CHAPTER 9

Bank Capital and Capital Stock

**SECTION 34‑9‑10.** Amount of capital to be paid in United States currency.

No bank may be organized as a banking corporation or company under the laws of this State unless there has been first paid in United States currency the full subscription price of so much of the authorized capital stock as required by the State Board of Financial Institutions. Notes of stockholders, and other notes and mortgages on property, real, personal or mixed, may not be considered and accepted as cash in payment for shares of capital stock of any such bank.

HISTORY: 1962 Code Section 8‑141; 1952 Code Section 8‑141; 1942 Code Section 7831; 1932 Code Section 7835; 1926 (34) 953; 1928 (35) 1301; 1936 (39) 1484; 1973 (58) 672; 2021 Act No. 30 (S.467), Section 10, eff May 6, 2021.

Effect of Amendment

2021 Act No. 30, Section 10, rewrote the section.

**SECTION 34‑9‑20.** Additional ten percent of capital must be paid in.

In addition to full payment for the capital stock proposed to be issued, the applicants for a charter for a banking corporation or company shall furnish satisfactory evidence to the State Board of Bank Control that an additional sum of ten percent of the proposed capital of the bank is in hand and available for the purpose of defraying all organization expenses. The fees to be collected by the State shall be included within the meaning of the term organization expenses.

HISTORY: 1962 Code Section 8‑142; 1952 Code Section 8‑142; 1942 Code Section 7831; 1932 Code Section 7835; 1926 (34) 953; 1928 (35) 1301; 1936 (39) 1484.

**SECTION 34‑9‑30.** Recovery of penalties for nonpayment of stock subscriptions and unpaid installments on subscriptions.

The penalties for the nonpayment of any stock subscriptions as prescribed in Section 34‑3‑240, together with any unpaid installments on such subscriptions, may be recovered in any court having jurisdiction of the aggregate amount so due or the stock may be sold for cash after twenty days' notice advertised in the nearest newspaper. If at any such sale the sum bid should not be sufficient to satisfy and discharge the amount so due, together with the cost and charges incident to such sale, the subscriber in default shall be liable for any deficiency, and it may be recovered in the name of the corporation in any court having jurisdiction.

HISTORY: 1962 Code Section 8‑143; 1952 Code Section 8‑143; 1942 Code Section 7845; 1932 Code Section 7874; Civ. C. '22 Section 4001; Civ. C. '12 Section 2663; Civ. C. '02 Section 1778; R. S. 1541; 1885 (19) 214.

**SECTION 34‑9‑40.** Minimum capital requirements.

Every banking company or corporation hereafter organized shall have a minimum capital in the amount required by the State Board of Financial Institutions. In determining the minimum amount the State Board of Financial Institutions shall give due consideration to the location of the proposed bank, the proposed bank's business plan, and the economic environment in which the proposed bank will operate.

HISTORY: 1962 Code Section 8‑144; 1952 Code Section 8‑144; 1942 Code Section 7831; 1932 Code Section 7835; 1926 (34) 953; 1928 (35) 1301; 1936 (39) 1484; 2021 Act No. 30 (S.467), Section 11, eff May 6, 2021.

Effect of Amendment

2021 Act No. 30, Section 11, rewrote the section.

**SECTION 34‑9‑60.** Paid‑in capital must meet Federal Deposit Insurance Fund requirements.

In addition to all other requirements, no bank or banking institution of any nature shall be granted a charter by the Secretary of State unless and until the State Board of Bank Control has certified that the paid‑in capital of such bank or banking institution is sufficient to qualify such bank or banking institution for membership in the Federal Deposit Insurance Fund.

HISTORY: 1962 Code Section 8‑146; 1952 Code Section 8‑146; 1942 Code Section 7833; 1939 (41) 216; 1940 (41) 1774.

**SECTION 34‑9‑70.** Repealed.

HISTORY: Former Section, titled Paid‑in capital must meet Federal Deposit Insurance Fund requirements; exceptions for transfer of existing charter, had the following history: 1962 Code Section 8‑147; 1952 Code Section 8‑147; 1942 Code Section 7833; 1939 (41) 216; 1940 (41) 1774. Repealed by 2021 Act No. 30, Section 19, eff May 6, 2021.

**SECTION 34‑9‑80.** Repealed.

HISTORY: Former Section, titled Issuance of preferred stock, had the following history: 1962 Code Section 8‑148; 1952 Code Sections 8‑148, 8‑149; 1942 Code Section 7835; 1935 (39) 493; 1960 (51) 1676, 1739; 1973 (58) 159. Repealed by 2021 Act No. 30, Section 19, eff May 6, 2021.

**SECTION 34‑9‑90.** Preferred stock shall be included in capital.

Any preferred stock lawfully issued by a banking institution organized under the laws of this State shall be included in determining whether such banking institution has complied with the minimum capital stock requirements provided by law for banking institutions in this State.

HISTORY: 1962 Code Section 8‑150; 1952 Code Section 8‑150; 1942 Code Section 7835; 1935 (39) 493.

**SECTION 34‑9‑100.** Issuance of capital notes or debentures.

With the approval of the Commissioner of Banking any banking institution may at any time, through action of its board of directors and without requiring any action of its stockholders, issue and sell its capital notes or debentures. Such capital notes or debentures shall be subordinate and subject to the claims of depositors and may be subordinated and subjected to the claims of other creditors.

HISTORY: 1962 Code Section 8‑151; 1952 Code Section 8‑151; 1942 Code Section 7836; 1935 (39) 464.

**SECTION 34‑9‑110.** Capital notes and debentures shall be included in capital.

The term "capital" as used in the laws of this State relating to banking shall be construed to embrace the amount of outstanding capital notes and debentures legally issued by any banking institution. The capital stock of any such banking institution may be deemed to be unimpaired when the amount of such capital notes and debentures as represented by cash or sound assets exceed the impairment as found by the Commissioner of Banking.

HISTORY: 1962 Code Section 8‑152; 1952 Code Section 8‑152; 1942 Code Section 7836; 1935 (39) 464; 1964 (53) 2058.

**SECTION 34‑9‑120.** Prerequisite of retirement of capital notes and debentures.

Before any such capital notes or debentures are retired or paid by the bank any existing deficiency of its capital, disregarding the notes or debentures to be retired, must be paid in cash, to the end that the sound capital assets shall at least equal the capital stock of the bank.

HISTORY: 1962 Code Section 8‑153; 1952 Code Section 8‑153; 1942 Code Section 7836; 1935 (39) 464.

**SECTION 34‑9‑130.** Reserve requirements of state banks.

Every state bank which is not a member of the Federal Reserve System shall maintain the same reserves against deposits as required for a state bank which is a member of the Federal Reserve System. These reserves must be maintained in the same kind of assets as required for member banks.

HISTORY: 1962 Code Section 8‑154; 1952 Code Section 8‑154; 1942 Code Section 7844; 1932 Code Section 7863; Civ. C. '22 Section 3993; Civ. C. '12 Section 2655; 1909 (26) 81; 1923 (33) 159; 1933 (38) 296; 1936 (39) 1484; 1953 (48) 357; 1980 Act No. 456; 1991 Act No. 125, Section 1, eff June 4, 1991.

Effect of Amendment

The 1991 amendment rewrote this section.