

# MAINE STATE LEGISLATURE

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BANK DEPOSITS AND COLLECTIONS

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**§ 4-101. Short title**

This Article shall be known and may be cited as "Uniform Commercial Code—Bank Deposits and Collections."

1963, c. 362, § 1.

**§ 4-102. Applicability**

(1) To the extent that items within this Article are also within the scope of Articles 3 and 8, they are subject to the provisions of those Articles. In the event of conflict the provisions of this Article govern those of Article 3 but the provisions of Article 8 govern those of this Article.

**11 § 4-102**      **UNIFORM COMMERCIAL CODE**      **Title 11**

(2) The liability of a bank for action or nonaction with respect to any item handled by it for purposes of presentment, payment or collection is governed by the law of the place where the bank is located. In the case of action or nonaction by or at a branch or separate office of a bank, its liability is governed by the law of the place where the branch or separate office is located.

1963, c. 362, § 1.

**§ 4-103.    Variation by agreement; measure of damages;  
                  certain action constituting ordinary care**

(1) The effect of the provisions of this Article may be varied by agreement, except that no agreement can disclaim a bank's responsibility for its own lack of good faith or failure to exercise ordinary care or can limit the measure of damages for such lack or failure; but the parties may by agreement determine the standards by which such responsibility is to be measured, if such standards are not manifestly unreasonable.

(2) Federal reserve regulations and operating letters, clearing house rules, and the like, have the effect of agreements under subsection (1), whether or not specifically assented to by all parties interested in items handled.

(3) Action or nonaction approved by this Article or pursuant to federal reserve regulations or operating letters constitutes the exercise of ordinary care and, in the absence of special instructions, action or nonaction consistent with clearing house rules and the like or with a general banking usage not disapproved by this article, prima facie constitutes the exercise of ordinary care.

(4) The specification or approval of certain procedures by this article does not constitute disapproval of other procedures which may be reasonable under the circumstances.

(5) The measure of damages for failure to exercise ordinary care in handling an item is the amount of the item reduced by an amount which could not have been realized by the use of ordinary care, and where there is bad faith it includes other damages, if any suffered by the party as a proximate consequence.

1963, c. 362, § 1.

§ 4-104.    **Definitions and index of definitions**

- (1) In this Article, unless the context otherwise requires,
- (a) **Account.** “Account” means any account with a bank and includes a checking, time, interest or savings account.
  - (b) **Afternoon.** “Afternoon” means the period of a day between noon and midnight.
  - (c) **Banking day.** “Banking day” means that part of any day on which a bank is open to the public for carrying on substantially all of its banking functions.
  - (d) **Clearing house.** “Clearing house” means any association of banks or other payors regularly clearing items.
  - (e) **Customer.** “Customer” means any person having an account with a bank or for whom a bank has agreed to collect items and includes a bank carrying an account with another bank.
  - (f) **Documentary draft.** “Documentary draft” means any negotiable or nonnegotiable draft with accompanying documents, securities or other papers to be delivered against honor of the draft.
  - (g) **Item.** “Item” means any instrument for the payment of money even though it is not negotiable but does not include money.
  - (h) **Midnight deadline.** “Midnight deadline” with respect to a bank is midnight on its next banking day following the banking day on which it receives the relevant item or notice or from which the time for taking action commences to run, whichever is later.
  - (i) **Properly payable.** “Properly payable” includes the availability of funds for payment at the time of decision to pay or dishonor.
  - (j) **Settle.** “Settle” means to pay in cash, by clearing house settlement, in a charge or credit or by remittance, or otherwise as instructed. A settlement may be either provisional or final.
  - (k) **Suspends payments.** “Suspends payments” with respect to a bank means that it has been closed by order of the supervisory authorities, that a public officer has been appointed to take it over or that it ceases or refuses to make payments in the ordinary course of business.

**11 § 4-104**      **UNIFORM COMMERCIAL CODE**      **Title 11**

(2) Other definitions applying to this Article and the sections in which they appear are:

“Collecting bank.”	Section 4-105.
“Depository bank.”	Section 4-105.
“Intermediary bank.”	Section 4-105.
“Payor bank.”	Section 4-105.
“Presenting bank.”	Section 4-105.
“Remitting bank.”	Section 4-105.

(3) The following definitions in other Articles apply to this Article:

“Acceptance.”	Section 3-410.
“Certificate of deposit.”	Section 3-104.
“Certification.”	Section 3-411.
“Check.”	Section 3-104.
“Draft.”	Section 3-104.
“Holder in due course.”	Section 3-302.
“Notice of dishonor.”	Section 3-508.
“Presentment.”	Section 3-504.
“Protest.”	Section 3-509.
“Secondary party.”	Section 3-102.

(4) In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

1963, c. 362, § 1.

**§ 4-105. “Depository bank”; “intermediary bank”; “collecting bank”; “payor bank”; “presenting bank”; “remitting bank”**

In this Article, unless the context otherwise requires

(1) **Depository bank.** “Depository bank” means the first bank to which an item is transferred for collection even though it is also the payor bank.

(2) **Payor bank.** “Payor bank” means a bank by which an item is payable as drawn or accepted.

(3) **Intermediary bank.** “Intermediary bank” means any bank to which an item is transferred in course of collection, except the depository or payor bank.

(4) **Collecting bank.** “Collecting bank” means any bank handling the item for collection, except the payor bank.



Art. 4      BANK DEPOSITS—COLLECTIONS    11 § 4-108

(5) **Presenting bank.** “Presenting bank” means any bank presenting an item except a payor bank.

(6) **Remitting bank.** “Remitting bank” means any payor or intermediary bank remitting for an item.

1963, c. 362, § 1.

§ 4-106.    **Separate office of a bank**

A branch or separate office of a bank maintaining its own deposit ledgers is a separate bank for the purpose of computing the time within which and determining the place at or to which action may be taken or notices or orders shall be given under this Article and under Article 3.

1963, c. 362, § 1.

§ 4-107.    **Time of receipt of items**

(1) For the purpose of allowing time to process items, prove balances and make the necessary entries on its books to determine its position for the day, a bank may fix an afternoon hour of 2 p. m. or later as a cut-off hour for the handling of money and items and the making of entries on its books.

(2) Any item or deposit of money received on any day after a cut-off hour so fixed or after the close of the banking day may be treated as being received at the opening of the next banking day.

1963, c. 362, § 1.

§ 4-108.    **Delays**

(1) Unless otherwise instructed, a collecting bank in a good faith effort to secure payment may, in the case of specific items and with or without the approval of any person involved, waive, modify or extend time limits imposed or permitted by this Title for a period not in excess of an additional banking day without discharge of secondary parties and without liability to its transferor or any prior party.

(2) Delay by a collecting bank or payor bank beyond time limits prescribed or permitted by this Title, or by instructions is excused, if caused by interruption of communication facilities, suspension of payments by another bank, war, emergency conditions or other circumstances beyond the control of the bank, provided it exercises such diligence as the circumstances require.

1963, c. 362, § 1.

**§ 4-109. Process of posting**

The “process of posting” means the usual procedure followed by a payor bank in determining to pay an item and in recording the payment including one or more of the following or other steps as determined by the bank:

- (1) Verification of any signature;
- (2) Ascertaining that sufficient funds are available;
- (3) Affixing a “paid” or other stamp;
- (4) Entering a charge or entry to a customer’s account;
- (5) Correcting or reversing an entry or erroneous action with respect to the item.

1963, c. 362, § 1.