

**CHAPTER 41****GENERAL POWERS****§411. Applicability of chapter**

The provisions of this chapter set forth the powers granted to all financial institutions organized pursuant to chapters 31 and 32. The powers, privileges, duties and restrictions conferred and imposed in the charter or act of incorporation of any trust company, savings bank or savings and loan association organized under the prior laws of this State are abridged, enlarged or modified so that every such charter or act of incorporation conforms to this Title. Notwithstanding anything in a charter or act of incorporation of such an institution, every such institution possesses the powers, rights and privileges and is subject to the duties, restrictions and liabilities conferred and imposed by this Title. [PL 1997, c. 398, Pt. I, §1 (AMD).]

**SECTION HISTORY**

PL 1975, c. 500, §1 (NEW). PL 1997, c. 398, §1 (AMD).

**§412. General corporate powers**

A financial institution organized under chapter 31 or 32 shall have the power: [PL 1975, c. 500, §1 (NEW).]

1. To exist perpetually or as provided for in its organizational documents; [PL 1997, c. 398, Pt. I, §2 (AMD).]
2. To sue and be sued in its corporate name, and to participate in any judicial, administrative, arbitral or other proceeding; [PL 1975, c. 500, §1 (NEW).]
3. To adopt and alter a corporate seal, and to use the same or a facsimile thereof; [PL 1975, c. 500, §1 (NEW).]
4. To elect, appoint or hire officers, agents and employees of the institution, and to define their duties and fix their compensation; [PL 1975, c. 500, §1 (NEW).]
5. To make and alter bylaws not inconsistent with its articles of incorporation or with the laws of this State for the administration and regulation of the affairs of the institution; [PL 1975, c. 500, §1 (NEW).]
6. To cease its corporate activities and surrender its corporate franchise; [PL 1975, c. 500, §1 (NEW).]
7. To make donations irrespective of corporate benefit for any charitable, philanthropic, scientific, educational, civic betterment or public welfare purpose, as a majority of the directors shall deem appropriate; [PL 1975, c. 500, §1 (NEW).]
8. To establish and carry out pension plans, pension trusts, profit sharing plans, stock option plans, stock bonus plans and other incentive plans for any or all of its directors, officers, and employees; and to pay pensions and similar payments to its directors, officers or employees, and their families; [PL 1975, c. 500, §1 (NEW).]
9. To reimburse, indemnify and purchase liability insurance for directors, officers, and employees as provided in Title 13-C, chapter 8, subchapter 5; and [RR 2001, c. 2, Pt. B, §14 (COR); RR 2001, c. 2, Pt. B, §58 (AFF).]

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

[PL 1997, c. 398, Pt. I, §2 (AMD).]

#### SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1997, c. 398, §12 (AMD). RR 2001, c. 2, §B14 (COR). RR 2001, c. 2, §B58 (AFF).

#### §412-A. Capital

**1. Requirement.** Every financial institution shall establish and maintain adequate levels of capital as set forth in rules adopted by the superintendent. These rules must address, at a minimum, composition of capital, capital levels that must be maintained and procedures that must be followed to restore capital if it becomes impaired or falls below the minimum standards. Minimum capital levels established by the superintendent may be no less stringent than those applicable to federally chartered institutions with similar charters.

[PL 1991, c. 34, §8 (NEW).]

**2. Exception.** The superintendent may approve, in writing, capital levels below the required minimum as considered necessary or appropriate under the particular circumstances of a financial institution.

[PL 1991, c. 34, §8 (NEW).]

#### **3. Notification.**

[PL 2005, c. 82, §8 (RP).]

**3-A. Approval.** Any issuance considered as capital under subsection 1 or under rules adopted under subsection 1 must be submitted to the superintendent for the superintendent's approval at least 10 days prior to issuance and include any documentation the superintendent considers necessary.

[PL 2005, c. 82, §9 (NEW).]

#### SECTION HISTORY

PL 1991, c. 34, §8 (NEW). PL 1997, c. 398, §13 (AMD). PL 2005, c. 82, §§8,9 (AMD).

#### §413. Borrowing

A financial institution may borrow money on such terms and conditions as it may determine, issue its notes, bonds and other obligations and secure any of its obligations by mortgage, pledge or other encumbrance of all or any part of its property. [PL 1997, c. 398, Pt. I, §4 (AMD).]

#### **1. Capital notes or debentures.**

[PL 1997, c. 398, Pt. I, §5 (RP).]

#### **2. Mortgage-backed securities.**

[PL 1997, c. 398, Pt. I, §6 (RP).]

#### SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1975, c. 666, §19 (AMD). PL 1997, c. 22, §11 (AMD). PL 1997, c. 398, §§14-6 (AMD).

#### §414. Deposits in financial institutions

**(REPEALED)**

#### SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1997, c. 398, §17 (RP).

**§415. Participation in public agencies**

To the extent authorized by the superintendent pursuant to regulations, a financial institution has the power to participate in a public agency created under the laws of this State or of the United States, the purpose of which is to afford advantages or safeguards to financial institutions, depositors or investors and to comply with all requirements and conditions imposed upon such participants. [PL 1997, c. 398, Pt. I, §8 (AMD).]

**SECTION HISTORY**

PL 1975, c. 500, §1 (NEW). PL 1997, c. 398, §18 (AMD).

**§416. Powers of federally chartered institutions**

Notwithstanding any other provisions of law, a financial institution has the power to engage in any activity that financial institutions chartered by or otherwise subject to the jurisdiction of the Federal Government may be authorized to engage in by federal legislation or regulations issued pursuant to such legislation. In the event any law of this State is preempted or declared invalid pursuant to applicable federal law, by a court of competent jurisdiction or by the responsible federal chartering authority with respect to any power that may be exercised by a financial institution chartered by or otherwise subject to the jurisdiction of the Federal Government, that law is invalid with respect to financial institutions authorized to do business in this State. The superintendent may adopt rules to ensure that such powers are exercised in a safe and sound manner with adequate consumer protections. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. [PL 1997, c. 207, §1 (AMD).]

**SECTION HISTORY**

PL 1975, c. 500, §1 (NEW). PL 1997, c. 207, §1 (AMD).

**§417. Equity interest in Maine financial institutions**

A financial institution authorized to do business in this State may acquire more than 5% of the equity interest of any other financial institution authorized to do business in this State or of a Maine financial institution holding company with the prior approval of the superintendent. [PL 1997, c. 398, Pt. I, §9 (AMD).]

**SECTION HISTORY**

PL 1983, c. 55, §1 (NEW). PL 1983, c. 597, §1 (AMD). PL 1997, c. 398, §19 (AMD).

**§418. Acting as agent**

A financial institution or a financial institution not authorized to do business in this State may act as agent for a financial institution, out-of-state financial institution, a financial institution organized under provisions of law of another state, federal association or national bank in accordance with this section. [PL 1995, c. 628, §21 (NEW).]

**1. Activities.** A financial institution acting as agent may receive deposits, renew time deposits, close loans, service loans and receive payments on loans and other obligations. The list of permitted agency activities may be expanded through rulemaking. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A. [PL 1995, c. 628, §21 (NEW).]

**2. Limitations on activities.** The agreement to act as agent must limit the activities to those specifically permitted under this section or as expanded through rulemaking. The institution acting as agent pursuant to an agency agreement may not be considered a branch of the contracting institution, nor is the contracting institution considered a branch of the institution acting as agent. [PL 1995, c. 628, §21 (NEW).]

**3. Notice required.** A financial institution entering into an agency agreement shall file notice with the superintendent, in the form and manner prescribed by the superintendent, prior to engaging in the activities permitted under this section.

[PL 1995, c. 628, §21 (NEW).]

**4. Relationship terms.** An agency relationship between institutions must be on terms that are consistent with safe and sound banking practices and the superintendent may adopt rules to supplement the requirements of this section.

[PL 1995, c. 628, §21 (NEW).]

#### SECTION HISTORY

PL 1995, c. 628, §21 (NEW).

#### §419. Investment powers

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

[PL 1997, c. 398, Pt. I, §10 (NEW).]

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

A. Investment quality parameters; [PL 1997, c. 398, Pt. I, §10 (NEW).]

B. Investment mix and diversification; [PL 1997, c. 398, Pt. I, §10 (NEW).]

C. Investment maturities; and [PL 1997, c. 398, Pt. I, §10 (NEW).]

D. Delegation of authority to officers and committees responsible for administering the portfolio.  
[PL 1997, c. 398, Pt. I, §10 (NEW).]

[PL 1997, c. 398, Pt. I, §10 (NEW).]

#### SECTION HISTORY

PL 1997, c. 398, §10 (NEW).

#### §419-A. Property ownership

In addition to real estate owned for offices and facilities pursuant to chapter 33, a financial institution may acquire all property, real, personal and mixed, by mortgage foreclosure, purchase or by any other means and may hold the property for investment purposes and may improve, develop, lease, contract, convey and otherwise exercise control over the property. [PL 1997, c. 398, Pt. I, §10 (NEW).]

#### SECTION HISTORY

PL 1997, c. 398, §10 (NEW).

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