48.62 BANK MAY ISSUE NOTES OR DEBENTURES.

With the approval of the commissioner 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. These 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.

In determining whether the capital of any banking institution is impaired, outstanding capital notes or debentures, legally issued by the institution and sold by it to the Reconstruction Finance Corporation, shall not be considered as liabilities of the institutions, but for all other purposes they shall be, and shall be considered as, liabilities of the institution.

No capital notes, or debentures, shall be retired or paid by any such institutions if this retirement or payment would impair the capital of the institution.

These capital notes or debentures shall in no case be subject to any assessment. The holders of the capital notes or debentures shall not be held individually responsible, as holders, for any debts, contracts, or engagements of the institutions, and shall not be held liable for assessments to restore impairments in the capital of the institution.

Any required reserve established for the retirement of capital notes or debentures may be considered as surplus, and the term "surplus" in any laws of this state pertaining to state banks shall be deemed to include such reserve, if an agreement is filed with the commissioner to transfer such reserve to surplus upon the request of the commissioner after the capital notes or debentures have matured.

History: *(7697-7) 1935 c 305 s 1; 1967 c 102 s 9*