

MAINE STATE LEGISLATURE

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CHAPTER 45
MANAGEMENT

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§ 471. Corporators

1. Members. 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 provided.

2. Number. The number of corporators may be fixed or altered by the bylaws of the bank. Vacancies may be filled by election at any annual meeting.

3. Residency and attending meetings. 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 reelected by vote of the corporation.

4. Annual meetings. The corporators shall hold regular annual meetings at a time to be fixed by the bylaws 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.

1955, c. 380, § 1.

§ 472. Trustees

1. Members. 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 bylaws of the bank. The persons named as trustees in the original certificate of incorporation shall constitute the first board of trustees.

2. Residency; directorships. 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.

3. Oath. 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.

4. Meetings; quorum. Trustees shall hold regular meetings at least monthly, at a time fixed by the bylaws 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.

5. Investments. The trustees shall see to the proper investment of available funds of the bank in the manner 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.

6. Tenure. Provision for securing continuity of tenure on the board of trustees, or for establishing rotation in office, may be made in the bylaws of the bank, with the written approval of the commissioner.

7. Compensation. 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 commissioner in writing.

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

9. Audit. 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 analyse 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 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 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 402 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.

In lieu of the employment, election or appointment of an auditor or auditors in the manner provided, the bank may enter into an arrangement with the 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 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 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 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.

1955, c. 380, § 1; 1961, c. 385, § 4.

§ 473. Officers

1. **Election.** 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 bylaws 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.

2. **Bond.** 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 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 commissioner may increase such amount from time to time as circumstances may require. The expense of such bond shall be assumed by the bank.

3. Prohibitions. 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. 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.

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

5. Written instruments. 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 bylaws of the bank or duly recorded vote of the trustees.

6. President of the board. 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 bylaws, 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 bylaws of the bank.

7. Vice-president. 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 bylaws of the bank or vote of the trustees.

8. Clerk. The clerk shall record or cause to be recorded the proceedings and actions of all meetings of the corporators and the 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 return a copy of such list of officers and corporators to the commissioner within said 30 days which shall be kept on file in his office for public inspection.

1955, c. 380, § 1.

§ 474. Segregation and location of assets

1. Segregation. 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.

2. Depository. All securities owned or held by savings banks shall be kept within the State except as provided in section 443, subsection 2, paragraphs G and I, 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. The approval of the commissioner before such deposit for safekeeping is made shall be obtained. Said depository shall maintain adequate insurance against loss.

1955, c. 380, § 1.

§ 475. Accounting

1. Books and accounts. The treasurer of every savings bank, or such other officer as may be designated by bylaws 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 commissioner may prescribe the manner and form of keeping such books and accounts, which need not be uniform. The treasurer shall, annually, and as much oftener as the commissioner may require, make return of the condition and standing of the bank at such time as the 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.

2. Item of assets. 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 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.

3. Fair value. The 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.

4. Closing books. 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 commissioner.

1955, c. 380, § 1.

§ 476. Surplus and reserve fund

1. Surplus fund. 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 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.

2. Rates. 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.

1955, c. 380, § 1.

§ 477. Dividends

1. Conditions. After passing to the surplus, reserve or guaranty fund that part of the income required in section 476, 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 in an amount greater than the income and realized capital gains of the current or immediately preceding dividend period, except that the trustees may create a special reserve and may from time to time allocate thereto income and realized capital gains, and may by express vote use additional funds from

such reserve for the purpose of maintaining a current dividend rate.

1963, c. 162, § 13.

2. Extra dividends. 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 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.

3. Vote of trustees. 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.

4. Deposits. 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 first day of each month may draw interest on the first or last day of the month or from date of deposit, as the trustees or directors may determine.

5. Contracts. Savings banks may contract, on terms to be agreed upon, for the deposit at intervals within a period of 12 months, of sums of money and for the payment of interest on the same at a rate not more than the rate of their last regular dividends on savings deposits; or for the receipt of such deposits without the right to dividends thereon. A savings bank may pay a different rate of dividend on different classes or types of deposit, but it shall regulate the dividend in such manner that each depositor shall receive the same ratable portion of dividends as every other depositor of his class. (1961, c. 179, § 5.)

1955, c. 380, § 1; 1961, c. 179, § 5; 1963, c. 162, § 13.

§ 478. Retirement allowances and benefits

1. Retirement plans. 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 commissioner. The trustees may, subject to the approval of the 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 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.

2. Life insurance. The trustees may 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.

3. Payment of cost of benefits. 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.

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

5. Benefits not subject to trustee process. 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.

6. Rights of officers and employees in case of merger. If, in the case of a sale of the assets of the bank, or of its merger with another bank, or if its standing and condition shall induce or oblige the commissioner or the trustees to have recourse to any of the proceedings provided by section 6, subsection 7, and sections 691 to 696, 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 subsection 1, 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.

1961, c. 385, § 5.

7. Rights of banks and employees subject to terms of contract with insurance company. 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

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in subsection 6, 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.

8. Medical and hospital insurance. The trustees may 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. (1959, c. 8.)

1955, c. 380, § 1; 1959, c. 8; 1961, c. 385, § 5.