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amended by inserting after the word "therein", in line 6, the words:- and, unless approved by the commissioner, to the extent the cost or value of such real property together with the estimated cost of any proposed improvements thereon does not exceed, in the aggregate, three percent of the assets or fifty percent of the surplus, calculated as of the time such purchase, lease or acquisition is made, of such company, in foreign countries.

Approved December 26, 1990.

**Chapter 399. AN ACT RELATIVE TO THE CO-OPERATIVE BANKS  
EMPLOYEES BENEFIT ASSOCIATION.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Chapter 170 of the General Laws is hereby amended by adding the following three sections:-

Section 33. The participating members of the Co-operative Banks Employees Retirement Association, established by section thirty, shall constitute as the Co-operative Banks Employees Benefit Association, in this section and in sections thirty-four and thirty-five called the benefit association, for the purpose of providing retirement benefits through retirement plans which are not qualified plans under Section 401 of the Internal Revenue Code of the United States and for establishing employee welfare benefit plans, in this section called plans, for eligible employees of participating organizations. The benefit association, in its name and by or through its authorized officers, may (a) establish plans and related trusts for eligible members participating therein, (b) make agreements, establish trusts and make or cause to be made investments subject to such limitations as may from time to time be prescribed by law or by the by-laws of the benefit association, (c) sue and be sued, plead and be impleaded, (d) enforce liens and other obligations and foreclose mortgages held by the benefit association on or with respect to real or personal property situated in the commonwealth or in any state or territory of the United States, (e) adopt an official seal and alter the same at pleasure, and (f) do such other acts that may be necessary to carry out the powers conferred upon it by law and its by-laws.

For the purposes of this section and sections thirty-four and thirty-five, reference to "bank" and "banks" shall, unless the context otherwise requires, mean and include any or all member organizations and a reference to "directors" of a bank shall, unless the context otherwise requires, mean and include the governing body of each of such organizations.

Eligible employees may contribute a portion of their salaries or wages to or under plans established by the benefit association, to be deducted by the

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employing banks and paid to the benefit association. A participating bank may contribute to or under plans of the benefit association to the extent determined by its directors. Contributions and benefits under the plans of the benefit association shall not exceed the limits, if any, imposed on such plans by the Internal Revenue Code of 1986 as amended, and the Employee Retirement Income Security Act of 1974, as amended, in this section called the Code and ERISA, respectively.

All plans maintained by the benefit association shall conform to the Code and funds held under the plans of the benefit association shall be invested in such manner as the benefit association shall determine, consistent with the by-laws. Funds held under plans of the benefit association shall be held by or used by the benefit association for the exclusive purpose of providing plan benefits to eligible members and, as determined by the benefit association, may be used to defray reasonable expenses of administering the plans and investing the assets of the plans. To the extent that expenses necessary for the administration of the benefit association or the plans of the benefit association are not paid from the plans, they shall be paid by participating banks on a proportionate basis, as provided in the by-laws.

A participating bank, by vote of its directors may adopt one or more of the plans of the benefit association for the benefit of its employees and their beneficiaries.

Nothing in this section shall be construed so as to prevent any such bank from establishing its own employee welfare benefit plans or non-qualified retirement plan.

Section 34. The trustees of the Co-operative Banks Employees Retirement Association shall prepare the by-laws of the benefit association and file the same with the commissioner. Said by-laws shall prescribe the manner in which, and the officers and agents by whom, the benefit association will be conducted and the manner in which its funds may be invested and paid out. They shall also provide that the said trustees of the Co-operative Banks Employees Retirement Association shall serve as the initial trustees of the benefit association and shall continue such service for the term prescribed in such by-laws and for the election of subsequent trustees.

Such benefit association shall annually, within six months after the close of its fiscal year, report to the commissioner such statements of its membership and financial transactions as the commissioner may consider necessary to show its business and standing. The commissioner may verify such statement by an examination of the books and papers of the benefit association.

The benefit association shall not be subject to chapter thirty-two or chapter one hundred and seventy-five or to such other provisions of law as relate to insurance companies or other benefit associations.

Section 35. The property of the benefit association shall be exempt from taxation and from the operation of any law relating to insolvency, and shall not be

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attached or taken on execution or other process to satisfy any debt or liability of the benefit association, a participating bank, or any employee member of the benefit association. No assignment of any right in or to said funds or of any pension or annuity payable under section thirty-three shall be valid, except that deferred annuity contracts purchased by a participating bank on account of past service of eligible employees may be assigned to such bank prior to actual retirement.

Nothing in this section shall prevent an employee's annuity or pension from being attached, taken on execution, assigned, or subject to other process to satisfy a support order under chapter two hundred and eight, two hundred and nine, or two hundred and seventy-three.

**SECTION 2.** The by-laws of the Co-operative Banks Employees Retirement Association shall be prepared and filed with the commissioner of banks, as required by section thirty-four of chapter one hundred and seventy of the General Laws, inserted by section one of this act, on or before March fifteenth, nineteen hundred and ninety-one.

Approved December 26, 1990.

**Chapter 400. AN ACT RELATIVE TO THE DEVELOPMENT OF MULTIPLE USE ALTERNATIVE FUEL.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 1 of chapter 164 of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by inserting after the definition of "Gas company" the following definition:-

"Multiple-use alternative fuel", any fuel other than coal, pipeline gas, liquified natural gas, number two oil, number six oil, nuclear or any combination thereof which is also capable of powering internal combustion engines and diesel engines.

**SECTION 2.** Section 94A of said chapter 164, as so appearing, is hereby amended by inserting after the word "review", in line 17, the words:- when considering contracts with facilities up to four hundred and fifty megawatts, utilizing multiple-use alternative fuels, the department may approve contracts in which the fuel component of the delivered price of electricity is fixed at a figure no greater than the nineteen hundred and eighty-nine state annual forecast of energy resources projected cost of the fuel predominantly used in the commonwealth for the year in which such facility commences service, and the department may approve contracts on a must-run basis which allows for payment under such contracts notwithstanding the actual dispatch of that facility.

**SECTION 3.** This act shall become inoperative on December thirty-first, nineteen hundred and ninety-five; provided, however, that any approval of any