this state and the sum of \$5 for each branch of such licensee maintained in this state.

**B.** For a sales finance company, the sum of \$100 for the principal place of business of the licensee within this state, and the sum of \$25 for each branch of such licensee maintained in this state. A person required to obtain a license under the provisions of paragraph B shall not be required to obtain a license as a retail seller.

**IV.** Each license shall specify the location of the office or branch and must be conspicuously displayed there. In case such location be changed, the bank commissioner shall endorse the change of location on the license without charge.

**V.** Upon the filing of such application and the payment of said fee, the bank commissioner shall issue a license to the applicant to engage in the business of a sales finance company under and in accordance with the provisions of sections 249 to 259, inclusive, for a period which shall expire the last day of December next following the date of its issuance. Such license shall not be transferable or assignable. No licensee shall transact any business provided for by sections 249 to 259, inclusive, under any other trade names unless he shall have a separate license therefor. (1957, c. 386, § 1.)

**Sec. 251. Suspension or revocation of licenses.**

**I.** A license may be suspended or revoked by the bank commissioner on the following grounds:

**A.** Material misstatement in application for license;



**B.** Wilful failure to comply with any provision of sections 249 to 259, inclusive, relating to retail instalment contracts;

**C.** Fraudulent misrepresentation, circumvention or concealment by the licensee through whatever subterfuge or device of any of the material particulars or the nature thereof required to be stated or furnished to the retail buyer under the provisions of sections 249 to 259, inclusive.

**II.** If a licensee is a partnership, association or corporation, it shall be sufficient cause for the suspension or revocation of a license that any officer, director or trustee of a licensed association or corporation or any member of a licensed partnership, has so acted or failed to act in behalf of said licensee as would be cause for suspending or revoking a license to such party as an individual. Each licensee shall be responsible for the acts of any or all of his employees while acting as his agent, if such licensee after actual knowledge of said acts retained the benefits, proceeds, profits or advantages accruing from said acts or otherwise ratified said acts.

**III.** No license shall be suspended or revoked except after hearing thereon. The bank commissioner shall give the licensee at least 10 days' written notice, in the form of an order to show cause, of the time and place of such hearing by registered mail addressed to the principal place of business in this state of such licensee. The said notice shall specify the grounds of complaint against the licensee and the hearing shall be confined thereto. Any order suspending or revoking such license shall recite the grounds upon which the same is based. The order shall be entered upon the records of the bank commissioner and shall not be effective until after 30 days' written notice thereof given after such entry forwarded by registered or certified mail to the licensee at such principal place of business. No revocation, suspension or surrender of any license shall impair or affect the obligation of any lawful retail instalment contract acquired previously thereto by the licensee.

**IV.** Within 30 days after receipt of notice of any such suspension or revocation of a license, the person aggrieved may appeal therefrom to any justice of the superior court by presenting to him a petition therefor, in term time or vacation. Such justice shall fix a time and place for hearing which may be in vacation and cause notice thereof to be given to the bank commissioner; and after hearing, such justice may affirm or reverse the decision of the bank commissioner. Either party may appeal from the decisions and rulings of the court upon matters of law arising upon the trial, in the same manner and with the same effect as is allowed in the superior court in the trial of cases without a jury, without specifically reserving such right. Pending final judgment of the court, the license shall remain in effect. (1957, c. 386, § 1. 1959, c. 317, § 29.)

**Effect of amendment.**—The 1959 amendment rewrote the third sentence of subsection IV of this section.

**Effective date and applicability of Public Laws 1959, c. 317.** — Section 420, chapter 317, Public Laws 1959, provides as follows: "This act shall become effective December 1, 1959. It shall apply to all actions brought after December 1, 1959 and also to all fur-

ther proceedings in actions at law or suits in equity then pending, except to the extent that in the opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail."

**Sec. 252. Filing of complaints.**—Any retail buyer having reason to believe that the provisions of sections 249 to 259, inclusive, relating to his retail instalment contract has been violated may file with the bank commissioner a written complaint setting forth the details of such alleged violation and the bank commissioner, upon receipt of such complaint, may inspect the pertinent books, records, letters and contracts of the licensee and of the retail seller involved, relating to such specific written complaint. Said commissioner may also make

inspections of the records of sales finance companies without the receipt of a specific complaint for any reasonable cause. (1957, c. 386, § 1.)

**Sec. 253. Powers of bank commissioner.**—The bank commissioner shall have the power to issue subpoena to compel the attendance of witnesses and the production of documents, papers, books, records and other evidence before him in any matter over which he has jurisdiction, control or supervision pertaining to the provisions of sections 249 to 259, inclusive. He shall have the power to administer oaths and affirmation to any person whose testimony is required.

If any person shall refuse to obey any such subpoena or to give testimony or to produce evidence as required thereby, any justice of the superior court may, upon application and proof of such refusal, order the issuance of a subpoena, or subpoena duces tecum, out of the superior court, for the witness to appear before the superior court to give testimony, and to produce evidence as required thereby. Upon filing such order in the office of the clerk of the superior court, the clerk shall issue such subpoena, as directed, requiring the person to whom it is directed, to appear at the time and place therein designated.

If any person served with any such subpoena shall refuse to obey the same, and to give testimony, and to produce evidence as required thereby, the bank commissioner may apply to any justice of the superior court for a proof of such refusal, shall issue such citation, directed to any sheriff, for the arrest of such person, and upon his being brought before such justice, proceed to a hearing of the case. The justice shall have power to enforce obedience to such subpoena, and the answering of any question, and the production of any evidence, that may be proper, by a fine not exceeding \$100 or by imprisonment in the county jail, or by both.

For the enforcement of the provisions of sections 249 to 259, inclusive, the bank commissioner is authorized to appoint, subject to the provisions of the personnel law, such personnel as are necessary. The salary, traveling expenses and all expenses of administration and enforcement of the provisions of sections 249 to 259, inclusive, shall be paid out of such amounts as the legislature may appropriate. Fees received from licenses issued under the provisions of sections 249 to 259, inclusive, shall be paid to the treasurer of state for deposit in the general fund. (1957, c. 386, § 1.)

**Sec. 254. Requirements and prohibitions as to retail instalment contracts.**—

**I.**

**A.** A retail instalment contract shall be in writing, shall be signed by both the buyer and the seller and shall be completed as to all essential provisions or by memorandum as provided in subsection VI prior to the signing of the contract by the buyer.

**B.** The printed portion of the contract, other than instructions for completion, shall be in at least 8 point type. The contract shall contain in a size equal to at least 10 point bold type:

**1.** A specific statement that liability insurance coverage for bodily injury and property damage caused to others is not included, if that is the case; and

**2.** The following notice: "Notice to the Buyer: 1. Read this contract before signing. 2. You are entitled to an exact copy of the contract you sign."

**C.** The seller shall deliver to the buyer or mail to him at his address shown on the contract, a copy of the contract signed by the seller. Until the seller does so, a buyer who has not received delivery of the motor vehicle shall have the right to rescind his agreement and to receive a refund of all payments made and return of all goods traded in to the seller on account of or

in contemplation of the contract, or if such goods cannot be returned, the value thereof. Any acknowledgment by the buyer of delivery of a copy of the contract shall be in a size equal to at least 10 point bold type and, if contained in the contract, shall appear directly above the buyer's signature.

**D.** The contract shall contain the names of the seller and the buyer, the place of business of the seller, the legal residence or place of business of the buyer as specified by the buyer and a description of the motor vehicle including its make, year model, model and identification numbers or marks.

**II.** The contract shall contain the following:

**A.** The cash sale price of the motor vehicle;

**B.** The amount of the buyer's down payment, and whether made in money or goods, or partly in money and partly in goods;

**C.** The difference between items A and B;

**D.** The amount, if any, included for insurance and other benefits specifying the types of coverage and benefits, unless such amount is included in the finance charge;

**E.** The amount of documentary fees;

**F.** The principal balance, which is the sum of paragraph C, paragraph D and paragraph E;

**G.** The amount of the finance charge and specification of the type of insurance coverage and benefits, if included therein;

**H.** The time balance, which is the sum of paragraphs F and G, payable in instalments by the buyer to the seller, the number of instalments, the amount of each instalment and the due date or period thereof.

The above paragraphs in subsection II need not be stated in the sequence or order set forth. Additional paragraphs may be included to explain the calculations involved in determining the stated time balance to be paid by the buyer.

**III.** The amount, if any, included for insurance, which may be purchased by the holder of the retail instalment contract, shall not exceed the applicable premiums chargeable in accordance with the rates filed with the insurance commissioner. If dual interest insurance on the motor vehicle is purchased by the holder he shall, within 30 days after execution of the retail instalment contract, send or cause to be sent to the buyer a policy or policies or certificate of insurance, written by an insurance company authorized to do business in this state, clearly setting forth the amount of the premium, the kind or kinds of insurance, the coverages and all the terms, exceptions, limitations, restrictions and conditions of the contract or contracts of insurance. The buyer shall have the privilege of purchasing such insurance from an agent or broker of his own selection and of selecting an insurance company acceptable to the holder, but in such case the inclusion of the insurance premium in the retail instalment contract shall be optional with the seller.

**IV.** If any insurance is cancelled, unearned insurance premium refunds received by the holder shall be credited to the final maturing instalments of the contract except to the extent applied toward payment for similar insurance protecting the interests of the buyer and the holder or either of them.

**V.** The holder may, if the contract so provides, collect a delinquency and collection charge on each instalment in default for a period not less than 10 days in an amount not in excess of 5% of each instalment or 6% per annum on the total unpaid balance, whichever is greater. In addition to such delinquency and collection charge, the contract may provide for the payment of reasonable attorneys' fees where such contract is referred for collection to an attorney not a salaried employee of the holder of the contract plus the court costs.

**VI.** No retail instalment contract shall be signed by any party thereto when it contains blank spaces to be filled in after it has been signed except that, if delivery of the motor vehicle is not made at the time of the execution of the contract, the identifying numbers or marks of the motor vehicle or similar information, and the due date of the first instalment may be inserted in the contract after its execution; and except that said contract may be so signed provided the buyer is given at the time of such execution a bill of sale, invoice or similar memorandum clearly indicating the sales price, down payment, type or types of insurance coverage and the number, period and amount of payments; and provided said contract when completed conforms with said bill of sale, invoice or memorandum, and a copy of said contract is delivered to said buyer. The instrument for recording purposes shall be the contract, or a memorandum thereof, as provided by the recording provisions of the Revised Statutes. The buyer's written acknowledgment, conforming to the requirements of paragraph C of subsection I, of delivery of a copy of a contract shall be conclusive proof of such delivery, that the contract when signed did not contain any blank spaces except as provided, and of compliance with this section in any action or proceeding by or against the seller or the holder of the contract.

**VII.** Upon written request from the buyer at reasonable intervals, the holder of a retail instalment contract shall give or forward to the buyer a written statement of the dates and amounts of payments and the total amount unpaid under such contract. A buyer shall be given a written or stamped receipt for any payment when made in cash.

**VIII.** No provision in a retail instalment contract relieving the seller from liability for any legal remedies which the buyer may have under the provisions of sections 249 to 259, inclusive, against the seller under the contract, or any separate instrument executed in connection therewith, shall be enforceable. (1957, c. 386, § 1.)

### **Sec. 255. Finance charge limitation.**

**I.** Notwithstanding the provisions of any other law, the finance charge shall not exceed the following rates:

**Group 1.** Any new motor vehicle designated by the manufacturer by a year model not earlier than the year in which the sale is made, \$7 per \$100 per year.

**Group 2.** Any new motor vehicle not in class 1 and any used motor vehicle designated by the manufacturer by a year model of the same or not more than 3 years prior to the year in which the sale is made, \$11 per \$100 per year.

**Group 3.** Any used motor vehicle not in class 2, \$13 per \$100 per year.

**II.** Such finance charge shall be computed on the principal balance as determined under subsection II of section 254 on contracts payable in successive monthly payments substantially equal in amount. Such finance charge may be computed on the basis of a full month for any fractional month period in excess of 10 days. A minimum finance charge of \$25 may be charged on any retail instalment transaction.

**III.** When a retail instalment contract provides for unequal or irregular instalment payments, the finance charge may be at the effective rates permitted in subsection I, having due regard for the schedule of payments.

**IV.** Any sales finance company may purchase or acquire or agree to purchase or acquire from any seller any contract on such terms and conditions as may be agreed upon between them. Filing of the assignment, notice to the buyer of the assignment, and any requirement that the holder maintain dominion

over the payments on the motor vehicle if repossessed shall not be necessary to the validity of a written assignment of a contract as against creditors, subsequent purchasers, pledgees, mortgagees and lien claimants of the seller. Unless the buyer has notice of the assignment of his contract, payment thereunder made by the buyer to the last known holder of such contract shall be binding upon all subsequent holders. (1957, c. 386, § 1.)

**Sec. 256. Credit upon anticipation of payments.** — Notwithstanding the provisions of any retail instalment contract to the contrary, any buyer may pay in full at any time before maturity the debt of any retail instalment contract and in so paying such debt shall receive a refund credit thereon for such anticipation of payments. The amount of such refund shall represent at least as great a proportion of the finance charge after first deducting from such finance charge an acquisition cost of \$25, as the sum of the monthly time balances after the month in which prepayment is made, bears to the sum of all the monthly time balances under the schedule of payments in the contract. Where the amount of credit is less than \$1 no refund need be made. (1957, c. 386, § 1.)

**Sec. 257. Extending retail installment contract.**—At the request of the buyer, the holder of a retail installment contract may extend the scheduled due date of all or a part of any installment or installments and in consideration thereof may contract for and receive from the buyer a finance charge, computed on the sums extended for the period of the extension, at an effective annual rate not in excess of that charged in the original contract, plus documentary fees expended incidental to the extension and the cost of continuing over the period of the extension insurance coverage and other benefits provided in the original contract.

If the extension is made by agreement to refinance the unpaid balance of the original contract and provide a new schedule of payments, the holder may contract for and receive from the buyer in consideration thereof a finance charge, at an annual effective rate not in excess of that charged in the original contract, computed on the sum of the unpaid time balance of the original contract, plus delinquency and collection charges accrued, documentary fees expended incidental to the extension and the cost of continuing over the period of the extension insurance coverage and other benefits provided in the original contract; but after deduction of a refund credit on the original contract of not less than that to which the buyer would be entitled under section 256 had he prepaid in full, except that the holder shall not be allowed the acquisition cost of \$25. The buyer shall be furnished a copy of such an agreement, signed by the parties thereto, containing the description and amount of each item above used in the computation of the new time balance, the new time balance and the new schedule of payments. (1957, c. 386, § 1. 1959, c. 79.)

**Effect of amendment.**—The 1959 amendment rewrote this section.

**Sec. 258. Penalties.**—

**I.** Any person who shall willfully and intentionally violate any provisions of sections 249 to 259, inclusive, or engage in the business of a sales finance company in this state without a license therefor as provided in sections 249 to 259, inclusive, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding \$500.

**II.** Any person willfully violating the provisions of sections 254 to 255 shall be barred from recovering any finance charge, delinquency or collection charge on the contract. (1957, c. 386, § 1.)

**Sec. 259. Waiver.**—Any waiver of the provisions of sections 249 to 259, inclusive, shall be unenforceable and void. (1957, c. 386, § 1.)

**Sec. 260. Short title.**—Sections 249 to 259, inclusive, may be cited as “The Motor Vehicle Sales Finance Act.” (1957, c. 386, § 1.)

## Chapter 60.

### Insurance and Insurance Companies.

Sections 2 to 12-A. The Insurance Commissioner. Powers and Duties.  
 Section 29-A. Signature of Agent.  
 Section 115-A. Cancellation of Automobile Damage Insurance.  
 Section 131-A. Prohibiting Certain Forms of Dividend Life Insurance.  
 Sections 146 to 158-A. Unfair Methods of Competition and Trade Practices.  
 Section 165-A. Rate of Premiums on Group Life Insurance.  
 Sections 314 to 314-B. Fees Payable to Insurance Commissioner.  
 Section 353. Penalties.  
 Sections 354 to 355. Records.

#### 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 \$10,000. 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. 1957, c. 418, § 18. 1959, c. 361, § 13.)

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

The 1957 amendment, effective July 1, 1957, increased his salary from \$8,000 to \$9,000 and carried appropriations for the fiscal years ending in 1958 and 1959.

The 1959 amendment changed the salary

of the commissioner from “\$9,000” to “\$10,000” and carried appropriations for the fiscal years ending June 30, 1960 and 1961.

**Effective date.** — P. L. 1959, c. 361, amending this section, provided in section 14 thereof as follows: “The provisions of this act shall become effective for the week ending August 23, 1959.”

**Sec. 2-A. Cost of printed material recovered.**—The commissioner may have the directory of insurance companies and agents, examination material, the insurance laws and other related laws and regulations under his administration published in pamphlet form from time to time, and may establish the price for each copy to cover the cost of printing and mailing. (1959, c. 146.)

**Sec. 3. Notice of organization; license to do business.**—Every domestic insurance company, upon organization, shall inform the commissioner thereof. No such company shall commence business by issuing policies until the