

MAINE STATE LEGISLATURE

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PART 4

RELATIONSHIP BETWEEN PAYOR BANK AND ITS CUSTOMER

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§ 4-401. When bank may charge customer's account

(1) As against its customer, a bank may charge against his account any item which is otherwise properly payable from that account even though the charge creates an overdraft.

(2) A bank which in good faith makes payment to a holder may charge the indicated account of its customer according to

- (a) The original tenor of his altered item; or
- (b) The tenor of his completed item, even though the bank knows the item has been completed unless the bank has notice that the completion was improper.

1963, c. 362, § 1.

§ 4-402. Bank's liability to customer for wrongful dishonor

A payor bank is liable to its customer for damages proximately caused by the wrongful dishonor of an item. When the dishonor occurs through mistake, liability is limited to actual damages proved. If so proximately caused and proved, damages may include damages for an arrest or prosecution of the customer or other consequential damages. Whether any consequential damages are proximately caused by the wrongful dishonor is a question of fact to be determined in each case.

1963, c. 362, § 1.

§ 4-403. Customer's right to stop payment; burden of proof of loss

(1) A customer may by order to his bank stop payment of any item payable for his account but the order must be received at such time and in such manner as to afford the bank a reasonable opportunity to act on it prior to any action by the bank with respect to the item described in section 4-303.

(2) An oral order is binding upon the bank only for 14 calendar days unless confirmed in writing within that period. A written order is effective for only 6 months, unless renewed in writing.

(3) The burden of establishing the fact and amount of loss resulting from the payment of an item contrary to a binding stop payment order is on the customer.

1963, c. 362, § 1.

§ 4-404. Bank not obligated to pay check more than 6 months old

A bank is under no obligation to a customer having a checking account to pay a check, other than a certified check, which is presented more than 6 months after its date, but it may charge its customer's account for a payment made thereafter in good faith.

1963, c. 362, § 1.

§ 4-405. Death or incompetence of customer

(1) A payor or collecting bank's authority to accept, pay or collect an item or to account for proceeds of its collection if otherwise effective is not rendered ineffective by incompetence of a customer of either bank existing at the time the item is issued or its collection is undertaken, if the bank does not know of an adjudication of incompetence. Neither death nor incompetence of a customer revokes such authority to accept, pay, collect or account until the bank knows of the fact of death or of an adjudication of incompetence and has reasonable opportunity to act on it.

(2) Even with knowledge a bank may for 10 days after the date of death pay or certify checks drawn on or prior to that date unless ordered to stop payment by a person claiming an interest in the account.

1963, c. 362, § 1.

§ 4-406. Customer's duty to discover and report unauthorized signature or alteration

(1) When a bank sends to its customer a statement of account accompanied by items paid in good faith in support of the debit entries or holds the statement and items pursuant to a request for instructions of its customer or otherwise in a reasonable manner makes the statement and items available to the customer, the customer must exercise reasonable care and promptness to examine the statement and items to discover his unauthorized signature or any alteration on an item and must notify the bank promptly after discovery thereof.

(2) If the bank establishes that the customer failed with respect to an item to comply with the duties imposed on the customer by subsection (1), the customer is precluded from asserting against the bank

(a) His unauthorized signature or any alteration on the item, if the bank also establishes that it suffered a loss by reason of such failure; and

(b) An unauthorized signature or alteration by the same wrongdoer on any other item paid in good faith by the bank after the first item and statement was available to the customer for a reasonable period not exceeding 14 calendar days and before the bank receives notification from the customer of any such unauthorized signature or alteration.

(3) The preclusion under subsection (2) does not apply, if the customer establishes lack of ordinary care on the part of the bank in paying the item(s).

(4) Without regard to care or lack of care of either the customer or the bank, a customer, who does not within one year from the time the statement and items are made available to the customer (subsection (1)) discover and report his unauthorized signature or any alteration on the face or back of the item or does not within 3 years from that time discover and report any unauthorized indorsement, is precluded from asserting against the bank such unauthorized signature or indorsement or such alteration.

(5) If under this section a payor bank has a valid defense against a claim of a customer upon or resulting from payment of an item and waives or fails upon request to assert the defense, the bank may not assert against any collecting bank or other prior party presenting or transferring the item a claim based upon the

unauthorized signature or alteration giving rise to the customer's claim.

1963, c. 362, § 1.

§ 4-407. Payor bank's right to subrogation on improper payment

If a payor bank has paid an item over the stop payment order of the drawer or maker or otherwise under circumstances giving a basis for objection by the drawer or maker, to prevent unjust enrichment and only to the extent necessary to prevent loss to the bank by reason of its payment of the item, the payor bank shall be subrogated to the rights

(1) Of any holder in due course on the item against the drawer or maker; and

(2) Of the payee or any other holder of the item against the drawer or maker either on the item or under the transaction out of which the item arose; and

(3) Of the drawer or maker against the payee or any other holder of the item with respect to the transaction out of which the item arose.

1963, c. 362, § 1.