

# MAINE STATE LEGISLATURE

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EIGHTY-FIFTH LEGISLATURE

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Legislative Document

No. 373

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H. P. 780

House of Representatives, Feb. 4, 1931.

Referred to Committee on Banks and Banking and 1,000 copies ordered printed. Sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Carleton of Portland.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD ONE THOUSAND NINE  
HUNDRED AND THIRTY-ONE

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AN ACT Amending the Banking Law.

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Be it enacted by the People of the State of Maine, as follows:

Section 1. Section one of chapter fifty-seven of the revised statutes is hereby amended by striking out the comma immediately following the word "cause" in the fifth line thereof and substituting a period in its place; and by inserting in the same line and directly following said period and as the beginning of a new sentence the words 'He shall devote his whole time to the duties of his office' so that said section, as amended, shall read as follows:

'Sect. 1. Appointment of bank commissioner; bond; duty not to disclose information; penalty. The governor, with the advice and consent of the council, shall appoint a bank commissioner, who shall hold his office for four years, and until his successor is appointed and qualified, and who may be removed from office by the governor and council for cause. He shall give his whole time to the duties of his office 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 give bond with sureties or authorized surety company in the sum of twenty thousand

dollars, to be approved by the treasurer of state for the faithful performance of his duties, and the expense of securing said bond shall be paid by the state. 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, first, to United States government officials charged with the duty of supervising national banks; second, to federal reserve officials; third, to banking departments of other states; fourth, to the governor and treasurer of state. Whoever violates the foregoing provision shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than six months, or by both such fine and imprisonment.'

Sect. 2. Section fifteen of chapter fifty-seven of the revised statutes is hereby amended by striking out the period following the word "thereof" in the fourth line of said section and substituting a semi-colon therefor; and by inserting, directly following said semi-colon, the words 'provided, that after the first day of August, nineteen hundred and thirty-one, a person shall not become or continue to be a member if he shall compound with his creditors or make a general assignment for their benefit or be adjudged a bankrupt,' so that said section, as amended, shall read as follows:

'Sect. 15. Membership in Corporation. Every such corporation shall consist of not less than thirty members, and may, at any legal meeting, by a vote of at least two-thirds of those present, elect by ballot any citizen of the county wherein the corporation is located, or of an adjacent county, to be a member thereof; provided, that after the first day of August, nineteen hundred and thirty-one, a person shall not become or continue to be a member if he shall compound with his creditors or make a general assignment for their benefit or be adjudged a bankrupt. No person shall continue to be a member after removing from the state. Any member who fails to attend the annual meetings for two successive years ceases to be a member, unless re-elected by a vote of the corporation.'

Sect. 3. Section sixteen of chapter fifty-seven of the revised statutes is hereby amended by striking out the whole of said section and substituting in place thereof the following:

'Sect. 16. Officers; trustees, number and restrictions. The

officers of every such corporation shall consist of a president, treasurer and, when in the opinion of the trustees necessary, a vice-president and an assistant treasurer, and not less than five trustees. Not more than two members, in all, of the board of trustees shall be directors of any other kinds of banking institutions; provided, that this restriction shall not be held to prevent the continuance in office and re-election, from time to time, of any person who is lawfully serving as a trustee of a savings bank at the time when this section is enacted. After the first day of August, nineteen hundred and thirty-one, a person shall not become or continue to be a trustee if he shall compound with his creditors or make a general assignment for their benefit or be adjudged a bankrupt. The office of a trustee shall be vacated immediately whenever he shall become disqualified for any of the reasons specified in this section or shall remove from the state. The trustees shall elect from their number or otherwise such other officers as they see fit. All officers shall be annually sworn to the faithful performance of their duties, and shall hold their several offices until others are chosen and qualified in their stead. 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 regular meetings.'

Sect. 4. Section seventeen of chapter fifty-seven of the revised statutes is hereby amended by striking out the whole of said section and substituting in place thereof the following:

'Sect. 17. Officers of savings banks not to act as agents for certain corporations; treasurers and trustees, regulations relating to. The president, vice-president, treasurer, assistant treasurer or an employee of a savings bank shall not act as an agent or representative of any individual, partnership or corporation engaged in the business of selling or negotiating any bonds, mortgages, notes or other choses in action, nor receive directly or indirectly any fee, commission, bonus or other compensation, however designated, for the sale or transfer or exchange of any security. The treasurer or assistant treasurer shall not engage directly or indirectly in any other business or occupation without the consent of a majority of the trustees evidenced by a resolution duly entered in their records. A person shall not be, at the same time, the treasurer

of a savings bank having deposits of more than one hundred and fifty thousand dollars and the cashier of a national bank or the treasurer of a trust company.'

Sect. 5. Section twenty-two of chapter fifty-seven of the revised statutes is hereby amended by striking out the last sentence thereof and adding thereto the following: 'Such a payment shall discharge the bank from any liability to any person on account of the deposit. The trustees of the bank may refuse any deposit at their pleasure; and may repay any deposit after a prior notice of thirty days given to expire on a day when a dividend is to be credited to the accounts of depositors,' so that said section, as amended, shall read as follows:

'Sect. 22. Regulation of deposits, and their amount; deposits in trust. Savings banks and institutions for savings may receive on deposit, for the use and benefit of depositors, all sums of money offered for that purpose. 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. Such a payment shall discharge the bank from any liability to any person on account of the deposit. The trustees of the bank may refuse any deposit at their pleasure; and may repay any deposit after a prior notice of thirty days given to expire on a day when a dividend is to be credited to the accounts of depositors.'

Sect. 6. Section twenty-seven of chapter fifty-seven of the revised statutes is hereby amended by adding thereto the following new section to be numbered 'twenty-two a':

'Sect. 22a. Savings banks may open checking accounts with their customers. A savings bank may open with any of its customers who keep savings deposits with it accounts of the kind commonly known as checking accounts, and receive deposits of money to be credited thereon and repaid on demand by checks drawn against them, without the presentation of a

bank book; and may pay interest thereon at such rates as may be agreed upon from time to time by the bank with such customers, but in no event to exceed the rate of interest paid by the bank to its savings depositors; provided, that in addition to any other reserves that the bank may maintain, it shall at all times provide a reserve which shall be held specially and only for such accounts and shall not be less than fifteen per cent of the aggregate amount thereof. Such special reserve may consist of cash in hand, or balances payable on demand due from depositories approved by the bank commissioner, or bonds of the United States or the Dominion of Canada, or bankers' prime acceptances due in not more than six months from the time of purchase by the bank, in such proportions as the trustees may see fit. The assets representing such accounts shall be kept separate and apart from the other assets of the bank. In case of the winding up of the affairs of the bank by means of a liquidation of its assets, or a merger with, or a sale to, another bank, if the bank is then solvent such accounts shall receive from the proceeds of such liquidation, merger or sale not more than their face amount together with any interest that may be due or accrued thereon. If the bank is found to be insolvent, then or at any time, such accounts shall share ratably with the savings depositors in any loss that may be caused by such insolvency; and they shall share ratably in any loss that there may be caused to its depositors if the bank or the commissioner resorts to the proceedings established in this chapter for the liquidation of an insolvent savings bank or the scaling down of its deposits.'

Sect. 7. Section twenty-three of chapter fifty-seven of the revised statutes is hereby amended by striking out the whole of said section and substituting in place thereof the following:

'Sect. 23. Authority to pay any check, draft or order notwithstanding death of drawer. Any bank may pay any valid check, draft or order drawn by a person, either in his individual capacity or acting in any fiduciary capacity, against funds on deposit with itself to meet it, notwithstanding the death of the drawer in the interval of time between the signing of the check, draft or order and its presentation for payment, when the presentation is made within thirty days after the date of the check, draft or order; and at any subsequent period, provided the bank has not received actual notice of

the death of the drawer. Such a payment of a check, draft or order shall be a valid and sufficient release and discharge to the bank for any payment so made.'

Sect. 8. Section twenty-seven of chapter fifty-seven of the revised statutes is hereby amended by adding thereto the following new section to be numbered 'twenty-four a':

'Sect. 24a. Payment by savings banks, trust companies and loan and building associations of small sums without administration of estates. Whenever any person shall die leaving a deposit in a bank or trust company or an equity in a loan and building association doing business in this state, and the amount of such deposit or equity shall not exceed the sum of five hundred dollars, and no will of the decedent is presented for probate or administration granted on his estate within ninety days after his death, and it is not known to the bank or association that any probate proceedings are intended by any parties in interest or needed, the bank or association in its discretion and upon the application of the surviving husband or wife, or, if none, of the next of kin of the decedent, may pay the amount of such deposit or equity to such husband or wife or next of kin, and such a payment shall discharge the bank or association from liability to any person on account of the deposit or equity; but any person to whom such a payment has been made shall be liable for the amount thereof to the decedent's executor or administrator if thereafter appointed. As a condition precedent to such payment the bank or association may require proof as to the rights of the parties in interest, the filing of proper waivers, if there be need therefor, and the execution of a bond of indemnity with sureties.'

Sect. 9. Section twenty-five of chapter fifty-seven of the revised statutes is hereby amended by striking out in the second line of subsection (b) thereof the word "twenty" and in the third line the word "nine" and in the fourth line the word "three" and substituting in the places thereof the words 'thirty-one' and 'ten', respectively; and by striking out in the second line of subsection (c) thereof the word "twenty-nine", and substituting in place thereof the word 'thirty-one', so that said subsections, as amended, shall read as follows:

'(b) All such accounts opened or such shares in loan and building associations issued on or after the first day of August, nineteen hundred thirty-one, payable to either of two or more,

or the survivor, up to, but not exceeding an aggregate value of ten thousand dollars, exclusive of interest and dividends, in the name of the same persons in all banks, institutions for savings, 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 first, nineteen hundred thirty-one, may be brought within the provisions of this act 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, institution for savings, 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.'

Sect. 10. Subsection I of section twenty-seven of chapter fifty-seven of the revised statutes is hereby amended by striking out the whole of subsection I, and substituting in place thereof the following:

'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 constituting a direct and primary obligation of the Dominion of Canada and in the interest-bearing obligations of any body politic or corporation in Canada 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 bought under the authority of this section are payable in the United



States at not less than their face value in gold coin of the United States of the present standard of weight and fineness.'

Sect. 11. Subsection II of section twenty-seven of chapter fifty-seven of the revised statutes is hereby amended by striking out in the fourth line of said subsection the words "in United States funds" and inserting after the word "payable" in said fourth line the words 'as required in subdivision b- of subsection I of said section twenty-seven' so that said subsection II as amended shall read as follows:

'II. Obligations of states and provinces of Canada. In the bonds or other interest-bearing obligations of any state in the United States, and in the bonds constituting a direct and primary obligation of any province of the Dominion of Canada, the principal and interest of which are payable as required in subdivision b- of subsection I of said section twenty-seven; provided, the above mentioned bonds or interest-bearing obligations of any state and bonds of any province have not, for a period of more than ninety days, defaulted in the payment of the principal or interest of any obligation within a period of ten years immediately preceding the investment.'

Sect. 12. Subsection V of section twenty-seven of chapter fifty-seven of the revised statutes is hereby amended by striking out the period at the end of said subsection and substituting a semi-colon therefor; and by adding thereto the words 'provided, that such bank has never defaulted in the payment of the principal or interest of any of its obligations,' so that said subsection, as amended, shall read as follows:

'V. Federal land banks. In the bonds or other interest-bearing obligations of any Federal Land Bank or Joint Stock Land Bank organized under any act of Congress enacted prior to the fourth day of April, nineteen hundred and twenty-three; provided, that the bank has never defaulted in the payment of the principal or interest of any of its obligations.'

Sect. 13. Subsection VI of section twenty-seven of chapter fifty-seven of the revised statutes is hereby amended by striking out the whole of said subsection and substituting in place thereof the following:

'VI. Obligations of steam railroads. a- In the bonds, notes or other interest-bearing obligations of any Maine corporation owning and operating a steam railroad located prin-

cipally within this state, having a mileage of not less than five hundred miles of road, exclusive of sidings, including all obligations assumed or guaranteed by such corporation and issued by any lessor, subsidiary or affiliated corporation, provided that the assumption or guaranty 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.

b- In the bonds or notes issued, guaranteed or assumed, by any steam railroad corporation organized under the laws of any other state of the United States; provided,

1. Such corporation shall own in fee not less than five hundred miles of standard-gauge railroad, exclusive of sidings, within the United States, or shall own not less than one hundred miles and have received each year for a period of five successive years next preceding the investment a gross operating income of not less than ten million dollars.

2. Such obligations shall be secured (a) by a first mortgage, or a mortgage or trust indenture which is, in effect, a first mortgage, on at least seventy-five per cent of all the mileage of the corporation owned in fee; or (b) by a refunding mortgage that provides for the retirement of all the prior-lien bonds outstanding at the date of the investment and covering at least seventy-five per cent of the mileage owned in fee by the corporation, provided that all the bonds secured by the refunding mortgage shall mature at a later date than any bonds which it is given to refund, or if any of the refunding-mortgage bonds are to mature at an earlier date the refunding mortgage must provide that they shall be retired by not more than a like amount to be re-issued under the refunding mortgage; or (c) by a mortgage that is prior to a refunding mortgage as above described and covers some part of the railroad property included in the refunding mortgage, if the bonds secured by the prior mortgage are to be refunded by the refunding mortgage and the property covered by the prior mortgage is operated as a part of its system by the corporation issuing the refunding mortgage; or (d) by a first mortgage on the property of a leased road forming a substantial portion of the system of the operating company, provided, that the term of the lease extends at least ten years beyond the date of

the maturity of the mortgage; or (e) by the obligations of a railroad corporation which were authorized investments at the effective date of a lease issued by it to, or assumed by, a railroad corporation such as described in paragraph 1 of subdivision b- of this subsection under which the lessee corporation operates as a part of its own system all the mileage of the lessor corporation; provided, that the lessee corporation is bound by the lease to pay the principal and interest of said obligations and that the term of the lease extends at least ten years beyond the date of the latest maturity of the mortgage or mortgages by which said obligations are secured. Said obligations shall remain authorized investments so long as the lessee corporation shall continue to comply with the provisions of paragraph 3 of subdivision b- of this subsection.

3. Such corporation shall have earned and received for each of five successive calendar or fiscal years next preceding the investment a net income of not less than one and one-half times the annual interest on its debts outstanding during that period and secured by the mortgage under which the bonds in question are issued and all prior liens, and also shall have earned and received for a period of twelve consecutive months within the fifteen months next preceding investment a net income of not less than one and one-half times the annual interest on its debt outstanding at the time of investment, secured as aforesaid. The time during which any railroad may have been operated by the government of the United States under the provisions of any act or acts of Congress heretofore enacted, and a period of two years thereafter, may be excluded in determining whether the bonds of any railroad corporation are able to qualify under the provisions of this paragraph.

In determining the income of any corporation for the purposes of the foregoing paragraph there shall be included the income of any corporation or corporations out of which it shall have been formed through consolidation or merger, and of any corporation whose business and income-producing property has been wholly acquired by the corporation issuing, assuming or guaranteeing the bonds in question. The net income of a railroad for the purposes of the foregoing paragraph shall be determined after deducting all operating expenses, maintenance charges, depreciation, rentals, taxes and guaranteed interest and dividends paid by or due from it.

4. The total of the bonds and notes issued under the mortgage securing the bonds in question and all prior liens, exclusive of those issued for refunding or otherwise retiring prior lien obligations, shall not exceed three times the outstanding capital stock of such corporation at the date of investment.

c- 1. In equipment bonds or notes issued under the Philadelphia plan, so-called, and secured by standard equipment leased to any steam railroad corporation in the United States any of whose mortgage bonds are eligible under the provisions of this section; provided, that the amount of such securities outstanding shall at no time exceed eighty per cent of the cost of the equipment by which they are secured.

2. In the prior-lien equipment obligations or equipment trust certificates issued by the National Railway Service Corporation in pursuance of any equipment trusts financed in whole or in part through a loan or loans on standard railway equipment made or approved by the Interstate Commerce commission; provided, such securities are issued for not exceeding in par value sixty per cent of the cost of the equipment and that such obligations shall mature in approximately equal annual or semi-annual instalments over a period not exceeding fifteen years; provided, further, that not more than two per cent of the deposits of any bank shall be invested in the foregoing obligations.

d- In the collateral-trust bonds or notes of any such railroad company secured by the deposit with a trust company or national bank of securities which the bank itself may lawfully purchase under the provisions of this section; provided, that such collateral-trust bonds are issued under an indenture of trust which limits the amount of the bonds so issued to not more than eighty per cent of the par value of the securities deposited as aforesaid.

e- In the first mortgage bonds of any terminal or bridge company guaranteed as to principal and interest by any railroad corporation any of whose mortgage obligations are eligible under the provisions of this section.

f- Not more than twenty-five per cent of the deposits of any one bank shall be invested in the steam-railroad obligations authorized as investments by subdivisions a-, b-, c-, d-, e-, of this subsection and not more than two per cent in the

obligations of any single railroad corporation whose mileage is located principally outside the state of Maine; except that, in the case of a major system of railroad lines formed by an amalgamation or merger of trunk lines, this limitation of two per cent shall apply only to the obligations directly issued by such major system and not to the component parts thereof, each one of which shall, with respect to said limitation, be regarded as being a separate entity.

g- In the bonds or notes issued, guaranteed or assumed by any steam-railroad corporation organized under the laws of the Dominion of Canada; provided, that the principal and interest thereof are guaranteed directly by the Dominion and are payable in the United States as required by subdivision b- of subsection I of this section.'

Sect. 14. Subsection VII of section twenty-seven of chapter fifty-seven of the revised statutes is hereby amended by striking out the whole of said subsection and substituting in place thereof the following:

'VII. Public utility obligations. a- In the bonds or notes issued, guaranteed or assumed by any Maine corporation subject to the jurisdiction of the Maine public utilities commission and carrying on in this state the business for which it was organized; provided, that such securities shall first have been duly authorized by the commission under the laws of Maine, if at the time of their issue such authorization was required by law.

b- In the mortgage bonds or other interest-bearing obligations secured by mortgage and issued, guaranteed or assumed by any corporation organized under the laws of any other state of the United States, at least ninety per cent of whose net operating income is derived from the profits of an electric-light and power business; artificial-gas business; or a combination thereof; or from furnishing municipal and other users with a water supply; provided,

i. The corporation shall be subject to the jurisdiction of a public utilities commission, public service commission or some other tribunal exercising the supervisory functions ordinarily incident to such commissions and the issuance of the securities in question shall have been duly authorized by the commission or tribunal if at the time of their issue such authorization was required by law.

2. At least fifty-one per cent of the corporation's property shall be located in, and fifty-one per cent of its business transacted within, the United States.

3. The corporation shall own in fee not less than fifty-one per cent of the property used by it in the carrying on of its business.

4. The corporation shall have received average gross earnings of at least one million dollars per annum in each of its five fiscal years, or five nearer periods of one year, next preceding the date of the investment.

5. The corporation shall have earned and received an average net income, including income from investments, for a period of five fiscal years or a nearer period of five years, next preceding the date of the investment, of not less than twice the annual interest on its debt outstanding during that period and secured by the mortgage under which the bonds in question are issued and all prior liens, and also shall have earned and received for a period of twelve consecutive months within the fifteen months next preceding the date of the investment a net income of not less than twice the annual interest on its debt outstanding at the date of the investment, secured as aforesaid, and shall not have defaulted on any of its obligations during the same period. The net income of the corporation for the purposes of this section shall be determined after deducting all operating expenses, maintenance charges, depreciation, rentals, taxes, and guaranteed interest and dividends paid by it or due from it.

6. Such obligations shall mature at least ten years before the expiration of the principal franchise or franchises under which the corporation is operating; or there shall exist some statute or definite agreement or contract with the grantors whereby the franchise or franchises may be renewed or extended from time to time throughout and beyond the life of the bonds in question, under which statute, agreement or contract the security of such obligations is adequately protected; or unless the company is operating under an indeterminate franchise granted by a public utilities commission or public service commission.

7. Such obligations shall be secured (a) by a first mortgage, or a mortgage or trust indenture which is, in effect, a first mortgage, on at least seventy-five per cent of all the prop-

erty of the corporation owned in fee; or (b) by a refunding mortgage that provides for the retirement of all the prior-lien bonds outstanding at the date of investment and covering at least seventy-five per cent of the property owned in fee by the corporation, provided, that all the bonds secured by the refunding mortgage shall mature at a later date than any bond which it is given to refund or, if any of the refunding mortgage bonds are to mature at an earlier date the mortgage must provide that they shall be retired by not more than a like amount to be reissued under the refunding mortgage; or (c) by a mortgage that is prior to a refunding mortgage as above described and covers some part of the public-utility property included in the refunding mortgage, if the bonds secured by the prior mortgage are to be refunded by the refunding mortgage and the property covered by the prior mortgage is operated as a part of its system by the corporation issuing the refunding mortgage; or (d) by a first mortgage on the property of a lessor public utility forming a substantial portion of the system of the operating company, provided, that the term of the lease by which the property is held extends at least ten years beyond the date of the maturity of the mortgage.

8. The total of the bonds and notes issued under the mortgage securing the bonds in question and all prior liens, exclusive of those authorized for refunding or otherwise retiring prior-lien obligations, shall not exceed three times the outstanding capital stock of the corporation at the date of investment.

c—Not more than thirty-five per cent of the deposits of any one bank shall be invested in the obligations of the above-specified public-utility corporations and not more than two per cent in the obligations of any single utility whose business is transacted principally outside the State of Maine.'

Sect. 15. Subsection VIII of section twenty-seven of the revised statutes is hereby amended by striking out the whole of said subsection and substituting in place thereof the following:

'VIII. Obligations of telephone companies. a—In the mortgage bonds and other interest-bearing obligations secured by mortgage and issued, guaranteed or assumed by any telephone company incorporated under the laws of any state of the United States or of Canada whose property is located chiefly in the United States or Canada; provided,

1. The corporation shall have received gross revenues of at least five million dollars per annum in each of its five fiscal years, or five nearer periods of one year, next preceding the investment.

2. The corporation shall have earned and received a net income, including income from investments, in each of its five fiscal years, or five nearer periods of one year, next preceding the investment, of not less than twice the annual interest on its debt secured by the mortgage under which the bonds in question are issued and all prior liens, and shall not have defaulted on any of its obligations during the same period. The net income of the corporation for the purpose of this subsection shall be determined after deducting all operating expenses, including maintenance and depreciation charges, rentals, taxes, and guaranteed interest and dividends paid by or due from it.

3. Such obligations shall be secured (a) by a first mortgage on at least seventy-five per cent of all the property of the corporation owned in fee; or (b) by a refunding mortgage that provides for the retirement of all the prior-lien bonds outstanding at the date of the investment and covering at least seventy-five per cent of the property owned in fee by the corporation, provided, that all the bonds secured by the refunding mortgage shall mature at a later date than any bonds which it is given to refund or, if any of the refunding mortgage bonds are to mature at an earlier date, the refunding mortgage must provide that they shall be retired by not more than a like amount to be reissued under the refunding mortgage; or (c) by a mortgage that is prior to a refunding mortgage as above described and covers some part of the telephone-company property that is included in the refunding mortgage, if the bonds secured by the prior mortgage are to be refunded by the refunding mortgage and the property covered by the prior mortgage is operated as a part of its system by the corporation issuing the refunding mortgage; or (d) by a first mortgage on the property of a lessor company forming a substantial portion of the system of the operating company, provided, that the term of the lease extends at least ten years beyond the date of the maturity of the mortgage.

b—In the collateral-trust bonds of any such telephone company secured by the deposit with a trust company or national bank of bonds and/or of shares of stock of subsidiaries or



other telephone companies under an indenture of trust which limits the amount of bonds so secured to not more than seventy-five per cent of the value of the securities deposited, as stated and determined in the indenture; and provided, that the company issuing the collateral-trust bonds shall have received average gross revenues of not less than seventy-five million dollars in each of its five fiscal years, or five nearer periods of one year, next preceding the date of the investment; and provided, further, that the telephone company shall for the same period have earned and received a net income, including income from investments, of not less than three times the annual interest on the bonds in question and all prior liens.

c—Not more than ten per cent of the deposits of any one bank shall be invested in obligations of telephone companies, and not more than two per cent in the obligations of any single telephone company.'

Sect. 16. Subsection IX of section twenty-seven of chapter fifty-seven of the revised statutes is hereby amended by striking out the whole of said subsection and substituting in place thereof the following:

'IX. Guaranteed mortgage bonds. In bonds and notes which are the obligations of a mortgage company having a capital and surplus of not less than two hundred thousand dollars, organized under the laws of any state of the United States and engaged in the real-estate mortgage business within the United States, subject to the following conditions:

The total amount of such bonds and notes to be outstanding at any time shall not exceed fifteen times the combined capital and surplus of the mortgage company, and they shall mature not more than ten years after the date of their issue.

Such bonds and notes shall be guaranteed as to principal and interest by endorsement on each bond and note by a banking or surety company (hereinafter called the guaranteeing company) organized under either the banking or insurance laws of any state of the United States, authorized to do business in this state, having a combined capital and surplus of not less than ten million dollars and independent of the mortgage company.

No bonds or notes shall be qualified under this act which bear the guarantee of any company which has outstanding

bonds and notes guaranteed by it in excess of fifteen times its combined capital and surplus.

Such bonds and notes shall be secured by a deposit with a bank or trust company as trustee of either; (a) a mortgage or mortgages on improved real estate; or (b) cash, obligations of the United States or other bonds legal for savings banks in the New England States, New York, or New Jersey. The aggregate worth of the mortgages at face value, the cash, and the securities at market value, shall not be less than one hundred per cent of the principal amount of the bonds and notes outstanding.

The mortgage or mortgages deposited to secure the bonds or notes shall mature before the maturity of the bonds or notes which they secure and shall be a closed first mortgage or closed first mortgages on improved income-producing real estate owned in fee, (improved real estate as herein defined shall consist of land owned in fee and the buildings actually constructed thereon and shall not include farm property, churches, factories, clubs, business garages, hotels, theaters, or hospitals); the face value of each mortgage deposited shall be for an amount that is not more than sixty per cent of the market value of the property upon which it is secured, such value to be established by independent appraisers approved by the guaranteeing company; and no one mortgage shall exceed one hundred thousand dollars.

The guaranteeing company shall inspect and approve each mortgage before it is deposited as security for said bonds or notes.

The trustee shall be a bank or trust company in the United States having a combined capital and surplus of not less than one million dollars and shall be independent of the mortgage or guaranteeing company.

The mortgage company shall have the right to make changes or substitutions in the collateral deposited to secure the bonds or notes; but the guaranteeing company and trustee shall first inspect and approve the change or substitution in the collateral.

Policies of insurance adequately covering each mortgaged building against damage by fire shall be deposited with the trustee; and tornado and earthquake insurance policies shall be deposited with the trustee for mortgages secured by prop-

erty in states where such insurance is customarily required.

Titles to the mortgaged properties shall be guaranteed by a title insurance company approved by the bank commissioner of Maine.

Not more than ten per cent of the deposits of any one bank shall be invested in the bonds or notes authorized by this subdivision, nor more than one per cent in the bonds or notes of any one mortgage company.'

Sect. 17. Subsection X of section twenty-seven of chapter fifty-seven of the revised statutes is hereby amended by striking out the whole of said subsection and substituting in place thereof the following:

'X. Industrial bonds. In the bonds and notes of industrial corporations whose property is located principally within the United States and issued, guaranteed or assumed by companies of which the net income in each year of the five years next-preceding the date of the investment shall have been either:

(1) Not less than ten million dollars and not less than twice the annual interest on the entire funded debt, or

(2) Not less than two million dollars and not less than four times such interest.

Not more than ten per cent of the deposits of any one bank shall be invested in the bonds or notes authorized by this subsection, nor more than one per cent in such obligations of any one of such corporations.'

Sect. 18. Subsection XV of section twenty-seven of chapter fifty-seven of the revised statutes is hereby amended by striking out the whole of said subsection and substituting in place thereof the following:

'XV. Collateral loans. In notes with a pledge as collateral security of such funds, bonds, notes, stocks or other securities as, in the judgment of the trustees, it is safe and for the interest of the bank to accept; provided, that the securities deposited for each loan shall have at all times a safe margin of market value in excess of the loan. The aggregate of all collateral loans made by any bank, other than those secured by obligations of the United States government, shall at no time exceed ten per cent of its deposits and not more than one per cent shall be loaned on the obligations and stock of any single corporation.'

Sect. 19. Section twenty-seven of chapter fifty-seven of the revised statutes is hereby amended by adding thereto the following new subsection to be numbered 'XX:'

'XX. Bank stocks. In the capital stock of any bank in this state incorporated under the laws of this state or the United States; and in the capital stock of any bank in any of the other states of New England or in the state of New York incorporated under the laws of any of those states or the United States and located in a city having a population of not less than two hundred and fifty thousand; provided, that any such bank located outside of this state shall be a member of the Federal Reserve Bank System and shall have a capital and undivided profits of not less than ten million dollars.

A savings bank shall not hold bank stocks, both by way of investment and as security for loans, in excess of seven and one-half per cent of its deposits; nor own stock in any one bank of a book value of more than one per cent of its own deposits; nor more than ten per cent of the capital stock of any one bank.'

Sect. 20. Section twenty-seven of chapter fifty-seven of the revised statutes is hereby amended by adding thereto the following new subsection to be numbered 'XXI.'

'XXI. Purchase of certain securities by savings banks before certification by bank commissioner. If, under the terms of subsection XII of this chapter, an application has been made to the bank commissioner for the certification of a security as a legal investment for savings banks and the trustees of a savings bank, believing that the security will meet the requirements of the law, wish to purchase it before it has been so certified, they may make such a purchase from a dealer of known responsibility; provided, that as a part of the transaction the dealer gives to the bank a written agreement to rescind the trade and take back the security, without loss to the bank, immediately following a refusal of the application by the commissioner; or at the end of two months after the date of the purchase if the commissioner has not issued the certificate by that time. A savings bank shall not hold, at any one time, a total amount of such uncertified securities in excess of one per cent of its deposits.'

Sect. 21. Section twenty-nine of chapter fifty-seven of the

revised statutes is hereby amended by striking out the whole of said section and substituting in place thereof the following:

'Sect. 29. Investments, value as carried on books; authority of commissioner; penalty for deceit. Every investment shall be charged and carried on the books at not more than its cost to the bank. If an investment having a fixed maturity is bought at a premium above its par value it may be charged and entered at its cost to the bank, provided, that regularly, at the times of the receipt of the income thereof, the premium shall be reduced by successive charges to profit and loss proportional, in amount, to bring the investment to par at its maturity; or, at the time of making an investment, the whole of any premium paid may be charged to profit and loss and the investment entered at par. The bank commissioner may require any investment to be charged down to such sum as in his judgment represents its fair value. The trustees may charge down the book value of any investment whenever they may see fit to do so. Any officer, trustee, director, clerk or employee of a savings bank, trust company or loan and building association who wilfully and knowingly undertakes in any manner to deceive or mislead the commissioner or any officer or representative of the state banking department as to the true condition or value of any of the investments of such savings bank, trust company or loan and building association, or wilfully conceals any material fact connected therewith, shall be punished by a fine not exceeding five hundred dollars or imprisonment not exceeding two years, or by both such fine and imprisonment.'

Sect. 22. Chapter fifty-seven of the revised statutes is hereby amended by adding thereto the following new section to be numbered 'twenty-nine a'.

'Sect. 29a. Financial reports from corporations selling securities to savings banks. The commissioner may at any time call for a report of the financial condition of any corporation which has sold or is offering or likely to offer its bonds, stocks or notes to any savings bank in the state, as much in detail as he may require and verified by the oath of such officers of the corporation as he may specify. He may communicate the report, or an abstract thereof, to the officers of any savings bank. If the report is not furnished to the commissioner within the time specified in his call therefor, or within such ex-

tension of time as he may grant, the bonds, stocks and notes of that corporation shall thereupon cease to be or shall not become a legal investment for savings banks under this section; and thereafter shall not be legal investment until a report in all respects satisfactory to the commissioner is furnished.

Any officer of a corporation who knowingly makes any false report or wilfully conceals any fact material to the determination of any question before the commissioner shall be punished by a fine not exceeding five hundred dollars or by imprisonment not exceeding two years, or by both the fine and imprisonment.'

Sect. 23. Section thirty of chapter fifty-seven of the revised statutes is hereby amended by striking out the whole of said section and substituting in place thereof the following:

'Sect. 30. Limitation of real estate holding. A savings bank may hold real estate in the cities or towns in which such bank or any branches thereof are located, to a total amount not exceeding five per cent 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.'

Sect. 24. Section thirty-one of chapter fifty-seven of the revised statutes is hereby amended by striking out the word "time" in the last line thereof, so that said section, as amended, shall read as follows:

'Sect. 31. May deposit on call in banks and may deposit collateral for loans made without the state. Savings banks and institutions for savings may 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 member bank of the federal reserve system located in any of the New England states or the state of New York, and receive interest for the same, and may 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.'

Sect. 25. Section thirty-two of chapter fifty-seven of the revised statutes is hereby amended by striking out the whole of said section and substituting in place thereof the following:

'Sect. 32. Authority to borrow money and pledge securities. A savings bank, by a vote of its trustees, may borrow money within or without the state and pledge bonds, notes, or other securities as collateral therefor whenever, in the judgment of the trustees, such action is advisable or necessary to pay depositors and to prevent loss by sales of assets; and may borrow in the same way temporarily and to take advantage of a favorable opportunity for making loans or investments if and whenever its current funds available for that purpose are insufficient; provided, that of the borrowings hereby authorized for the making of loans or investments there shall not be outstanding, at any one time, a total amount of more than one per cent of the bank's deposits. The trustees shall notify the bank commissioner promptly of any action taken by them under this section.'

Sect. 26. Section twenty-seven of chapter fifty-seven of the revised statutes is hereby amended by adding thereto the following section to be numbered 'thirty-two a':

'Sect. 32a. 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, one copy to be delivered to the bank and the other to the secretary of state for record. Within ten 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 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 bank shall have paid to the treasurer of the state the sum of fifty dollars for the benefit of the state, to be credited and used as provided in section eighty-eight of this chapter. 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.'

Sect. 26½. Section twenty-seven of chapter fifty-seven of the revised statutes is hereby amended by adding thereto the following as a new section to be numbered '32b':

'Sect. 32b. Retiring allowances or life insurance for officers and employees of savings banks. a—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 twenty-five or more years and shall have arrived at the age of sixty-five years and shall have become physically or mentally incapacitated for the duties of his 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 they shall see fit, but not more than one-half of his salary at the time of his retirement. 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.

b—Instead of such retiring allowances, 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.

c—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.

d—The plan adopted by the trustees and the insurance company selected to co-operate in its administration shall be subject to the approval of the bank commissioner.

e—Nothing in this section contained shall be held to confer upon any recipient of such allowances or beneficiary of such insurance an indefeasible right thereto; nor shall such benefits be subject to be trusted or brought into suit by his creditors or otherwise; nor may he assign or alienate them.

f—If, in the case of a sale of the assets of the bank or of its merger with another bank or if its standing and condition shall induce or oblige the commissioner or the trustees to have recourse to any of the proceedings provided by sections fifty, fifty-two, fifty-three, fifty-four, fifty-five, fifty-six of this section, the status of any such recipient or beneficiary shall be decided by the court; but if the court orders that such beneficial plan shall be annulled, the living individuals who have contributed to the cost thereof shall be entitled to a return of all such contributions together with interest thereon computed as if they had been deposits on savings accounts in the bank. Such return shall be made to them notwithstanding any pension allowances that may have been paid to them theretofore; and their right to such return shall be a preferred claim upon the assets of the bank.'

Sect. 27. Section thirty-four of chapter fifty-seven of the revised statutes is hereby amended by striking out the whole of said section and substituting in place thereof the following:

'Sect. 34. Maintenance of reserve fund; dividends, how declared, credited and recorded. Before the declaration of each regular dividend the trustees of every savings bank shall pass to the credit of a reserve fund as a security against losses and contingencies an amount which shall be not less than five per cent of its net income for the period for which the dividend is to be declared; and such reservations shall be continued until the reserve fund shall be equal to at least five per cent of its deposits. If, and whenever, the fund shall have become impaired below five per cent of the deposits it shall be restored in the manner provided for its accumulation.

The trustees may declare such dividends from the balance

of the net earnings as are permitted or required by its by-laws; provided, that the rate of the regular dividends shall not be more than five per cent per annum. The trustees, in their discretion, may use so much of the undivided profits as to them may seem advisable to maintain and pay a reasonably-uniform rate of dividends.

The trustees may declare extra dividends at such times as may be permitted by its by-laws; provided, that the aggregate amount of its reserve fund and undivided profits is not thereby reduced to less than ten per cent of its deposits.

The dividends or interest shall 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 of such vote.'

Sect. 28. Section thirty-six of chapter fifty-seven of the revised statutes is hereby amended by striking out the whole of said section and substituting in place thereof the following:

'Sect. 36. Computation of interest on savings deposits. In the computation of dividends or interest upon their accounts with savings depositors, banks organized under the laws of Maine and national banks, in setting withdrawals against such deposits, shall exhaust, successively, each next-prior deposit or such part thereof as may be sufficient or necessary for that purpose.'

Sect. 29. Section thirty-seven of chapter fifty-seven of the revised statutes is hereby amended by striking out the whole of said section and substituting in place thereof the following:

'Sect. 37. Notice of withdrawal of deposits. No savings bank shall be required to pay to any depositor more than fifty dollars at any time or in any one period of thirty days until after ninety days' notice; but if, having given such notice, the depositor fails to withdraw his deposit within ten days after the expiration of the ninety-days term, his notice shall be avoided thereby.'

Sect. 30. Section twenty-seven of chapter fifty-seven of the revised statutes is hereby amended by adding thereto the following new section to be numbered 'forty a':

'Sect. 40a. Sale of the assets of a savings bank. Upon a proposal for the sale to another bank of the major part of all of the assets of a savings bank that is under the control of its trustees, a trustee of the savings bank who is a stockholder in

the buying bank shall not have an affirmative vote upon the question. Such a proposal, if approved by the trustees, shall then be submitted to the corporators for their action. If the corporators also approve the proposal, the sale shall not be consummated until the procedure under section fifty of said chapter has been followed.'

Sect. 31. Section forty-two of chapter fifty-seven of the revised statutes is hereby amended by striking out the whole of said section and substituting in place thereof the following:

'Sect. 42. Treasurer to make trial balance weekly; twice yearly, shall record net sum of each deposit. The treasurer of every savings bank shall, on the last business day of every week, make and declare a trial balance, which shall be recorded in a book kept for that purpose; and shall also, at least twice in each year, cause to be entered on a suitable book the net sum of each individual deposit at a fixed date, and ascertain the aggregate of all such deposits, and whether it agrees with the other books of the bank; and said books shall be open at all times for the inspection of the trustees and the bank commissioner.'

Sect. 32. Section forty-four of chapter fifty-seven of the revised statutes is hereby amended by striking out the whole of said section and substituting in place thereof the following:

'Sect. 44. Treasurer to annually publish statement of inactive accounts; penalty for neglect. The treasurer of every savings bank and trust company shall on or before the first day of November annually 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 the 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 twenty years next preceding provided, 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 ten dollars. The treasurer shall also transmit a copy of such statement to the commissioner to be placed on file in his office for public inspection. Any treasurer neglecting to comply with the provisions of this or the preceding section shall be liable to a penalty of fifty dollars.'

Sect. 33. Section forty-six of chapter fifty-seven of the revised statutes is hereby amended by striking out the whole of said section and substituting in place thereof the following:

'Sect. 46. No officer to receive gift, fee, or commission; penalty; borrower to pay expenses. No gift, fee, commission or brokerage shall be received by any officer or employee of a savings bank on account of any transaction to which the bank is a party, under a penalty of one hundred dollars for each such offense to be recovered in an action of debt in the name and to the use of the state; provided, that nothing herein contained shall apply to any expenses of examining titles and making conveyances incident to loans made by the bank. Borrowers to whom loans are granted shall pay all the expenses incurred by reason thereof.'

Sect. 34. Section seventy-six of chapter fifty-seven of the revised statutes is hereby amended by striking out the words "said corporation" in the fifth line thereof and substituting in their place the words 'any bank incorporated under the laws of this state' so that said section, as amended, shall read as follows:

'Sect. 76. Administrators, etc., may deposit. An administrator, executor, assignee, guardian, conservator, receiver, or trustee, any court of law or equity, including courts of probate and insolvency, officers and treasurers of towns, cities, counties, and savings banks of the state, may deposit any moneys, bonds, stocks, evidences of debt or of ownership in property, or any personal property, with any bank incorporated under the laws of this state and any of said courts may direct any person deriving authority therefrom to so deposit the same.'

Sect. 35. Section one hundred and twenty-six of chapter fifty-seven of the revised statutes is hereby amended by striking out the word "three" in the last line of said section and substituting in place thereof the word 'one', so that said section, as amended, shall read as follows:

'Sect. 126. Limitation of actions to recover money paid on

forged signatures. No action at law or in equity, to recover money by any depositor, shall be maintained against any savings bank, institution for savings, or trust company, if the depositor denies the signature on any order drawn on any savings bank, institution for savings, or savings deposit or certificates of deposit in any trust company, or on any receipt for payment by such savings bank, institution for savings, or trust company, unless such action is begun, and service made thereon, within one year from the date of such payment.'

Sect. 36. Section one hundred and twenty-seven of chapter fifty-seven of the revised statutes is hereby amended by inserting after the word "draft" in the third line of said section the words 'or order', so that said section as amended shall read as follows:

'Sect. 127. Time limit on stop payment of checks etc. No revocation, countermand, or stop-payment order relating to the payment of any check or draft or order against an account of a depositor in any bank or trust company doing business in this state shall remain in effect for more than ninety days after the service thereof on the bank, unless the same be renewed, which renewals shall be in writing and which renewals shall be in effect for not more than ninety days from the date of service thereof on the bank or trust company, but such renewals may be made from time to time.'

Sect. 37. Section one hundred and twenty-nine of chapter fifty-seven of the revised statutes is hereby amended by inserting after the word "check" in the third line thereof the words 'or draft or order,' so that said section, as amended, shall read as follows:

'Sect. 129. Banks not liable for non-payment of checks through mistake or error, unless actual damage is shown. No bank or trust company doing business in this state shall be liable to a depositor because of the non-payment through mistake or error and without malice of a check or draft or order which should have been paid unless the depositor shall allege and prove actual damage by reason of such non-payment and in such event the liability shall not exceed the amount of damage so proved.'

Sect. 38. Chapter fifty-seven of the revised statutes is hereby amended by adding thereto the following new section to be numbered 'one-hundred and thirty-two a':

'Sect. 132a. Fraudulent use of checks, drafts or orders by an agent. Any person, firm, corporation, association or bank (hereinafter called the holder), receiving, paying or honoring a check, draft or order issued by any person, (hereinafter called the agent,) having authority to issue such checks, drafts or orders against a deposit, credit or account of a cestui que trust, person, firm, bank, corporation or association, (hereinafter called the principal,) may charge such check, draft or order to such deposit, credit or account and the receiving, accepting, paying or honoring of any such instrument shall be as to the principal a discharge of all liability of the holder receiving, paying or honoring it to the extent of the amount thus paid, credit given or obligation incurred. The holder of any such check, draft or order shall not be responsible for the application of the proceeds thereof even if, in good faith and without actual knowledge of any fraud on the part of the agent, they shall have been credited by the holder to the personal account of the agent or accepted in the discharge of his personal indebtedness. Any such holder receiving, accepting, paying or honoring any such check, draft or order issued by any such agent may enforce the payment of the check, draft or order as against the principal, free from the defense that the proceeds of the check, draft or order were fraudulently appropriated by such agent to his own use, credit or benefit.'