

MAINE STATE LEGISLATURE

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CHAPTER 3

PROTECTION OF BANKS IN PARTICULAR
TRANSACTIONS

Sec.

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§ 41. Limitation of actions to recover money paid on forged signatures

No civil action to recover money by any depositor shall be maintained against any bank, savings bank or trust company, if the depositor denies the authority of the signature or the authority of an indorsement on any order drawn on any savings bank, or savings deposit or certificates of deposit in any bank or trust company, or on any receipt for payment by such bank, savings bank or trust company, unless such action is begun and service made thereon within 3 years from the date when the depositor reports the unauthorized signature or the unauthorized indorsement to the bank. In case of any conflict between this section and Title 11, section 4-406, section 4-406 shall control.

R.S.1954, c. 59, § 190; 1961, c. 317, § 176; 1963, c. 362, § 12.

§ 42. Adverse claim to bank deposit

Notice to any bank or trust company doing business in this State of an adverse claim to a deposit standing on its books to the credit of any person shall not be effectual to cause said bank to recognize said adverse claimant, unless said adverse claimant shall either procure a restraining order, injunction or other appropriate process against said bank from a court of competent jurisdiction in a cause therein instituted by him wherein the person to whose credit the deposit stands is made a party and served with summons, or shall execute to said bank, in form and with sureties acceptable to it, a bond indemnifying said bank from any and all liability, loss, damage, costs and expenses for and on account of the payment of such adverse claim or the dishonor of the check or other order of the person to whose credit the deposit

stands on the books of said bank. This law shall not apply in any instance where the person to whose credit the deposit stands is a fiduciary for such adverse claimant, and the facts constituting such relationship, as also the facts showing reasonable cause of belief on the part of said claimant that the said fiduciary is about to misappropriate said deposit, are made to appear by the affidavit of such claimant.

R.S.1954, c. 59, § 195.

§ 43. Unlawful copying of bank records

Any officer or employee of any savings bank, trust company, loan company or loan and building association, copying any of the books, papers, records or documents belonging to or in the custody of any of such institutions, either for his own use or for the use of any other person other than in the ordinary and regular course of his duties as such officer or employee, shall be punished by a fine of not more than \$500 or by imprisonment for not more than 11 months, or by both.

R.S.1954, c. 59, § 196.

§ 44. Destruction of old bank records

When a statement of account has been rendered by a bank to a depositor accompanied by vouchers, if any, which are the basis for debit entries in such account, or the depositor's pass-book has been written up by the bank showing the condition of the depositor's account and delivered to such depositor with like accompaniment of vouchers, if any, such account shall, after the period of 6 years from the date of its rendition, in the event no objection thereto has been theretofore made by the depositor, be deemed finally adjusted and settled and its correctness conclusively presumed and such depositor shall thereafter be barred from questioning the correctness of such account for any cause. Nothing herein shall be construed to relieve the depositor from the duty now imposed by law of exercising due diligence in the examination of such account and vouchers, if any, when rendered by the bank and of immediate notification to the bank upon discovery of any error therein, nor from the legal consequences of neglect of such duty; nor to prevent the application of Title 11 to cases governed thereby. Banks shall accordingly not be required to preserve or keep their records or files relating thereto for a longer period than 6 years.

R.S.1954, c. 59, § 197.

§ 45. Retention of bank records

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

The commissioner may from time to time issue regulations classifying all records kept by these institutions and prescribing the minimum period for which these records shall be retained. Such periods may be permanent or for a lesser term. Such regulations may from time to time be amended or repealed, but any amendment or repeal shall not affect any action taken prior to such amendment or repeal. Prior to issuing any such regulations the commissioner shall consider:

1. Court and administrative hearings. Court and administrative proceedings in which the production of these records might be necessary or desirable;

2. Statutes of limitation. State and federal statutes of limitation applicable to such proceedings;

3. Availability of information. The availability of information from other sources; and

4. Other pertinent matters. Such other matters as the commissioner shall deem pertinent in order that the regulations will require retention of records for as short a period as is commensurate with the interest of customers, depositors, stockholders and the people of this State in having such records available.

Reproductions, as defined by Title 16, section 456, shall be deemed acceptable in lieu of the originals for purposes of the prescribed periods for which records shall be retained.

Institutions may dispose of any record which has been retained for the minimum period prescribed by the commissioner.

1959, c. 87.

§ 46. Fiduciary's transactions by check, personal and as fiduciary

If a check drawn or endorsed by a fiduciary is received by a drawee bank or other bank, including a check for payment in cash or for the personal credit of such fiduciary, such bank may assume, without inquiry, that the fiduciary has acted within the scope of his authority.

1. Fiduciary defined. Fiduciary includes a trustee under any trust, express, implied, resulting or constructive, executor, administrator, guardian, conservator, receiver, trustee in bankruptcy, assignee for the benefit of creditors, partner, agent, officer of a corporation, public or private, public officer or any other person acting in a fiduciary capacity for any person, trust or estate.

2. Person defined. Person includes a corporation, partnership or other association, and 2 or more persons having a common interest.

3. Bank may rely on certified writing. For the purposes of this section, such bank may rely upon, though it need not require, any writing certified by the clerk or secretary of the corporation as to such officer.

Nothing contained in this section shall be deemed to modify or otherwise affect Title 11, section 1-201, subsection (25) or section 3-304, nor to relieve such bank from any liability imposed upon it by law to the extent of any payment or amount which such bank may receive for its benefit from any of such checks or funds represented thereby.

R.S.1954, c. 59, § 199; 1959, c. 201; 1963, c. 362, § 14.