



HOUSE BILL No. 4723

May 6, 1993, Introduced by Reps. Profit, Palamara and Randall and referred to the Committee on Business and Finance.

A bill to amend sections 1207, 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113, 3114, 3115, 3116, 3117, 3118, 3119, 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3301, 3302, 3303, 3304, 3305, 3306, 3307, 3401, 3402, 3403, 3404, 3405, 3406, 3407, 3408, 3409, 3410, 3411, 3412, 3413, 3414, 3415, 3416, 3417, 3418, 3419, 3501, 3502, 3503, 3504, 3505, 3601, 3602, 3603, 3604, 3605, 4102, 4103, 4104, 4105, 4106, 4107, 4108, 4109, 4201, 4202, 4203, 4204, 4205, 4207, 4208, 4209, 4210, 4211, 4212, 4213, 4214, 4301, 4302, 4303, 4401, 4402, 4403, 4406, and 4407 of Act No. 174 of the Public Acts of 1962, entitled as amended

"Uniform commercial code,"

being sections 440.1207, 440.3101, 440.3102, 440.3103, 440.3104, 440.3105, 440.3106, 440.3107, 440.3108, 440.3109, 440.3110, 440.3111, 440.3112, 440.3113, 440.3114, 440.3115, 440.3116, 440.3117, 440.3118, 440.3119, 440.3201, 440.3202, 440.3203,

440.3204, 440.3205, 440.3206, 440.3207, 440.3301, 440.3302, 440.3303, 440.3304, 440.3305, 440.3306, 440.3307, 440.3401, 440.3402, 440.3403, 440.3404, 440.3405, 440.3406, 440.3407, 440.3408, 440.3409, 440.3410, 440.3411, 440.3412, 440.3413, 440.3414, 440.3415, 440.3416, 440.3417, 440.3418, 440.3419, 440.3501, 440.3502, 440.3503, 440.3504, 440.3505, 440.3601, 440.3602, 440.3603, 440.3604, 440.3605, 440.4102, 440.4103, 440.4104, 440.4105, 440.4106, 440.4107, 440.4108, 440.4109, 440.4201, 440.4202, 440.4203, 440.4204, 440.4205, 440.4207, 440.4208, 440.4209, 440.4210, 440.4211, 440.4212, 440.4213, 440.4214, 440.4301, 440.4302, 440.4303, 440.4401, 440.4402, 440.4403, 440.4406, and 440.4407 of the Michigan Compiled Laws; to add sections 3308, 3309, 3310, 3311, 3312, 3420, 4110, 4111, 4215, and 4216; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1207, 3101, 3102, 3103, 3104, 3105,
2 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113, 3114, 3115, 3116,
3 3117, 3118, 3119, 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3301,
4 3302, 3303, 3304, 3305, 3306, 3307, 3401, 3402, 3403, 3404, 3405,
5 3406, 3407, 3408, 3409, 3410, 3411, 3412, 3413, 3414, 3415, 3416,
6 3417, 3418, 3419, 3501, 3502, 3503, 3504, 3505, 3601, 3602, 3603,
7 3604, 3605, 4102, 4103, 4104, 4105, 4106, 4107, 4108, 4109, 4201,
8 4202, 4203, 4204, 4205, 4207, 4208, 4209, 4210, 4211, 4212, 4213,
9 4214, 4301, 4302, 4303, 4401, 4402, 4403, 4406, and 4407 of Act
10 No. 174 of the Public Acts of 1962, being sections 440.1207,
11 440.3101, 440.3102, 440.3103, 440.3104, 440.3105, 440.3106,
12 440.3107, 440.3108, 440.3109, 440.3110, 440.3111, 440.3112,

1 440.3113, 440.3114, 440.3115, 440.3116, 440.3117, 440.3118,
2 440.3119, 440.3201, 440.3202, 440.3203, 440.3204, 440.3205,
3 440.3206, 440.3207, 440.3301, 440.3302, 440.3303, 440.3304,
4 440.3305, 440.3306, 440.3307, 440.3401, 440.3402, 440.3403,
5 440.3404, 440.3405, 440.3406, 440.3407, 440.3408, 440.3409,
6 440.3410, 440.3411, 440.3412, 440.3413, 440.3414, 440.3415,
7 440.3416, 440.3417, 440.3418, 440.3419, 440.3501, 440.3502,
8 440.3503, 440.3504, 440.3505, 440.3601, 440.3602, 440.3603,
9 440.3604, 440.3605, 440.4102, 440.4103, 440.4104, 440.4105,
10 440.4106, 440.4107, 440.4108, 440.4109, 440.4201, 440.4202,
11 440.4203, 440.4204, 440.4205, 440.4207, 440.4208, 440.4209,
12 440.4210, 440.4211, 440.4212, 440.4213, 440.4214, 440.4301,
13 440.4302, 440.4303, 440.4401, 440.4402, 440.4403, 440.4406, and
14 440.4407 of the Michigan Compiled Laws, are amended and
15 sections 3308, 3309, 3310, 3311, 3312, 3420, 4110, 4111, 4215,
16 and 4216 are added to read as follows:

17 Sec. 1207. (1) A party who with explicit reservation of
18 rights performs or promises performance or assents to performance
19 in a manner demanded or offered by the other party does not
20 thereby prejudice the rights reserved. Such words as "without
21 prejudice", "under protest" or the like are sufficient.

22 (2) SUBSECTION (1) DOES NOT APPLY TO AN ACCORD AND
23 SATISFACTION.

24 ARTICLE 3

25 ~~COMMERCIAL PAPER~~ NEGOTIABLE INSTRUMENTS

PART 1. ~~SHORT TITLE, FORM, AND INTERPRETATION~~ GENERAL

PROVISIONS AND DEFINITIONS

Sec. 3101. This article shall be known and may be cited as "uniform commercial code-- ~~commercial paper~~ NEGOTIABLE INSTRUMENTS".

Sec. 3102. ~~(1) In this article unless the context otherwise requires:~~

(a) ~~"Issue" means the first delivery of an instrument to a holder or a remitter.~~

(b) ~~An "order" is a direction to pay and must be more than an authorization or request. It must identify the person to pay with reasonable certainty. It may be addressed to one or more such persons jointly or in the alternative but not in succession.~~

(c) ~~A "promise" is an undertaking to pay and must be more than an acknowledgment of an obligation.~~

(d) ~~"Secondary party" means a drawer or endorser.~~

(e) ~~"Instrument" means a negotiable instrument.~~

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

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"Acceptance". ~~Section 3410.~~

"Accommodation party". ~~Section 3415.~~

"Alteration". ~~Section 3407.~~

"Certificate of deposit". ~~Section 3104.~~

"Certification". ~~Section 3411.~~

1	"Check".	Section 3104.
2	"Definite time".	Section 3109.
3	"Dishonor".	Section 3507.
4	"Draft".	Section 3104.
5	"Holder in due course".	Section 3302.
6	"Negotiation".	Section 3202.
7	"Note".	Section 3104.
8	"Notice of dishonor".	Section 3508.
9	"On demand".	Section 3108.
10	"Presentment".	Section 3504.
11	"Protest".	Section 3509.
12	"Restrictive indorsement".	Section 3205.
13	"Signature".	Section 3401.
14	(3) The following definitions in other articles apply to	
15	this article:	
16	—	
17	"Account".	Section 4104.
18	"Banking day".	Section 4104.
19	"Clearing house".	Section 4104.
20	"Collecting bank".	Section 4105.
21	"Customer".	Section 4104.
22	"Depository bank".	Section 4105.
23	"Documentary draft".	Section 4104.
24	"Intermediary bank".	Section 4105.
25	"Item".	Section 4104.
26	"Midnight deadline".	Section 4104.

1 "Payor bank".

Section 4105.

2 ~~(4) In addition article 1 contains general definitions and~~
 3 ~~principles of construction and interpretation applicable through~~
 4 ~~out this article.~~ (1) THIS ARTICLE APPLIES TO NEGOTIABLE

5 INSTRUMENTS. IT DOES NOT APPLY TO MONEY, TO PAYMENT ORDERS GOV-
 6 ERNED BY ARTICLE 4A, OR TO SECURITIES GOVERNED BY ARTICLE 8.

7 (2) IF THERE IS CONFLICT BETWEEN THIS ARTICLE AND ARTICLE 4
 8 OR 9, ARTICLES 4 AND 9 GOVERN.

9 (3) REGULATIONS OF THE BOARD OF GOVERNORS OF THE FEDERAL
 10 RESERVE SYSTEM AND OPERATING CIRCULARS OF THE FEDERAL RESERVE
 11 BANKS SUPERSEDE ANY INCONSISTENT PROVISION OF THIS ARTICLE TO THE
 12 EXTENT OF THE INCONSISTENCY.

13 Sec. 3103. ~~(+) This article does not apply to money, docu-~~
 14 ~~ments of title or investment securities.~~

15 ~~(2) The provisions of this article are subject to the provi-~~
 16 ~~sions of the article on bank deposits and collections (article 4)~~
 17 ~~and secured transactions (article 9).~~ (1) AS USED IN THIS
 18 ARTICLE:

19 (A) "ACCEPTOR" MEANS A DRAWEE WHO HAS ACCEPTED A DRAFT.

20 (B) "DRAWEE" MEANS A PERSON ORDERED IN A DRAFT TO MAKE
 21 PAYMENT.

22 (C) "DRAWER" MEANS A PERSON WHO SIGNS OR IS IDENTIFIED IN A
 23 DRAFT AS A PERSON ORDERING PAYMENT.

24 (D) "GOOD FAITH" MEANS HONESTY IN FACT AND THE OBSERVANCE OF
 25 REASONABLE COMMERCIAL STANDARDS OF FAIR DEALING.

26 (E) "MAKER" MEANS A PERSON WHO SIGNS OR IS IDENTIFIED IN A
 27 NOTE AS A PERSON UNDERTAKING TO PAY.

1 (F) "ORDER" MEANS A WRITTEN INSTRUCTION TO PAY MONEY SIGNED
2 BY THE PERSON GIVING THE INSTRUCTION. THE INSTRUCTION MAY BE
3 ADDRESSED TO ANY PERSON, INCLUDING THE PERSON GIVING THE INSTRUC-
4 TION, OR TO 1 OR MORE PERSONS JOINTLY OR IN THE ALTERATIVE BUT
5 NOT IN SUCCESSION. AN AUTHORIZATION TO PAY IS NOT AN ORDER
6 UNLESS THE PERSON AUTHORIZED TO PAY IS ALSO INSTRUCTED TO PAY.

7 (G) "ORDINARY CARE" IN THE CASE OF A PERSON ENGAGED IN BUSI-
8 NESS MEANS OBSERVANCE OF REASONABLE COMMERCIAL STANDARDS, PRE-
9 VAILING IN THE AREA IN WHICH THE PERSON IS LOCATED, WITH RESPECT
10 TO THE BUSINESS IN WHICH THE PERSON IS ENGAGED. IN THE CASE OF A
11 BANK THAT TAKES AN INSTRUMENT FOR PROCESSING FOR COLLECTION OR
12 PAYMENT BY AUTOMATED MEANS, REASONABLE COMMERCIAL STANDARDS DO
13 NOT REQUIRE THE BANK TO EXAMINE THE INSTRUMENT IF THE FAILURE TO
14 EXAMINE DOES NOT VIOLATE THE BANK'S PRESCRIBED PROCEDURES AND THE
15 BANK'S PROCEDURES DO NOT VARY UNREASONABLY FROM GENERAL BANKING
16 USAGE NOT DISAPPROVED BY THIS ARTICLE OR ARTICLE 4.

17 (H) "PARTY" MEANS A PARTY TO AN INSTRUMENT.

18 (I) "PROMISE" MEANS A WRITTEN UNDERTAKING TO PAY MONEY
19 SIGNED BY THE PERSON UNDERTAKING TO PAY. AN ACKNOWLEDGMENT OF AN
20 OBLIGATION BY THE OBLIGOR IS NOT A PROMISE UNLESS THE OBLIGOR
21 ALSO UNDERTAKES TO PAY THE OBLIGATION.

22 (J) "PROVE" WITH RESPECT TO A FACT MEANS TO MEET THE BURDEN
23 OF ESTABLISHING THE FACT (SECTION 1201(8)).

24 (K) "REMITTER" MEANS A PERSON WHO PURCHASES AN INSTRUMENT
25 FROM ITS ISSUER IF THE INSTRUMENT IS PAYABLE TO AN IDENTIFIED
26 PERSON OTHER THAN THE PURCHASER.

1 (2) OTHER DEFINITIONS APPLYING TO THIS ARTICLE AND THE
2 SECTIONS IN WHICH THEY APPEAR ARE AS FOLLOWS:

3	"ACCEPTANCE"	SECTION 3409.
4	"ACCOMMODATED PARTY"	SECTION 3419.
5	"ACCOMMODATION PARTY"	SECTION 3419.
6	"ALTERATION"	SECTION 3407.
7	"ANOMALOUS ENDORSEMENT"	SECTION 3205.
8	"BLANK ENDORSEMENT"	SECTION 3205.
9	"CASHIER'S CHECK"	SECTION 3104.
10	"CERTIFICATE OF DEPOSIT"	SECTION 3104.
11	"CERTIFIED CHECK"	SECTION 3409.
12	"CHECK"	SECTION 3104.
13	"CONSIDERATION"	SECTION 3303.
14	"DRAFT"	SECTION 3104.
15	"ENDORSEMENT"	SECTION 3204.
16	"ENDORSER"	SECTION 3204.
17	"HOLDER IN DUE COURSE"	SECTION 3304.
18	"INCOMPLETE INSTRUMENT"	SECTION 3115.
19	"INSTRUMENT"	SECTION 3104.
20	"ISSUE"	SECTION 3105.
21	"ISSUER"	SECTION 3105.
22	"NEGOTIABLE INSTRUMENT"	SECTION 3104.
23	"NEGOTIATION"	SECTION 3201.
24	"NOTE"	SECTION 3104.
25	"PAYABLE AT A DEFINITE TIME"	SECTION 3108.
26	"PAYABLE ON DEMAND"	SECTION 3108.

1	"PAYABLE TO BEARER"	SECTION 3109.
2	"PAYABLE TO ORDER"	SECTION 3109.
3	"PAYMENT"	SECTION 3602.
4	"PERSON ENTITLED TO ENFORCE"	SECTION 3301.
5	"PRESENTMENT"	SECTION 3501.
6	"REACQUISITION"	SECTION 3207.
7	"SPECIAL ENDORSEMENT"	SECTION 3205.
8	"TELLER'S CHECK"	SECTION 3104.
9	"TRANSFER OF INSTRUMENT"	SECTION 3203.
10	"TRAVELER'S CHECK"	SECTION 3104.
11	"VALUE"	SECTION 3303.

12 (3) THE FOLLOWING DEFINITIONS IN OTHER ARTICLES APPLY TO
13 THIS ARTICLE:

14	"BANK"	SECTION 4105.
15	"BANKING DAY"	SECTION 4104.
16	"CLEARING HOUSE"	SECTION 4104.
17	"COLLECTING BANK"	SECTION 4105.
18	"DEPOSITARY BANK"	SECTION 4105.
19	"DOCUMENTARY DRAFT"	SECTION 4104.
20	"INTERMEDIARY BANK"	SECTION 4105.
21	"ITEM"	SECTION 4104.
22	"PAYOR BANK"	SECTION 4105.
23	"SUSPENDS PAYMENTS"	SECTION 4104.

24 (4) IN ADDITION, ARTICLE 1 CONTAINS GENERAL DEFINITIONS AND
25 PRINCIPLES OF CONSTRUCTION AND INTERPRETATION APPLICABLE THROUGH-
26 OUT THIS ARTICLE.

1 Sec. 3104. ~~(1) Any writing to be a negotiable instrument~~
2 ~~within this article must~~

3 ~~(a) be signed by the maker or drawer, and~~

4 ~~(b) contain an unconditional promise or order to pay a sum~~
5 ~~certain in money and no other promise, order, obligation or power~~
6 ~~given by the maker or drawer except as authorized by this arti-~~
7 ~~cle; and~~

8 ~~(c) be payable on demand or at a definite time; and~~

9 ~~(d) be payable to order or to bearer.~~

10 ~~(2) A writing which complies with the requirements of this~~
11 ~~section is~~

12 ~~(a) a "draft" ("bill of exchange") if it is an order;~~

13 ~~(b) a "check" if it is a draft drawn on a bank and payable~~
14 ~~on demand;~~

15 ~~(c) a "certificate of deposit" if it is an acknowledgment by~~
16 ~~a bank of receipt of money with an engagement to repay it;~~

17 ~~(d) a "note" if it is a promise other than a certificate of~~
18 ~~deposit.~~

19 ~~(3) As used in other articles of this act, and as the con-~~
20 ~~text may require, the terms "draft", "check", "certificate of~~
21 ~~deposit" and "note" may refer to instruments which are not nego-~~
22 ~~tiable within this article as well as to instruments which are so~~
23 ~~negotiable. (1) EXCEPT AS PROVIDED IN SUBSECTIONS (3) AND (4),~~
24 ~~"NEGOTIABLE INSTRUMENT" MEANS AN UNCONDITIONAL PROMISE OR ORDER~~
25 ~~TO PAY A FIXED AMOUNT OF MONEY, WITH OR WITHOUT INTEREST OR OTHER~~
26 ~~CHARGES DESCRIBED IN THE PROMISE OR ORDER, IF ALL OF THE~~
27 ~~FOLLOWING APPLY:~~

1 (A) IT IS PAYABLE TO BEARER OR TO ORDER AT THE TIME IT IS
2 ISSUED OR FIRST COMES INTO POSSESSION OF A HOLDER.

3 (B) IT IS PAYABLE ON DEMAND OR AT A DEFINITE TIME.

4 (C) IT DOES NOT STATE ANY OTHER UNDERTAKING OR INSTRUCTION
5 BY THE PERSON PROMISING OR ORDERING PAYMENT TO DO ANY ACT IN
6 ADDITION TO THE PAYMENT OF MONEY, BUT THE PROMISE OR ORDER MAY
7 CONTAIN AN UNDERTAKING OR POWER TO GIVE, MAINTAIN, OR PROTECT
8 COLLATERAL TO SECURE PAYMENT, AN AUTHORIZATION OR POWER TO THE
9 HOLDER TO CONFESS JUDGMENT OR REALIZE ON OR DISPOSE OF COLLATER-
10 AL, OR A WAIVER OF THE BENEFIT OF ANY LAW INTENDED FOR THE ADVAN-
11 TAGE OR PROTECTION OF AN OBLIGOR.

12 (2) "INSTRUMENT" MEANS A NEGOTIABLE INSTRUMENT.

13 (3) AN ORDER THAT MEETS ALL OF THE REQUIREMENTS OF
14 SUBSECTION (1), EXCEPT SUBDIVISION (A), AND OTHERWISE FALLS
15 WITHIN THE DEFINITION OF "CHECK" IN SUBSECTION (6) IS A NEGOTIA-
16 BLE INSTRUMENT AND A CHECK.

17 (4) A PROMISE OR ORDER OTHER THAN A CHECK IS NOT AN INSTRU-
18 MENT IF, AT THE TIME IT IS ISSUED OR FIRST COMES INTO POSSESSION
19 OF A HOLDER, IT CONTAINS A CONSPICUOUS STATEMENT, HOWEVER
20 EXPRESSED, TO THE EFFECT THAT THE PROMISE OR ORDER IS NOT NEGO-
21 TIABLE OR IS NOT AN INSTRUMENT GOVERNED BY THIS ARTICLE.

22 (5) AN INSTRUMENT IS A "NOTE" IF IT IS A PROMISE AND IS A
23 "DRAFT" IF IT IS AN ORDER. IF AN INSTRUMENT FALLS WITHIN THE
24 DEFINITION OF BOTH "NOTE" AND "DRAFT", A PERSON ENTITLED TO
25 ENFORCE THE INSTRUMENT MAY TREAT IT AS EITHER.

26 (6) "CHECK" MEANS A DRAFT, OTHER THAN A DOCUMENTARY DRAFT,
27 PAYABLE ON DEMAND AND DRAWN ON A BANK OR A CASHIER'S CHECK OR

1 TELLER'S CHECK. AN INSTRUMENT MAY BE A CHECK EVEN THOUGH IT IS
2 DESCRIBED ON ITS FACE BY ANOTHER TERM, SUCH AS "MONEY ORDER".

3 (7) "CASHIER'S CHECK" MEANS A DRAFT WITH RESPECT TO WHICH
4 THE DRAWER AND DRAWEE ARE THE SAME BANK OR BRANCHES OF THE SAME
5 BANK.

6 (8) "TELLER'S CHECK" MEANS A DRAFT DRAWN BY A BANK ON
7 ANOTHER BANK, OR PAYABLE AT OR THROUGH A BANK.

8 (9) "TRAVELER'S CHECK" MEANS AN INSTRUMENT THAT IS PAYABLE
9 ON DEMAND, IS DRAWN ON OR PAYABLE AT OR THROUGH A BANK, IS DESIG-
10 NATED BY THE TERM "TRAVELER'S CHECK" OR BY A SUBSTANTIALLY SIMI-
11 LAR TERM, AND REQUIRES, AS A CONDITION TO PAYMENT, A COUNTERSIG-
12 NATURE BY A PERSON WHOSE SPECIMEN SIGNATURE APPEARS ON THE
13 INSTRUMENT.

14 (10) "CERTIFICATE OF DEPOSIT" MEANS AN INSTRUMENT CONTAINING
15 AN ACKNOWLEDGMENT BY A BANK THAT A SUM OF MONEY HAS BEEN RECEIVED
16 BY THE BANK AND A PROMISE BY THE BANK TO REPAY THE SUM OF MONEY.
17 A CERTIFICATE OF DEPOSIT IS A NOTE OF THE BANK.

18 Sec. 3105. ~~(1) A promise or order otherwise unconditional~~
19 ~~is not made conditional by the fact that the instrument~~

20 ~~(a) is subject to implied or constructive conditions; or~~

21 ~~(b) states its consideration, whether performed or promised,~~
22 ~~or the transaction which gave rise to the instrument, or that the~~
23 ~~promise or order is made or the instrument matures in accordance~~
24 ~~with or "as per" such transaction; or~~

25 ~~(c) refers to or states that it arises out of a separate~~
26 ~~agreement or refers to a separate agreement for rights as to~~
27 ~~prepayment or acceleration; or~~

1 ~~(d) states that it is drawn under a letter of credit; or~~
2 ~~(e) states that it is secured, whether by mortgage, reserva-~~
3 ~~tion of title or otherwise; or~~
4 ~~(f) indicates a particular account to be debited or any~~
5 ~~other fund or source from which reimbursement is expected; or~~
6 ~~(g) is limited to payment out of a particular fund or the~~
7 ~~proceeds of a particular source, if the instrument is issued by a~~
8 ~~government or governmental agency or unit; or~~
9 ~~(h) is limited to payment out of the entire assets of a~~
10 ~~partnership, unincorporated association, trust or estate by or on~~
11 ~~behalf of which the instrument is issued.~~
12 ~~(2) A promise or order is not unconditional if the instru-~~
13 ~~ment~~
14 ~~(a) states that it is subject to or governed by any other~~
15 ~~agreement; or~~
16 ~~(b) states that it is to be paid only out of a particular~~
17 ~~fund or source except as provided in this section. (1) "ISSUE"~~
18 ~~MEANS THE FIRST DELIVERY OF AN INSTRUMENT BY THE MAKER OR DRAWER,~~
19 ~~WHETHER TO A HOLDER OR NONHOLDER, FOR THE PURPOSE OF GIVING~~
20 ~~RIGHTS ON THE INSTRUMENT TO ANY PERSON.~~
21 (2) AN UNISSUED INSTRUMENT, OR AN UNISSUED INCOMPLETE
22 INSTRUMENT THAT IS COMPLETED, IS BINDING ON THE MAKER OR DRAWER,
23 BUT NONISSUANCE IS A DEFENSE. AN INSTRUMENT THAT IS CONDITION-
24 ALLY ISSUED OR IS ISSUED FOR A SPECIAL PURPOSE IS BINDING ON THE
25 MAKER OR DRAWER, BUT FAILURE OF THE CONDITION OR SPECIAL PURPOSE
26 TO BE FULFILLED IS A DEFENSE.

1 (3) "ISSUER" APPLIES TO ISSUED AND UNISSUED INSTRUMENTS AND
2 MEANS A MAKER OR DRAWER OF AN INSTRUMENT.

3 Sec. 3106. ~~(1) The sum payable is a sum certain even~~
4 ~~though it is to be paid~~

5 ~~(a) with stated interest or by stated installments; or~~

6 ~~(b) with stated different rates of interest before and after~~
7 ~~default or a specified date; or~~

8 ~~(c) with a stated discount or addition if paid before or~~
9 ~~after the date fixed for payment; or~~

10 ~~(d) with exchange or less exchange, whether at a fixed rate~~
11 ~~or at the current rate; or~~

12 ~~(e) with costs of collection or an attorney's fee or both~~
13 ~~upon default.~~

14 ~~(2) Nothing in this section shall validate any term which is~~
15 ~~otherwise illegal.~~ (1) EXCEPT AS PROVIDED IN THIS SECTION, FOR
16 THE PURPOSES OF SECTION 3104(1), A PROMISE OR ORDER IS UNCONDI-
17 TIONAL UNLESS IT STATES:

18 (A) AN EXPRESS CONDITION TO PAYMENT.

19 (B) THAT THE PROMISE OR ORDER IS SUBJECT TO OR GOVERNED BY
20 ANOTHER WRITING.

21 (C) THAT RIGHTS OR OBLIGATIONS WITH RESPECT TO THE PROMISE
22 OR ORDER ARE STATED IN ANOTHER WRITING. A REFERENCE TO ANOTHER
23 WRITING DOES NOT OF ITSELF MAKE THE PROMISE OR ORDER
24 CONDITIONAL.

25 (2) A PROMISE OR ORDER IS NOT MADE CONDITIONAL:

26 (A) BY A REFERENCE TO ANOTHER WRITING FOR A STATEMENT OF
27 RIGHTS WITH RESPECT TO COLLATERAL, PREPAYMENT, OR ACCELERATION.

1 (B) BECAUSE PAYMENT IS LIMITED TO RESORT TO A PARTICULAR
2 FUND OR SOURCE.

3 (3) IF A PROMISE OR ORDER REQUIRES, AS A CONDITION TO PAY-
4 MENT, A COUNTERSIGNATURE BY A PERSON WHOSE SPECIMEN SIGNATURE
5 APPEARS ON THE PROMISE OR ORDER, THE CONDITION DOES NOT MAKE THE
6 PROMISE OR ORDER CONDITIONAL FOR THE PURPOSES OF
7 SECTION 3104(1). IF THE PERSON WHOSE SPECIMEN SIGNATURE APPEARS
8 ON AN INSTRUMENT FAILS TO COUNTERSIGN THE INSTRUMENT, THE FAILURE
9 TO COUNTERSIGN IS A DEFENSE TO THE OBLIGATION OF THE ISSUER, BUT
10 THE FAILURE DOES NOT PREVENT A TRANSFEREE OF THE INSTRUMENT FROM
11 BECOMING A HOLDER OF THE INSTRUMENT.

12 (4) IF A PROMISE OR ORDER AT THE TIME IT IS ISSUED OR FIRST
13 COMES INTO POSSESSION OF A HOLDER CONTAINS A STATEMENT, REQUIRED
14 BY APPLICABLE STATUTORY OR ADMINISTRATIVE LAW, TO THE EFFECT THAT
15 THE RIGHTS OF A HOLDER OR TRANSFEREE ARE SUBJECT TO CLAIMS OR
16 DEFENSES THAT THE ISSUER COULD ASSERT AGAINST THE ORIGINAL PAYEE,
17 THE PROMISE OR ORDER IS NOT THEREBY MADE CONDITIONAL FOR THE PUR-
18 POSES OF SECTION 3104(1); BUT IF THE PROMISE OR ORDER IS AN
19 INSTRUMENT, THERE CANNOT BE A HOLDER IN DUE COURSE OF THE
20 INSTRUMENT.

21 Sec. 3107. ~~(1) An instrument is payable in money if the~~
22 ~~medium of exchange in which it is payable is money at the time~~
23 ~~the instrument is made. An instrument payable in "currency" or~~
24 ~~"current funds" is payable in money.~~

25 ~~(2) A promise or order to pay a sum stated in a foreign cur-~~
26 ~~rency is for a sum certain in money and, unless a different~~
27 ~~medium of payment is specified in the instrument, may be~~

1 ~~satisfied by payment of that number of dollars which the stated~~
2 ~~foreign currency will purchase at the buying sight rate for that~~
3 ~~currency on the day on which the instrument is payable or, if~~
4 ~~payable on demand, on the day of demand. If such an instrument~~
5 ~~specifies a foreign currency as the medium of payment the instru-~~
6 ~~ment is payable in that currency.~~ UNLESS THE INSTRUMENT OTHER-
7 WISE PROVIDES, AN INSTRUMENT THAT STATES THE AMOUNT PAYABLE IN
8 FOREIGN MONEY MAY BE PAID IN THE FOREIGN MONEY OR IN AN EQUIVA-
9 LENT AMOUNT IN DOLLARS CALCULATED BY USING THE CURRENT
10 BANK-OFFERED SPOT RATE AT THE PLACE OF PAYMENT FOR THE PURCHASE
11 OF DOLLARS ON THE DAY ON WHICH THE INSTRUMENT IS PAID.

12 Sec. 3108. ~~Instruments payable on demand include those~~
13 ~~payable at sight or on presentation and those in which no time~~
14 ~~for payment is stated.~~ (1) A PROMISE OR ORDER IS "PAYABLE ON
15 DEMAND" IF IT:

16 (A) STATES THAT IT IS PAYABLE ON DEMAND OR AT SIGHT, OR OTH-
17 ERWISE INDICATES THAT IT IS PAYABLE AT THE WILL OF THE HOLDER.

18 (B) DOES NOT STATE ANY TIME OF PAYMENT.

19 (2) A PROMISE OR ORDER IS "PAYABLE AT A DEFINITE TIME" IF IT
20 IS PAYABLE ON ELAPSE OF A DEFINITE PERIOD OF TIME AFTER SIGHT OR
21 ACCEPTANCE OR AT A FIXED DATE OR DATES OR AT A TIME OR TIMES
22 READILY ASCERTAINABLE AT THE TIME THE PROMISE OR ORDER IS ISSUED,
23 SUBJECT TO RIGHTS OF:

24 (A) PREPAYMENT.

25 (B) ACCELERATION.

26 (C) EXTENSION AT THE OPTION OF THE HOLDER.

1 (D) EXTENSION TO A FURTHER DEFINITE TIME AT THE OPTION OF
 2 THE MAKER OR ACCEPTOR OR AUTOMATICALLY UPON OR AFTER A SPECIFIED
 3 ACT OR EVENT.

4 (3) IF AN INSTRUMENT, PAYABLE AT A FIXED DATE, IS ALSO PAY-
 5 ABLE UPON DEMAND MADE BEFORE THE FIXED DATE, THE INSTRUMENT IS
 6 PAYABLE ON DEMAND UNTIL THE FIXED DATE AND, IF DEMAND FOR PAYMENT
 7 IS NOT MADE BEFORE THAT DATE, BECOMES PAYABLE AT A DEFINITE TIME
 8 ON THE FIXED DATE.

9 Sec. 3109. ~~(1) An instrument is payable at a definite time~~
 10 ~~if by its terms it is payable~~

11 ~~(a) on or before a stated date or at a fixed period after a~~
 12 ~~stated date; or~~

13 ~~(b) at a fixed period after sight; or~~

14 ~~(c) at a definite time subject to any acceleration; or~~

15 ~~(d) at a definite time subject to extension at the option of~~
 16 ~~the holder, or to extension to a further definite time at the~~
 17 ~~option of the maker or acceptor or automatically upon or after a~~
 18 ~~specified act or event.~~

19 ~~(2) An instrument which by its terms is otherwise payable~~
 20 ~~only upon an act or event uncertain as to time of occurrence is~~
 21 ~~not payable at a definite time even though the act or event has~~
 22 ~~occurred.~~ (1) A PROMISE OR ORDER IS PAYABLE TO THE BEARER IF IT
 23 DOES ANY OF THE FOLLOWING:

24 (A) STATES THAT IT IS PAYABLE TO BEARER OR TO THE ORDER OF
 25 BEARER OR OTHERWISE INDICATES THAT THE PERSON IN POSSESSION OF
 26 THE PROMISE OR ORDER IS ENTITLED TO PAYMENT.

1 (B) DOES NOT STATE A PAYEE.

2 (C) STATES THAT IT IS PAYABLE TO OR TO THE ORDER OF CASH OR
3 OTHERWISE INDICATES THAT IT IS NOT PAYABLE TO AN IDENTIFIED
4 PERSON.

5 (2) A PROMISE OR ORDER THAT IS NOT PAYABLE TO BEARER IS PAY-
6 ABLE TO ORDER IF IT IS PAYABLE:

7 (A) TO THE ORDER OF AN IDENTIFIED PERSON.

8 (B) TO AN IDENTIFIED PERSON OR ORDER. A PROMISE OR ORDER
9 THAT IS PAYABLE TO ORDER IS PAYABLE TO THE IDENTIFIED PERSON.

10 (3) AN INSTRUMENT PAYABLE TO BEARER MAY BECOME PAYABLE TO AN
11 IDENTIFIED PERSON IF IT IS SPECIALLY ENDORSED PURSUANT TO
12 SECTION 3205(1). AN INSTRUMENT PAYABLE TO AN IDENTIFIED PERSON
13 MAY BECOME PAYABLE TO BEARER IF IT IS ENDORSED IN BLANK PURSUANT
14 TO SECTION 3205(2).

15 Sec. 3110. ~~(1) An instrument is payable to order when by~~
16 ~~its terms it is payable to the order or assigns of any person~~
17 ~~therein specified with reasonable certainty, or to him or his~~
18 ~~order, or when it is conspicuously designated on its face as~~
19 ~~"exchange" or the like and names a payee. It may be payable to~~
20 ~~the order of~~

21 ~~(a) the maker or drawer, or~~

22 ~~(b) the drawee, or~~

23 ~~(c) a payee who is not maker, drawer or drawee, or~~

24 ~~(d) two or more payees together or in the alternative, or~~

25 ~~(e) an estate, trust or fund, in which case it is payable to~~
26 ~~the order of the representative of such estate, trust or fund or~~
27 ~~his successors, or~~

1 ~~(f) an office, or an officer by his title as such in which~~
2 ~~case it is payable to the principal but the incumbent of the~~
3 ~~office or his successors may act as if he or they were the~~
4 ~~holder; or~~

5 ~~(g) a partnership or unincorporated association, in which~~
6 ~~case it is payable to the partnership or association and may be~~
7 ~~indorsed or transferred by any person thereto authorized.~~

8 ~~(2) An instrument not payable to order is not made so pay-~~
9 ~~able by such words as "payable upon return of this instrument~~
10 ~~properly indorsed".~~

11 ~~(3) An instrument made payable both to order and to bearer~~
12 ~~is payable to order unless the bearer words are handwritten or~~
13 ~~typewritten.~~ (1) THE PERSON TO WHOM AN INSTRUMENT IS INITIALLY
14 PAYABLE IS DETERMINED BY THE INTENT OF THE PERSON, WHETHER OR NOT
15 AUTHORIZED, SIGNING AS, OR IN THE NAME OR BEHALF OF, THE ISSUER
16 OF THE INSTRUMENT. THE INSTRUMENT IS PAYABLE TO THE PERSON
17 INTENDED BY THE SIGNER EVEN IF THAT PERSON IS IDENTIFIED IN THE
18 INSTRUMENT BY A NAME OR OTHER IDENTIFICATION THAT IS NOT THAT OF
19 THE INTENDED PERSON. IF MORE THAN 1 PERSON SIGNS IN THE NAME OR
20 BEHALF OF THE ISSUER OF AN INSTRUMENT AND ALL THE SIGNERS DO NOT
21 INTEND THE SAME PERSON AS PAYEE, THE INSTRUMENT IS PAYABLE TO ANY
22 PERSON INTENDED BY 1 OR MORE OF THE SIGNERS.

23 (2) IF THE SIGNATURE OF THE ISSUER OF AN INSTRUMENT IS MADE
24 BY AUTOMATED MEANS, SUCH AS A CHECK-WRITING MACHINE, THE PAYEE OF
25 THE INSTRUMENT IS DETERMINED BY THE INTENT OF THE PERSON WHO SUP-
26 PLIED THE NAME OR IDENTIFICATION OF THE PAYEE, WHETHER OR NOT
27 AUTHORIZED TO DO SO.

1 (3) A PERSON TO WHOM AN INSTRUMENT IS PAYABLE MAY BE
2 IDENTIFIED IN ANY WAY, INCLUDING BY NAME, IDENTIFYING NUMBER,
3 OFFICE, OR ACCOUNT NUMBER. FOR THE PURPOSE OF DETERMINING THE
4 HOLDER OF AN INSTRUMENT, THE FOLLOWING RULES APPLY:

5 (A) IF AN INSTRUMENT IS PAYABLE TO AN ACCOUNT AND THE
6 ACCOUNT IS IDENTIFIED ONLY BY NUMBER, THE INSTRUMENT IS PAYABLE
7 TO THE PERSON TO WHOM THE ACCOUNT IS PAYABLE. IF AN INSTRUMENT
8 IS PAYABLE TO AN ACCOUNT IDENTIFIED BY NUMBER AND BY THE NAME OF
9 A PERSON, THE INSTRUMENT IS PAYABLE TO THE NAMED PERSON, WHETHER
10 OR NOT THAT PERSON IS THE OWNER OF THE ACCOUNT IDENTIFIED BY
11 NUMBER.

12 (B) IF AN INSTRUMENT IS PAYABLE TO ANY OF THE FOLLOWING:

13 (i) A TRUST, AN ESTATE, OR A PERSON DESCRIBED AS TRUSTEE OR
14 REPRESENTATIVE OF A TRUST OR ESTATE, THE INSTRUMENT IS PAYABLE TO
15 THE TRUSTEE, THE REPRESENTATIVE, OR A SUCCESSOR OF EITHER,
16 WHETHER OR NOT THE BENEFICIARY OR ESTATE IS ALSO NAMED.

17 (ii) A PERSON DESCRIBED AS AGENT OR SIMILAR REPRESENTATIVE
18 OF A NAMED OR IDENTIFIED PERSON, THE INSTRUMENT IS PAYABLE TO THE
19 REPRESENTED PERSON, THE REPRESENTATIVE, OR A SUCCESSOR OF THE
20 REPRESENTATIVE.

21 (iii) A FUND OR ORGANIZATION THAT IS NOT A LEGAL ENTITY, THE
22 INSTRUMENT IS PAYABLE TO A REPRESENTATIVE OF THE MEMBERS OF THE
23 FUND OR ORGANIZATION.

24 (iv) AN OFFICE OR TO A PERSON DESCRIBED AS HOLDING AN
25 OFFICE, THE INSTRUMENT IS PAYABLE TO THE NAMED PERSON, THE INCUM-
26 BENT OF THE OFFICE, OR A SUCCESSOR TO THE INCUMBENT.

1 (4) IF AN INSTRUMENT IS PAYABLE TO 2 OR MORE PERSONS
 2 ALTERNATIVELY, IT IS PAYABLE TO ANY OF THEM AND MAY BE
 3 NEGOTIATED, DISCHARGED, OR ENFORCED BY ANY OR ALL OF THEM IN POS-
 4 SESSION OF THE INSTRUMENT. IF AN INSTRUMENT IS PAYABLE TO 2 OR
 5 MORE PERSONS NOT ALTERNATIVELY, IT IS PAYABLE TO ALL OF THEM AND
 6 MAY BE NEGOTIATED, DISCHARGED, OR ENFORCED ONLY BY ALL OF THEM.
 7 IF AN INSTRUMENT PAYABLE TO 2 OR MORE PERSONS IS AMBIGUOUS AS TO
 8 WHETHER IT IS PAYABLE TO THE PERSONS ALTERNATIVELY, THE INSTRU-
 9 MENT IS PAYABLE TO THE PERSONS ALTERNATIVELY.

10 Sec. 3111. ~~An instrument is payable to bearer when by its~~
 11 ~~terms it is payable to~~

12 ~~(a) bearer or the order of bearer; or~~

13 ~~(b) a specified person or bearer; or~~

14 ~~(c) "cash" or the order of "cash", or any other indication~~

15 ~~which does not purport to designate a specific payee.~~ EXCEPT AS

16 OTHERWISE PROVIDED FOR ITEMS IN ARTICLE 4, AN INSTRUMENT IS PAY-

17 ABLE AT THE PLACE OF PAYMENT STATED IN THE INSTRUMENT. IF NO

18 PLACE OF PAYMENT IS STATED, AN INSTRUMENT IS PAYABLE AT THE

19 ADDRESS OF THE DRAWEE OR MAKER STATED IN THE INSTRUMENT. IF NO

20 ADDRESS IS STATED, THE PLACE OF PAYMENT IS THE PLACE OF BUSINESS

21 OF THE DRAWEE OR MAKER. IF A DRAWEE OR MAKER HAS MORE THAN 1

22 PLACE OF BUSINESS, THE PLACE OF PAYMENT IS ANY PLACE OF BUSINESS

23 OF THE DRAWEE OR MAKER CHOSEN BY THE PERSON ENTITLED TO ENFORCE

24 THE INSTRUMENT. IF THE DRAWEE OR MAKER HAS NO PLACE OF BUSINESS,

25 THE PLACE OF PAYMENT IS THE RESIDENCE OF THE DRAWEE OR MAKER.

26 Sec. 3112. ~~(1) The negotiability of an instrument is not~~
 27 ~~affected by~~

1 ~~(a) the omission of a statement of any consideration or of~~
 2 ~~the place where the instrument is drawn or payable; or~~

3 ~~(b) a statement that collateral has been given to secure~~
 4 ~~obligations either on the instrument or otherwise of an obligor~~
 5 ~~on the instrument or that in the case of default on those obliga-~~
 6 ~~tions the holder may realize on or dispose of the collateral; or~~

7 ~~(c) a promise or power to maintain or protect collateral or~~
 8 ~~to give additional collateral; or~~

9 ~~(d) a term authorizing a confession of judgment on the~~
 10 ~~instrument if it is not paid when due; or~~

11 ~~(e) a term purporting to waive the benefit of any law~~
 12 ~~intended for the advantage or protection of any obligor; or~~

13 ~~(f) a term in a draft providing that the payee by indorsing~~
 14 ~~or cashing it acknowledges full satisfaction of an obligation of~~
 15 ~~the drawer; or~~

16 ~~(g) a statement in a draft drawn in a set of parts (section~~
 17 ~~3801) to the effect that the order is effective only if no other~~
 18 ~~part has been honored.~~

19 ~~(2) Nothing in this section shall validate any term which is~~
 20 ~~otherwise illegal. (1) UNLESS OTHERWISE PROVIDED IN THE~~
 21 ~~INSTRUMENT:~~

22 (A) AN INSTRUMENT IS NOT PAYABLE WITH INTEREST.

23 (B) INTEREST ON AN INTEREST-BEARING INSTRUMENT IS PAYABLE
 24 FROM THE DATE OF THE INSTRUMENT.

25 (2) INTEREST MAY BE STATED IN AN INSTRUMENT AS A FIXED OR
 26 VARIABLE AMOUNT OF MONEY OR IT MAY BE EXPRESSED AS A FIXED OR
 27 VARIABLE RATE OR RATES. THE AMOUNT OR RATE OF INTEREST MAY BE

1 STATED OR DESCRIBED IN THE INSTRUMENT IN ANY MANNER AND MAY
2 REQUIRE REFERENCE TO INFORMATION NOT CONTAINED IN THE
3 INSTRUMENT. IF AN INSTRUMENT PROVIDES FOR INTEREST, BUT THE
4 AMOUNT OF INTEREST PAYABLE CANNOT BE ASCERTAINED FROM THE
5 DESCRIPTION, INTEREST IS PAYABLE AT THE JUDGMENT RATE IN EFFECT
6 AT THE PLACE OF PAYMENT OF THE INSTRUMENT AND AT THE TIME INTER-
7 EST FIRST ACCRUES.

8 Sec. 3113. ~~An instrument otherwise negotiable is within~~
9 ~~this article even though it is under a seal.~~ (1) AN INSTRUMENT
10 MAY BE ANTEDATED OR POSTDATED. THE DATE STATED DETERMINES THE
11 TIME OF PAYMENT IF THE INSTRUMENT IS PAYABLE AT A FIXED PERIOD
12 AFTER DATE. EXCEPT AS PROVIDED IN SECTION 4401(3), AN INSTRUMENT
13 PAYABLE ON DEMAND IS NOT PAYABLE BEFORE THE DATE OF THE
14 INSTRUMENT.

15 (2) IF AN INSTRUMENT IS UNDATED, ITS DATE IS THE DATE OF ITS
16 ISSUE OR, IN THE CASE OF AN UNISSUED INSTRUMENT, THE DATE IT
17 FIRST COMES INTO POSSESSION OF A HOLDER.

18 Sec. 3114. ~~(1) The negotiability of an instrument is not~~
19 ~~affected by the fact that it is undated, antedated or postdated.~~

20 ~~(2) Where an instrument is antedated or postdated the time~~
21 ~~when it is payable is determined by the stated date if the~~
22 ~~instrument is payable on demand or at a fixed period after date.~~

23 ~~(3) Where the instrument or any signature thereon is dated,~~
24 ~~the date is presumed to be correct.~~ IF AN INSTRUMENT CONTAINS
25 CONTRADICTORY TERMS, TYPEWRITTEN TERMS PREVAIL OVER PRINTED
26 TERMS, HANDWRITTEN TERMS PREVAIL OVER BOTH, AND WORDS PREVAIL
27 OVER NUMBERS.

1 Sec. 3115. ~~-(1) When a paper whose contents at the time of~~
2 ~~signing show that it is intended to become an instrument is~~
3 ~~signed while still incomplete in any necessary respect it cannot~~
4 ~~be enforced until completed, but when it is completed in accord-~~
5 ~~ance with authority given it is effective as completed.~~

6 ~~(2) If the completion is unauthorized the rules as to mate-~~
7 ~~rial alteration apply (section 3407), even though the paper was~~
8 ~~not delivered by the maker or drawer; but the burden of estab-~~
9 ~~lishing that any completion is unauthorized is on the party so~~
10 ~~asserting-~~ (1) "INCOMPLETE INSTRUMENT" MEANS A SIGNED WRITING,
11 WHETHER OR NOT ISSUED BY THE SIGNER, THE CONTENTS OF WHICH SHOW
12 AT THE TIME OF SIGNING THAT IT IS INCOMPLETE BUT THAT THE SIGNER
13 INTENDED IT TO BE COMPLETED BY THE ADDITION OF WORDS OR NUMBERS.

14 (2) SUBJECT TO SUBSECTION (3), IF AN INCOMPLETE INSTRUMENT
15 IS AN INSTRUMENT UNDER SECTION 3104, IT MAY BE ENFORCED ACCORDING
16 TO ITS TERMS IF IT IS NOT COMPLETED, OR ACCORDING TO ITS TERMS AS
17 AUGMENTED BY COMPLETION. IF AN INCOMPLETE INSTRUMENT IS NOT AN
18 INSTRUMENT UNDER SECTION 3104, BUT, AFTER COMPLETION, THE
19 REQUIREMENTS OF SECTION 3104 ARE MET, THE INSTRUMENT MAY BE
20 ENFORCED ACCORDING TO ITS TERMS AS AUGMENTED BY COMPLETION.

21 (3) IF WORDS OR NUMBERS ARE ADDED TO AN INCOMPLETE INSTRU-
22 MENT WITHOUT AUTHORITY OF THE SIGNER, THERE IS AN ALTERATION OF
23 THE INCOMPLETE INSTRUMENT UNDER SECTION 3407.

24 (4) THE BURDEN OF ESTABLISHING THAT WORDS OR NUMBERS WERE
25 ADDED TO AN INCOMPLETE INSTRUMENT WITHOUT AUTHORITY OF THE SIGNER
26 IS ON THE PERSON ASSERTING THE LACK OF AUTHORITY.

1 Sec. 3116. ~~An instrument payable to the order of 2 or more~~
2 ~~persons~~

3 ~~(a) if in the alternative is payable to any one of them and~~
4 ~~may be negotiated, discharged or enforced by any of them who has~~
5 ~~possession of it;~~

6 ~~(b) if not in the alternative is payable to all of them and~~
7 ~~may be negotiated, discharged or enforced only by all of them.~~

8 (1) EXCEPT AS OTHERWISE PROVIDED IN THE INSTRUMENT, 2 OR
9 MORE PERSONS WHO HAVE THE SAME LIABILITY ON AN INSTRUMENT AS
10 MAKERS, DRAWERS, ACCEPTORS, ENDORSERS WHO ENDORSE AS JOINT
11 PAYEES, OR ANOMALOUS ENDORSERS ARE JOINTLY AND SEVERALLY LIABLE
12 IN THE CAPACITY IN WHICH THEY SIGN.

13 (2) EXCEPT AS PROVIDED IN SECTION 3419(5) OR BY AGREEMENT OF
14 THE AFFECTED PARTIES, A PARTY HAVING JOINT AND SEVERAL LIABILITY
15 WHO PAY THE INSTRUMENT IS ENTITLED TO RECEIVE FROM ANY PARTY
16 HAVING THE SAME JOINT AND SEVERAL LIABILITY CONTRIBUTION IN
17 ACCORDANCE WITH APPLICABLE LAW.

18 (3) DISCHARGE OF 1 PARTY HAVING JOINT AND SEVERAL LIABILITY
19 BY A PERSON ENTITLED TO ENFORCE THE INSTRUMENT DOES NOT AFFECT
20 THE RIGHT UNDER SUBSECTION (2) OF A PARTY HAVING THE SAME JOINT
21 AND SEVERAL LIABILITY TO RECEIVE CONTRIBUTION FROM THE PARTY
22 DISCHARGED.

23 Sec. 3117. ~~An instrument made payable to a named person~~
24 ~~with the addition of words describing him~~

25 ~~(a) as agent or officer of a specified person is payable to~~
26 ~~his principal but the agent or officer may act as if he were the~~
27 ~~holder;~~

1 ~~(b) as any other fiduciary for a specified person or purpose~~
2 ~~is payable to the payee and may be negotiated, discharged or~~
3 ~~enforced by him;~~

4 ~~(c) in any other manner is payable to the payee uncondition-~~
5 ~~ally and the additional words are without effect on subsequent~~
6 ~~parties.~~ SUBJECT TO APPLICABLE LAW REGARDING EXCLUSION OF PROOF
7 OF CONTEMPORANEOUS OR PREVIOUS AGREEMENTS, THE OBLIGATION OF A
8 PARTY TO AN INSTRUMENT TO PAY THE INSTRUMENT MAY BE MODIFIED,
9 SUPPLEMENTED, OR NULLIFIED BY A SEPARATE AGREEMENT OF THE OBLIGOR
10 AND A PERSON ENTITLED TO ENFORCE THE INSTRUMENT, IF THE INSTRU-
11 MENT IS ISSUED OR THE OBLIGATION IS INCURRED IN RELIANCE ON THE
12 AGREEMENT OR AS PART OF THE SAME TRANSACTION GIVING RISE TO THE
13 AGREEMENT. TO THE EXTENT AN OBLIGATION IS MODIFIED, SUPPLE-
14 MENTED, OR NULLIFIED BY AN AGREEMENT UNDER THIS SECTION, THE
15 AGREEMENT IS A DEFENSE TO THE OBLIGATION.

16 Sec. 3118. ~~The following rules apply to every instrument:~~

17 ~~(a) Where there is doubt whether the instrument is a draft~~
18 ~~or a note the holder may treat it as either. A draft drawn on~~
19 ~~the drawer is effective as a note.~~

20 ~~(b) Handwritten terms control typewritten and printed terms,~~
21 ~~and typewritten control printed.~~

22 ~~(c) Words control figures except that if the words are~~
23 ~~ambiguous figures control.~~

24 ~~(d) Unless otherwise specified a provision for interest~~
25 ~~means interest at the judgment rate at the place of payment from~~
26 ~~the date of the instrument, or if it is undated from the date of~~
27 ~~issue.~~

1 ~~(e) Unless the instrument otherwise specifies 2 or more~~
2 ~~persons who sign as maker, acceptor or drawer or indorser and as~~
3 ~~a part of the same transaction are jointly and severally liable~~
4 ~~even though the instrument contains such words as "I promise to~~
5 ~~pay".~~

6 ~~(f) Unless otherwise specified consent to extension autho-~~
7 ~~rizes a single extension for not longer than the original~~
8 ~~period. A consent to extension, expressed in the instrument, is~~
9 ~~binding on secondary parties and accommodation makers. A holder~~
10 ~~may not exercise his option to extend an instrument over the~~
11 ~~objection of a maker or acceptor or other party who in accordance~~
12 ~~with section 3604 tenders full payment when the instrument is~~
13 ~~due.~~

14 (1) EXCEPT AS PROVIDED IN SUBSECTION (5), AN ACTION TO
15 ENFORCE THE OBLIGATION OF A PARTY TO PAY A NOTE PAYABLE AT A DEF-
16 INITE TIME MUST BE COMMENCED WITHIN 6 YEARS AFTER THE DUE DATE OR
17 DATES STATED IN THE NOTE OR, IF A DUE DATE IS ACCELERATED, WITHIN
18 6 YEARS AFTER THE ACCELERATED DUE DATE.

19 (2) EXCEPT AS PROVIDED IN SUBSECTION (4) OR (5), IF DEMAND
20 FOR PAYMENT IS MADE TO THE MAKER OF A NOTE PAYABLE ON DEMAND, AN
21 ACTION TO ENFORCE THE OBLIGATION OF A PARTY TO PAY THE NOTE MUST
22 BE COMMENCED WITHIN 6 YEARS AFTER THE DEMAND. IF NO DEMAND FOR
23 PAYMENT IS MADE TO THE MAKER, AN ACTION TO ENFORCE THE NOTE IS
24 BARRED IF NEITHER PRINCIPAL NOR INTEREST ON THE NOTE HAS BEEN
25 PAID FOR A CONTINUOUS PERIOD OF 10 YEARS.

26 (3) EXCEPT AS PROVIDED IN SUBSECTION (4), AN ACTION TO
27 ENFORCE THE OBLIGATION OF A PARTY TO AN UNACCEPTED DRAFT TO PAY

1 THE DRAFT MUST BE COMMENCED WITHIN 3 YEARS AFTER DISHONOR OF THE
2 DRAFT OR 10 YEARS AFTER THE DATE OF THE DRAFT, WHICHEVER PERIOD
3 EXPIRES FIRST.

4 (4) AN ACTION TO ENFORCE THE OBLIGATION OF THE ACCEPTOR OF A
5 CERTIFIED CHECK OR THE ISSUER OF A TELLER'S CHECK, CASHIER'S
6 CHECK, OR TRAVELER'S CHECK MUST BE COMMENCED WITHIN 3 YEARS AFTER
7 DEMAND FOR PAYMENT IS MADE TO THE ACCEPTOR OR ISSUER.

8 (5) AN ACTION TO ENFORCE THE OBLIGATION OF A PARTY TO A CER-
9 TIFICATE OF DEPOSIT TO PAY THE INSTRUMENT MUST BE COMMENCED
10 WITHIN 6 YEARS AFTER DEMAND FOR PAYMENT IS MADE TO THE MAKER, BUT
11 IF THE INSTRUMENT STATES A DUE DATE AND THE MAKER IS NOT REQUIRED
12 TO PAY BEFORE THAT DATE, THE 6-YEAR PERIOD BEGINS WHEN A DEMAND
13 FOR PAYMENT IS IN EFFECT AND THE DUE DATE HAS PASSED.

14 (6) AN ACTION TO ENFORCE THE OBLIGATION OF A PARTY TO PAY AN
15 ACCEPTED DRAFT, OTHER THAN A CERTIFIED CHECK, MUST BE COMMENCED
16 (i) WITHIN 6 YEARS AFTER THE DUE DATE OR DATES STATES IN THE
17 DRAFT OR ACCEPTANCE IF THE OBLIGATION OF THE ACCEPTOR IS PAYABLE
18 AT A DEFINITE TIME, OR (ii) WITHIN 6 YEARS AFTER THE DATE OF THE
19 ACCEPTANCE IF THE OBLIGATION OF THE ACCEPTOR IS PAYABLE ON
20 DEMAND.

21 (7) UNLESS GOVERNED BY OTHER LAW REGARDING CLAIMS FOR INDEM-
22 NITY OR CONTRIBUTION, AN ACTION (i) FOR CONVERSION OF AN INSTRU-
23 MENT, FOR MONEY HAD AND RECEIVED, OR LIKE ACTION BASED ON CONVER-
24 SION, (ii) FOR BREACH OF WARRANTY, OR (iii) TO ENFORCE AN OBLIGA-
25 TION, DUTY, OR RIGHT ARISING UNDER THIS ARTICLE AND NOT GOVERNED
26 BY THIS SECTION MUST BE COMMENCED WITHIN 3 YEARS AFTER THE CAUSE
27 OF ACTION ACCRUES.

1 Sec. 3119. ~~(1) As between the obligor and his immediate~~
2 ~~obligee or any transferee the terms of an instrument may be modi-~~
3 ~~fied or affected by any other written agreement executed as a~~
4 ~~part of the same transaction, except that a holder in due course~~
5 ~~is not affected by any limitation of his rights arising out of~~
6 ~~the separate written agreement if he had no notice of the limita-~~
7 ~~tion when he took the instrument.~~

8 ~~(2) A separate agreement does not affect the negotiability~~
9 ~~of an instrument.~~ IN AN ACTION FOR BREACH OF AN OBLIGATION FOR
10 WHICH A THIRD PERSON IS ANSWERABLE OVER PURSUANT TO THIS ARTICLE
11 OR ARTICLE 4, THE DEFENDANT MAY GIVE THE THIRD PERSON WRITTEN
12 NOTICE OF THE LITIGATION, AND THE PERSON NOTIFIED MAY THEN GIVE
13 SIMILAR NOTICE TO ANY OTHER PERSON WHO IS ANSWERABLE OVER. IF
14 THE NOTICE STATES (i) THAT THE PERSON NOTIFIED MAY COME IN AND
15 DEFEND AND (ii) THAT FAILURE TO DO SO WILL BIND THE PERSON NOTI-
16 FIED IN AN ACTION LATER BROUGHT BY THE PERSON GIVING THE NOTICE
17 AS TO ANY DETERMINATION OF FACT COMMON TO THE 2 LITIGATIONS, THE
18 PERSON NOTIFIED IS SO BOUND UNLESS AFTER SEASONABLE RECEIPT OF
19 THE NOTICE THE PERSON NOTIFIED DOES COME IN AND DEFEND.

20 PART 2. ~~TRANSFER AND NEGOTIATION~~ NEGOTIATION, TRANSFER, AND

21

ENDORSEMENT

~~22 Sec. 3201. (1) Transfer of an instrument vests in the~~
~~23 transferee such rights as the transferor has therein, except that~~
~~24 a transferee who has himself been a party to any fraud or illega-~~
~~25 lity affecting the instrument or who as a prior holder had notice~~
~~26 of a defense or claim against it cannot improve his position by~~
~~27 taking from the later holder in due course.~~

1 ~~(2) A transfer of a security interest in an instrument vests~~
2 ~~the foregoing rights in the transferee to the extent of the~~
3 ~~interest transferred.~~

4 ~~(3) Unless otherwise agreed any transfer for value of an~~
5 ~~instrument not then payable to bearer gives the transferee the~~
6 ~~specifically enforceable right to have the unqualified indorse-~~
7 ~~ment of the transferor. Negotiation takes effect only when the~~
8 ~~indorsement is made and until that time there is no presumption~~
9 ~~that the transferee is the owner.~~

10 (1) "NEGOTIATION" MEANS A TRANSFER OF POSSESSION, WHETHER
11 VOLUNTARY OR INVOLUNTARY, OF AN INSTRUMENT BY A PERSON OTHER THAN
12 THE ISSUER TO A PERSON WHO THEREBY BECOMES ITS HOLDER.

13 (2) EXCEPT FOR NEGOTIATION BY A REMITTER, IF AN INSTRUMENT
14 IS PAYABLE TO AN IDENTIFIED PERSON, NEGOTIATION REQUIRES TRANSFER
15 OF POSSESSION OF THE INSTRUMENT AND ITS ENDORSEMENT BY THE
16 HOLDER. IF AN INSTRUMENT IS PAYABLE TO BEARER, IT MAY BE NEGOTI-
17 ATED BY TRANSFER OF POSSESSION ALONE.

18 Sec. 3202. ~~(1) Negotiation is the transfer of an instru-~~
19 ~~ment in such form that the transferee becomes a holder. If the~~
20 ~~instrument is payable to order it is negotiated by delivery with~~
21 ~~any necessary indorsement; if payable to bearer it is negotiated~~
22 ~~by delivery.~~

23 ~~(2) An indorsement must be written by or on behalf of the~~
24 ~~holder and on the instrument or on a paper so firmly affixed~~
25 ~~thereto as to become a part thereof.~~

1 ~~(3) An indorsement is effective for negotiation only when it~~
 2 ~~conveys the entire instrument or any unpaid residue. If it~~
 3 ~~purports to be of less it operates only as a partial assignment.~~

4 ~~(4) Words of assignment, condition, waiver, guaranty, limi-~~
 5 ~~tation or disclaimer of liability and the like accompanying an~~
 6 ~~indorsement do not affect its character as an indorsement.~~

7 (1) NEGOTIATION IS EFFECTIVE EVEN IF OBTAINED (i) FROM AN
 8 INFANT, A CORPORATION EXCEEDING ITS POWERS, OR A PERSON WITHOUT
 9 CAPACITY, (ii) BY FRAUD, DURESS, OR MISTAKE, OR (iii) IN BREACH
 10 OF DUTY OR AS PART OF AN ILLEGAL TRANSACTION.

11 (2) TO THE EXTENT PERMITTED BY OTHER LAW, NEGOTIATION MAY BE
 12 RESCINDED OR MAY BE SUBJECT TO OTHER REMEDIES, BUT THOSE REMEDIES
 13 MAY NOT BE ASSERTED AGAINST A SUBSEQUENT HOLDER IN DUE COURSE OR
 14 A PERSON PAYING THE INSTRUMENT IN GOOD FAITH AND WITHOUT KNOWL-
 15 EDGE OF FACTS THAT ARE A BASIS FOR RESCISSION OR OTHER REMEDY.

16 Sec. 3203. ~~Where an instrument is made payable to a person~~
 17 ~~under a misspelled name or one other than his own he may indorse~~
 18 ~~in that name or his own or both; but signature in both names may~~
 19 ~~be required by a person paying or giving value for the~~
 20 ~~instrument.~~

21 (1) AN INSTRUMENT IS TRANSFERRED WHEN IT IS DELIVERED BY A
 22 PERSON OTHER THAN ITS ISSUER FOR THE PURPOSE OF GIVING TO THE
 23 PERSON RECEIVING DELIVERY THE RIGHT TO ENFORCE THE INSTRUMENT.

24 (2) TRANSFER OF AN INSTRUMENT, WHETHER OR NOT THE TRANSFER
 25 IS A NEGOTIATION, VESTS IN THE TRANSFEREE ANY RIGHT OF THE TRANS-
 26 FEROR TO ENFORCE THE INSTRUMENT, INCLUDING ANY RIGHT AS A HOLDER
 27 IN DUE COURSE, BUT THE TRANSFEREE CANNOT ACQUIRE RIGHTS OF A

1 HOLDER IN DUE COURSE BY A TRANSFER, DIRECTLY OR INDIRECTLY, FROM
2 A HOLDER IN DUE COURSE IF THE TRANSFEREE ENGAGED IN FRAUD OR
3 ILLEGALITY AFFECTING THE INSTRUMENT.

4 (3) UNLESS OTHERWISE AGREED, IF AN INSTRUMENT IS TRANSFERRED
5 FOR VALUE AND THE TRANSFEREE DOES NOT BECOME A HOLDER BECAUSE OF
6 LACK OF ENDORSEMENT BY THE TRANSFEROR, THE TRANSFEREE HAS A SPE-
7 CIFICALLY ENFORCEABLE RIGHT TO THE UNQUALIFIED ENDORSEMENT OF THE
8 TRANSFEROR, BUT NEGOTIATION OF THE INSTRUMENT DOES NOT OCCUR
9 UNTIL THE ENDORSEMENT IS MADE.

10 (4) IF A TRANSFEROR PURPORTS TO TRANSFER LESS THAN THE
11 ENTIRE INSTRUMENT, NEGOTIATION OF THE INSTRUMENT DOES NOT OCCUR.
12 THE TRANSFEREE OBTAINS NO RIGHTS UNDER THIS ARTICLE AND HAS ONLY
13 THE RIGHTS OF A PARTIAL ASSIGNEE.

14 Sec. 3204. ~~(1) A special indorsement specifies the person~~
15 ~~to whom or to whose order it makes the instrument payable. Any~~
16 ~~instrument specially indorsed becomes payable to the order of the~~
17 ~~special indorsee and may be further negotiated only by his~~
18 ~~indorsement.~~

19 ~~(2) An indorsement in blank specifies no particular indorsee~~
20 ~~and may consist of a mere signature. An instrument payable to~~
21 ~~order and indorsed in blank becomes payable to bearer and may be~~
22 ~~negotiated by delivery alone until specially indorsed.~~

23 ~~(3) The holder may convert a blank indorsement into a spe-~~
24 ~~cial indorsement by writing over the signature of the indorser in~~
25 ~~blank any contract consistent with the character of the~~
26 ~~indorsement.~~

1 (1) "ENDORSEMENT" MEANS A SIGNATURE, OTHER THAN THAT OF A
2 SIGNER AS MAKER, DRAWER, OR ACCEPTOR, THAT ALONE OR ACCOMPANIED
3 BY OTHER WORDS IS MADE ON AN INSTRUMENT FOR THE PURPOSE OF (i)
4 NEGOTIATING THE INSTRUMENT, (ii) RESTRICTING PAYMENT OF THE
5 INSTRUMENT, OR (iii) INCURRING ENDORSER'S LIABILITY ON THE
6 INSTRUMENT, BUT REGARDLESS OF THE INTENT OF THE SIGNER, A SIGNA-
7 TURE AND ITS ACCOMPANYING WORDS IS AN ENDORSEMENT UNLESS THE
8 ACCOMPANYING WORDS, TERMS OF THE INSTRUMENT, PLACE OF THE SIGNA-
9 TURE, OR OTHER CIRCUMSTANCES UNAMBIGUOUSLY INDICATE THAT THE SIG-
10 NATURE WAS MADE FOR A PURPOSE OTHER THAN ENDORSEMENT. FOR THE
11 PURPOSE OF DETERMINING WHETHER A SIGNATURE IS MADE ON AN INSTRU-
12 MENT, A PAPER AFFIXED TO THE INSTRUMENT IS A PART OF THE
13 INSTRUMENT.

14 (2) "ENDORSER" MEANS A PERSON WHO MAKES AN ENDORSEMENT.

15 (3) FOR THE PURPOSE OF DETERMINING WHETHER THE TRANSFEREE OF
16 AN INSTRUMENT IS A HOLDER, AN ENDORSEMENT THAT TRANSFERS A SECUR-
17 ITY INTEREST IN THE INSTRUMENT IS EFFECTIVE AS AN UNQUALIFIED
18 ENDORSEMENT OF THE INSTRUMENT.

19 (4) IF AN INSTRUMENT IS PAYABLE TO A HOLDER UNDER A NAME
20 THAT IS NOT THE NAME OF THE HOLDER, ENDORSEMENT MAY BE MADE BY
21 THE HOLDER IN THE NAME STATED IN THE INSTRUMENT OR IN THE
22 HOLDER'S NAME OR BOTH, BUT SIGNATURE IN BOTH NAMES MAY BE
23 REQUIRED BY A PERSON PAYING OR TAKING THE INSTRUMENT FOR VALUE OR
24 COLLECTION.

25 Sec. 3205. ~~An indorsement is restrictive which either~~
26 ~~(a) is conditional, or~~

~~(b) purports to prohibit further transfer of the instrument,~~

~~or~~

~~(c) includes the words "for collection", "for deposit", "pay~~

~~any bank", or like terms signifying a purpose of deposit or col-~~

~~lection; or~~

~~(d) otherwise states that it is for the benefit or use of~~

~~the indorser or of another person.~~

(1) IF AN ENDORSEMENT IS MADE BY THE HOLDER OF AN INSTRU-

MENT, WHETHER PAYABLE TO AN IDENTIFIED PERSON OR PAYABLE TO

BEARER, AND THE ENDORSEMENT IDENTIFIES A PERSON TO WHOM IT MAKES

THE INSTRUMENT PAYABLE, IT IS A "SPECIAL ENDORSEMENT". WHEN SPE-

CIALY ENDORSED, AN INSTRUMENT BECOMES PAYABLE TO THE IDENTIFIED

PERSON AND MAY BE NEGOTIATED ONLY BY THE ENDORSEMENT OF THAT

PERSON. THE PRINCIPLES STATED IN SECTION 3110 APPLY TO SPECIAL

ENDORSEMENTS.

(2) IF AN ENDORSEMENT IS MADE BY THE HOLDER OF AN INSTRUMENT

AND IT IS NOT A SPECIAL ENDORSEMENT, IT IS A "BLANK

ENDORSEMENT". WHEN ENDORSED IN BLANK, AN INSTRUMENT BECOMES PAY-

ABLE TO BEARER AND MAY BE NEGOTIATED BY TRANSFER OF POSSESSION

ALONE UNTIL SPECIALLY ENDORSED.

(3) THE HOLDER MAY CONVERT A BLANK ENDORSEMENT THAT CONSISTS

ONLY OF A SIGNATURE INTO A SPECIAL ENDORSEMENT BY WRITING, ABOVE

THE SIGNATURE OF THE ENDORSER, WORDS IDENTIFYING THE PERSON TO

WHOM THE INSTRUMENT IS MADE PAYABLE.

(4) "ANOMALOUS ENDORSEMENT" MEANS AN ENDORSEMENT MADE BY A

PERSON WHO IS NOT THE HOLDER OF THE INSTRUMENT. AN ANOMALOUS

1 ENDORSEMENT DOES NOT AFFECT THE MANNER IN WHICH THE INSTRUMENT
2 MAY BE NEGOTIATED.

3 Sec. 3206. ~~(1) No restrictive indorsement prevents further~~
4 ~~transfer or negotiation of the instrument.~~

5 ~~(2) An intermediary bank, or a payor bank which is not the~~
6 ~~depository bank, is neither given notice nor otherwise affected~~
7 ~~by a restrictive indorsement of any person except the bank's~~
8 ~~immediate transferor or the person presenting for payment.~~

9 ~~(3) Except for an intermediary bank, any transferee under an~~
10 ~~indorsement which is conditional or includes the words "for~~
11 ~~collection", "for deposit", "pay any bank", or like terms~~
12 ~~(subparagraphs (a) and (c) of section 3205) must pay or apply any~~
13 ~~value given by him for or on the security of the instrument con-~~
14 ~~sistently with the indorsement and to the extent that he does so~~
15 ~~he becomes a holder for value. In addition such transferee is a~~
16 ~~holder in due course if he otherwise complies with the require-~~
17 ~~ments of section 3302 on what constitutes a holder in due~~
18 ~~course.~~

19 ~~(4) The first taker under an indorsement for the benefit of~~
20 ~~the indorser or another person (subparagraph (d) of section 3205)~~
21 ~~must pay or apply any value given by him for or on the security~~
22 ~~of the instrument consistently with the indorsement and to the~~
23 ~~extent that he does so he becomes a holder for value. In addi-~~
24 ~~tion such taker is a holder in due course if he otherwise com-~~
25 ~~plies with the requirements of section 3302 on what constitutes a~~
26 ~~holder in due course. A later holder for value is neither given~~
27 ~~notice nor otherwise affected by such restrictive indorsement~~

~~1 unless he has knowledge that a fiduciary or other person has
2 negotiated the instrument in any transaction for his own benefit
3 or otherwise in breach of duty (subsection (2) of section 3304).~~

4 (1) AN ENDORSEMENT LIMITING PAYMENT TO A PARTICULAR PERSON
5 OR OTHERWISE PROHIBITING FURTHER TRANSFER OR NEGOTIATION OF THE
6 INSTRUMENT IS NOT EFFECTIVE TO PREVENT FURTHER TRANSFER OR NEGO-
7 TIATION OF THE INSTRUMENT.

8 (2) AN ENDORSEMENT STATING A CONDITION TO THE RIGHT OF THE
9 ENDORSEE TO RECEIVE PAYMENT DOES NOT AFFECT THE RIGHT OF THE
10 ENDORSEE TO ENFORCE THE INSTRUMENT. A PERSON PAYING THE INSTRU-
11 MENT OR TAKING IT FOR VALUE OR COLLECTION MAY DISREGARD THE CON-
12 DITION, AND THE RIGHTS AND LIABILITIES OF THAT PERSON ARE NOT
13 AFFECTED BY WHETHER THE CONDITION HAS BEEN FULFILLED.

14 (3) IF AN INSTRUMENT BEARS AN ENDORSEMENT (i) DESCRIBED IN
15 SECTION 4201(2), OR (ii) IN BLANK OR TO A PARTICULAR BANK USING
16 THE WORDS "FOR DEPOSIT", "FOR COLLECTION", OR OTHER WORDS INDI-
17 CATING A PURPOSE OF HAVING THE INSTRUMENT COLLECTED BY A BANK FOR
18 THE ENDORSER OR FOR A PARTICULAR ACCOUNT, THE FOLLOWING RULES
19 APPLY:

20 (A) A PERSON, OTHER THAN A BANK, WHO PURCHASES THE INSTRU-
21 MENT WHEN SO ENDORSED CONVERTS THE INSTRUMENT UNLESS THE AMOUNT
22 PAID FOR THE INSTRUMENT IS RECEIVED BY THE ENDORSER OR APPLIED
23 CONSISTENTLY WITH THE ENDORSEMENT.

24 (B) A DEPOSITARY BANK THAT PURCHASES THE INSTRUMENT OR TAKES
25 IT FOR COLLECTION WHEN SO ENDORSED CONVERTS THE INSTRUMENT UNLESS
26 THE AMOUNT PAID BY THE BANK WITH RESPECT TO THE INSTRUMENT IS

1 RECEIVED BY THE ENDORSER OR APPLIED CONSISTENTLY WITH THE
2 ENDORSEMENT.

3 (C) A PAYOR BANK THAT IS ALSO THE DEPOSITARY BANK OR THAT
4 TAKES THE INSTRUMENT FOR IMMEDIATE PAYMENT OVER THE COUNTER FROM
5 A PERSON OTHER THAN A COLLECTING BANK CONVERTS THE INSTRUMENT
6 UNLESS THE PROCEEDS OF THE INSTRUMENT ARE RECEIVED BY THE
7 ENDORSER OR APPLIED CONSISTENTLY WITH THE ENDORSEMENT.

8 (D) EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (C), A PAYOR
9 BANK OR INTERMEDIARY BANK MAY DISREGARD THE ENDORSEMENT AND IS
10 NOT LIABLE IF THE PROCEEDS OF THE INSTRUMENT ARE NOT RECEIVED BY
11 THE ENDORSER OR APPLIED CONSISTENTLY WITH THE ENDORSEMENT.

12 (4) EXCEPT FOR AN ENDORSEMENT COVERED BY SUBSECTION (3), IF
13 AN INSTRUMENT BEARS AN ENDORSEMENT USING WORDS TO THE EFFECT THAT
14 PAYMENT IS TO BE MADE TO THE ENDORSEE AS AGENT, TRUSTEE, OR OTHER
15 FIDUCIARY FOR THE BENEFIT OF THE ENDORSER OR ANOTHER PERSON, THE
16 FOLLOWING RULES APPLY:

17 (A) UNLESS THERE IS NOTICE OF BREACH OF FIDUCIARY DUTY AS
18 PROVIDED IN SECTION 3307, A PERSON WHO PURCHASES THE INSTRUMENT
19 FROM THE ENDORSEE OR TAKES THE INSTRUMENT FROM THE ENDORSEE FOR
20 COLLECTION OR PAYMENT MAY PAY THE PROCEEDS OF THE PAYMENT OR THE
21 VALUE GIVEN FOR THE INSTRUMENT TO THE ENDORSEE WITHOUT REGARD TO
22 WHETHER THE ENDORSEE VIOLATES A FIDUCIARY DUTY TO THE ENDORSER.

23 (B) A SUBSEQUENT TRANSFEREE OF THE INSTRUMENT OR PERSON WHO
24 PAYS THE INSTRUMENT IS NEITHER GIVEN NOTICE NOR OTHERWISE
25 AFFECTED BY THE RESTRICTION IN THE ENDORSEMENT UNLESS THE TRANS-
26 FEREER OR PAYOR KNOWS THAT THE FIDUCIARY DEALT WITH THE INSTRUMENT
27 OR ITS PROCEEDS IN BREACH OF FIDUCIARY DUTY.

1 (5) THE PRESENCE ON AN INSTRUMENT OF AN ENDORSEMENT TO WHICH
2 THIS SECTION APPLIES DOES NOT PREVENT A PURCHASER OF THE INSTRU-
3 MENT FROM BECOMING A HOLDER IN DUE COURSE OF THE INSTRUMENT
4 UNLESS THE PURCHASER IS A CONVERTER UNDER SUBSECTION (3) OR HAS
5 NOTICE OR KNOWLEDGE OF BREACH OF FIDUCIARY DUTY AS STATED IN
6 SUBSECTION (4).

7 (6) IN AN ACTION TO ENFORCE THE OBLIGATION OF A PARTY TO PAY
8 THE INSTRUMENT, THE OBLIGOR HAS A DEFENSE IF PAYMENT WOULD VIO-
9 LATE AN ENDORSEMENT TO WHICH THIS SECTION APPLIES AND THE PAYMENT
10 IS NOT PERMITTED BY THIS SECTION.

11 Sec. 3207. ~~(1) Negotiation is effective to transfer the~~
12 ~~instrument although the negotiation is~~

13 ~~(a) made by an infant, a corporation exceeding its powers,~~
14 ~~or any other person without capacity, or~~

15 ~~(b) obtained by fraud, duress or mistake of any kind, or~~

16 ~~(c) part of an illegal transaction, or~~

17 ~~(d) made in breach of duty.~~

18 ~~(2) Except as against a subsequent holder in due course such~~
19 ~~negotiation is in an appropriate case subject to rescission, the~~
20 ~~declaration of a constructive trust or any other remedy permitted~~
21 ~~by law.~~ REACQUISITION OF AN INSTRUMENT OCCURS IF IT IS TRANS-

22 FERRED TO A FORMER HOLDER, BY NEGOTIATION OR OTHERWISE. A FORMER
23 HOLDER WHO REACQUIRES THE INSTRUMENT MAY CANCEL ENDORSEMENTS MADE
24 AFTER THE REACQUIRER FIRST BECAME A HOLDER OF THE INSTRUMENT. IF
25 THE CANCELLATION CAUSES THE INSTRUMENT TO BE PAYABLE TO THE REAC-
26 QUIRER OR TO BEARER, THE REACQUIRER MAY NEGOTIATE THE
27 INSTRUMENT. AN ENDORSER WHOSE ENDORSEMENT IS CANCELED IS

1 DISCHARGED, AND THE DISCHARGE IS EFFECTIVE AGAINST ANY SUBSEQUENT
2 HOLDER.

3 PART 3. ~~RIGHTS OF A HOLDER~~ ENFORCEMENT OF INSTRUMENTS

4 Sec. 3301. ~~The holder of an instrument whether or not he~~
5 ~~is the owner may transfer or negotiate it and, except as other~~
6 ~~wise provided in section 3603 on payment or satisfaction, dis~~
7 ~~charge it or enforce payment in his own name.~~ "PERSON ENTITLED
8 TO ENFORCE" AN INSTRUMENT MEANS (i) THE HOLDER OF THE INSTRUMENT,
9 (ii) A NONHOLDER IN POSSESSION OF THE INSTRUMENT WHO HAS THE
10 RIGHTS OF A HOLDER, OR (iii) A PERSON NOT IN POSSESSION OF THE
11 INSTRUMENT WHO IS ENTITLED TO ENFORCE THE INSTRUMENT PURSUANT TO
12 SECTION 3309 OR 3418(4). A PERSON MAY BE A PERSON ENTITLED TO
13 ENFORCE THE INSTRUMENT EVEN THOUGH THE PERSON IS NOT THE OWNER OF
14 THE INSTRUMENT OR IS IN WRONGFUL POSSESSION OF THE INSTRUMENT.

15 Sec. 3302. ~~(1) A holder in due course is a holder who~~
16 ~~takes the instrument~~

17 ~~(a) for value; and~~

18 ~~(b) in good faith; and~~

19 ~~(c) without notice that it is overdue or has been dishonored~~
20 ~~or of any defense against or claim to it on the part of any~~
21 ~~person.~~

22 ~~(2) A payee may be a holder in due course.~~

23 ~~(3) A holder does not become a holder in due course of an~~
24 ~~instrument:~~

25 ~~(a) by purchase of it at judicial sale or by taking it under~~
26 ~~legal process; or~~

~~(b) by acquiring it in taking over an estate; or~~

~~(c) by purchasing it as part of a bulk transaction not in
regular course of business of the transferor.~~

~~(4) A purchaser of a limited interest can be a holder in due
course only to the extent of the interest purchased.~~

(1) SUBJECT TO SUBSECTION (3) AND SECTION 3106(4), "HOLDER
IN DUE COURSE" MEANS THE HOLDER OF AN INSTRUMENT IF BOTH OF THE
FOLLOWING APPLY:

(A) THE INSTRUMENT WHEN ISSUED OR NEGOTIATED TO THE HOLDER
DOES NOT BEAR SUCH APPARENT EVIDENCE OF FORGERY OR ALTERATION OR
IS NOT OTHERWISE SO IRREGULAR OR INCOMPLETE AS TO CALL INTO QUES-
TION ITS AUTHENTICITY.

(B) THE HOLDER TOOK THE INSTRUMENT (i) FOR VALUE, (ii) IN
GOOD FAITH, (iii) WITHOUT NOTICE THAT THE INSTRUMENT IS OVERDUE
OR HAS BEEN DISHONORED OR THAT THERE IS AN INCURRED DEFAULT WITH
RESPECT TO PAYMENT OF ANOTHER INSTRUMENT ISSUED AS PART OF THE
SAME SERIES, (iv) WITHOUT NOTICE THAT THE INSTRUMENT CONTAINS AN
UNAUTHORIZED SIGNATURE OR HAS BEEN ALTERED, (v) WITHOUT NOTICE OF
ANY CLAIM TO THE INSTRUMENT DESCRIBED IN SECTION 3306, AND (vi)
WITHOUT NOTICE THAT ANY PARTY HAS A DEFENSE OR CLAIM IN RECOUP-
MENT DESCRIBED IN SECTION 3305(1).

(2) NOTICE OF DISCHARGE OF A PARTY, OTHER THAN DISCHARGE IN
AN INSOLVENCY PROCEEDING, IS NOT NOTICE OF A DEFENSE UNDER
SUBSECTION (1), BUT DISCHARGE IS EFFECTIVE AGAINST A PERSON WHO
BECAME A HOLDER IN DUE COURSE WITH NOTICE OF THE DISCHARGE.
PUBLIC FILING OR RECORDING OF A DOCUMENT DOES NOT OF ITSELF

1 CONSTITUTE NOTICE OF A DEFENSE, CLAIM IN RECOUPMENT, OR CLAIM TO
2 THE INSTRUMENT.

3 (3) EXCEPT TO THE EXTENT A TRANSFEROR OR PREDECESSOR IN
4 INTEREST HAS RIGHTS AS A HOLDER IN DUE COURSE, A PERSON DOES NOT
5 ACQUIRE RIGHTS OF A HOLDER IN DUE COURSE OF AN INSTRUMENT TAKEN
6 (i) BY LEGAL PROCESS OR BY PURCHASE IN AN EXECUTION, BANKRUPTCY,
7 OR CREDITOR'S SALE OR SIMILAR PROCEEDING, (ii) BY PURCHASE AS
8 PART OF A BULK TRANSACTION NOT IN ORDINARY COURSE OF BUSINESS OF
9 THE TRANSFEROR, OR (iii) AS THE SUCCESSOR IN INTEREST TO AN
10 ESTATE OR OTHER ORGANIZATION.

11 (4) IF UNDER SECTION 3303(1)(A) THE PROMISE OF PERFORMANCE
12 THAT IS THE CONSIDERATION FOR AN INSTRUMENT HAS BEEN PARTIALLY
13 PERFORMED, THE HOLDER MAY ASSERT RIGHTS AS A HOLDER IN DUE COURSE
14 OF THE INSTRUMENT ONLY TO THE FRACTION OF THE AMOUNT PAYABLE
15 UNDER THE INSTRUMENT EQUAL TO THE VALUE OF THE PARTIAL PER-
16 FORMANCE DIVIDED BY THE VALUE OF THE PROMISED PERFORMANCE.

17 (5) IF (i) THE PERSON ENTITLED TO ENFORCE AN INSTRUMENT HAS
18 ONLY A SECURITY INTEREST IN THE INSTRUMENT AND (ii) THE PERSON
19 OBLIGED TO PAY THE INSTRUMENT HAS A DEFENSE, CLAIM IN RECOUPMENT,
20 OR CLAIM TO THE INSTRUMENT THAT MAY BE ASSERTED AGAINST THE
21 PERSON WHO GRANTED THE SECURITY INTEREST, THE PERSON ENTITLED TO
22 ENFORCE THE INSTRUMENT MAY ASSERT RIGHTS AS A HOLDER IN DUE
23 COURSE ONLY TO AN AMOUNT PAYABLE UNDER THE INSTRUMENT WHICH, AT
24 THE TIME OF ENFORCEMENT OF THE INSTRUMENT, DOES NOT EXCEED THE
25 AMOUNT OF THE UNPAID OBLIGATION SECURED.

26 (6) TO BE EFFECTIVE, NOTICE MUST BE RECEIVED AT A TIME AND
27 IN A MANNER THAT GIVES A REASONABLE OPPORTUNITY TO ACT ON IT.

1 (7) THIS SECTION IS SUBJECT TO ANY LAW LIMITING STATUS AS A
2 HOLDER IN DUE COURSE IN PARTICULAR CLASSES OF TRANSACTIONS.

3 Sec. 3303. ~~A holder takes the instrument for value~~

4 ~~(a) to the extent that the agreed consideration has been~~
5 ~~performed or that he acquires a security interest in or a lien on~~
6 ~~the instrument otherwise than by legal process; or~~

7 ~~(b) when he takes the instrument in payment of or as secur-~~
8 ~~ity for an antecedent claim against any person whether or not the~~
9 ~~claim is due; or~~

10 ~~(c) when he gives a negotiable instrument for it or makes an~~
11 ~~irrevocable commitment to a third person.~~

12 (1) AN INSTRUMENT IS ISSUED OR TRANSFERRED FOR VALUE IF ANY
13 OF THE FOLLOWING APPLY:

14 (A) THE INSTRUMENT IS ISSUED OR TRANSFERRED FOR A PROMISE OF
15 PERFORMANCE, TO THE EXTENT THE PROMISE HAS BEEN PERFORMED.

16 (B) THE TRANSFEREE ACQUIRES A SECURITY INTEREST OR OTHER
17 LIEN IN THE INSTRUMENT OTHER THAN A LIEN OBTAINED BY JUDICIAL
18 PROCEEDING.

19 (C) THE INSTRUMENT IS ISSUED OR TRANSFERRED AS PAYMENT OF,
20 OR AS SECURITY FOR, AN ANTECEDENT CLAIM AGAINST ANY PERSON,
21 WHETHER OR NOT THE CLAIM IS DUE.

22 (D) THE INSTRUMENT IS ISSUED OR TRANSFERRED IN EXCHANGE FOR
23 A NEGOTIABLE INSTRUMENT.

24 (E) THE INSTRUMENT IS ISSUED OR TRANSFERRED IN EXCHANGE FOR
25 THE INCURRING OF AN IRREVOCABLE OBLIGATION TO A THIRD PARTY BY
26 THE PERSON TAKING THE INSTRUMENT.

1 (2) "CONSIDERATION" MEANS ANY CONSIDERATION SUFFICIENT TO
2 SUPPORT A SIMPLE CONTRACT. THE DRAWER OR MAKER OF AN INSTRUMENT
3 HAS A DEFENSE IF THE INSTRUMENT IS ISSUED WITHOUT CONSIDERATION.
4 IF AN INSTRUMENT IS ISSUED FOR A PROMISE OF PERFORMANCE, THE
5 ISSUER HAS A DEFENSE TO THE EXTENT PERFORMANCE OF THE PROMISE IS
6 DUE AND THE PROMISE HAS NOT BEEN PERFORMED. IF AN INSTRUMENT IS
7 ISSUED FOR VALUE AS STATED IN SUBSECTION (1), THE INSTRUMENT IS
8 ALSO ISSUED FOR CONSIDERATION.

9 Sec. 3304. ~~(1) The purchaser has notice of a claim or~~
10 ~~defense if~~

11 ~~(a) the instrument is so incomplete, bears such visible evi-~~
12 ~~dence of forgery or alteration, or is otherwise so irregular as~~
13 ~~to call into question its validity, terms or ownership or to~~
14 ~~create an ambiguity as to the party to pay; or~~

15 ~~(b) the purchaser has notice that the obligation of any~~
16 ~~party is voidable in whole or in part, or that all parties have~~
17 ~~been discharged.~~

18 ~~(2) The purchaser has notice of a claim against the instru-~~
19 ~~ment when he has knowledge that a fiduciary has negotiated the~~
20 ~~instrument in payment of or as security for his own debt or in~~
21 ~~any transaction for his own benefit or otherwise in breach of~~
22 ~~duty.~~

23 ~~(3) The purchaser has notice that an instrument is overdue~~
24 ~~if he has reason to know~~

25 ~~(a) that any part of the principal amount is overdue or that~~
26 ~~there is an uncured default in payment of another instrument of~~
27 ~~the same series; or~~

1 ~~(b) that acceleration of the instrument has been made; or~~
2 ~~(c) that he is taking a demand instrument after demand has~~
3 ~~been made or more than a reasonable length of time after its~~
4 ~~issue. A reasonable time for a check drawn and payable within~~
5 ~~the states and territories of the United States and the District~~
6 ~~of Columbia is presumed to be 30 days.~~

7 ~~(4) Knowledge of the following facts does not of itself give~~
8 ~~the purchaser notice of a defense or claim.~~

9 ~~(a) that the instrument is antedated or postdated;~~

10 ~~(b) that it was issued or negotiated in return for an execu-~~
11 ~~tory promise or accompanied by a separate agreement, unless the~~
12 ~~purchaser has notice that a defense or claim has arisen from the~~
13 ~~terms thereof;~~

14 ~~(c) that any party has signed for accommodation;~~

15 ~~(d) that an incomplete instrument has been completed, unless~~
16 ~~the purchaser has notice of any improper completion;~~

17 ~~(e) that any person negotiating the instrument is or was a~~
18 ~~fiduciary;~~

19 ~~(f) that there has been default in payment of interest on~~
20 ~~the instrument or in payment of any other instrument, except one~~
21 ~~of the same series.~~

22 ~~(5) The filing or recording of a document does not of itself~~
23 ~~constitute notice within the provisions of this article to a~~
24 ~~person who would otherwise be a holder in due course.~~

25 ~~(6) To be effective notice must be received at such time and~~
26 ~~in such manner as to give a reasonable opportunity to act on it.~~

1 (1) AN INSTRUMENT PAYABLE ON DEMAND BECOMES OVERDUE AT THE
2 EARLIEST OF THE FOLLOWING TIMES:

3 (A) ON THE DAY AFTER THE DAY DEMAND FOR PAYMENT IS DULY
4 MADE.

5 (B) IF THE INSTRUMENT IS A CHECK, 90 DAYS AFTER ITS DATE.

6 (C) IF THE INSTRUMENT IS NOT A CHECK, WHEN THE INSTRUMENT
7 HAS BEEN OUTSTANDING FOR A PERIOD OF TIME AFTER ITS DATE WHICH IS
8 UNREASONABLY LONG UNDER THE CIRCUMSTANCES OF THE PARTICULAR CASE
9 IN LIGHT OF THE NATURE OF THE INSTRUMENT AND USAGE OF THE TRADE.

10 (2) WITH RESPECT TO AN INSTRUMENT PAYABLE AT A DEFINITE
11 TIME, THE FOLLOWING RULES APPLY:

12 (A) IF THE PRINCIPAL IS PAYABLE IN INSTALLMENTS AND A DUE
13 DATE HAS NOT BEEN ACCELERATED, THE INSTRUMENT BECOMES OVERDUE
14 UPON DEFAULT UNDER THE INSTRUMENT FOR NONPAYMENT OF AN INSTALL-
15 MENT, AND THE INSTRUMENT REMAINS OVERDUE UNTIL THE DEFAULT IS
16 CURED.

17 (B) IF THE PRINCIPAL IS NOT PAYABLE IN INSTALLMENTS AND THE
18 DUE DATE HAS NOT BEEN ACCELERATED, THE INSTRUMENT BECOMES OVERDUE
19 ON THE DAY AFTER THE DUE DATE.

20 (C) IF A DUE DATE WITH RESPECT TO PRINCIPAL HAS BEEN ACCEL-
21 ERATED, THE INSTRUMENT BECOMES OVERDUE ON THE DAY AFTER THE
22 ACCELERATED DUE DATE.

23 (3) UNLESS THE DUE DATE OF PRINCIPAL HAS BEEN ACCELERATED,
24 AN INSTRUMENT DOES NOT BECOME OVERDUE IF THERE IS DEFAULT IN PAY-
25 MENT OF INTEREST BUT NO DEFAULT IN PAYMENT OF PRINCIPAL.

26 Sec. 3305. ~~To the extent that a holder is a holder in due~~
27 ~~course he takes the instrument free from~~

~~(1) all claims to it on the part of any person; and~~

~~(2) all defenses of any party to the instrument with whom
the holder has not dealt except~~

~~(a) infancy, to the extent that it is a defense to a simple
contract; and~~

~~(b) such other incapacity, or duress, or illegality of the
transaction, as renders the obligation of the party a nullity;
and~~

~~(c) such misrepresentation as has induced the party to sign
the instrument with neither knowledge nor reasonable opportunity
to obtain knowledge of its character or its essential terms; and~~

~~(d) discharge in insolvency proceedings; and~~

~~(e) any other discharge of which the holder has notice when~~

~~he takes the instrument.~~ (1) EXCEPT AS STATED IN SUBSECTION (2),
THE RIGHT TO ENFORCE THE OBLIGATION OF A PARTY TO PAY AN INSTRU-
MENT IS SUBJECT TO THE FOLLOWING:

(A) A DEFENSE OF THE OBLIGOR BASED ON (i) INFANCY OF THE
OBLIGOR TO THE EXTENT IT IS A DEFENSE TO A SIMPLE CONTRACT, (ii)
DURESS, LACK OF LEGAL CAPACITY, OR ILLEGALITY OF THE TRANSACTION
WHICH, UNDER OTHER LAW, NULLIFIES THE OBLIGATION OF THE OBLIGOR,
(iii) FRAUD THAT INDUCED THE OBLIGOR TO SIGN THE INSTRUMENT WITH
NEITHER KNOWLEDGE NOR REASONABLE OPPORTUNITY TO LEARN OF ITS
CHARACTER OR ITS ESSENTIAL TERMS, OR (iv) DISCHARGE OF THE OBLI-
GOR IN INSOLVENCY PROCEEDINGS.

(B) A DEFENSE OF THE OBLIGOR STATED IN ANOTHER SECTION OF
THIS ARTICLE OR A DEFENSE OF THE OBLIGOR THAT WOULD BE AVAILABLE

1 IF THE PERSON ENTITLED TO ENFORCE THE INSTRUMENT WERE ENFORCING A
2 RIGHT TO PAYMENT UNDER A SIMPLE CONTRACT.

3 (C) A CLAIM IN RECOUPMENT OF THE OBLIGOR AGAINST THE ORIGI-
4 NAL PAYEE OF THE INSTRUMENT IF THE CLAIM AROSE FROM THE TRANSAC-
5 TION THAT GAVE RISE TO THE INSTRUMENT, BUT THE CLAIM OF THE OBLI-
6 GOR MAY BE ASSERTED AGAINST A TRANSFEREE OF THE INSTRUMENT ONLY
7 TO REDUCE THE AMOUNT OWING ON THE INSTRUMENT AT THE TIME THE
8 ACTION IS BROUGHT.

9 (2) THE RIGHT OF A HOLDER IN DUE COURSE TO ENFORCE THE OBLI-
10 GATION OF A PARTY TO PAY THE INSTRUMENT IS SUBJECT TO DEFENSES OF
11 THE OBLIGOR STATED IN SUBSECTION (1)(A), BUT IS NOT SUBJECT TO
12 DEFENSES OF THE OBLIGOR STATED IN SUBSECTION (1)(B) OR CLAIMS IN
13 RECOUPMENT STATED IN SUBSECTION (1)(C) AGAINST A PERSON OTHER
14 THAN THE HOLDER.

15 (3) EXCEPT AS STATED IN SUBSECTION (4), IN AN ACTION TO
16 ENFORCE THE OBLIGATION OF A PARTY TO PAY THE INSTRUMENT, THE
17 OBLIGOR MAY NOT ASSERT AGAINST THE PERSON ENTITLED TO ENFORCE THE
18 INSTRUMENT A DEFENSE, CLAIM IN RECOUPMENT, OR CLAIM TO THE
19 INSTRUMENT IN SECTION 3306 OF ANOTHER PERSON, BUT THE OTHER
20 PERSON'S CLAIM TO THE INSTRUMENT MAY BE ASSERTED BY THE OBLIGOR
21 IF THE OTHER PERSON IS JOINED IN THE ACTION AND PERSONALLY
22 ASSERTS THE CLAIM AGAINST THE PERSON ENTITLED TO ENFORCE THE
23 INSTRUMENT. AN OBLIGOR IS NOT OBLIGED TO PAY THE INSTRUMENT IF
24 THE PERSON SEEKING ENFORCEMENT OF THE INSTRUMENT DOES NOT HAVE
25 RIGHTS OF A HOLDER IN DUE COURSE AND THE OBLIGOR PROVES THAT THE
26 INSTRUMENT IS A LOST OR STOLEN INSTRUMENT.

1 (4) IN AN ACTION TO ENFORCE THE OBLIGATION OF AN
2 ACCOMMODATION PARTY TO PAY AN INSTRUMENT, THE ACCOMMODATION PARTY
3 MAY ASSERT AGAINST THE PERSON ENTITLED TO ENFORCE THE INSTRUMENT
4 ANY DEFENSE OR CLAIM IN RECOUPMENT UNDER SUBSECTION (1) THAT THE
5 ACCOMMODATED PARTY COULD ASSERT AGAINST THE PERSON ENTITLED TO
6 ENFORCE THE INSTRUMENT, EXCEPT THE DEFENSES OF DISCHARGE IN
7 INSOLVENCY PROCEEDINGS, INFANCY, AND LACK OF LEGAL CAPACITY.

8 Sec. 3306. ~~Unless he has the rights of a holder in due~~
9 ~~course any person takes the instrument subject to~~

10 ~~(a) all valid claims to it on the part of any person; and~~

11 ~~(b) all defenses of any party which would be available in an~~
12 ~~action on a simple contract; and~~

13 ~~(c) the defenses of want or failure of consideration, non-~~
14 ~~performance of any condition precedent, nondelivery, or delivery~~
15 ~~for a special purpose (section 3408); and~~

16 ~~(d) the defense that he or a person through whom he holds~~
17 ~~the instrument acquired it by theft, or that payment or satisfac-~~
18 ~~tion to such holder would be inconsistent with the terms of a~~
19 ~~restrictive indorsement. The claim of any third person to the~~
20 ~~instrument is not otherwise available as a defense to any party~~
21 ~~liable thereon unless the third person himself defends the action~~
22 ~~for such party. A PERSON TAKING AN INSTRUMENT, OTHER THAN A~~
23 ~~PERSON HAVING RIGHTS OF A HOLDER IN DUE COURSE, IS SUBJECT TO A~~
24 ~~CLAIM OF A PROPERTY OR POSSESSORY RIGHT IN THE INSTRUMENT OR ITS~~
25 ~~PROCEEDS, INCLUDING A CLAIM TO RESCIND A NEGOTIATION AND TO~~
26 ~~RECOVER THE INSTRUMENT OR ITS PROCEEDS. A PERSON HAVING RIGHTS~~

1 OF A HOLDER IN DUE COURSE TAKES FREE OF THE CLAIM TO THE
2 INSTRUMENT.

3 Sec. 3307. ~~(1) Unless specifically denied in the pleading~~
4 ~~each signature on an instrument is admitted. When the effective-~~
5 ~~ness of a signature is put in issue~~

6 ~~(a) the burden of establishing it is on the party claiming~~
7 ~~under the signature; but~~

8 ~~(b) the signature is presumed to be genuine or authorized~~
9 ~~except where the action is to enforce the obligation of a pur-~~
10 ~~ported signer who has died or become incompetent before proof is~~
11 ~~required.~~

12 ~~(2) When signatures are admitted or established, production~~
13 ~~of the instrument entitles a holder to recover on it unless the~~
14 ~~defendant establishes a defense.~~

15 ~~(3) After it is shown that a defense exists a person claim-~~
16 ~~ing the rights of a holder in due course has the burden of estab-~~
17 ~~lishing that he or some person under whom he claims is in all~~
18 ~~respects a holder in due course.~~

19 (1) AS USED IN THIS SECTION:

20 (A) "FIDUCIARY" MEANS AN AGENT, TRUSTEE, PARTNER, CORPORATE
21 OFFICER OR DIRECTOR, OR OTHER REPRESENTATIVE OWING A FIDUCIARY
22 DUTY WITH RESPECT TO AN INSTRUMENT.

23 (B) "REPRESENTED PERSON" MEANS THE PRINCIPAL, BENEFICIARY,
24 PARTNERSHIP, CORPORATION, OR OTHER PERSON TO WHOM THE DUTY STATED
25 IN SUBDIVISION (A) IS OWNED.

26 (2) IF (i) AN INSTRUMENT IS TAKEN FROM A FIDUCIARY FOR
27 PAYMENT OR COLLECTION OR FOR VALUE, (ii) THE TAKER HAS KNOWLEDGE

1 OF THE FIDUCIARY STATUS OF THE FIDUCIARY, AND (iii) THE
2 REPRESENTED PERSON MAKES A CLAIM TO THE INSTRUMENT OR ITS PRO-
3 CEEDS ON THE BASIS THAT THE TRANSACTION OF THE FIDUCIARY IS A
4 BREACH OF FIDUCIARY DUTY, THE FOLLOWING RULES APPLY:

5 (A) NOTICE OF BREACH OF FIDUCIARY DUTY BY THE FIDUCIARY IS
6 NOTICE OF THE CLAIM OF THE REPRESENTED PERSON.

7 (B) IN THE CASE OF AN INSTRUMENT PAYABLE TO THE REPRESENTED
8 PERSON OR THE FIDUCIARY AS SUCH, THE TAKER HAS NOTICE OF THE
9 BREACH OF FIDUCIARY DUTY IF THE INSTRUMENT IS (i) TAKEN IN PAY-
10 MENT OF OR AS SECURITY FOR A DEBT KNOWN BY THE TAKER TO BE THE
11 PERSONAL DEBT OF THE FIDUCIARY, (ii) TAKEN IN A TRANSACTION KNOWN
12 BY THE TAKER TO BE FOR THE PERSONAL BENEFIT OF THE FIDUCIARY, OR
13 (iii) DEPOSITED TO AN ACCOUNT OTHER THAN AN ACCOUNT OF THE FIDU-
14 CIARY, AS SUCH, OR AN ACCOUNT OF THE REPRESENTED PERSON.

15 (C) IF AN INSTRUMENT IS ISSUED BY THE REPRESENTED PERSON OR
16 THE FIDUCIARY AS SUCH, AND MADE PAYABLE TO THE FIDUCIARY PERSON-
17 ALLY, THE TAKER DOES NOT HAVE NOTICE OF THE BREACH OF FIDUCIARY
18 DUTY UNLESS THE TAKER KNOWS OF THE BREACH OF FIDUCIARY DUTY.

19 (D) IF AN INSTRUMENT IS ISSUED BY THE REPRESENTED PERSON OR
20 THE FIDUCIARY AS SUCH, TO THE TAKER AS PAYEE, THE TAKER HAS
21 NOTICE OF THE BREACH OF FIDUCIARY DUTY IF THE INSTRUMENT IS (i)
22 TAKEN IN PAYMENT OF OR AS SECURITY FOR A DEBT KNOWN BY THE TAKER
23 TO BE THE PERSONAL DEBT OF THE FIDUCIARY, (ii) TAKEN IN A TRANS-
24 ACTION KNOWN BY THE TAKER TO BE FOR THE PERSONAL BENEFIT OF THE
25 FIDUCIARY, OR (iii) DEPOSITED TO AN ACCOUNT OTHER THAN AN ACCOUNT
26 OF THE FIDUCIARY, AS SUCH, OR AN ACCOUNT OF THE REPRESENTED
27 PERSON.

1 SEC. 3308. (1) IN AN ACTION WITH RESPECT TO AN INSTRUMENT,
2 THE AUTHENTICITY OF, AND AUTHORITY TO MAKE, EACH SIGNATURE ON THE
3 INSTRUMENT IS ADMITTED UNLESS SPECIFICALLY DENIED IN THE
4 PLEADINGS. IF THE VALIDITY OF A SIGNATURE IS DENIED IN THE
5 PLEADINGS, THE BURDEN OF ESTABLISHING VALIDITY IS ON THE PERSON
6 CLAIMING VALIDITY, BUT THE SIGNATURE IS PRESUMED TO BE AUTHENTIC
7 AND AUTHORIZED UNLESS THE ACTION IS TO ENFORCE THE LIABILITY OF
8 THE PURPORTED SIGNER AND THE SIGNER IS DEAD OR INCOMPETENT AT THE
9 TIME OF TRIAL OF THE ISSUE OF VALIDITY OF THE SIGNATURE. IF AN
10 ACTION TO ENFORCE THE INSTRUMENT IS BROUGHT AGAINST A PERSON AS
11 THE UNDISCLOSED PRINCIPAL OF A PERSON WHO SIGNED THE INSTRUMENT
12 AS A PARTY TO THE INSTRUMENT, THE PLAINTIFF HAS THE BURDEN OF
13 ESTABLISHING THAT THE DEFENDANT IS LIABLE ON THE INSTRUMENT AS A
14 REPRESENTED PERSON UNDER SECTION 3402(1).

15 (2) IF THE VALIDITY OF SIGNATURES IS ADMITTED OR PROVED AND
16 THERE IS COMPLIANCE WITH SUBSECTION (1), A PLAINTIFF PRODUCING
17 THE INSTRUMENT IS ENTITLED TO PAYMENT IF THE PLAINTIFF PROVES
18 ENTITLEMENT TO ENFORCE THE INSTRUMENT UNDER SECTION 3301, UNLESS
19 THE DEFENDANT PROVES A DEFENSE OR CLAIM IN RECOUPMENT. IF A
20 DEFENSE OR CLAIM IN RECOUPMENT IS PROVED, THE RIGHT TO PAYMENT OF
21 THE PLAINTIFF IS SUBJECT TO THE DEFENSE OR CLAIM, EXCEPT TO THE
22 EXTENT THE PLAINTIFF PROVES THAT THE PLAINTIFF HAS RIGHTS OF A
23 HOLDER IN DUE COURSE WHICH ARE NOT SUBJECT TO THE DEFENSE OR
24 CLAIM.

25 SEC. 3309. (1) A PERSON NOT IN POSSESSION OF AN INSTRUMENT
26 IS ENTITLED TO ENFORCE THE INSTRUMENT IF (i) THE PERSON WAS IN
27 POSSESSION OF THE INSTRUMENT AND ENTITLED TO ENFORCE IT WHEN LOSS

1 OF POSSESSION OCCURRED, (ii) THE LOSS OF POSSESSION WAS NOT THE
2 RESULT OF A TRANSFER BY THE PERSON OR A LAWFUL SEIZURE, AND (iii)
3 THE PERSON CANNOT REASONABLY OBTAIN POSSESSION OF THE INSTRUMENT
4 BECAUSE THE INSTRUMENT WAS DESTROYED, ITS WHEREABOUTS CANNOT BE
5 DETERMINED, OR IT IS IN THE WRONGFUL POSSESSION OF AN UNKNOWN
6 PERSON OR A PERSON THAT CANNOT BE FOUND OR IS NOT AMENABLE TO
7 SERVICE OF PROCESS.

8 (2) A PERSON SEEKING ENFORCEMENT OF AN INSTRUMENT UNDER
9 SUBSECTION (1) MUST PROVE THE TERMS OF THE INSTRUMENT AND THE
10 PERSON'S RIGHT TO ENFORCE THE INSTRUMENT. IF THAT PROOF IS MADE,
11 SECTION 3308 APPLIES TO THE CASE AS IF THE PERSON SEEKING
12 ENFORCEMENT HAD PRODUCED THE INSTRUMENT. THE COURT MAY NOT ENTER
13 JUDGMENT IN FAVOR OF THE PERSON SEEKING ENFORCEMENT UNLESS IT
14 FINDS THAT THE PERSON REQUIRED TO PAY THE INSTRUMENT IS ADE-
15 QUATELY PROTECTED AGAINST LOSS THAT MIGHT OCCUR BY REASON OF A
16 CLAIM BY ANOTHER PERSON TO ENFORCE THE INSTRUMENT. ADEQUATE PRO-
17 TECTION MAY BE PROVIDED BY ANY REASONABLE MEANS.

18 SEC. 3310. (1) UNLESS OTHERWISE AGREED, IF A CERTIFIED
19 CHECK, CASHIER'S CHECK, OR TELLER'S CHECK IS TAKEN FOR AN OBLIGA-
20 TION, THE OBLIGATION IS DISCHARGED TO THE SAME EXTENT DISCHARGE
21 WOULD RESULT IF AN AMOUNT OF MONEY EQUAL TO THE AMOUNT OF THE
22 INSTRUMENT WERE TAKEN IN PAYMENT OF THE OBLIGATION. DISCHARGE OF
23 THE OBLIGATION DOES NOT AFFECT ANY LIABILITY THAT THE OBLIGOR MAY
24 HAVE AS AN ENDORSER OF THE INSTRUMENT.

25 (2) UNLESS OTHERWISE AGREED AND EXCEPT AS PROVIDED IN
26 SUBSECTION (1), IF A NOTE OR AN UNCERTIFIED CHECK IS TAKEN FOR AN
27 OBLIGATION, THE OBLIGATION IS SUSPENDED TO THE SAME EXTENT THE

1 OBLIGATION WOULD BE DISCHARGED IF AN AMOUNT OF MONEY EQUAL TO THE
2 AMOUNT OF THE INSTRUMENT WERE TAKEN, AND THE FOLLOWING RULES
3 APPLY:

4 (A) IN THE CASE OF AN UNCERTIFIED CHECK, SUSPENSION OF THE
5 OBLIGATION CONTINUES UNTIL DISHONOR OF THE CHECK OR UNTIL IT IS
6 PAID OR CERTIFIED. PAYMENT OR CERTIFICATION OF THE CHECK RESULTS
7 IN DISCHARGE OF THE OBLIGATION TO THE EXTENT OF THE AMOUNT OF THE
8 CHECK.

9 (B) IN THE CASE OF A NOTE, SUSPENSION OF THE OBLIGATION CON-
10 TINUES UNTIL DISHONOR OF THE NOTE OR UNTIL IT IS PAID. PAYMENT
11 OF THE NOTE RESULTS IN DISCHARGE OF THE OBLIGATION TO THE EXTENT
12 OF THE PAYMENT.

13 (C) EXCEPT AS PROVIDED IN SUBDIVISION (D), IF THE CHECK OR
14 NOTE IS DISHONORED AND THE OBLIGEE OF THE OBLIGATION FOR WHICH
15 THE INSTRUMENT WAS TAKEN IS THE PERSON ENTITLED TO ENFORCE THE
16 INSTRUMENT, THE OBLIGEE MAY ENFORCE EITHER THE INSTRUMENT OR THE
17 OBLIGATION. IN THE CASE OF AN INSTRUMENT OF A THIRD PERSON WHICH
18 IS NEGOTIATED TO THE OBLIGEE BY THE OBLIGOR, DISCHARGE OF THE
19 OBLIGOR ON THE INSTRUMENT ALSO DISCHARGES THE OBLIGATION.

20 (D) IF THE PERSON ENTITLED TO ENFORCE THE INSTRUMENT TAKEN
21 FOR AN OBLIGATION IS A PERSON OTHER THAN THE OBLIGEE, THE OBLIGEE
22 MAY NOT ENFORCE THE OBLIGATION TO THE EXTENT THE OBLIGATION IS
23 SUSPENDED. IF THE OBLIGEE IS THE PERSON ENTITLED TO ENFORCE THE
24 INSTRUMENT BUT NO LONGER HAS POSSESSION OF IT BECAUSE IT WAS
25 LOST, STOLEN, OR DESTROYED, THE OBLIGATION MAY NOT BE ENFORCED TO
26 THE EXTENT OF THE AMOUNT PAYABLE ON THE INSTRUMENT, AND TO THAT

1 EXTENT THE OBLIGEE'S RIGHTS AGAINST THE OBLIGOR ARE LIMITED TO
2 ENFORCEMENT OF THE INSTRUMENT.

3 (3) IF AN INSTRUMENT OTHER THAN ONE DESCRIBED IN
4 SUBSECTION (1) OR (2) IS TAKEN FOR AN OBLIGATION, THE EFFECT IS
5 (i) THAT STATED IN SUBSECTION (1) IF THE INSTRUMENT IS ONE ON
6 WHICH A BANK IS LIABLE AS MAKER OR ACCEPTOR, OR (ii) THAT STATED
7 IN SUBSECTION (2) IN ANY OTHER CASE.

8 SEC. 3311. (1) IF A PERSON AGAINST WHOM A CLAIM IS ASSERTED
9 PROVES THAT (i) THAT PERSON IN GOOD FAITH TENDERED AN INSTRUMENT
10 TO THE CLAIMANT AS FULL SATISFACTION OF THE CLAIM, (ii) THE
11 AMOUNT OF THE CLAIM WAS UNLIQUIDATED OR SUBJECT TO A BONA FIDE
12 DISPUTE, AND (iii) THE CLAIMANT OBTAINED PAYMENT OF THE INSTRU-
13 MENT, THE FOLLOWING SUBSECTIONS APPLY.

14 (2) UNLESS SUBSECTION (3) APPLIES, THE CLAIM IS DISCHARGED
15 IF THE PERSON AGAINST WHOM THE CLAIM IS ASSERTED PROVES THAT THE
16 INSTRUMENT OR AN ACCOMPANYING WRITTEN COMMUNICATION CONTAINED A
17 CONSPICUOUS STATEMENT TO THE EFFECT THAT THE INSTRUMENT WAS
18 TENDERED AS FULL SATISFACTION OF THE CLAIM.

19 (3) SUBJECT TO SUBSECTION (4), A CLAIM IS NOT DISCHARGED
20 UNDER SUBSECTION (2) IF EITHER OF THE FOLLOWING APPLIES:

21 (A) THE CLAIMANT, IF AN ORGANIZATION, PROVES THAT (i) WITHIN
22 A REASONABLE TIME BEFORE THE TENDER, THE CLAIMANT SENT A CONSPIC-
23 UOUS STATEMENT TO THE PERSON AGAINST WHOM THE CLAIM IS ASSERTED
24 THAT COMMUNICATIONS CONCERNING DISPUTED DEBTS, INCLUDING AN
25 INSTRUMENT TENDERED AS FULL SATISFACTION OF A DEBT, ARE TO BE
26 SENT TO A DESIGNATED PERSON, OFFICE, OR PLACE, AND (ii) THE

1 INSTRUMENT OR ACCOMPANYING COMMUNICATION WAS NOT RECEIVED BY THAT
2 DESIGNATED PERSON, OFFICE, OR PLACE.

3 (B) THE CLAIMANT, WHETHER OR NOT AN ORGANIZATION, PROVES
4 THAT WITHIN 90 DAYS AFTER PAYMENT OF THE INSTRUMENT, THE CLAIMANT
5 TENDERED REPAYMENT OF THE AMOUNT OF THE INSTRUMENT TO THE PERSON
6 AGAINST WHOM THE CLAIM IS ASSERTED. THIS SUBDIVISION DOES NOT
7 APPLY IF THE CLAIMANT IS AN ORGANIZATION THAT SENT A STATEMENT
8 COMPLYING WITH SUBDIVISION (A)(i).

9 (4) A CLAIM IS DISCHARGED IF THE PERSON AGAINST WHOM THE
10 CLAIM IS ASSERTED PROVES THAT WITHIN A REASONABLE TIME BEFORE
11 COLLECTION OF THE INSTRUMENT WAS INITIATED, THE CLAIMANT, OR AN
12 AGENT OF THE CLAIMANT HAVING DIRECT RESPONSIBILITY WITH RESPECT
13 TO THE DISPUTED OBLIGATION, KNEW THAT THE INSTRUMENT WAS TENDERED
14 IN FULL SATISFACTION OF THE CLAIM.

15 SEC. 3312. (1) AS USED IN THIS SECTION:

16 (A) "CHECK" MEANS A CASHIER'S CHECK, TELLER'S CHECK, OR CER-
17 TIFIED CHECK.

18 (B) "CLAIMANT" MEANS A PERSON WHO CLAIMS THE RIGHT TO
19 RECEIVE THE AMOUNT OF A CASHIER'S CHECK, TELLER'S CHECK, OR CER-
20 TIFIED CHECK THAT WAS LOST, DESTROYED, OR STOLEN.

21 (C) "DECLARATION OF LOSS" MEANS A WRITTEN STATEMENT, MADE
22 UNDER PENALTY OF PERJURY, TO THE EFFECT THAT ALL OF THE FOLLOWING
23 APPLY:

24 (i) THE DECLARER LOST POSSESSION OF A CHECK.

25 (ii) THE DECLARER IS THE DRAWER OR PAYEE OF THE CHECK IN THE
26 CASE OF A CERTIFIED CHECK, OR THE REMITTER OR PAYEE OF THE CHECK
27 IN THE CASE OF A CASHIER'S CHECK OR TELLER'S CHECK.

1 (iii) THE LOSS OF POSSESSION WAS NOT THE RESULT OF A
2 TRANSFER BY THE DECLARER OR A LAWFUL SEIZURE.

3 (iv) THE DECLARER CANNOT REASONABLY OBTAIN POSSESSION OF THE
4 CHECK BECAUSE THE CHECK WAS DESTROYED, ITS WHEREABOUTS CANNOT BE
5 DETERMINED, OR IT IS IN THE WRONGFUL POSSESSION OF AN UNKNOWN
6 PERSON OR A PERSON THAT CANNOT BE FOUND OR IS NOT AMENABLE TO
7 SERVICE OF PROCESS.

8 (D) "OBLIGATED BANK" MEANS THE ISSUER OF A CASHIER'S CHECK
9 OR TELLER'S CHECK OR THE ACCEPTOR OF A CERTIFIED CHECK.

10 (2) A CLAIMANT MAY ASSERT A CLAIM TO THE AMOUNT OF A CHECK
11 BY A COMMUNICATION TO THE OBLIGATED BANK DESCRIBING THE CHECK
12 WITH REASONABLE CERTAINTY AND REQUESTING PAYMENT OF THE AMOUNT OF
13 THE CHECK IF ALL OF THE FOLLOWING APPLY:

14 (A) THE CLAIMANT IS THE DRAWER OR PAYEE OF A CERTIFIED CHECK
15 OR THE REMITTER OR PAYEE OF A CASHIER'S CHECK OR TELLER'S CHECK.

16 (B) THE COMMUNICATION CONTAINS OR IS ACCOMPANIED BY A DECLA-
17 RATION OF LOSS OF THE CLAIMANT WITH RESPECT TO THE CHECK.

18 (C) THE COMMUNICATION IS RECEIVED AT A TIME AND IN A MANNER
19 AFFORDING THE BANK A REASONABLE TIME TO ACT ON IT BEFORE THE
20 CHECK IS PAID.

21 (D) THE CLAIMANT PROVIDES REASONABLE IDENTIFICATION IF
22 REQUESTED BY THE OBLIGATED BANK.

23 (3) DELIVERY OF A DECLARATION OF LOSS IS A WARRANTY OF THE
24 TRUTH OF THE STATEMENTS MADE IN THE DECLARATION.

25 (4) IF A CLAIM IS ASSERTED IN COMPLIANCE WITH
26 SUBSECTION (2), THE FOLLOWING RULES APPLY:

1 (A) THE CLAIM BECOMES ENFORCEABLE AT THE LATER OF THE
2 FOLLOWING:

3 (i) THE TIME THE CLAIM IS ASSERTED.

4 (ii) THE 90TH DAY FOLLOWING THE DATE OF THE CHECK IN THE
5 CASE OF A CASHIER'S CHECK OR TELLER'S CHECK, OR THE 90TH DAY FOL-
6 LOWING THE DATE OF THE ACCEPTANCE IN THE CASE OF A CERTIFIED
7 CHECK.

8 (B) UNTIL THE CLAIM BECOMES ENFORCEABLE, IT HAS NO LEGAL
9 EFFECT AND THE OBLIGATED BANK MAY PAY THE CHECK OR, IN THE CASE
10 OF A TELLER'S CHECK, MAY PERMIT THE DRAWEE TO PAY THE CHECK.
11 PAYMENT TO A PERSON ENTITLED TO ENFORCE THE CHECK DISCHARGES ALL
12 LIABILITY OF THE OBLIGATED BANK WITH RESPECT TO THE CHECK.

13 (C) IF THE CLAIM BECOMES ENFORCEABLE BEFORE THE CHECK IS
14 PRESENTED FOR PAYMENT, THE OBLIGATED BANK IS NOT OBLIGED TO PAY
15 THE CHECK.

16 (D) WHEN THE CLAIM BECOMES ENFORCEABLE, THE OBLIGATED BANK
17 BECOMES OBLIGED TO PAY THE AMOUNT OF THE CHECK TO THE CLAIMANT IF
18 PAYMENT OF THE CHECK HAS NOT BEEN MADE TO A PERSON ENTITLED TO
19 ENFORCE THE CHECK. SUBJECT TO SECTION 4302(1)(A), PAYMENT TO THE
20 CLAIMANT DISCHARGES ALL LIABILITY OF THE OBLIGATED BANK WITH
21 RESPECT TO THE CHECK.

22 (5) IF THE OBLIGATED BANK PAYS THE AMOUNT OF A CHECK TO A
23 CLAIMANT UNDER SUBSECTION (4)(D) AND THE CHECK IS PRESENTED FOR
24 PAYMENT BY A PERSON HAVING RIGHTS OF A HOLDER IN DUE COURSE, THE
25 CLAIMANT IS OBLIGED TO DO BOTH OF THE FOLLOWING:

26 (A) REFUND THE PAYMENT TO THE OBLIGATED BANK IF THE CHECK IS
27 PAID.

1 (B) PAY THE AMOUNT OF THE CHECK TO THE PERSON HAVING RIGHTS
2 OF A HOLDER IN DUE COURSE IF THE CHECK IS DISHONORED.

3 (6) IF A CLAIMANT HAS THE RIGHT TO ASSERT A CLAIM UNDER
4 SUBSECTION (2) AND IS ALSO A PERSON ENTITLED TO ENFORCE A
5 CASHIER'S CHECK, TELLER'S CHECK, OR CERTIFIED CHECK WHICH IS
6 LOST, DESTROYED, OR STOLEN, THE CLAIMANT MAY ASSERT RIGHTS WITH
7 RESPECT TO THE CHECK EITHER UNDER THIS SECTION OR SECTION 3309.

8 Sec. 3401. ~~(1) No person is liable on an instrument unless~~
9 ~~his signature appears thereon.~~

10 ~~(2) A signature is made by use of any name, including any~~
11 ~~trade or assumed name, upon an instrument, or by any word or mark~~
12 ~~used in lieu of a written signature.~~ (1) A PERSON IS NOT LIABLE
13 ON AN INSTRUMENT UNLESS (i) THE PERSON SIGNED THE INSTRUMENT, OR
14 (ii) THE PERSON IS REPRESENTED BY AN AGENT OR REPRESENTATIVE WHO
15 SIGNED THE INSTRUMENT AND THE SIGNATURE IS BINDING ON THE REPRE-
16 SENTED PERSON UNDER SECTION 3402.

17 (2) A SIGNATURE MAY BE MADE (i) MANUALLY OR BY MEANS OF A
18 DEVICE OR MACHINE, AND (ii) BY THE USE OF ANY NAME, INCLUDING A
19 TRADE OR ASSUMED NAME, OR BY A WORD, MARK, OR SYMBOL EXECUTED OR
20 ADOPTED BY A PERSON WITH PRESENT INTENTION TO AUTHENTICATE A
21 WRITING.

22 Sec. 3402. ~~Unless the instrument clearly indicates that a~~
23 ~~signature is made in some other capacity it is an indorsement.~~

24 (1) IF A PERSON ACTING, OR PURPORTING TO ACT, AS A REPRESENTATIVE
25 SIGNS AN INSTRUMENT BY SIGNING EITHER THE NAME OF THE REPRESENTED
26 PERSON OR THE NAME OF THE SIGNER, THE REPRESENTED PERSON IS BOUND
27 BY THE SIGNATURE TO THE SAME EXTENT THE REPRESENTED PERSON WOULD

1 BE BOUND IF THE SIGNATURE WERE ON A SIMPLE CONTRACT. IF THE
2 REPRESENTED PERSON IS BOUND, THE SIGNATURE OF THE REPRESENTATIVE
3 IS THE "AUTHORIZED SIGNATURE OF THE REPRESENTED PERSON" AND THE
4 REPRESENTED PERSON IS LIABLE ON THE INSTRUMENT, WHETHER OR NOT
5 IDENTIFIED IN THE INSTRUMENT.

6 (2) IF A REPRESENTATIVE SIGNS THE NAME OF THE REPRESENTATIVE
7 TO AN INSTRUMENT AND THE SIGNATURE IS AN AUTHORIZED SIGNATURE OF
8 THE REPRESENTED PERSON, THE FOLLOWING RULES APPLY:

9 (A) IF THE FORM OF THE SIGNATURE SHOWS UNAMBIGUOUSLY THAT
10 THE SIGNATURE IS MADE ON BEHALF OF THE REPRESENTED PERSON WHO IS
11 IDENTIFIED IN THE INSTRUMENT, THE REPRESENTATIVE IS NOT LIABLE ON
12 THE INSTRUMENT.

13 (B) SUBJECT TO SUBSECTION (3), IF (i) THE FORM OF THE SIGNA-
14 TURE DOES NOT SHOW UNAMBIGUOUSLY THAT THE SIGNATURE IS MADE IN A
15 REPRESENTATIVE CAPACITY OR (ii) THE REPRESENTED PERSON IS NOT
16 IDENTIFIED IN THE INSTRUMENT, THE REPRESENTATIVE IS LIABLE ON THE
17 INSTRUMENT TO A HOLDER IN DUE COURSE THAT TOOK THE INSTRUMENT
18 WITHOUT NOTICE THAT THE REPRESENTATIVE WAS NOT INTENDED TO BE
19 LIABLE ON THE INSTRUMENT. WITH RESPECT TO ANY OTHER PERSON, THE
20 REPRESENTATIVE IS LIABLE ON THE INSTRUMENT UNLESS THE REPRESENTA-
21 TIVE PROVES THAT THE ORIGINAL PARTIES DID NOT INTEND THE REPRE-
22 SENTATIVE TO BE LIABLE ON THE INSTRUMENT.

23 (3) IF A REPRESENTATIVE SIGNS THE NAME OF THE REPRESENTATIVE
24 AS DRAWER OF A CHECK WITHOUT INDICATION OF THE REPRESENTATIVE
25 STATUS AND THE CHECK IS PAYABLE FROM AN ACCOUNT OF THE REPRE-
26 SENTED PERSON WHO IS IDENTIFIED ON THE CHECK, THE SIGNER IS NOT

1 LIABLE ON THE CHECK IF THE SIGNATURE IS AN AUTHORIZED SIGNATURE
2 OF THE REPRESENTED PERSON.

3 Sec. 3403. ~~(1) A signature may be made by an agent or~~
4 ~~other representative, and his authority to make it may be estab-~~
5 ~~lished as in other cases of representation. No particular form~~
6 ~~of appointment is necessary to establish such authority.~~

7 ~~(2) An authorized representative who signs his own name to~~
8 ~~an instrument~~

9 ~~(a) is personally obligated if the instrument neither names~~
10 ~~the person represented nor shows that the representative signed~~
11 ~~in a representative capacity;~~

12 ~~(b) except as otherwise established between the immediate~~
13 ~~parties, is personally obligated if the instrument names the~~
14 ~~person represented but does not show that the representative~~
15 ~~signed in a representative capacity, or if the instrument does~~
16 ~~not name the person represented but does show that the represen-~~
17 ~~tative signed in a representative capacity.~~

18 ~~(3) Except as otherwise established the name of an organi-~~
19 ~~zation preceded or followed by the name and office of an autho-~~
20 ~~rized individual is a signature made in a representative~~
21 ~~capacity.~~ (1) UNLESS OTHERWISE PROVIDED IN THIS ARTICLE OR ARTI-
22 CLE 4, AN UNAUTHORIZED SIGNATURE IS INEFFECTIVE EXCEPT AS THE
23 SIGNATURE OF THE UNAUTHORIZED SIGNER IN FAVOR OF A PERSON WHO IN
24 GOOD FAITH PAYS THE INSTRUMENT OR TAKES IT FOR VALUE. AN UNAU-
25 THORIZED SIGNATURE MAY BE RATIFIED FOR ALL PURPOSES OF THIS
26 ARTICLE.

1 (2) IF THE SIGNATURE OF MORE THAN 1 PERSON IS REQUIRED TO
 2 CONSTITUTE THE AUTHORIZED SIGNATURE OF AN ORGANIZATION, THE
 3 SIGNATURE OF THE ORGANIZATION IS UNAUTHORIZED IF 1 OF THE
 4 REQUIRED SIGNATURES IS LACKING.

5 (3) THE CIVIL OR CRIMINAL LIABILITY OF A PERSON WHO MAKES AN
 6 UNAUTHORIZED SIGNATURE IS NOT AFFECTED BY ANY PROVISION OF THIS
 7 ARTICLE WHICH MAKES THE UNAUTHORIZED SIGNATURE EFFECTIVE FOR THE
 8 PURPOSES OF THIS ARTICLE.

9 Sec. 3404. ~~(1) Any unauthorized signature is wholly inop-~~
 10 ~~erative as that of the person whose name is signed unless he~~
 11 ~~ratifies it or is precluded from denying it; but it operates as~~
 12 ~~the signature of the unauthorized signer in favor of any person~~
 13 ~~who in good faith pays the instrument or takes it for value.~~

14 ~~(2) Any unauthorized signature may be ratified for all pur-~~
 15 ~~poses of this article. Such ratification does not of itself~~
 16 ~~affect any rights of the person ratifying against the actual~~
 17 ~~signer.~~ (1) IF AN IMPOSTER, BY USE OF THE MAILS OR OTHERWISE,
 18 INDUCES THE ISSUER OF AN INSTRUMENT TO ISSUE THE INSTRUMENT TO
 19 THE IMPOSTER, OR TO A PERSON ACTING IN CONCERT WITH THE IMPOSTER,
 20 BY IMPERSONATING THE PAYEE OF THE INSTRUMENT OR A PERSON AUTHO-
 21 RIZED TO ACT FOR THE PAYEE, AN ENDORSEMENT OF THE INSTRUMENT BY
 22 ANY PERSON IN THE NAME OF THE PAYEE IS EFFECTIVE AS THE ENDORSE-
 23 MENT OF THE PAYEE IN FAVOR OF A PERSON WHO, IN GOOD FAITH, PAYS
 24 THE INSTRUMENT OR TAKES IT FOR VALUE OR FOR COLLECTION.

25 (2) IF (i) A PERSON WHOSE INTENT DETERMINES TO WHOM AN
 26 INSTRUMENT IS PAYABLE IN SECTION 3110(1) OR (2) DOES NOT INTEND
 27 THE PERSON IDENTIFIED AS PAYEE TO HAVE ANY INTEREST IN THE

1 INSTRUMENT, OR (ii) THE PERSON IDENTIFIED AS PAYEE OF AN
2 INSTRUMENT IS A FICTITIOUS PERSON, THE FOLLOWING RULES APPLY
3 UNTIL THE INSTRUMENT IS NEGOTIATED BY SPECIAL ENDORSEMENT:

4 (A) ANY PERSON IN POSSESSION OF THE INSTRUMENT IS ITS
5 HOLDER.

6 (B) AN ENDORSEMENT BY ANY PERSON IN THE NAME OF THE PAYEE
7 STATED IN THE INSTRUMENT IS EFFECTIVE AS THE ENDORSEMENT OF THE
8 PAYEE IN FAVOR OF A PERSON WHO, IN GOOD FAITH, PAYS THE INSTRU-
9 MENT OR TAKES IT FOR VALUE OR FOR COLLECTION.

10 (3) UNDER SUBSECTION (1) OR (2), AN ENDORSEMENT IS MADE IN
11 THE NAME OF A PAYEE IF (i) IT IS MADE IN A NAME SUBSTANTIALLY
12 SIMILAR TO THAT OF THE PAYEE OR (ii) THE INSTRUMENT, WHETHER OR
13 NOT ENDORSED, IS DEPOSITED IN A DEPOSITARY BANK TO AN ACCOUNT IN
14 A NAME SUBSTANTIALLY SIMILAR TO THAT OF THE PAYEE.

15 (4) WITH RESPECT TO AN INSTRUMENT TO WHICH SUBSECTION (1) OR
16 (2) APPLIES, IF A PERSON PAYING THE INSTRUMENT OR TAKING IT FOR
17 VALUE OR FOR COLLECTION FAILS TO EXERCISE ORDINARY CARE IN PAYING
18 OR TAKING THE INSTRUMENT AND THAT FAILURE SUBSTANTIALLY CONTRIB-
19 UTES TO LOSS RESULTING FROM PAYMENT OF THE INSTRUMENT, THE PERSON
20 BEARING THE LOSS MAY RECOVER FROM THE PERSON FAILING TO EXERCISE
21 ORDINARY CARE TO THE EXTENT THE FAILURE TO EXERCISE ORDINARY CARE
22 CONTRIBUTED TO THE LOSS.

23 Sec. 3405. ~~-(1) An indorsement by any person in the name of~~
24 ~~a named payee is effective if~~

25 ~~(a) an imposter by use of the mails or otherwise has induced~~
26 ~~the maker or drawer to issue the instrument to him or his~~
27 ~~confederate in the name of the payee; or~~

1 ~~(b) a person signing as or on behalf of a maker or drawer~~
2 ~~intends the payee to have no interest in the instrument; or~~

3 ~~(c) an agent or employee of the maker or drawer has supplied~~
4 ~~him with the name of the payee intending the latter to have no~~
5 ~~such interest.~~

6 ~~(2) Nothing in this section shall affect the criminal or~~
7 ~~civil liability of the person so indorsing.~~ (1) AS USED IN THIS
8 SECTION:

9 (A) "EMPLOYEE" INCLUDES AN INDEPENDENT CONTRACTOR AND
10 EMPLOYEE OF AN INDEPENDENT CONTRACTOR RETAINED BY THE EMPLOYER.

11 (B) "FRAUDULENT ENDORSEMENT" MEANS (i) IN THE CASE OF AN
12 INSTRUMENT PAYABLE TO THE EMPLOYER, A FORGED ENDORSEMENT PURPORT-
13 ING TO BE THAT OF THE EMPLOYER, OR (ii) IN THE CASE OF AN INSTRU-
14 MENT WITH RESPECT TO WHICH THE EMPLOYER IS THE ISSUER, A FORGED
15 ENDORSEMENT PURPORTING TO BE THAT OF THE PERSON IDENTIFIED AS
16 PAYEE.

17 (C) "RESPONSIBILITY" WITH RESPECT TO INSTRUMENTS MEANS
18 AUTHORITY (i) TO SIGN OR ENDORSE INSTRUMENTS ON BEHALF OF THE
19 EMPLOYER, (ii) TO PROCESS INSTRUMENTS RECEIVED BY THE EMPLOYER
20 FOR BOOKKEEPING PURPOSES, FOR DEPOSIT TO AN ACCOUNT, OR FOR OTHER
21 DISPOSITION, (iii) TO PREPARE OR PROCESS INSTRUMENTS FOR ISSUE IN
22 THE NAME OF THE EMPLOYER, (iv) TO SUPPLY INFORMATION DETERMINING
23 THE NAMES OR ADDRESSES OF PAYEES OF INSTRUMENTS TO BE ISSUED IN
24 THE NAME OF THE EMPLOYER, (v) TO CONTROL THE DISPOSITION OF
25 INSTRUMENTS TO BE ISSUED IN THE NAME OF THE EMPLOYER, OR (vi) TO
26 ACT OTHERWISE WITH RESPECT TO INSTRUMENTS IN A RESPONSIBLE
27 CAPACITY. "RESPONSIBILITY" DOES NOT INCLUDE AUTHORITY THAT

1 MERELY ALLOWS AN EMPLOYEE TO HAVE ACCESS TO INSTRUMENTS OR BLANK
2 OR INCOMPLETE INSTRUMENT FORMS THAT ARE BEING STORED OR TRANS-
3 PORTED OR ARE PART OF INCOMING OR OUTGOING MAIL, OR SIMILAR
4 ACCESS.

5 (2) FOR THE PURPOSE OF DETERMINING THE RIGHTS AND LIABILI-
6 TIES OF A PERSON WHO, IN GOOD FAITH, PAYS AN INSTRUMENT OR TAKES
7 IT FOR VALUE OR FOR COLLECTION, IF AN EMPLOYER ENTRUSTED AN
8 EMPLOYEE WITH RESPONSIBILITY WITH RESPECT TO THE INSTRUMENT AND
9 THE EMPLOYEE OR A PERSON ACTING IN CONCERT WITH THE EMPLOYEE
10 MAKES A FRAUDULENT ENDORSEMENT OF THE INSTRUMENT, THE ENDORSEMENT
11 IS EFFECTIVE AS THE ENDORSEMENT OF THE PERSON TO WHOM THE INSTRU-
12 MENT IS PAYABLE IF IT IS MADE IN THE NAME OF THAT PERSON. IF THE
13 PERSON PAYING THE INSTRUMENT OR TAKING IT FOR VALUE OR FOR COL-
14 LECTION FAILS TO EXERCISE ORDINARY CARE IN PAYING OR TAKING THE
15 INSTRUMENT AND THAT FAILURE SUBSTANTIALLY CONTRIBUTES TO LOSS
16 RESULTING FROM THE FRAUD, THE PERSON BEARING THE LOSS MAY RECOVER
17 FROM THE PERSON FAILING TO EXERCISE ORDINARY CARE TO THE EXTENT
18 THE FAILURE TO EXERCISE ORDINARY CARE CONTRIBUTED TO THE LOSS.

19 (3) UNDER SUBSECTION (2), AN ENDORSEMENT IS MADE IN THE NAME
20 OF THE PERSON TO WHOM AN INSTRUMENT IS PAYABLE IF (i) IT IS MADE
21 IN A NAME SUBSTANTIALLY SIMILAR TO THE NAME OF THAT PERSON OR
22 (ii) THE INSTRUMENT, WHETHER OR NOT ENDORSED, IS DEPOSITED IN A
23 DEPOSITARY BANK TO AN ACCOUNT IN A NAME SUBSTANTIALLY SIMILAR TO
24 THE NAME OF THAT PERSON.

25 Sec. 3406. ~~Any person who by his negligence substantially~~
26 ~~contributes to a material alteration of the instrument or to the~~
27 ~~making of an unauthorized signature is precluded from asserting~~

1 ~~the alteration or lack of authority against a holder in due~~
2 ~~course or against a drawee or other payor who pays the instrument~~
3 ~~in good faith and in accordance with the reasonable commercial~~
4 ~~standards of the drawee's or payor's business.~~ (1) A PERSON
5 WHOSE FAILURE TO EXERCISE ORDINARY CARE SUBSTANTIALLY CONTRIBUTES
6 TO AN ALTERATION OF AN INSTRUMENT OR TO THE MAKING OF A FORGED
7 SIGNATURE ON AN INSTRUMENT IS PRECLUDED FROM ASSERTING THE ALTER-
8 ATION OR THE FORGERY AGAINST A PERSON WHO, IN GOOD FAITH, PAYS
9 THE INSTRUMENT OR TAKES IT FOR VALUE OR FOR COLLECTION.

10 (2) UNDER SUBSECTION (1), IF THE PERSON ASSERTING THE PRE-
11 CLUSION FAILS TO EXERCISE ORDINARY CARE IN PAYING OR TAKING THE
12 INSTRUMENT AND THAT FAILURE SUBSTANTIALLY CONTRIBUTES TO LOSS,
13 THE LOSS IS ALLOCATED BETWEEN THE PERSON PRECLUDED AND THE PERSON
14 ASSERTING THE PRECLUSION ACCORDING TO THE EXTENT TO WHICH THE
15 FAILURE OF EACH TO EXERCISE ORDINARY CARE CONTRIBUTED TO THE
16 LOSS.

17 (3) UNDER SUBSECTION (1), THE BURDEN OF PROVING FAILURE TO
18 EXERCISE ORDINARY CARE IS ON THE PERSON ASSERTING THE
19 PRECLUSION. UNDER SUBSECTION (2), THE BURDEN OF PROVING FAILURE
20 TO EXERCISE ORDINARY CARE IS ON THE PERSON PRECLUDED.

21 Sec. 3407. ~~(1) Any alteration of an instrument is material~~
22 ~~which changes the contract of any party thereto in any respect,~~
23 ~~including any such change in~~

24 ~~(a) the number or relations of the parties; or~~

25 ~~(b) an incomplete instrument, by completing it otherwise~~
26 ~~than as authorized; or~~

1 ~~(c) the writing as signed, by adding to it or by removing~~
2 ~~any part of it.~~

3 ~~(2) As against any person other than a subsequent holder in~~
4 ~~due course~~

5 ~~(a) alteration by the holder which is both fraudulent and~~
6 ~~material discharges any party whose contract is thereby changed~~
7 ~~unless that party assents or is precluded from asserting the~~
8 ~~defense;~~

9 ~~(b) no other alteration discharges any party and the instru-~~
10 ~~ment may be enforced according to its original tenor, or as to~~
11 ~~incomplete instruments according to the authority given.~~

12 ~~(3) A subsequent holder in due course may in all cases~~
13 ~~enforce the instrument according to its original tenor, and when~~
14 ~~an incomplete instrument has been completed, he may enforce it as~~
15 ~~completed. (1) "ALTERATION" MEANS (i) AN UNAUTHORIZED CHANGE IN~~
16 ~~AN INSTRUMENT THAT PURPORTS TO MODIFY IN ANY RESPECT THE OBLIGA-~~
17 ~~TION OF A PARTY, OR (ii) AN UNAUTHORIZED ADDITION OF WORDS OR~~
18 ~~NUMBERS OR OTHER CHANGE TO AN INCOMPLETE INSTRUMENT RELATING TO~~
19 ~~THE OBLIGATION OF A PARTY.~~

20 (2) EXCEPT AS PROVIDED IN SUBSECTION (3), AN ALTERATION
21 FRAUDULENTLY MADE DISCHARGES A PARTY WHOSE OBLIGATION IS AFFECTED
22 BY THE ALTERATION UNLESS THAT PARTY ASSENTS OR IS PRECLUDED FROM
23 ASSERTING THE ALTERATION. NO OTHER ALTERATION DISCHARGES A
24 PARTY, AND THE INSTRUMENT MAY BE ENFORCED ACCORDING TO ITS ORIGI-
25 NAL TERMS.

26 (3) A PAYOR BANK OR DRAWEE PAYING A FRAUDULENTLY ALTERED
27 INSTRUMENT OR A PERSON TAKING IT FOR VALUE, IN GOOD FAITH AND

1 WITHOUT NOTICE OF THE ALTERATION, MAY ENFORCE RIGHTS WITH RESPECT
 2 TO THE INSTRUMENT (i) ACCORDING TO ITS ORIGINAL TERMS, OR (ii) IN
 3 THE CASE OF AN INCOMPLETE INSTRUMENT ALTERED BY UNAUTHORIZED COM-
 4 PLETION, ACCORDING TO ITS TERMS AS COMPLETED.

5 Sec. 3408. ~~Want or failure of consideration is a defense~~
 6 ~~as against any person not having the rights of a holder in due~~
 7 ~~course (section 3305), except that no consideration is necessary~~
 8 ~~for an instrument or obligation thereon given in payment of or as~~
 9 ~~security for an antecedent obligation of any kind. Nothing in~~
 10 ~~this section shall be taken to displace any statute outside this~~
 11 ~~act under which a promise is enforceable notwithstanding lack or~~
 12 ~~failure of consideration. Partial failure of consideration is a~~
 13 ~~defense pro tanto whether or not the failure is in an ascertained~~
 14 ~~or liquidated amount. A CHECK OR OTHER DRAFT DOES NOT OF ITSELF~~
 15 ~~OPERATE AS AN ASSIGNMENT OF FUNDS IN THE HANDS OF THE DRAWEE~~
 16 ~~AVAILABLE FOR ITS PAYMENT, AND THE DRAWEE IS NOT LIABLE ON THE~~
 17 ~~INSTRUMENT UNTIL THE DRAWEE ACCEPTS IT.~~

18 Sec. 3409. ~~(1) A check or other draft does not of itself~~
 19 ~~operate as an assignment of any funds in the hands of the drawee~~
 20 ~~available for its payment, and the drawee is not liable on the~~
 21 ~~instrument until he accepts it.~~

22 ~~(2) Nothing in this section shall affect any liability in~~
 23 ~~contract, tort or otherwise arising from any letter of credit or~~
 24 ~~other obligation or representation which is not an acceptance.~~

25 (1) "ACCEPTANCE" MEANS THE DRAWEE'S SIGNED AGREEMENT TO PAY A
 26 DRAFT AS PRESENTED. IT MUST BE WRITTEN ON THE DRAFT AND MAY
 27 CONSIST OF THE DRAWEE'S SIGNATURE ALONE. ACCEPTANCE MAY BE MADE

1 AT ANY TIME AND BECOMES EFFECTIVE WHEN NOTIFICATION PURSUANT TO
2 INSTRUCTIONS IS GIVEN OR THE ACCEPTED DRAFT IS DELIVERED FOR THE
3 PURPOSE OF GIVING RIGHTS ON THE ACCEPTANCE TO ANY PERSON.

4 (2) A DRAFT MAY BE ACCEPTED ALTHOUGH IT HAS NOT BEEN SIGNED
5 BY THE DRAWER, IS OTHERWISE INCOMPLETE, IS OVERDUE, OR HAS BEEN
6 DISHONORED.

7 (3) IF A DRAFT IS PAYABLE AT A FIXED PERIOD AFTER SIGHT AND
8 THE ACCEPTOR FAILS TO DATE THE ACCEPTANCE, THE HOLDER MAY COM-
9 PLETE THE ACCEPTANCE BY SUPPLYING A DATE IN GOOD FAITH.

10 (4) "CERTIFIED CHECK" MEANS A CHECK ACCEPTED BY THE BANK ON
11 WHICH IT IS DRAWN. ACCEPTANCE MAY BE MADE AS STATED IN SUBSEC-
12 TION (1) OR BY A WRITING ON THE CHECK WHICH INDICATES THAT THE
13 CHECK IS CERTIFIED. THE DRAWEE OF A CHECK HAS NO OBLIGATION TO
14 CERTIFY THE CHECK, AND REFUSAL TO CERTIFY IS NOT DISHONOR OF THE
15 CHECK.

16 Sec. 3410. ~~(1) Acceptance is the drawee's signed engage-~~
17 ~~ment to honor the draft as presented. It must be written on the~~
18 ~~draft, and may consist of his signature alone. It becomes opera-~~
19 ~~tive when completed by delivery or notification.~~

20 ~~(2) A draft may be accepted although it has not been signed~~
21 ~~by the drawer or is otherwise incomplete or is overdue or has~~
22 ~~been dishonored.~~

23 ~~(3) Where the draft is payable at a fixed period after sight~~
24 ~~and the acceptor fails to date his acceptance the holder may com-~~
25 ~~plete it by supplying a date in good faith. (1) IF THE TERMS OF~~
26 ~~A DRAWEE'S ACCEPTANCE VARY FROM THE TERMS OF THE DRAFT AS~~
27 ~~PRESENTED, THE HOLDER MAY REFUSE THE ACCEPTANCE AND TREAT THE~~

1 DRAFT AS DISHONORED. IN THAT CASE, THE DRAWEE MAY CANCEL THE
2 ACCEPTANCE.

3 (2) THE TERMS OF A DRAFT ARE NOT VARIED BY AN ACCEPTANCE TO
4 PAY AT A PARTICULAR BANK OR PLACE IN THE UNITED STATES, UNLESS
5 THE ACCEPTANCE STATES THAT THE DRAFT IS TO BE PAID ONLY AT THAT
6 BANK OR PLACE.

7 (3) IF THE HOLDER ASSENTS TO AN ACCEPTANCE VARYING THE TERMS
8 OF A DRAFT, THE OBLIGATION OF EACH DRAWER AND ENDORSER THAT DOES
9 NOT EXPRESSLY ASSENT TO THE ACCEPTANCE IS DISCHARGED.

10 Sec. 3411. ~~(1) Certification of a check is acceptance.~~
11 ~~Where a holder procures certification the drawer and all prior~~
12 ~~indorsers are discharged.~~

13 ~~(2) Unless otherwise agreed a bank has no obligation to cer-~~
14 ~~tify a check.~~

15 ~~(3) A bank may certify a check before returning it for lack~~
16 ~~of proper indorsement. If it does so the drawer is discharged.~~

17 (1) AS USED IN THIS SECTION, "OBLIGATED BANK" MEANS THE ACCEPTOR
18 OF A CERTIFIED CHECK OR THE ISSUER OF A CASHIER'S CHECK OR
19 TELLER'S CHECK BOUGHT FROM THE ISSUER.

20 (2) IF THE OBLIGATED BANK WRONGFULLY (i) REFUSES TO PAY A
21 CASHIER'S CHECK OR CERTIFIED CHECK, (ii) STOPS PAYMENT OF A
22 TELLER'S CHECK, OR (iii) REFUSES TO PAY A DISHONORED TELLER'S
23 CHECK, THE PERSON ASSERTING THE RIGHT TO ENFORCE THE CHECK IS
24 ENTITLED TO COMPENSATION FOR EXPENSES AND LOSS OF INTEREST
25 RESULTING FROM THE NONPAYMENT AND MAY RECOVER CONSEQUENTIAL DAM-
26 AGES IF THE OBLIGATED BANK REFUSES TO PAY AFTER RECEIVING NOTICE
27 OF PARTICULAR CIRCUMSTANCES GIVING RISE TO THE DAMAGES.

1 (3) EXPENSES OR CONSEQUENTIAL DAMAGES UNDER SUBSECTION (2)
2 ARE NOT RECOVERABLE IF THE REFUSAL OF THE OBLIGATED BANK TO PAY
3 OCCURS BECAUSE (i) THE BANK SUSPENDS PAYMENTS, (ii) THE OBLIGATED
4 BANK ASSERTS A CLAIM OR DEFENSE OF THE BANK THAT IT HAS REASON-
5 ABLE GROUNDS TO BELIEVE IS AVAILABLE AGAINST THE PERSON ENTITLED
6 TO ENFORCE THE INSTRUMENT, (iii) THE OBLIGATED BANK HAS A REASON-
7 ABLE DOUBT WHETHER THE PERSON DEMANDING PAYMENT IS THE PERSON
8 ENTITLED TO ENFORCE THE INSTRUMENT, OR (iv) PAYMENT IS PROHIBITED
9 BY LAW.

10 Sec. 3412. ~~(1) Where the drawee's proffered acceptance in~~
11 ~~any manner varies the draft as presented the holder may refuse~~
12 ~~the acceptance and treat the draft as dishonored in which case~~
13 ~~the drawee is entitled to have his acceptance cancelled.~~

14 ~~(2) The terms of the draft are not varied by an acceptance~~
15 ~~to pay at any particular bank or place in the United States,~~
16 ~~unless the acceptance states that the draft is to be paid only at~~
17 ~~such bank or place.~~

18 ~~(3) Where the holder assents to an acceptance varying the~~
19 ~~terms of the draft each drawer and indorser who does not affirma-~~
20 ~~tively assent is discharged.~~ THE ISSUER OF A NOTE OR CASHIER'S
21 CHECK OR OTHER DRAFT DRAWN ON THE DRAWER IS OBLIGED TO PAY THE
22 INSTRUMENT (i) ACCORDING TO ITS TERMS AT THE TIME IT WAS ISSUED
23 OR, IF NOT ISSUED, AT THE TIME IT FIRST CAME INTO POSSESSION OF A
24 HOLDER, OR (ii) IF THE ISSUER SIGNED AN INCOMPLETE INSTRUMENT,
25 ACCORDING TO ITS TERMS WHEN COMPLETED, TO THE EXTENT STATED IN
26 SECTIONS 3115 AND 3407. THE OBLIGATION IS OWED TO A PERSON

1 ENTITLED TO ENFORCE THE INSTRUMENT OR TO AN ENDORSER WHO PAID THE
2 INSTRUMENT UNDER SECTION 3415.

3 Sec. 3413. ~~(1) The maker or acceptor engages that he will~~
4 ~~pay the instrument according to its tenor at the time of his~~
5 ~~engagement or as completed pursuant to section 3115 on incomplete~~
6 ~~instruments.~~

7 ~~(2) The drawer engages that upon dishonor of the draft and~~
8 ~~any necessary notice of dishonor or protest he will pay the~~
9 ~~amount of the draft to the holder or to any indorser who takes it~~
10 ~~up. The drawer may disclaim this liability by drawing without~~
11 ~~recourse.~~

12 ~~(3) By making, drawing or accepting the party admits as~~
13 ~~against all subsequent parties including the drawee the existence~~
14 ~~of the payee and his then capacity to indorse.~~

15 (1) THE ACCEPTOR OF A DRAFT IS OBLIGED TO PAY THE DRAFT (i)
16 ACCORDING TO ITS TERMS AT THE TIME IT WAS ACCEPTED, EVEN THOUGH
17 THE ACCEPTANCE STATES THAT THE DRAFT IS PAYABLE "AS ORIGINALLY
18 DRAWN" OR EQUIVALENT TERMS, (ii) IF THE ACCEPTANCE VARIES THE
19 TERMS OF THE DRAFT, ACCORDING TO THE TERMS OF THE DRAFT AS
20 VARIED, OR (iii) IF THE ACCEPTANCE IS OF A DRAFT THAT IS AN
21 INCOMPLETE INSTRUMENT, ACCORDING TO ITS TERMS WHEN COMPLETED, TO
22 THE EXTENT STATED IN SECTIONS 3115 AND 3407. THE OBLIGATION IS
23 OWED TO A PERSON ENTITLED TO ENFORCE THE DRAFT OR TO THE DRAWER
24 OR AN ENDORSER WHO PAID THE DRAFT UNDER SECTION 3414 OR 3415.

25 (2) IF THE CERTIFICATION OF A CHECK OR OTHER ACCEPTANCE OF A
26 DRAFT STATES THE AMOUNT CERTIFIED OR ACCEPTED, THE OBLIGATION OF
27 THE ACCEPTOR IS THAT AMOUNT. IF (i) THE CERTIFICATION OR

1 ACCEPTANCE DOES NOT STATE AN AMOUNT, (ii) THE AMOUNT OF THE
2 INSTRUMENT IS SUBSEQUENTLY RAISED, AND (iii) THE INSTRUMENT IS
3 THEN NEGOTIATED TO A HOLDER IN DUE COURSE, THE OBLIGATION OF THE
4 ACCEPTOR IS THE AMOUNT OF THE INSTRUMENT AT THE TIME IT WAS TAKEN
5 BY THE HOLDER IN DUE COURSE.

6 Sec. 3414. ~~(1) Unless the indorsement otherwise specifies~~
7 ~~(as by such words as "without recourse") every indorser engages~~
8 ~~that upon dishonor and any necessary notice of dishonor and pro-~~
9 ~~test he will pay the instrument according to its tenor at the~~
10 ~~time of his indorsement to the holder or to any subsequent~~
11 ~~indorser who takes it up, even though the indorser who takes it~~
12 ~~up was not obligated to do so.~~

13 ~~(2) Unless they otherwise agree indorsers are liable to one~~
14 ~~another in the order in which they indorse, which is presumed to~~
15 ~~be the order in which their signatures appear on the instrument.~~

16 (1) THIS SECTION DOES NOT APPLY TO CASHIER'S CHECKS OR OTHER
17 DRAFTS DRAWN ON THE DRAWER.

18 (2) IF AN UNACCEPTED DRAFT IS DISHONORED, THE DRAWER IS
19 OBLIGED TO PAY THE DRAFT (i) ACCORDING TO ITS TERMS AT THE TIME
20 IT WAS ISSUED OR, IF NOT ISSUED, AT THE TIME IT FIRST CAME INTO
21 POSSESSION OF A HOLDER, OR (ii) IF THE DRAWER SIGNED AN INCOM-
22 PLETE INSTRUMENT, ACCORDING TO ITS TERMS WHEN COMPLETED, TO THE
23 EXTENT STATED IN SECTIONS 3115 AND 3407. THE OBLIGATION IS OWED
24 TO A PERSON ENTITLED TO ENFORCE THE DRAFT OR TO AN ENDORSER WHO
25 PAID THE DRAFT UNDER SECTION 3415.

1 (3) IF A DRAFT IS ACCEPTED BY A BANK, THE DRAWER IS
2 DISCHARGED, REGARDLESS OF WHEN OR BY WHOM ACCEPTANCE WAS
3 OBTAINED.

4 (4) IF A DRAFT IS ACCEPTED AND THE ACCEPTOR IS NOT A BANK,
5 THE OBLIGATION OF THE DRAWER TO PAY THE DRAFT IF THE DRAFT IS
6 DISHONORED BY THE ACCEPTOR IS THE SAME AS THE OBLIGATION OF AN
7 ENDORSER UNDER SECTION 3415(1) AND (3).

8 (5) IF A DRAFT STATES THAT IT IS DRAWN "WITHOUT RECOURSE" OR
9 OTHERWISE DISCLAIMS LIABILITY OF THE DRAWER TO PAY THE DRAFT, THE
10 DRAWER IS NOT LIABLE UNDER SUBSECTION (2) TO PAY THE DRAFT IF THE
11 DRAFT IS NOT A CHECK. A DISCLAIMER OF THE LIABILITY STATED IN
12 SUBSECTION (2) IS NOT EFFECTIVE IF THE DRAFT IS A CHECK.

13 (6) IF (i) A CHECK IS NOT PRESENTED FOR PAYMENT OR GIVEN TO
14 A DEPOSITARY BANK FOR COLLECTION WITHIN 30 DAYS AFTER ITS DATE,
15 (ii) THE DRAWEE SUSPENDS PAYMENTS AFTER EXPIRATION OF THE 30-DAY
16 PERIOD WITHOUT PAYING THE CHECK, AND (iii) BECAUSE OF THE SUSPEN-
17 SION OF PAYMENTS, THE DRAWER IS DEPRIVED OF FUNDS MAINTAINED WITH
18 THE DRAWEE TO COVER PAYMENT OF THE CHECK, THE DRAWER TO THE
19 EXTENT DEPRIVED OF FUNDS MAY DISCHARGE ITS OBLIGATION TO PAY THE
20 CHECK BY ASSIGNING TO THE PERSON ENTITLED TO ENFORCE THE CHECK
21 THE RIGHTS OF THE DRAWER AGAINST THE DRAWEE WITH RESPECT TO THE
22 FUNDS.

23 Sec. 3415. ~~(1) An accommodation party is one who signs the~~
24 ~~instrument in any capacity for the purpose of lending his name to~~
25 ~~another party to it.~~

1 ~~(2) When the instrument has been taken for value before it~~
2 ~~is due the accommodation party is liable in the capacity in which~~
3 ~~he has signed even though the taker knows of the accommodation.~~

4 ~~(3) As against a holder in due course and without notice of~~
5 ~~the accommodation oral proof of the accommodation is not admissi-~~
6 ~~ble to give the accommodation party the benefit of discharges~~
7 ~~dependent on his character as such. In other cases the accommo-~~
8 ~~dation character may be shown by oral proof.~~

9 ~~(4) An indorsement which shows that it is not in the chain~~
10 ~~of title is notice of its accommodation character.~~

11 ~~(5) An accommodation party is not liable to the party accom-~~
12 ~~modated, and if he pays the instrument has a right of recourse on~~
13 ~~the instrument against such party.~~

14 (1) SUBJECT TO SUBSECTIONS (2), (3), (4), AND (5) AND TO
15 SECTION 3419(4), IF AN INSTRUMENT IS DISHONORED, AN ENDORSER IS
16 OBLIGED TO PAY THE AMOUNT DUE ON THE INSTRUMENT (i) ACCORDING TO
17 THE TERMS OF THE INSTRUMENT AT THE TIME IT WAS ENDORSED, OR (ii)
18 IF THE ENDORSER ENDORSED AN INCOMPLETE INSTRUMENT, ACCORDING TO
19 ITS TERMS WHEN COMPLETED, TO THE EXTENT STATED IN SECTIONS 3115
20 AND 3407. THE OBLIGATION OF THE ENDORSER IS OWED TO A PERSON
21 ENTITLED TO ENFORCE THE INSTRUMENT OR TO A SUBSEQUENT ENDORSER
22 WHO PAID THE INSTRUMENT UNDER THIS SECTION.

23 (2) IF AN ENDORSEMENT STATES THAT IT IS MADE "WITHOUT
24 RECOURSE" OR OTHERWISE DISCLAIMS LIABILITY OF THE ENDORSER, THE
25 ENDORSER IS NOT LIABLE UNDER SUBSECTION (1) TO PAY THE
26 INSTRUMENT.

1 (3) IF NOTICE OF DISHONOR OF AN INSTRUMENT IS REQUIRED BY
2 SECTION 3503 AND NOTICE OF DISHONOR COMPLYING WITH THAT SECTION
3 IS NOT GIVEN TO AN ENDORSER, THE LIABILITY OF THE ENDORSER UNDER
4 SUBSECTION (1) IS DISCHARGED.

5 (4) IF A DRAFT IS ACCEPTED BY A BANK AFTER AN ENDORSEMENT IS
6 MADE, THE LIABILITY OF THE ENDORSER UNDER SUBSECTION (1) IS
7 DISCHARGED.

8 (5) IF AN ENDORSER OF A CHECK IS LIABLE UNDER SUBSECTION (1)
9 AND THE CHECK IS NOT PRESENTED FOR PAYMENT, OR GIVEN TO A DEPOSI-
10 TORY BANK FOR COLLECTION, WITHIN 30 DAYS AFTER THE DAY THE
11 ENDORSEMENT WAS MADE, THE LIABILITY OF THE ENDORSER UNDER SUBSEC-
12 TION (1) IS DISCHARGED.

13 Sec. 3416. ~~(1) "Payment guaranteed" or equivalent words~~
14 ~~added to a signature mean that the signer engages that if the~~
15 ~~instrument is not paid when due he will pay it according to its~~
16 ~~tenor without resort by the holder to any other party.~~

17 ~~(2) "Collection guaranteed" or equivalent words added to a~~
18 ~~signature mean that the signer engages that if the instrument is~~
19 ~~not paid when due he will pay it according to its tenor, but only~~
20 ~~after the holder has reduced his claim against the maker or~~
21 ~~acceptor to judgment and execution has been returned unsatisfied,~~
22 ~~or after the maker or acceptor has become insolvent or it is oth-~~
23 ~~erwise apparent that it is useless to proceed against him.~~

24 ~~(3) Words of guaranty which do not otherwise specify guaran-~~
25 ~~tee payment.~~

26 ~~(4) No words of guaranty added to the signature of a sole~~
27 ~~maker or acceptor affect his liability on the instrument. Such~~

~~1 words added to the signature of one of two or more makers or
2 acceptors create a presumption that the signature is for the
3 accommodation of the others.~~

~~4 (5) When words of guaranty are used presentment, notice of
5 dishonor and protest are not necessary to charge the user.~~

~~6 (6) Any guaranty written on the instrument is enforceable
7 notwithstanding any statute of frauds.~~

8 (1) A PERSON WHO TRANSFERS AN INSTRUMENT FOR CONSIDERATION
9 WARRANTS TO THE TRANSFEREE AND, IF THE TRANSFER IS BY ENDORSE-
10 MENT, TO ANY SUBSEQUENT TRANSFEREE ALL OF THE FOLLOWING:

11 (A) THAT THE WARRANTOR IS A PERSON ENTITLED TO ENFORCE THE
12 INSTRUMENT.

13 (B) THAT ALL SIGNATURES ON THE INSTRUMENT ARE AUTHENTIC AND
14 AUTHORIZED.

15 (C) THAT THE INSTRUMENT HAS NOT BEEN ALTERED.

16 (D) THAT THE INSTRUMENT IS NOT SUBJECT TO A DEFENSE OR CLAIM
17 IN RECOUPMENT OF ANY PARTY WHICH CAN BE ASSERTED AGAINST THE
18 WARRANTOR.

19 (E) THAT THE WARRANTOR HAS NO KNOWLEDGE OF ANY INSOLVENCY
20 PROCEEDING COMMENCED WITH RESPECT TO THE MAKER OR ACCEPTOR OR, IN
21 THE CASE OF AN UNACCEPTED DRAFT, THE DRAWER.

22 (2) A PERSON TO WHOM THE WARRANTIES UNDER SUBSECTION (1) ARE
23 MADE AND WHO TOOK THE INSTRUMENT IN GOOD FAITH MAY RECOVER FROM
24 THE WARRANTOR AS DAMAGES FOR BREACH OF WARRANTY AN AMOUNT EQUAL
25 TO THE LOSS SUFFERED AS A RESULT OF THE BREACH, BUT NOT MORE THAN
26 THE AMOUNT OF THE INSTRUMENT PLUS EXPENSES AND LOSS OF INTEREST
27 INCURRED AS A RESULT OF THE BREACH.

1 (3) THE WARRANTIES STATED IN SUBSECTION (1) CANNOT BE
2 DISCLAIMED WITH RESPECT TO CHECKS. UNLESS NOTICE OF A CLAIM FOR
3 BREACH OF WARRANTY IS GIVEN TO THE WARRANTOR WITHIN 30 DAYS AFTER
4 THE CLAIMANT HAS REASON TO KNOW OF THE BREACH AND THE IDENTITY OF
5 THE WARRANTOR, THE LIABILITY OF THE WARRANTOR UNDER SUBSECTION
6 (2) IS DISCHARGED TO THE EXTENT OF ANY LOSS CAUSED BY THE DELAY
7 IN GIVING NOTICE OF THE CLAIM.

8 (4) A CAUSE OF ACTION FOR BREACH OF WARRANTY UNDER THIS SEC-
9 TION ACCRUES WHEN THE CLAIMANT HAS REASON TO KNOW OF THE BREACH.

10 Sec. 3417. ~~(1) Any person who obtains payment or accep-~~
11 ~~tance and any prior transferor warrants to a person who in good~~
12 ~~faith pays or accepts that~~

13 ~~(a) he has a good title to the instrument or is authorized~~
14 ~~to obtain payment or acceptance on behalf of one who has a good~~
15 ~~title; and~~

16 ~~(b) he has no knowledge that the signature of the maker or~~
17 ~~drawer is unauthorized, except that this warranty is not given by~~
18 ~~a holder in due course acting in good faith~~

19 ~~(i) to a maker with respect to the maker's own signature; or~~

20 ~~(ii) to a drawer with respect to the drawer's own signature,~~
21 ~~whether or not the drawer is also the drawee; or~~

22 ~~(iii) to an acceptor of a draft if the holder in due course~~
23 ~~took the draft after the acceptance or obtained the acceptance~~
24 ~~without knowledge that the drawer's signature was unauthorized;~~
25 and

1 ~~(c) the instrument has not been materially altered, except~~
2 ~~that this warranty is not given by a holder in due course acting~~
3 ~~in good faith~~

4 ~~(i) to the maker of a note, or~~

5 ~~(ii) to the drawer of a draft whether or not the drawer is~~
6 ~~also the drawee, or~~

7 ~~(iii) to the acceptor of a draft with respect to an alter-~~
8 ~~ation made prior to the acceptance if the holder in due course~~
9 ~~took the draft after the acceptance, even though the acceptance~~
10 ~~provided "payable as originally drawn" or equivalent terms, or~~

11 ~~(iv) to the acceptor of a draft with respect to an alter-~~
12 ~~ation made after the acceptance.~~

13 ~~(2) Any person who transfers an instrument and receives con-~~
14 ~~sideration warrants to his transferee and if the transfer is by~~
15 ~~indorsement to any subsequent holder who takes the instrument in~~
16 ~~good faith that~~

17 ~~(a) he has a good title to the instrument or is authorized~~
18 ~~to obtain payment or acceptance on behalf of one who has a good~~
19 ~~title and the transfer is otherwise rightful, and~~

20 ~~(b) all signatures are genuine or authorized, and~~

21 ~~(c) the instrument has not been materially altered, and~~

22 ~~(d) no defense of any party is good against him, and~~

23 ~~(e) he has no knowledge of any insolvency proceeding insti-~~
24 ~~tuted with respect to the maker or acceptor or the drawer of an~~
25 ~~unaccepted instrument.~~

1 ~~(3) By transferring "without recourse" the transferor limits~~
2 ~~the obligation stated in subsection (2)(d) to a warranty that he~~
3 ~~has no knowledge of such a defense.~~

4 ~~(4) A selling agent or broker who does not disclose the fact~~
5 ~~that he is acting only as such gives the warranties provided in~~
6 ~~this section, but if he makes such disclosure warrants only his~~
7 ~~good faith and authority.~~

8 (1) IF AN UNACCEPTED DRAFT IS PRESENTED TO THE DRAWEE FOR
9 PAYMENT OR ACCEPTANCE AND THE DRAWEE PAYS OR ACCEPTS THE DRAFT,
10 (i) THE PERSON OBTAINING PAYMENT OR ACCEPTANCE, AT THE TIME OF
11 PRESENTMENT, AND (ii) A PREVIOUS TRANSFEROR OF THE DRAFT, AT THE
12 TIME OF TRANSFER, WARRANT TO THE DRAWEE MAKING PAYMENT OR ACCEPT-
13 ING THE DRAFT IN GOOD FAITH ALL OF THE FOLLOWING:

14 (A) THAT THE WARRANTOR IS, OR WAS, AT THE TIME THE WARRANTOR
15 TRANSFERRED THE DRAFT, A PERSON ENTITLED TO ENFORCE THE DRAFT OR
16 AUTHORIZED TO OBTAIN PAYMENT OR ACCEPTANCE OF THE DRAFT ON BEHALF
17 OF A PERSON ENTITLED TO ENFORCE THE DRAFT.

18 (B) THAT THE DRAFT HAS NOT BEEN ALTERED.

19 (C) THAT THE WARRANTOR HAS NO KNOWLEDGE THAT THE SIGNATURE
20 OF THE DRAWER OF THE DRAFT IS UNAUTHORIZED.

21 (2) A DRAWEE MAKING PAYMENT MAY RECOVER FROM ANY WARRANTOR
22 DAMAGES FOR BREACH OF WARRANTY EQUAL TO THE AMOUNT PAID BY THE
23 DRAWEE LESS THE AMOUNT THE DRAWEE RECEIVED OR IS ENTITLED TO
24 RECEIVE FROM THE DRAWER BECAUSE OF THE PAYMENT. IN ADDITION, THE
25 DRAWEE IS ENTITLED TO COMPENSATION FOR EXPENSES AND LOSS OF
26 INTEREST RESULTING FROM THE BREACH. THE RIGHT OF THE DRAWEE TO
27 RECOVER DAMAGES UNDER THIS SUBSECTION IS NOT AFFECTED BY ANY

1 FAILURE OF THE DRAWEE TO EXERCISE ORDINARY CARE IN MAKING
2 PAYMENT. IF THE DRAWEE ACCEPTS THE DRAFT, BREACH OF WARRANTY IS
3 A DEFENSE TO THE OBLIGATION OF THE ACCEPTOR. IF THE ACCEPTOR
4 MAKES PAYMENT WITH RESPECT TO THE DRAFT, THE ACCEPTOR IS ENTITLED
5 TO RECOVER FROM ANY WARRANTOR FOR BREACH OF WARRANTY THE AMOUNTS
6 STATED IN THIS SUBSECTION.

7 (3) IF A DRAWEE ASSERTS A CLAIM FOR BREACH OF WARRANTY UNDER
8 SUBSECTION (1) BASED ON AN UNAUTHORIZED ENDORSEMENT OF THE DRAFT
9 OR AN ALTERATION OF THE DRAFT, THE WARRANTOR MAY DEFEND BY PROV-
10 ING THAT THE ENDORSEMENT IS EFFECTIVE UNDER SECTION 3404 OR 3405
11 OR THE DRAWER IS PRECLUDED UNDER SECTION 3406 OR 4406 FROM
12 ASSERTING AGAINST THE DRAWEE THE UNAUTHORIZED ENDORSEMENT OR
13 ALTERATION.

14 (4) IF (i) A DISHONORED DRAFT IS PRESENTED FOR PAYMENT TO
15 THE DRAWER OR AN ENDORSER OR (ii) ANY OTHER INSTRUMENT IS
16 PRESENTED FOR PAYMENT TO A PARTY OBLIGED TO PAY THE INSTRUMENT,
17 AND (iii) PAYMENT IS RECEIVED, THE FOLLOWING RULES APPLY:

18 (A) THE PERSON OBTAINING PAYMENT AND A PRIOR TRANSFEROR OF
19 THE INSTRUMENT WARRANT TO THE PERSON MAKING PAYMENT IN GOOD FAITH
20 THAT THE WARRANTOR IS, OR WAS, AT THE TIME THE WARRANTOR TRANS-
21 FERRED THE INSTRUMENT, A PERSON ENTITLED TO ENFORCE THE INSTRU-
22 MENT OR AUTHORIZED TO OBTAIN PAYMENT ON BEHALF OF A PERSON ENTI-
23 TLED TO ENFORCE THE INSTRUMENT.

24 (B) THE PERSON MAKING PAYMENT MAY RECOVER FROM ANY WARRANTOR
25 FOR BREACH OF WARRANTY AN AMOUNT EQUAL TO THE AMOUNT PAID PLUS
26 EXPENSES AND LOSS OF INTEREST RESULTING FROM THE BREACH.

1 (5) THE WARRANTIES STATED IN SUBSECTIONS (1) AND (4) CANNOT
2 BE DISCLAIMED WITH RESPECT TO CHECKS. UNLESS NOTICE OF A CLAIM
3 FOR BREACH OF WARRANTY IS GIVEN TO THE WARRANTOR WITHIN 30 DAYS
4 AFTER THE CLAIMANT HAS REASON TO KNOW OF THE BREACH AND THE IDEN-
5 TITY OF THE WARRANTOR, THE LIABILITY OF THE WARRANTOR UNDER SUB-
6 SECTION (2) OR (4) IS DISCHARGED TO THE EXTENT OF ANY LOSS CAUSED
7 BY THE DELAY IN GIVING NOTICE OF THE CLAIM.

8 (6) A CAUSE OF ACTION FOR BREACH OF WARRANTY UNDER THIS SEC-
9 TION ACCRUES WHEN THE CLAIMANT HAS REASON TO KNOW OF THE BREACH.

10 Sec. 3418. ~~Except for recovery of bank payments as pro-~~
11 ~~vided in the article on bank deposits and collections (article 4)~~
12 ~~and except for liability for breach of warranty on presentment~~
13 ~~under the preceding section, payment or acceptance of any instru-~~
14 ~~ment is final in favor of a holder in due course, or a person who~~
15 ~~has in good faith changed his position in reliance on the~~
16 ~~payment.~~

17 (1) EXCEPT AS PROVIDED IN SUBSECTION (3), IF THE DRAWEE OF A
18 DRAFT PAYS OR ACCEPTS THE DRAFT AND THE DRAWEE ACTED ON THE MIS-
19 TAKEN BELIEF THAT (i) PAYMENT OF THE DRAFT HAD NOT BEEN STOPPED
20 PURSUANT TO SECTION 4403 OR (ii) THE SIGNATURE OF THE DRAWER OF
21 THE DRAFT WAS AUTHORIZED, THE DRAWEE MAY RECOVER THE AMOUNT OF
22 THE DRAFT FROM THE PERSON TO WHOM OR FOR WHOSE BENEFIT PAYMENT
23 WAS MADE OR, IN THE CASE OF ACCEPTANCE, MAY REVOKE THE
24 ACCEPTANCE. RIGHTS OF THE DRAWEE UNDER THIS SUBSECTION ARE NOT
25 AFFECTED BY FAILURE OF THE DRAWEE TO EXERCISE ORDINARY CARE IN
26 PAYING OR ACCEPTING THE DRAFT.

1 (2) EXCEPT AS PROVIDED IN SUBSECTION (3), IF AN INSTRUMENT
 2 HAS BEEN PAID OR ACCEPTED BY MISTAKE AND THE CASE IS NOT COVERED
 3 BY SUBSECTION (1), THE PERSON PAYING OR ACCEPTING MAY, TO THE
 4 EXTENT PERMITTED BY THE LAW GOVERNING MISTAKE AND RESTITUTION,
 5 (i) RECOVER THE PAYMENT FROM THE PERSON TO WHOM OR FOR WHOSE BEN-
 6 EFIT PAYMENT WAS MADE OR (ii) IN THE CASE OF ACCEPTANCE, MAY
 7 REVOKE THE ACCEPTANCE.

8 (3) THE REMEDIES PROVIDED BY SUBSECTION (1) OR (2) MAY NOT
 9 BE ASSERTED AGAINST A PERSON WHO TOOK THE INSTRUMENT IN GOOD
 10 FAITH AND FOR VALUE OR WHO IN GOOD FAITH CHANGED POSITION IN
 11 RELIANCE ON THE PAYMENT OR ACCEPTANCE. THIS SUBSECTION DOES NOT
 12 LIMIT REMEDIES PROVIDED BY SECTION 3417 OR 4407.

13 (4) NOTWITHSTANDING SECTION 4215, IF AN INSTRUMENT IS PAID
 14 OR ACCEPTED BY MISTAKE AND THE PAYOR OR ACCEPTOR RECOVERS PAYMENT
 15 OR REVOKES ACCEPTANCE UNDER SUBSECTION (1) OR (2), THE INSTRUMENT
 16 IS DEEMED NOT TO HAVE BEEN PAID OR ACCEPTED AND IS TREATED AS
 17 DISHONORED, AND THE PERSON FROM WHOM PAYMENT IS RECOVERED HAS
 18 RIGHTS AS A PERSON ENTITLED TO ENFORCE THE DISHONORED INSTRUMENT.

19 Sec. 3419. ~~(1) An instrument is converted when~~
 20 ~~(a) a drawee to whom it is delivered for acceptance refuses~~
 21 ~~to return it on demand; or~~
 22 ~~(b) any person to whom it is delivered for payment refuses~~
 23 ~~on demand either to pay or to return it; or~~
 24 ~~(c) it is paid on a forged indorsement.~~
 25 ~~(2) In an action against a drawee under subsection (1) the~~
 26 ~~measure of the drawee's liability is the face amount of the~~
 27 ~~instrument. In any other action under subsection (1) the measure~~

1 ~~of liability is presumed to be the face amount of the~~
2 ~~instrument.~~

3 ~~(3) Subject to the provisions of this act concerning~~
4 ~~restrictive indorsements a representative, including a depository~~
5 ~~or collecting bank, who has in good faith and in accordance with~~
6 ~~the reasonable commercial standards applicable to the business of~~
7 ~~such representative dealt with an instrument or its proceeds on~~
8 ~~behalf of one who was not the true owner is not liable in conver-~~
9 ~~sion or otherwise to the true owner beyond the amount of any pro-~~
10 ~~ceeds remaining in his hands.~~

11 ~~(4) An intermediary bank or payor bank which is not a depos-~~
12 ~~itary bank is not liable in conversion solely by reason of the~~
13 ~~fact that proceeds of an item indorsed restrictively (sections~~
14 ~~3205 and 3206) are not paid or applied consistently with the~~
15 ~~restrictive indorsement of an indorser other than its immediate~~
16 ~~transferor.~~

17 (1) IF AN INSTRUMENT IS ISSUED FOR VALUE GIVEN FOR THE BENE-
18 FIT OF A PARTY TO THE INSTRUMENT ("ACCOMMODATED PARTY") AND
19 ANOTHER PARTY TO THE INSTRUMENT ("ACCOMMODATION PARTY") SIGNS THE
20 INSTRUMENT FOR THE PURPOSE OF INCURRING LIABILITY ON THE INSTRU-
21 MENT WITHOUT BEING A DIRECT BENEFICIARY OF THE VALUE GIVEN FOR
22 THE INSTRUMENT, THE INSTRUMENT IS SIGNED BY THE ACCOMMODATION
23 PARTY "FOR ACCOMMODATION".

24 (2) AN ACCOMMODATION PARTY MAY SIGN THE INSTRUMENT AS MAKER,
25 DRAWER, ACCEPTOR, OR ENDORSER AND, SUBJECT TO SUBSECTION (4), IS
26 OBLIGED TO PAY THE INSTRUMENT IN THE CAPACITY IN WHICH THE
27 ACCOMMODATION PARTY SIGNS. THE OBLIGATION OF AN ACCOMMODATION

1 PARTY MAY BE ENFORCED NOTWITHSTANDING ANY STATUTE OF FRAUDS AND
2 WHETHER OR NOT THE ACCOMMODATION PARTY RECEIVES CONSIDERATION FOR
3 THE ACCOMMODATION.

4 (3) A PERSON SIGNING AN INSTRUMENT IS PRESUMED TO BE AN
5 ACCOMMODATION PARTY AND THERE IS NOTICE THAT THE INSTRUMENT IS
6 SIGNED FOR ACCOMMODATION IF THE SIGNATURE IS AN ANOMALOUS
7 ENDORSEMENT OR IS ACCOMPANIED BY WORDS INDICATING THAT THE SIGNER
8 IS ACTING AS SURETY OR GUARANTOR WITH RESPECT TO THE OBLIGATION
9 OF ANOTHER PARTY TO THE INSTRUMENT. EXCEPT AS PROVIDED IN SEC-
10 TION 3605, THE OBLIGATION OF AN ACCOMMODATION PARTY TO PAY THE
11 INSTRUMENT IS NOT AFFECTED BY THE FACT THAT THE PERSON ENFORCING
12 THE OBLIGATION HAD NOTICE WHEN THE INSTRUMENT WAS TAKEN BY THAT
13 PERSON THAT THE ACCOMMODATION PARTY SIGNED THE INSTRUMENT FOR
14 ACCOMMODATION.

15 (4) IF THE SIGNATURE OF A PARTY TO AN INSTRUMENT IS ACCOM-
16 PANIED BY WORDS INDICATING UNAMBIGUOUSLY THAT THE PARTY IS GUAR-
17 ANTEEING COLLECTION RATHER THAN PAYMENT OF THE OBLIGATION OF
18 ANOTHER PARTY TO THE INSTRUMENT, THE SIGNER IS OBLIGED TO PAY THE
19 AMOUNT DUE ON THE INSTRUMENT TO A PERSON ENTITLED TO ENFORCE THE
20 INSTRUMENT ONLY IF (i) EXECUTION OF JUDGMENT AGAINST THE OTHER
21 PARTY HAS BEEN RETURNED UNSATISFIED, (ii) THE OTHER PARTY IS
22 INSOLVENT OR IN AN INSOLVENCY PROCEEDING, (iii) THE OTHER PARTY
23 CANNOT BE SERVED WITH PROCESS, OR (iv) IT IS OTHERWISE APPARENT
24 THAT PAYMENT CANNOT BE OBTAINED FROM THE OTHER PARTY.

25 (5) AN ACCOMMODATION PARTY WHO PAYS THE INSTRUMENT IS ENTI-
26 TLED TO REIMBURSEMENT FROM THE ACCOMMODATED PARTY AND IS ENTITLED
27 TO ENFORCE THE INSTRUMENT AGAINST THE ACCOMMODATED PARTY. AN

1 ACCOMMODATED PARTY WHO PAYS THE INSTRUMENT HAS NO RIGHT OF
 2 RECOURSE AGAINST, AND IS NOT ENTITLED TO CONTRIBUTION FROM, AN
 3 ACCOMMODATION PARTY.

4 SEC. 3420. (1) THE LAW APPLICABLE TO CONVERSION OF PERSONAL
 5 PROPERTY APPLIES TO INSTRUMENTS. AN INSTRUMENT IS ALSO CONVERTED
 6 IF IT IS TAKEN BY TRANSFER, OTHER THAN A NEGOTIATION, FROM A
 7 PERSON NOT ENTITLED TO ENFORCE THE INSTRUMENT OR A BANK MAKES OR
 8 OBTAINS PAYMENT WITH RESPECT TO THE INSTRUMENT FOR A PERSON NOT
 9 ENTITLED TO ENFORCE THE INSTRUMENT OR RECEIVE PAYMENT. AN ACTION
 10 FOR CONVERSION OF AN INSTRUMENT MAY NOT BE BROUGHT BY (i) THE
 11 ISSUER OR ACCEPTOR OF THE INSTRUMENT OR (ii) A PAYEE OR ENDORSEE
 12 WHO DID NOT RECEIVE DELIVERY OF THE INSTRUMENT EITHER DIRECTLY OR
 13 THROUGH DELIVERY TO AN AGENT OR A CO-PAYEE.

14 (2) IN AN ACTION UNDER SUBSECTION (1), THE MEASURE OF
 15 LIABILITY IS PRESUMED TO BE THE AMOUNT PAYABLE ON THE INSTRUMENT,
 16 BUT RECOVERY MAY NOT EXCEED THE AMOUNT OF THE PLAINTIFF'S INTER-
 17 EST IN THE INSTRUMENT.

18 (3) A REPRESENTATIVE, OTHER THAN A DEPOSITORY BANK, WHO HAS
 19 IN GOOD FAITH DEALT WITH AN INSTRUMENT OR ITS PROCEEDS ON BEHALF
 20 OF ONE WHO WAS NOT THE PERSON ENTITLED TO ENFORCE THE INSTRUMENT
 21 IS NOT LIABLE IN CONVERSION TO THAT PERSON BEYOND THE AMOUNT OF
 22 ANY PROCEEDS THAT IT HAS NOT PAID OUT.

23 PART 5. ~~PRESENTMENT, NOTICE OF DISHONOR AND PROTEST~~ DISHONOR

24 Sec. 3501. ~~(1) Unless excused (section 3511) presentment~~
 25 ~~is necessary to charge secondary parties as follows:~~

26 ~~(a) presentment for acceptance is necessary to charge the~~
 27 ~~drawer and indorsers of a draft where the draft so provides, or~~

~~1 is payable elsewhere than at the residence or place of business
2 of the drawee, or its date of payment depends upon such
3 presentment. The holder may at his option present for acceptance
4 any other draft payable at a stated date;~~

~~5 (b) presentment for payment is necessary to charge any
6 indorser;~~

~~7 (c) in the case of any drawer, the acceptor of a draft pay-
8 able at a bank or the maker of a note payable at a bank, present-
9 ment for payment is necessary, but failure to make presentment
10 discharges such drawer, acceptor or maker only as stated in sec-
11 tion 3502(1)(b).~~

~~12 (2) Unless excused (section 3511)~~

~~13 (a) notice of any dishonor is necessary to charge any
14 indorser;~~

~~15 (b) in the case of any drawer, the acceptor of a draft pay-
16 able at a bank or the maker of a note payable at a bank, notice
17 of any dishonor is necessary, but failure to give such notice
18 discharges such drawer, acceptor or maker only as stated in sec-
19 tion 3502(1)(b).~~

~~20 (3) Unless excused (section 3511) protest of any dishonor is
21 necessary to charge the drawer and indorsers of any draft which
22 on its face appears to be drawn or payable outside of the states
23 and territories of the United States and the District of
24 Columbia. The holder may at his option make protest of any dis-
25 honor of any other instrument and in the case of a foreign draft
26 may on insolvency of the acceptor before maturity make protest
27 for better security.~~

1 ~~(4) Notwithstanding any provision of this section, neither~~
2 ~~presentment nor notice of dishonor nor protest is necessary to~~
3 ~~charge an indorser who has indorsed an instrument after~~
4 ~~maturity.~~

5 (1) "PRESENTMENT" MEANS A DEMAND MADE BY OR ON BEHALF OF A
6 PERSON ENTITLED TO ENFORCE AN INSTRUMENT (i) TO PAY THE INSTRU-
7 MENT MADE TO THE DRAWEE OR A PARTY OBLIGED TO PAY THE INSTRUMENT
8 OR, IN THE CASE OF A NOTE OR ACCEPTED DRAFT PAYABLE AT A BANK, TO
9 THE BANK, OR (ii) TO ACCEPT A DRAFT MADE TO THE DRAWEE.

10 (2) THE FOLLOWING RULES ARE SUBJECT TO ARTICLE 4, AGREEMENT
11 OF THE PARTIES, AND CLEARINGHOUSE RULES AND THE LIKE:

12 (A) PRESENTMENT MAY BE MADE AT THE PLACE OF PAYMENT OF THE
13 INSTRUMENT AND MUST BE MADE AT THE PLACE OF PAYMENT IF THE
14 INSTRUMENT IS PAYABLE AT A BANK IN THE UNITED STATES; MAY BE MADE
15 BY ANY COMMERCIALY REASONABLE MEANS, INCLUDING AN ORAL, WRITTEN,
16 OR ELECTRONIC COMMUNICATION; IS EFFECTIVE WHEN THE DEMAND FOR
17 PAYMENT OR ACCEPTANCE IS RECEIVED BY THE PERSON TO WHOM PRESENT-
18 MENT IS MADE; AND IS EFFECTIVE IF MADE TO ANY 1 OF 2 OR MORE
19 MAKERS, ACCEPTORS, DRAWEES, OR OTHER PAYORS.

20 (B) UPON DEMAND OF THE PERSON TO WHOM PRESENTMENT IS MADE,
21 THE PERSON MAKING PRESENTMENT MUST (i) EXHIBIT THE INSTRUMENT,
22 (ii) GIVE REASONABLE IDENTIFICATION AND, IF PRESENTMENT IS MADE
23 ON BEHALF OF ANOTHER PERSON, REASONABLE EVIDENCE OF AUTHORITY TO
24 DO SO, AND (iii) SIGN A RECEIPT ON THE INSTRUMENT FOR ANY PAYMENT
25 MADE OR SURRENDER THE INSTRUMENT IF FULL PAYMENT IS MADE.

26 (3) WITHOUT DISHONORING THE INSTRUMENT, THE PARTY TO WHOM
27 PRESENTMENT IS MADE MAY (i) RETURN THE INSTRUMENT FOR LACK OF A

1 NECESSARY ENDORSEMENT, OR (ii) REFUSE PAYMENT OR ACCEPTANCE FOR
2 FAILURE OF THE PRESENTMENT TO COMPLY WITH THE TERMS OF THE
3 INSTRUMENT, AN AGREEMENT OF THE PARTIES, OR OTHER APPLICABLE LAW
4 OR RULE.

5 (4) THE PARTY TO WHOM PRESENTMENT IS MADE MAY TREAT PRESENT-
6 MENT AS OCCURRING ON THE NEXT BUSINESS DAY AFTER THE DAY OF PRE-
7 SENTMENT IF THE PARTY TO WHOM PRESENTMENT IS MADE HAS ESTABLISHED
8 A CUTOFF HOUR NOT EARLIER THAN 2 P.M. FOR THE RECEIPT AND PRO-
9 CESSING OF INSTRUMENTS PRESENTED FOR PAYMENT OR ACCEPTANCE AND
10 PRESENTMENT IS MADE AFTER THE CUTOFF HOUR.

11 Sec. 3502. ~~(1) Where without excuse any necessary present-~~
12 ~~ment or notice of dishonor is delayed beyond the time when it is~~
13 ~~due~~

14 ~~(a) any indorser is discharged; and~~

15 ~~(b) any drawer or the acceptor of a draft payable at a bank~~
16 ~~or the maker of a note payable at a bank who because the drawee~~
17 ~~or payor bank becomes insolvent during the delay is deprived of~~
18 ~~funds maintained with the drawee or payor bank to cover the~~
19 ~~instrument may discharge his liability by written assignment to~~
20 ~~the holder of his rights against the drawee or payor bank in~~
21 ~~respect of such funds, but such drawer, acceptor or maker is not~~
22 ~~otherwise discharged.~~

23 ~~(2) Where without excuse a necessary protest is delayed~~
24 ~~beyond the time when it is due any drawer or indorser is~~
25 ~~discharged.~~

26 (1) DISHONOR OF A NOTE IS GOVERNED BY THE FOLLOWING RULES:

1 (A) IF THE NOTE IS PAYABLE ON DEMAND, THE NOTE IS DISHONORED
2 IF PRESENTMENT IS DULY MADE TO THE MAKER AND THE NOTE IS NOT PAID
3 ON THE DATE OF PRESENTMENT.

4 (B) IF THE NOTE IS NOT PAYABLE ON DEMAND AND IS PAYABLE AT
5 OR THROUGH A BANK OR THE TERMS OF THE NOTE REQUIRE PRESENTMENT,
6 THE NOTE IS DISHONORED IF PRESENTMENT IS DULY MADE AND THE NOTE
7 IS NOT PAID ON THE DAY IT BECOMES PAYABLE OR THE DAY OF PRESENT-
8 MENT, WHICHEVER IS LATER.

9 (C) IF THE NOTE IS NOT PAYABLE ON DEMAND AND SUBDIVISION (B)
10 DOES NOT APPLY, THE NOTE IS DISHONORED IF IT IS NOT PAID ON THE
11 DAY IT BECOMES PAYABLE.

12 (2) DISHONOR OF AN UNACCEPTED DRAFT OTHER THAN A DOCUMENTARY
13 DRAFT IS GOVERNED BY THE FOLLOWING RULES:

14 (A) IF A CHECK IS DULY PRESENTED FOR PAYMENT TO THE PAYOR
15 BANK OTHERWISE THAN FOR IMMEDIATE PAYMENT OVER THE COUNTER, THE
16 CHECK IS DISHONORED IF THE PAYOR BANK MAKES TIMELY RETURN OF THE
17 CHECK OR SENDS TIMELY NOTICE OF DISHONOR OR NONPAYMENT UNDER SEC-
18 TION 4301 OR 4302, OR BECOMES ACCOUNTABLE FOR THE AMOUNT OF THE
19 CHECK UNDER SECTION 4302.

20 (B) IF A DRAFT IS PAYABLE ON DEMAND AND SUBDIVISION (A) DOES
21 NOT APPLY, THE DRAFT IS DISHONORED IF PRESENTMENT FOR PAYMENT IS
22 DULY MADE TO THE DRAVEE AND THE DRAFT IS NOT PAID ON THE DAY OF
23 PRESENTMENT.

24 (C) IF A DRAFT IS PAYABLE ON A DATE STATED IN THE DRAFT, THE
25 DRAFT IS DISHONORED IF (i) PRESENTMENT FOR PAYMENT IS DULY MADE
26 TO THE DRAVEE AND PAYMENT IS NOT MADE ON THE DAY THE DRAFT
27 BECOMES PAYABLE OR THE DAY OF PRESENTMENT, WHICHEVER IS LATER, OR

1 (ii) PRESENTMENT FOR ACCEPTANCE IS DULY MADE BEFORE THE DAY THE
2 DRAFT BECOMES PAYABLE AND THE DRAFT IS NOT ACCEPTED ON THE DAY OF
3 PRESENTMENT.

4 (D) IF A DRAFT IS PAYABLE ON ELAPSE OF A PERIOD OF TIME
5 AFTER SIGHT OR ACCEPTANCE, THE DRAFT IS DISHONORED IF PRESENTMENT
6 FOR ACCEPTANCE IS DULY MADE AND THE DRAFT IS NOT ACCEPTED ON THE
7 DAY OF PRESENTMENT.

8 (3) DISHONOR OF AN UNACCEPTED DOCUMENTARY DRAFT OCCURS
9 ACCORDING TO THE RULES STATED IN SUBSECTION (2)(B), (C), AND (D),
10 EXCEPT THAT PAYMENT OR ACCEPTANCE MAY BE DELAYED WITHOUT DISHONOR
11 UNTIL NO LATER THAN THE CLOSE OF THE THIRD BUSINESS DAY OF THE
12 DRAWEE FOLLOWING THE DAY ON WHICH PAYMENT OR ACCEPTANCE IS
13 REQUIRED BY THOSE PARAGRAPHS.

14 (4) DISHONOR OF AN ACCEPTED DRAFT IS GOVERNED BY THE FOLLOW-
15 ING RULES:

16 (A) IF THE DRAFT IS PAYABLE ON DEMAND, THE DRAFT IS DISHON-
17 ORED IF PRESENTMENT FOR PAYMENT IS DULY MADE TO THE ACCEPTOR AND
18 THE DRAFT IS NOT PAID ON THE DAY OF PRESENTMENT.

19 (B) IF THE DRAFT IS NOT PAYABLE ON DEMAND, THE DRAFT IS DIS-
20 HONORED IF PRESENTMENT FOR PAYMENT IS DULY MADE TO THE ACCEPTOR
21 AND PAYMENT IS NOT MADE ON THE DAY IT BECOMES PAYABLE OR THE DAY
22 OF PRESENTMENT, WHICHEVER IS LATER.

23 (5) IN ANY CASE IN WHICH PRESENTMENT IS OTHERWISE REQUIRED
24 FOR DISHONOR UNDER THIS SECTION AND PRESENTMENT IS EXCUSED UNDER
25 SECTION 3504, DISHONOR OCCURS WITHOUT PRESENTMENT IF THE INSTRU-
26 MENT IS NOT DULY ACCEPTED OR PAID.

1 (6) IF A DRAFT IS DISHONORED BECAUSE TIMELY ACCEPTANCE OF
2 THE DRAFT WAS NOT MADE AND THE PERSON ENTITLED TO DEMAND
3 ACCEPTANCE CONSENTS TO A LATE ACCEPTANCE, FROM THE TIME OF ACCEP-
4 TANCE THE DRAFT IS TREATED AS NEVER HAVING BEEN DISHONORED.

5 Sec. 3503. ~~(1) Unless a different time is expressed in the~~
6 ~~instrument the time for any presentment is determined as~~
7 ~~follows:~~

8 ~~(a) where an instrument is payable at or a fixed period~~
9 ~~after a stated date any presentment for acceptance must be made~~
10 ~~on or before the date it is payable;~~

11 ~~(b) where an instrument is payable after sight it must~~
12 ~~either be presented for acceptance or negotiated within a reason-~~
13 ~~able time after date or issue whichever is later;~~

14 ~~(c) where an instrument shows the date on which it is pay-~~
15 ~~able presentment for payment is due on that date;~~

16 ~~(d) where an instrument is accelerated presentment for pay-~~
17 ~~ment is due within a reasonable time after the acceleration;~~

18 ~~(e) with respect to the liability of any secondary party~~
19 ~~presentment for acceptance or payment of any other instrument is~~
20 ~~due within a reasonable time after such party becomes liable~~
21 ~~thereon.~~

22 ~~(2) A reasonable time for presentment is determined by the~~
23 ~~nature of the instrument, any usage of banking or trade and the~~
24 ~~facts of the particular case. In the case of an uncertified~~
25 ~~check which is drawn and payable within the United States and~~
26 ~~which is not a draft drawn by a bank the following are presumed~~

~~1 to be reasonable periods within which to present for payment or
2 to initiate bank collection:~~

~~3 (a) with respect to the liability of the drawer, 30 days
4 after date or issue whichever is later; and~~

~~5 (b) with respect to the liability of an indorser, 7 days
6 after his indorsement.~~

~~7 (3) Where any presentment is due on a day which is not a
8 full business day for either the person making presentment or the
9 party to pay or accept, presentment is due on the next following
10 day which is a full business day for both parties.~~

~~11 (4) Presentment to be sufficient must be made at a reason-
12 able hour, and if at a bank during its banking day.~~

(1) THE OBLIGATION OF AN ENDORSER STATED IN SECTION 3415(2)
AND THE OBLIGATION OF A DRAWER STATED IN SECTION 3414(4) MAY NOT
BE ENFORCED UNLESS (i) THE ENDORSER OR DRAWER IS GIVEN NOTICE OF
DISHONOR OF THE INSTRUMENT COMPLYING WITH THIS SECTION OR (ii)
NOTICE OF DISHONOR IS EXCUSED UNDER SECTION 3504(2).

(2) NOTICE OF DISHONOR MAY BE GIVEN BY ANY PERSON; MAY BE
GIVEN BY ANY COMMERCIALY REASONABLE MEANS, INCLUDING AN ORAL,
WRITTEN, OR ELECTRONIC COMMUNICATION; AND IS SUFFICIENT IF IT
REASONABLY IDENTIFIES THE INSTRUMENT AND INDICATES THAT THE
INSTRUMENT HAS BEEN DISHONORED OR HAS NOT BEEN PAID OR ACCEPTED.
RETURN OF AN INSTRUMENT GIVEN TO A BANK FOR COLLECTION IS SUFFI-
CIENT NOTICE OF DISHONOR.

(3) SUBJECT TO SECTION 3504(3), WITH RESPECT TO AN INSTRU-
MENT TAKEN FOR COLLECTION BY A COLLECTING BANK, NOTICE OF
DISHONOR MUST BE GIVEN (i) BY THE BANK BEFORE MIDNIGHT OF THE

1 NEXT BANKING DAY FOLLOWING THE BANKING DAY ON WHICH THE BANK
2 RECEIVES NOTICE OF DISHONOR OF THE INSTRUMENT, OR (ii) BY ANY
3 OTHER PERSON WITHIN 30 DAYS FOLLOWING THE DAY ON WHICH THE PERSON
4 RECEIVES NOTICE OF DISHONOR. WITH RESPECT TO ANY OTHER INSTRU-
5 MENT, NOTICE OF DISHONOR MUST BE GIVEN WITHIN 30 DAYS FOLLOWING
6 THE DAY ON WHICH DISHONOR OCCURS.

7 Sec. 3504. ~~(1) Presentment is a demand for acceptance or~~
8 ~~payment made upon the maker, acceptor, drawee or other payor by~~
9 ~~or on behalf of the holder.~~

10 ~~(2) Presentment may be made~~

11 ~~(a) by mail, in which event the time of presentment is~~
12 ~~determined by the time of receipt of the mail; or~~

13 ~~(b) through a clearing house; or~~

14 ~~(c) at the place of acceptance or payment specified in the~~
15 ~~instrument or if there be none at the place of business or resi-~~
16 ~~dence of the party to accept or pay. If neither the party to~~
17 ~~accept or pay nor anyone authorized to act for him is present or~~
18 ~~accessible at such place presentment is excused.~~

19 ~~(3) It may be made~~

20 ~~(a) to any one of 2 or more makers, acceptors, drawees or~~
21 ~~other payors; or~~

22 ~~(b) to any person who has authority to make or refuse the~~
23 ~~acceptance or payment.~~

24 ~~(4) A draft accepted or a note made payable at a bank in the~~
25 ~~United States must be presented at such bank.~~

1 ~~(5) In the cases described in section 4210 presentment may~~
2 ~~be made in the manner and with the result stated in that~~
3 ~~section.~~

4 (1) PRESENTMENT FOR PAYMENT OR ACCEPTANCE OF AN INSTRUMENT
5 IS EXCUSED IF (i) THE PERSON ENTITLED TO PRESENT THE INSTRUMENT
6 CANNOT WITH REASONABLE DILIGENCE MAKE PRESENTMENT, (ii) THE MAKER
7 OR ACCEPTOR HAS REPUDIATED AN OBLIGATION TO PAY THE INSTRUMENT OR
8 IS DEAD OR IN INSOLVENCY PROCEEDINGS, (iii) BY THE TERMS OF THE
9 INSTRUMENT PRESENTMENT IS NOT NECESSARY TO ENFORCE THE OBLIGATION
10 OF ENDORSERS OR THE DRAWER, (iv) THE DRAWER OR ENDORSER WHOSE
11 OBLIGATION IS BEING ENFORCED HAS WAIVED PRESENTMENT OR OTHERWISE
12 HAS NO REASON TO EXPECT OR RIGHT TO REQUIRE THAT THE INSTRUMENT
13 BE PAID OR ACCEPTED, OR (v) THE DRAWER INSTRUCTED THE DRAWEE NOT
14 TO PAY OR ACCEPT THE DRAFT OR THE DRAWEE WAS NOT OBLIGATED TO THE
15 DRAWER TO PAY THE DRAFT.

16 (2) NOTICE OF DISHONOR IS EXCUSED IF (i) BY THE TERMS OF THE
17 INSTRUMENT NOTICE OF DISHONOR IS NOT NECESSARY TO ENFORCE THE
18 OBLIGATION OF A PARTY TO PAY THE INSTRUMENT, OR (ii) THE PARTY
19 WHOSE OBLIGATION IS BEING ENFORCED WAIVED NOTICE OF DISHONOR. A
20 WAIVER OF PRESENTMENT IS ALSO A WAIVER OF NOTICE OF DISHONOR.

21 (3) DELAY IN GIVING NOTICE OF DISHONOR IS EXCUSED IF THE
22 DELAY WAS CAUSED BY CIRCUMSTANCES BEYOND THE CONTROL OF THE
23 PERSON GIVING THE NOTICE AND THE PERSON GIVING THE NOTICE EXER-
24 CISED REASONABLE DILIGENCE AFTER THE CAUSE OF THE DELAY CEASED TO
25 OPERATE.

26 Sec. 3505. ~~(1) The party to whom presentment is made may~~
27 ~~without dishonor require~~

~~(a) exhibition of the instrument; and~~

~~(b) reasonable identification of the person making present-
ment and evidence of his authority to make it if made for another;
and~~

~~(c) that the instrument be produced for acceptance or pay-
ment at a place specified in it, or if there be none at any place
reasonable in the circumstances; and~~

~~(d) a signed receipt on the instrument for any partial or
full payment and its surrender upon full payment.~~

~~(2) Failure to comply with any such requirement invalidates
the presentment but the person presenting has a reasonable time
in which to comply and the time for acceptance or payment runs
from the time of compliance.~~

(1) THE FOLLOWING ARE ADMISSIBLE AS EVIDENCE AND CREATE A
PRESUMPTION OF DISHONOR AND OF ANY NOTICE OF DISHONOR STATED:

(A) A DOCUMENT REGULAR IN FORM AS PROVIDED IN SUBSECTION (2)
WHICH PURPORTS TO BE A PROTEST.

(B) A PURPORTED STAMP OR WRITING OF THE DRAWEE, PAYOR BANK,
OR PRESENTING BANK ON OR ACCOMPANYING THE INSTRUMENT STATING THAT
ACCEPTANCE OR PAYMENT HAS BEEN REFUSED UNLESS REASONS FOR THE
REFUSAL ARE STATED AND THE REASONS ARE NOT CONSISTENT WITH
DISHONOR.

(C) A BOOK OR RECORD OF THE DRAWEE, PAYOR BANK, OR COLLECT-
ING BANK, KEPT IN THE USUAL COURSE OF BUSINESS WHICH SHOWS DIS-
HONOR, EVEN IF THERE IS NO EVIDENCE OF WHO MADE THE ENTRY.

(2) A PROTEST IS A CERTIFICATE OF DISHONOR MADE BY A UNITED
STATES CONSUL OR VICE CONSUL, OR A NOTARY PUBLIC OR OTHER PERSON

1 AUTHORIZED TO ADMINISTER OATHS BY THE LAW OF THE PLACE WHERE
 2 DISHONOR OCCURS. IT MAY BE MADE UPON INFORMATION SATISFACTORY TO
 3 THAT PERSON. THE PROTEST MUST IDENTIFY THE INSTRUMENT AND CER-
 4 TIFY EITHER THAT PRESENTMENT HAS BEEN MADE OR, IF NOT MADE, THE
 5 REASON WHY IT WAS NOT MADE, AND THAT THE INSTRUMENT HAS BEEN DIS-
 6 HONORED BY NONACCEPTANCE OR NONPAYMENT. THE PROTEST MAY ALSO
 7 CERTIFY THAT NOTICE OF DISHONOR HAS BEEN GIVEN TO SOME OR ALL
 8 PARTIES.

9 PART 6. DISCHARGE AND PAYMENT

10 Sec. 3601. ~~(1) The extent of the discharge of any party~~
 11 ~~from liability on an instrument is governed by the sections on~~
 12 ~~(a) payment or satisfaction (section 3603); or~~
 13 ~~(b) tender of payment (section 3604); or~~
 14 ~~(c) cancellation or renunciation (section 3605); or~~
 15 ~~(d) impairment of right of recourse or of collateral~~
 16 ~~(section 3606); or~~
 17 ~~(e) reacquisition of the instrument by a prior party~~
 18 ~~(section 3208); or~~
 19 ~~(f) fraudulent and material alteration (section 3407); or~~
 20 ~~(g) certification of a check (section 3411); or~~
 21 ~~(h) acceptance varying a draft (section 3412); or~~
 22 ~~(i) unexcused delay in presentment or notice of dishonor or~~
 23 ~~protest (section 3502).~~
 24 ~~(2) Any party is also discharged from his liability on an~~
 25 ~~instrument to another party by any other act or agreement with~~
 26 ~~such party which would discharge his simple contract for the~~
 27 ~~payment of money.~~

1 ~~(3) The liability of all parties is discharged when any~~
2 ~~party who has himself no right of action or recourse on the~~
3 ~~instrument~~

4 ~~(a) reacquires the instrument in his own right; or~~

5 ~~(b) is discharged under any provision of this article,~~
6 ~~except as otherwise provided with respect to discharge for~~
7 ~~impairment of recourse or of collateral (section 3606).~~

8 (1) THE OBLIGATION OF A PARTY TO PAY THE INSTRUMENT IS DIS-
9 CHARGED AS STATED IN THIS ARTICLE OR BY AN ACT OR AGREEMENT WITH
10 THE PARTY WHICH WOULD DISCHARGE AN OBLIGATION TO PAY MONEY UNDER
11 A SIMPLE CONTRACT.

12 (2) DISCHARGE OF THE OBLIGATION OF A PARTY IS NOT EFFECTIVE
13 AGAINST A PERSON ACQUIRING RIGHTS OF A HOLDER IN DUE COURSE OF
14 THE INSTRUMENT WITHOUT NOTICE OF THE DISCHARGE.

15 Sec. 3602. ~~No discharge of any party provided by this~~
16 ~~article is effective against a subsequent holder in due course~~
17 ~~unless he has notice thereof when he takes the instrument.~~ (1)
18 SUBJECT TO SUBSECTION (2), AN INSTRUMENT IS PAID TO THE EXTENT
19 PAYMENT IS MADE (i) BY OR ON BEHALF OF A PARTY OBLIGED TO PAY THE
20 INSTRUMENT, AND (ii) TO A PERSON ENTITLED TO ENFORCE THE
21 INSTRUMENT. TO THE EXTENT OF THE PAYMENT, THE OBLIGATION OF THE
22 PARTY OBLIGED TO PAY THE INSTRUMENT IS DISCHARGED EVEN THOUGH
23 PAYMENT IS MADE WITH KNOWLEDGE OF A CLAIM TO THE INSTRUMENT UNDER
24 SECTION 3306 BY ANOTHER PERSON.

25 (2) THE OBLIGATION OF A PARTY TO PAY THE INSTRUMENT IS NOT
26 DISCHARGED UNDER SUBSECTION (1) IF EITHER OF THE FOLLOWING
27 APPLIES:

1 (A) A CLAIM TO THE INSTRUMENT UNDER SECTION 3306 IS
2 ENFORCEABLE AGAINST THE PARTY RECEIVING PAYMENT AND (i) PAYMENT
3 IS MADE WITH KNOWLEDGE BY THE PAYOR THAT PAYMENT IS PROHIBITED BY
4 INJUNCTION OR SIMILAR PROCESS OF A COURT OF COMPETENT JURISDIC-
5 TION, OR (ii) IN THE CASE OF AN INSTRUMENT OTHER THAN A CASHIER'S
6 CHECK, TELLER'S CHECK, OR CERTIFIED CHECK, THE PARTY MAKING PAY-
7 MENT ACCEPTED, FROM THE PERSON HAVING A CLAIM TO THE INSTRUMENT,
8 INDEMNITY AGAINST LOSS RESULTING FROM REFUSAL TO PAY THE PERSON
9 ENTITLED TO ENFORCE THE INSTRUMENT.

10 (B) THE PERSON MAKING PAYMENT KNOWS THAT THE INSTRUMENT IS A
11 STOLEN INSTRUMENT AND PAYS A PERSON IT KNOWS IS IN WRONGFUL POS-
12 SESSION OF THE INSTRUMENT.

13 Sec. 3603. ~~(1) The liability of any party is discharged to~~
14 ~~the extent of his payment or satisfaction to the holder even~~
15 ~~though it is made with knowledge of a claim of another person to~~
16 ~~the instrument unless prior to such payment or satisfaction the~~
17 ~~person making the claim either supplies indemnity deemed adequate~~
18 ~~by the party seeking the discharge or enjoins payment or satis-~~
19 ~~faction by order of a court of competent jurisdiction in an~~
20 ~~action in which the adverse claimant and the holder are parties.~~
21 ~~This subsection does not, however, result in the discharge of the~~
22 ~~liability~~

23 ~~(a) of a party who in bad faith pays or satisfies a holder~~
24 ~~who acquired the instrument by theft or who (unless having the~~
25 ~~rights of a holder in due course) holds through one who so~~
26 ~~acquired it; or~~

1 ~~(b) of a party (other than an intermediary bank or a payor~~
2 ~~bank which is not a depository bank) who pays or satisfies the~~
3 ~~holder of an instrument which has been restrictively indorsed in~~
4 ~~a manner not consistent with the terms of such restrictive~~
5 ~~endorsement.~~

6 ~~(2) Payment or satisfaction may be made with the consent of~~
7 ~~the holder by any person including a stranger to the instrument.~~
8 ~~Surrender of the instrument to such a person gives him the rights~~
9 ~~of a transferee (section 3201).~~ (1) IF TENDER OF PAYMENT OF AN
10 OBLIGATION TO PAY AN INSTRUMENT IS MADE TO A PERSON ENTITLED TO
11 ENFORCE THE INSTRUMENT, THE EFFECT OF TENDER IS GOVERNED BY PRIN-
12 CIPLES OF LAW APPLICABLE TO TENDER OF PAYMENT UNDER A SIMPLE
13 CONTRACT.

14 (2) IF TENDER OF PAYMENT OF AN OBLIGATION TO PAY AN INSTRU-
15 MENT IS MADE TO A PERSON ENTITLED TO ENFORCE THE INSTRUMENT AND
16 THE TENDER IS REFUSED, THERE IS DISCHARGE, TO THE EXTENT OF THE
17 AMOUNT OF THE TENDER, OF THE OBLIGATION OF AN ENDORSER OR ACCOM-
18 MODATION PARTY HAVING A RIGHT OF RECOURSE WITH RESPECT TO THE
19 OBLIGATION TO WHICH THE TENDER RELATES.

20 (3) IF TENDER OF PAYMENT OF AN AMOUNT DUE ON AN INSTRUMENT
21 IS MADE TO A PERSON ENTITLED TO ENFORCE THE INSTRUMENT, THE OBLI-
22 GATION OF THE OBLIGOR TO PAY INTEREST AFTER THE DUE DATE ON THE
23 AMOUNT TENDERED IS DISCHARGED. IF PRESENTMENT IS REQUIRED WITH
24 RESPECT TO AN INSTRUMENT AND THE OBLIGOR IS ABLE AND READY TO PAY
25 ON THE DUE DATE AT EVERY PLACE OF PAYMENT STATED IN THE INSTRU-
26 MENT, THE OBLIGOR IS DEEMED TO HAVE MADE TENDER OF PAYMENT ON THE
27 DUE DATE TO THE PERSON ENTITLED TO ENFORCE THE INSTRUMENT.

1 Sec. 3604. ~~(1) Any party making tender of full payment to~~
2 ~~a holder when or after it is due is discharged to the extent of~~
3 ~~all subsequent liability for interest, costs and attorney's~~
4 ~~fees.~~

5 ~~(2) The holder's refusal of such tender wholly discharges~~
6 ~~any party who has a right of recourse against the party making~~
7 ~~the tender.~~

8 ~~(3) Where the maker or acceptor of an instrument payable~~
9 ~~otherwise than on demand is able and ready to pay at every place~~
10 ~~of payment specified in the instrument when it is due, it is~~
11 ~~equivalent to tender.~~ (1) A PERSON ENTITLED TO ENFORCE AN
12 INSTRUMENT, WITH OR WITHOUT CONSIDERATION, MAY DISCHARGE THE
13 OBLIGATION OF A PARTY TO PAY THE INSTRUMENT (i) BY AN INTENTIONAL
14 VOLUNTARY ACT, SUCH AS SURRENDER OF THE INSTRUMENT TO THE PARTY,
15 DESTRUCTION, MUTILATION, OR CANCELLATION OF THE INSTRUMENT, CAN-
16 CELLATION OR STRIKING OUT OF THE PARTY'S SIGNATURE, OR THE ADDI-
17 TION OF WORDS TO THE INSTRUMENT INDICATING DISCHARGE, OR (ii) BY
18 AGREEING NOT TO SUE OR OTHERWISE RENOUNCING RIGHTS AGAINST THE
19 PARTY BY A SIGNED WRITING.

20 (2) CANCELLATION OR STRIKING OUT OF AN ENDORSEMENT PURSUANT
21 TO SUBSECTION (1) DOES NOT AFFECT THE STATUS AND RIGHTS OF A
22 PARTY DERIVED FROM THE ENDORSEMENT.

23 Sec. 3605. ~~(1) The holder of an instrument may even with~~
24 ~~out consideration discharge any party~~

25 ~~(a) in any manner apparent on the face of the instrument or~~
26 ~~the endorsement, as by intentionally canceling the instrument or~~

1 ~~the party's signature by destruction or mutilation, or by~~
2 ~~striking out the party's signature; or~~

3 ~~(b) by renouncing his rights by a writing signed and deliv-~~
4 ~~ered or by surrender of the instrument to the party to be~~
5 ~~discharged.~~

6 ~~(2) Neither cancellation nor renunciation without surrender~~
7 ~~of the instrument affects the title thereto.~~ (1) IN THIS SEC-
8 TION, THE TERM "ENDORSER" INCLUDES A DRAWER HAVING THE OBLIGATION
9 DESCRIBED IN SECTION 3414(4).

10 (2) DISCHARGE, UNDER SECTION 3604, OF THE OBLIGATION OF A
11 PARTY TO PAY AN INSTRUMENT DOES NOT DISCHARGE THE OBLIGATION OF
12 AN ENDORSER OR ACCOMMODATION PARTY HAVING A RIGHT OF RECOURSE
13 AGAINST THE DISCHARGED PARTY.

14 (3) IF A PERSON ENTITLED TO ENFORCE AN INSTRUMENT AGREES,
15 WITH OR WITHOUT CONSIDERATION, TO AN EXTENSION OF THE DUE DATE OF
16 THE OBLIGATION OF A PARTY TO PAY THE INSTRUMENT, THE EXTENSION
17 DISCHARGES AN ENDORSER OR ACCOMMODATION PARTY HAVING A RIGHT OF
18 RECOURSE AGAINST THE PARTY WHOSE OBLIGATION IS EXTENDED TO THE
19 EXTENT THE ENDORSER OR ACCOMMODATION PARTY PROVES THAT THE EXTEN-
20 SION CAUSED LOSS TO THE ENDORSER OR ACCOMMODATION PARTY WITH
21 RESPECT TO THE RIGHT OF RECOURSE.

22 (4) IF A PERSON ENTITLED TO ENFORCE AN INSTRUMENT AGREES,
23 WITH OR WITHOUT CONSIDERATION, TO A MATERIAL MODIFICATION OF THE
24 OBLIGATION OF A PARTY OTHER THAN AN EXTENSION OF THE DUE DATE,
25 THE MODIFICATION DISCHARGES THE OBLIGATION OF AN ENDORSER OR
26 ACCOMMODATION PARTY HAVING A RIGHT OF RECOURSE AGAINST THE PERSON
27 WHOSE OBLIGATION IS MODIFIED TO THE EXTENT THE MODIFICATION

1 CAUSES LOSS TO THE ENDORSER OR ACCOMMODATION PARTY WITH RESPECT
2 TO THE RIGHT OF RECOURSE. THE LOSS SUFFERED BY THE ENDORSER OR
3 ACCOMMODATION PARTY AS A RESULT OF THE MODIFICATION IS EQUAL TO
4 THE AMOUNT OF THE RIGHT OF RECOURSE UNLESS THE PERSON ENFORCING
5 THE INSTRUMENT PROVES THAT NO LOSS WAS CAUSED BY THE MODIFICATION
6 OR THAT THE LOSS CAUSED BY THE MODIFICATION WAS AN AMOUNT LESS
7 THAN THE AMOUNT OF THE RIGHT OF RECOURSE.

8 (5) IF THE OBLIGATION OF A PARTY TO PAY AN INSTRUMENT IS
9 SECURED BY AN INTEREST IN COLLATERAL AND A PERSON ENTITLED TO
10 ENFORCE THE INSTRUMENT IMPAIRS THE VALUE OF THE INTEREST IN COL-
11 LATERAL, THE OBLIGATION OF AN ENDORSER OR ACCOMMODATION PARTY
12 HAVING A RIGHT OF RECOURSE AGAINST THE OBLIGOR IS DISCHARGED TO
13 THE EXTENT OF THE IMPAIRMENT. THE VALUE OF AN INTEREST IN COL-
14 LATERAL IS IMPAIRED TO THE EXTENT (i) THE VALUE OF THE INTEREST
15 IS REDUCED TO AN AMOUNT LESS THAN THE AMOUNT OF THE RIGHT OF
16 RECOURSE OF THE PARTY ASSERTING DISCHARGE, OR (ii) THE REDUCTION
17 IN VALUE OF THE INTEREST CAUSES AN INCREASE IN THE AMOUNT BY
18 WHICH THE AMOUNT OF THE RIGHT OF RECOURSE EXCEEDS THE VALUE OF
19 THE INTEREST. THE BURDEN OF PROVING IMPAIRMENT IS ON THE PARTY
20 ASSERTING DISCHARGE.

21 (6) IF THE OBLIGATION OF A PARTY IS SECURED BY AN INTEREST
22 IN COLLATERAL NOT PROVIDED BY AN ACCOMMODATION PARTY AND A PERSON
23 ENTITLED TO ENFORCE THE INSTRUMENT IMPAIRS THE VALUE OF THE
24 INTEREST IN COLLATERAL, THE OBLIGATION OF ANY PARTY WHO IS
25 JOINTLY AND SEVERALLY LIABLE WITH RESPECT TO THE SECURED OBLIGA-
26 TION IS DISCHARGED TO THE EXTENT THE IMPAIRMENT CAUSES THE PARTY
27 ASSERTING DISCHARGE TO PAY MORE THAN THAT PARTY WOULD HAVE BEEN

1 OBLIGED TO PAY, TAKING INTO ACCOUNT RIGHTS OF CONTRIBUTION, IF
2 IMPAIRMENT HAD NOT OCCURRED. IF THE PARTY ASSERTING DISCHARGE IS
3 AN ACCOMMODATION PARTY NOT ENTITLED TO DISCHARGE UNDER
4 SUBSECTION (5), THE PARTY IS DEEMED TO HAVE A RIGHT TO CONTRIBU-
5 TION BASED ON JOINT AND SEVERAL LIABILITY RATHER THAN A RIGHT TO
6 REIMBURSEMENT. THE BURDEN OF PROVING IMPAIRMENT IS ON THE PARTY
7 ASSERTING DISCHARGE.

8 (7) UNDER SUBSECTION (5) OR (6), IMPAIRING VALUE OF AN
9 INTEREST IN COLLATERAL INCLUDES (i) FAILURE TO OBTAIN OR MAINTAIN
10 PERFECTION OR RECORDATION OF THE INTEREST IN COLLATERAL, (ii)
11 RELEASE OF COLLATERAL WITHOUT SUBSTITUTION OF COLLATERAL OF EQUAL
12 VALUE, (iii) FAILURE TO PERFORM A DUTY TO PRESERVE THE VALUE OF
13 COLLATERAL OWED, UNDER ARTICLE 9 OR OTHER LAW, TO A DEBTOR OR
14 SURETY OR OTHER PERSON SECONDARILY LIABLE, OR (iv) FAILURE TO
15 COMPLY WITH APPLICABLE LAW IN DISPOSING OF COLLATERAL.

16 (8) AN ACCOMMODATION PARTY IS NOT DISCHARGED UNDER
17 SUBSECTION (3), (4), OR (5) UNLESS THE PERSON ENTITLED TO ENFORCE
18 THE INSTRUMENT KNOWS OF THE ACCOMMODATION OR HAS NOTICE UNDER
19 SECTION 3419(3) THAT THE INSTRUMENT WAS SIGNED FOR
20 ACCOMMODATION.

21 (9) A PARTY IS NOT DISCHARGED UNDER THIS SECTION IF (i) THE
22 PARTY ASSERTING DISCHARGE CONSENTS TO THE EVENT OR CONDUCT THAT
23 IS THE BASIS OF THE DISCHARGE, OR (ii) THE INSTRUMENT OR A SEPA-
24 RATE AGREEMENT OF THE PARTY PROVIDES FOR WAIVER OF DISCHARGE
25 UNDER THIS SECTION EITHER SPECIFICALLY OR BY GENERAL LANGUAGE
26 INDICATING THAT PARTIES WAIVE DEFENSES BASED ON SURETYSHIP OR
27 IMPAIRMENT OF COLLATERAL.

1 Sec. 4102. (1) To the extent that items within this article
 2 are also within ~~the scope of~~ articles 3 and 8, they are subject
 3 to ~~the provisions of~~ those articles. ~~In the event of conflict~~
 4 ~~the provisions of~~ IF THERE IS CONFLICT, this article ~~govern~~
 5 ~~those of~~ GOVERNS article 3 but ~~the provisions of~~ article 8
 6 ~~govern those of~~ GOVERNS this article.

7 (2) The liability of a bank for action or non-action with
 8 respect to ~~any~~ AN item handled by it for purposes of present-
 9 ment, payment, or collection is governed by the law of the place
 10 where the bank is located. In the case of action or non-action
 11 by or at a branch or separate office of a bank, its liability is
 12 governed by the law of the place where the branch or separate
 13 office is located.

14 Sec. 4103. (1) The effect of the provisions of this article
 15 may be varied by agreement ~~except that no agreement can~~ BUT THE
 16 PARTIES TO THE AGREEMENT CANNOT disclaim a bank's responsibility
 17 for its ~~own~~ lack of good faith or failure to exercise ordinary
 18 care or ~~can~~ limit the measure of damages for ~~such~~ THE lack or
 19 failure. ~~, but~~ HOWEVER, the parties may DETERMINE by agreement
 20 ~~determine~~ the standards by which ~~such~~ THE BANK'S responsibil-
 21 ity is to be measured if ~~such~~ THOSE standards are not mani-
 22 festly unreasonable.

23 (2) Federal Reserve regulations and operating ~~letters,~~
 24 ~~clearing house~~ CIRCULARS, CLEARING-HOUSE rules, and the like ~~—~~
 25 have the effect of agreements under subsection (1), whether or
 26 not specifically assented to by all parties interested in items
 27 handled.

1 (3) Action or non-action approved by this article or
 2 pursuant to Federal Reserve regulations or operating ~~letters~~
 3 ~~constitutes~~ CIRCULARS IS the exercise of ordinary care and, in
 4 the absence of special instructions, action or non-action consis-
 5 tent with ~~clearing house~~ CLEARING-HOUSE rules and the like or
 6 with a general banking usage not disapproved by this article, IS
 7 prima facie ~~constitutes~~ the exercise of ordinary care.

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

11 (5) The measure of damages for failure to exercise ordinary
 12 care in handling an item is the amount of the item reduced by an
 13 amount ~~which~~ THAT could not have been realized by the ~~use~~
 14 EXERCISE of ordinary care. ~~, and where~~ IF there is ALSO bad
 15 faith, it includes ANY other damages ~~, if any, suffered by~~ the
 16 party SUFFERED as a proximate consequence.

17 Sec. 4104. (1) ~~In~~ AS USED IN this article unless the con-
 18 text otherwise requires:

19 (a) "Account" means any DEPOSITOR CREDIT account with a
 20 bank, ~~and includes a checking, time, interest or savings~~
 21 ~~account,~~ INCLUDING A DEMAND, TIME, SAVINGS, PASSBOOK, SHARE
 22 DRAFT, OR LIKE ACCOUNT, OTHER THAN AN ACCOUNT EVIDENCED BY A CER-
 23 TIFICATE OF DEPOSIT.

24 (b) "Afternoon" means the period of a day between noon and
 25 midnight. ~~,~~

1 (c) "Banking day" means ~~that~~ THE part of ~~any~~ A day on
2 which a bank is open to the public for carrying on substantially
3 all of its banking functions. ~~—~~

4 (d) "~~Clearing house~~ CLEARING-HOUSE" means ~~any~~ AN associ-
5 ation of banks or other payors regularly clearing items. ~~—~~

6 (e) "Customer" means any person having an account with a
7 bank or for whom a bank has agreed to collect items, ~~and~~
8 ~~includes~~ INCLUDING a bank ~~carrying~~ THAT MAINTAINS an account
9 ~~with~~ AT another bank. ~~—~~

10 (f) "Documentary draft" means ~~any negotiable or~~
11 ~~non negotiable draft with accompanying documents, securities or~~
12 ~~other papers to be delivered against honor of the draft,~~ A DRAFT
13 TO BE PRESENTED FOR ACCEPTANCE OR PAYMENT IF SPECIFIED DOCUMENTS,
14 CERTIFICATED SECURITIES, (SECTION 8102) OR INSTRUCTIONS FOR
15 UNCERTIFICATED SECURITIES (SECTION 8308), OR OTHER CERTIFICATES,
16 STATEMENTS, OR THE LIKE ARE TO BE RECEIVED BY THE DRAWEE OR OTHER
17 PAYOR BEFORE ACCEPTANCE OR PAYMENT OF THE DRAFT.

18 (G) "DRAFT" MEANS A DRAFT AS DEFINED IN SECTION 3104 OR AN
19 ITEM, OTHER THAN AN INSTRUMENT, THAT IS AN ORDER.

20 (H) "DRAWEE" MEANS A PERSON ORDERED IN A DRAFT TO MAKE
21 PAYMENT.

22 (I) ~~(g)~~ "Item" means ~~any instrument for the payment of~~
23 ~~money even though it is not negotiable but does not include~~
24 ~~money,~~ AN INSTRUMENT OR A PROMISE OR ORDER TO PAY MONEY HANDLED
25 BY A BANK FOR COLLECTION OR PAY. THE TERM DOES NOT INCLUDE A
26 PAYMENT ORDER GOVERNED BY ARTICLE 2A OR A CREDIT OR DEBIT CARD
27 SLIP.

1 (J) ~~(h)~~ "Midnight deadline" with respect to a bank is
 2 midnight on its next banking day following the banking day on
 3 which it receives the relevant item or notice or from which the
 4 time for taking action commences to run, whichever is later. ~~—~~

5 ~~(i) "Properly payable" includes the availability of funds~~
 6 ~~for payment at the time of decision to pay or dishonor;—~~

7 (K) ~~(j)~~ "Settle" means to pay in cash, by ~~clearing house~~
 8 CLEARING-HOUSE settlement, in a charge or credit or by remit-
 9 tance, or otherwise as ~~instructed~~ AGREED. A settlement may be
 10 either provisional or final. ~~—~~

11 (L) ~~(k)~~ "Suspends payments" with respect to a bank means
 12 that it has been closed by order of the supervisory authorities,
 13 that a public officer has been appointed to take it over or that
 14 it ceases or refuses to make payments in the ordinary course of
 15 business.

16 (2) Other definitions applying to this article and the sec-
 17 tions in which they appear are:

18 "AGREEMENT FOR ELECTRONIC PRESENTMENT".	SECTION 4110.
19 "BANK".	SECTION 4105.
20 "Collecting bank".	Section 4105.
21 "Depository bank".	Section 4105.
22 "Intermediary bank".	Section 4105.
23 "Payor bank".	Section 4105.
24 "Presenting bank".	Section 4105.
25 "Remitting bank".	Section 4105.

1	"PRESENTMENT NOTICE".	SECTION 4110.
2	(3) The following definitions in other articles apply to	
3	this article:	
4	"Acceptance".	Section 3410 3409.
5	"ALTERATION".	SECTION 3409.
6	"Certificate of deposit".	Section 3104.
7	"Certification".	Section 3411.
8	"CASHIER'S CHECK".	SECTION 3104.
9	"CERTIFIED CHECK".	SECTION 3409.
10	"Check".	Section 3104.
11	"Draft".	Section 3104.
12	"GOOD FAITH".	SECTION 3103.
13	"Holder in due course".	Section 3302.
14	"INSTRUMENT".	SECTION 3104.
15	"Notice of dishonor".	Section 3500 3503.
16	"ORDER".	SECTION 3103.
17	"ORDINARY CARE".	SECTION 3103.
18	"PERSON ENTITLED TO ENFORCE".	SECTION 3301.
19	"Presentment".	Section 3504 3501.
20	"Protest".	Section 3509.
21	"Secondary party".	Section 3102.
22	"PROMISE".	SECTION 3103.
23	"PROVE".	SECTION 3103.
24	"TELLER'S CHECK".	SECTION 3104.
25	"UNAUTHORIZED SIGNATURE".	SECTION 3403.

1 (4) In addition article 1 contains general definitions and
2 principles of construction and interpretation applicable
3 throughout this article.

4 Sec. 4105. ~~In~~ AS USED IN this article unless the context
5 otherwise requires:

6 (A) "BANK" MEANS A PERSON ENGAGED IN THE BUSINESS OF BANK-
7 ING, INCLUDING A SAVING BANK, SAVING AND LOAN ASSOCIATION, CREDIT
8 UNION, OR TRUST COMPANY.

9 (B) ~~(a)~~ "Depository bank" means the first bank to ~~which~~
10 TAKE an item ~~is transferred for collection~~ even though it is
11 also the payor bank, UNLESS THE ITEM IS PRESENTED FOR IMMEDIATE
12 PAYMENT OVER THE COUNTER.

13 (C) ~~(b)~~ "Payor bank" means a bank ~~by which an item is~~
14 ~~payable as drawn or accepted;~~ THAT IS THE DRAWEE OF A DRAFT.

15 (D) ~~(c)~~ "Intermediary bank" means ~~any~~ A bank to which an
16 item is transferred in course of collection except the depository
17 or payor bank. ~~—~~

18 (E) ~~(d)~~ "Collecting bank" means ~~any~~ A bank handling the
19 item for collection except the payor bank. ~~—~~

20 (F) ~~(e)~~ "Presenting bank" means ~~any~~ A bank presenting an
21 item except a payor bank. ~~—~~

22 ~~(f)~~ "Remitting bank" means ~~any payor or intermediary bank~~
23 ~~remitting for an item.~~

24 Sec. 4106. ~~A branch or separate office of a bank is a sep-~~
25 ~~arate bank for the purpose of computing the time within which and~~
26 ~~determining the place at or to which action may be taken or~~
27 ~~notices or orders shall be given under this article and under~~

1 ~~article 3.~~ (1) IF AN ITEM STATES THAT IT IS "PAYABLE THROUGH" A
2 BANK IDENTIFIED IN THE ITEM, (i) THE ITEM DESIGNATES THE BANK AS
3 A COLLECTING BANK AND DOES NOT BY ITSELF AUTHORIZE THE BANK TO
4 PAY THE ITEM, AND (ii) THE ITEM MAY BE PRESENTED FOR PAYMENT ONLY
5 BY OR THROUGH THE BANK.

6 (2) IF AN ITEM STATES THAT IT IS "PAYABLE AT" A BANK IDENTI-
7 FIED IN THE ITEM, (i) THE ITEM DESIGNATES THE BANK AS A COLLECT-
8 ING BANK AND DOES NOT BY ITSELF AUTHORIZE THE BANK TO PAY THE
9 ITEM, AND (ii) THE ITEM MAY BE PRESENTED FOR PAYMENT ONLY BY OR
10 THROUGH THE BANK.

11 (3) IF A DRAFT NAMES A NONBANK DRAWEE AND IT IS UNCLEAR
12 WHETHER A BANK NAMED IN THE DRAFT IS A CO-DRAWEE OR A COLLECTING
13 BANK, THE BANK IS A COLLECTING BANK.

14 Sec. 4107. ~~(1) For the purpose of allowing time to process~~
15 ~~items, prove balances and make the necessary entries on its books~~
16 ~~to determine its position for the day, a bank may fix an after~~
17 ~~noon hour of 2 P.M. or later as a cut off hour for the handling~~
18 ~~of money and items and the making of entries on its books.~~

19 ~~(2) Any item or deposit of money received on any day after a~~
20 ~~cut off hour so fixed or after the close of the banking day may~~
21 ~~be treated as being received at the opening of the next banking~~
22 ~~day.~~ A BRANCH OR SEPARATE OFFICE OF A BANK IS A SEPARATE BANK
23 FOR THE PURPOSE OF COMPUTING THE TIME WITHIN WHICH AND DETERMIN-
24 ING THE PLACE AT OR TO WHICH ACTION MAY BE TAKEN OR NOTICES OR
25 ORDERS SHALL BE GIVEN UNDER THIS ARTICLE AND UNDER ARTICLE 3.

26 Sec. 4108. ~~(1) Unless otherwise instructed, a collecting~~
27 ~~bank in a good faith effort to secure payment may, in the case of~~

1 ~~specific items and with or without the approval of any person~~
 2 ~~involved, waive, modify or extend time limits imposed or permit~~
 3 ~~ted by this act for a period not in excess of an additional bank~~
 4 ~~ing day without discharge of secondary parties and without~~
 5 ~~liability to its transferor or any prior party.~~

6 ~~(2) Delay by a collecting bank or payor bank beyond time~~
 7 ~~limits prescribed or permitted by this act or by instructions is~~
 8 ~~excused if caused by interruption of communication facilities,~~
 9 ~~suspension of payments by another bank, war, emergency conditions~~
 10 ~~or other circumstances beyond the control of the bank provided it~~
 11 ~~exercises such diligence as the circumstances require. (1) FOR~~
 12 ~~THE PURPOSE OF ALLOWING TIME TO PROCESS ITEMS, PROVE BALANCES AND~~
 13 ~~MAKE THE NECESSARY ENTRIES ON ITS BOOKS TO DETERMINE ITS POSITION~~
 14 ~~FOR THE DAY, A BANK MAY FIX AN AFTERNOON HOUR OF 2 P.M. OR LATER~~
 15 ~~AS A CUT-OFF HOUR FOR THE HANDLING OF MONEY AND ITEMS AND THE~~
 16 ~~MAKING OF ENTRIES ON ITS BOOKS.~~

17 (2) AN ITEM OR DEPOSIT OF MONEY RECEIVED ON ANY DAY AFTER A
 18 CUT-OFF HOUR SO FIXED OR AFTER THE CLOSE OF THE BANKING DAY MAY
 19 BE TREATED AS BEING RECEIVED AT THE OPENING OF THE NEXT BANKING
 20 DAY.

21 Sec. 4109. ~~The "process of posting" means the usual proce~~
 22 ~~dure followed by a payor bank in determining to pay an item and~~
 23 ~~in recording the payment including 1 or more of the following or~~
 24 ~~other steps as determined by the bank:~~

25 ~~(a) verification of any signature;~~

26 ~~(b) ascertaining that sufficient funds are available;~~

1 ~~(c) affixing a "paid" or other stamp;~~

2 ~~(d) entering a charge or entry to a customer's account;~~

3 ~~(e) correcting or reversing an entry or erroneous action~~

4 ~~with respect to the item.~~ (1) UNLESS OTHERWISE INSTRUCTED, A
5 COLLECTING BANK IN A GOOD FAITH EFFORT TO SECURE PAYMENT OF A
6 SPECIFIC ITEM DRAWN ON A PAYOR OTHER THAN A BANK AND WITH OR
7 WITHOUT THE APPROVAL OF ANY PERSON INVOLVED, MAY WAIVE, MODIFY,
8 OR EXTEND TIME LIMITS IMPOSED OR PERMITTED BY THIS ACT FOR A
9 PERIOD NOT EXCEEDING 2 ADDITIONAL BANKING DAYS WITHOUT DISCHARGE
10 OF DRAWERS OR ENDORSERS OR LIABILITY TO ITS TRANSFEROR OR ANY
11 PRIOR PARTY.

12 (2) DELAY BY A COLLECTING BANK OR PAYOR BANK BEYOND TIME
13 LIMITS PRESCRIBED OR PERMITTED BY THIS ACT OR BY INSTRUCTIONS IS
14 EXCUSED IF (i) THE DELAY IS CAUSED BY INTERRUPTION OF COMMUNICA-
15 TION OR COMPUTER FACILITIES, SUSPENSION OF PAYMENTS BY ANOTHER
16 BANK, WAR, EMERGENCY CONDITIONS, FAILURE OF EQUIPMENT, OR OTHER
17 CIRCUMSTANCES BEYOND THE CONTROL OF THE BANK AND (ii) THE BANK
18 EXERCISES SUCH DILIGENCE AS THE CIRCUMSTANCES REQUIRE.

19 SEC. 4110. (1) "AGREEMENT FOR ELECTRONIC PRESENTMENT" MEANS
20 AN AGREEMENT, CLEARING-HOUSE RULE, OR FEDERAL RESERVE REGULATION
21 OR OPERATING CIRCULAR, PROVIDING THAT PRESENTMENT OF AN ITEM MAY
22 BE MADE BY TRANSMISSION OF AN IMAGE OF AN ITEM OR INFORMATION
23 DESCRIBING THE ITEM ("PRESENTMENT NOTICE") RATHER THAN DELIVERY
24 OF THE ITEM ITSELF. THE AGREEMENT MAY PROVIDE FOR PROCEDURES
25 GOVERNING RETENTION, PRESENTMENT, PAYMENT, DISHONOR, AND OTHER
26 MATTERS CONCERNING ITEMS SUBJECT TO THE AGREEMENT.

1 (2) PRESENTMENT OF AN ITEM PURSUANT TO AN AGREEMENT FOR
2 PRESENTMENT IS MADE WHEN THE PRESENTMENT NOTICE IS RECEIVED.

3 (3) IF PRESENTMENT IS MADE BY PRESENTMENT NOTICE, A REFER-
4 ENCE TO "ITEM" OR "CHECK" IN THIS ARTICLE MEANS THE PRESENTMENT
5 NOTICE UNLESS THE CONTEXT OTHERWISE INDICATES.

6 SEC. 4111. AN ACTION TO ENFORCE AN OBLIGATION, DUTY, OR
7 RIGHT ARISING UNDER THIS ARTICLE MUST BE COMMENCED WITHIN 3 YEARS
8 AFTER THE CAUSE OF ACTION ACCRUES.

9 Sec. 4201. (1) Unless a contrary intent clearly appears and
10 ~~prior to~~ BEFORE the time that a settlement given by a collect-
11 ing bank for an item is or becomes final, ~~(subsection (3) of~~
12 ~~section 4211 and sections 4212 and 4213)~~ the bank, WITH RESPECT
13 TO THE ITEM, is an agent or sub-agent of the owner of the item
14 and any settlement given for the item is provisional. This pro-
15 vision applies regardless of the form of indorsement or lack of
16 indorsement and even though credit given for the item is subject
17 to immediate withdrawal as of right or is in fact withdrawn; but
18 the continuance of ownership of an item by its owner and any
19 rights of the owner to proceeds of the item are subject to rights
20 of a collecting bank, such as those resulting from outstanding
21 advances on the item and ~~valid~~ rights of setoff. ~~When~~ IF an
22 item is handled by banks for purposes of presentment, payment,
23 ~~and~~ collection, OR RETURN, the relevant provisions of this
24 article apply even though action of parties clearly establishes
25 that a particular bank has purchased the item and is the owner of
26 it.

1 (2) After an item has been indorsed with the words "pay any
2 bank" or the like, only a bank may acquire the rights of a holder
3 UNTIL THE ITEM HAS BEEN EITHER OF THE FOLLOWING:

4 (a) ~~until the item has been returned~~ RETURNED to the cus-
5 tomer initiating collection. ~~, or~~

6 (b) ~~until the item has been specially indorsed~~ SPECIALLY
7 ENDORSED by a bank to a person who is not a bank.

8 Sec. 4202. (1) A collecting bank must ~~use~~ EXERCISE ordi-
9 nary care in ALL OF THE FOLLOWING:

10 (a) ~~presenting~~ PRESENTING an item or sending it for
11 presentment. ~~, and~~

12 (b) ~~sending~~ SENDING notice of dishonor or nonpayment or
13 returning an item other than a documentary draft to the bank's
14 transferor ~~or directly to the depository bank under subsection~~
15 ~~(2) of section 4212~~ after learning that the item has not been
16 paid or accepted, as the case may be. ~~, and~~

17 (c) ~~settling~~ SETTLING for an item when the bank receives
18 final settlement. ~~, and~~

19 ~~(d) making or providing for any necessary protest; and~~

20 (D) ~~(e) notifying~~ NOTIFYING its transferor of any loss or
21 delay in transit within a reasonable time after discovery
22 thereof.

23 (2) ~~A collecting bank taking proper action before its mid-~~
24 ~~night deadline following receipt of an item, notice or payment~~
25 ~~acts seasonably; taking proper action within a reasonably longer~~
26 ~~time may be seasonable but the bank has the burden of so~~
27 ~~establishing.~~ A COLLECTING BANK EXERCISES ORDINARY CARE UNDER

1 SUBSECTION (1) BY TAKING PROPER ACTION BEFORE ITS MIDNIGHT
 2 DEADLINE FOLLOWING RECEIPT OF AN ITEM, NOTICE, OR SETTLEMENT.
 3 TAKING PROPER ACTION WITHIN A REASONABLY LONGER TIME MAY CONSTI-
 4 TUTE THE EXERCISE OF ORDINARY CARE, BUT THE BANK HAS THE BURDEN
 5 OF ESTABLISHING TIMELINESS.

6 (3) Subject to subsection (1)(a), a bank is not liable for
 7 the insolvency, neglect, misconduct, mistake, or default of
 8 another bank or person or for loss or destruction of an item IN
 9 THE POSSESSION OF OTHERS OR in transit. ~~or in the possession of~~
 10 ~~others.~~

11 Sec. 4203. Subject to ~~the provisions of~~ article 3 con-
 12 cerning conversion of instruments (section ~~3419~~ 3420) and ~~the~~
 13 ~~provisions of both article 3 and this article concerning~~
 14 restrictive ~~indorsements~~ ENDORSEMENTS (SECTION 3206) only a
 15 collecting bank's transferor can give instructions ~~which~~ THAT
 16 affect the bank or constitute notice to it, and a collecting bank
 17 is not liable to prior parties for any action taken pursuant to
 18 ~~such~~ THE instructions or in accordance with any agreement with
 19 its transferor.

20 Sec. 4204. (1) A collecting bank ~~must~~ SHALL send items by
 21 A reasonably prompt method, taking into consideration ~~any~~ rele-
 22 vant instructions, the nature of the item, the number of ~~such~~
 23 THOSE items on hand, ~~and~~ the cost of collection involved, and
 24 the method generally used by it or others to present ~~such~~ THOSE
 25 items.

26 (2) A collecting bank may send:

- 1 (a) ~~any~~ AN item ~~direct~~ DIRECTLY to the payor bank. ~~;~~
- 2 (b) ~~any~~ AN item to ~~any non bank~~ A NONBANK payor if
- 3 authorized by its transferor. ~~;~~ ~~and~~
- 4 (c) ~~any~~ AN item other than documentary drafts to ~~any~~
- 5 ~~non bank~~ A NONBANK payor, if authorized by federal reserve regu-
- 6 lation or operating ~~letter~~ CIRCULAR, ~~clearing house~~
- 7 CLEARING-HOUSE rule, or the like.

8 (3) Presentment may be made by a presenting bank at a place

9 where the payor bank OR OTHER PAYOR has requested that present-

10 ment be made.

11 Sec. 4205. ~~(1) A depository bank which has taken an item~~

12 ~~for collection may supply any indorsement of the customer which~~

13 ~~is necessary to title unless the item contains the words "payee's~~

14 ~~indorsement required" or the like. In the absence of such a~~

15 ~~requirement a statement placed on the item by the depository bank~~

16 ~~to the effect that the item was deposited by a customer or cred-~~

17 ~~ited to his account is effective as the customer's indorsement.~~

18 ~~(2) An intermediary bank, or payor bank which is not a~~

19 ~~depository bank, is neither given notice nor otherwise affected~~

20 ~~by a restrictive indorsement of any person except the bank's~~

21 ~~immediate transferor.~~ IF A CUSTOMER DELIVERS AN ITEM TO A DEPOS-

22 ITARY BANK FOR COLLECTION, THEN BOTH OF THE FOLLOWING APPLY:

23 (A) THE DEPOSITORY BANK BECOMES A HOLDER OF THE ITEM AT THE

24 TIME IT RECEIVES THE ITEM FOR COLLECTION IF THE CUSTOMER AT THE

25 TIME OF DELIVERY WAS A HOLDER OF THE ITEM, WHETHER OR NOT THE

26 CUSTOMER ENDORSES THE ITEM, AND, IF THE BANK SATISFIES THE OTHER

27 REQUIREMENTS OF SECTION 3302, IT IS A HOLDER IN DUE COURSE.

1 (B) THE DEPOSITARY BANK WARRANTS TO COLLECTING BANKS, THE
2 PAYOR BANK OR OTHER PAYOR, AND THE DRAWER THAT THE AMOUNT OF THE
3 ITEM WAS PAID TO THE CUSTOMER OR DEPOSITED TO THE CUSTOMER'S
4 ACCOUNT.

5 Sec. 4207. ~~(1) Each customer or collecting bank who~~
6 ~~obtains payment or acceptance of an item and each prior customer~~
7 ~~and collecting bank warrants to the payor bank or other payor who~~
8 ~~in good faith pays or accepts the item that~~

9 ~~(a) he has a good title to the item or is authorized to~~
10 ~~obtain payment or acceptance on behalf of one who has a good~~
11 ~~title; and~~

12 ~~(b) he has no knowledge that the signature of the maker or~~
13 ~~drawer is unauthorized, except that this warranty is not given by~~
14 ~~any customer or collecting bank that is a holder in due course~~
15 ~~and acts in good faith~~

16 ~~(i) to a maker with respect to the maker's own signature; or~~

17 ~~(ii) to a drawer with respect to the drawer's own signature,~~
18 ~~whether or not the drawer is also the drawee; or~~

19 ~~(iii) to an acceptor of an item if the holder in due course~~
20 ~~took the item after the acceptance or obtained the acceptance~~
21 ~~without knowledge that the drawer's signature was unauthorized;~~
22 ~~and~~

23 ~~(c) the item has not been materially altered, except that~~
24 ~~this warranty is not given by any customer or collecting bank~~
25 ~~that is a holder in due course and acts in good faith~~

26 ~~(i) to the maker of a note; or~~

1 ~~(ii) to the drawer of a draft whether or not the drawer is~~
2 ~~also the drawee; or~~

3 ~~(iii) to the acceptor of an item with respect to an alter-~~
4 ~~ation made prior to the acceptance if the holder in due course~~
5 ~~took the item after the acceptance, even though the acceptance~~
6 ~~provided "payable as originally drawn" or equivalent terms; or~~

7 ~~(iv) to the acceptor of an item with respect to an alter-~~
8 ~~ation made after the acceptance.~~

9 ~~(2) Each customer and collecting bank who transfers an item~~
10 ~~and receives a settlement or other consideration for it warrants~~
11 ~~to his transferee and to any subsequent collecting bank who takes~~
12 ~~the item in good faith that~~

13 ~~(a) he has a good title to the item or is authorized to~~
14 ~~obtain payment or acceptance on behalf of one who has a good~~
15 ~~title and the transfer is otherwise rightful; and~~

16 ~~(b) all signatures are genuine or authorized; and~~

17 ~~(c) the item has not been materially altered; and~~

18 ~~(d) no defense of any party is good against him; and~~

19 ~~(e) he has no knowledge of any insolvency proceeding insti-~~
20 ~~tuted with respect to the maker or acceptor or the drawer of an~~
21 ~~unaccepted item.~~

22 ~~In addition each customer and collecting bank so transfer-~~
23 ~~ring an item and receiving a settlement or other consideration~~
24 ~~engages that upon dishonor and any necessary notice of dishonor~~
25 ~~and protest he will take up the item.~~

26 ~~(3) The warranties and the engagement to honor set forth in~~
27 ~~the 2 preceding subsections arise notwithstanding the absence of~~

~~1 indorsement or words of guaranty or warranty in the transfer or
2 presentment and a collecting bank remains liable for their breach
3 despite remittance to its transferor. Damages for breach of such
4 warranties or engagement to honor shall not exceed the considera-
5 tion received by the customer or collecting bank responsible plus
6 finance charges and expenses related to the item, if any.~~

~~7 (4) Unless a claim for breach of warranty under this section
8 is made within a reasonable time after the person claiming learns
9 of the breach, the person liable is discharged to the extent of
10 any loss caused by the delay in making claim. (1) A CUSTOMER OR
11 COLLECTING BANK THAT TRANSFERS AN ITEM AND RECEIVES A SETTLEMENT
12 OR OTHER CONSIDERATION WARRANTS TO THE TRANSFEREE AND TO ANY SUB-
13 SEQUENT COLLECTING BANK ALL OF THE FOLLOWING:~~

~~14 (A) THAT THE WARRANTOR IS A PERSON ENTITLED TO ENFORCE THE
15 ITEM.~~

~~16 (B) THAT ALL SIGNATURES ON THE ITEM ARE AUTHENTIC AND
17 AUTHORIZED.~~

~~18 (C) THAT THE ITEM HAS NOT BEEN ALTERED.~~

~~19 (D) THAT THE ITEM IS NOT SUBJECT TO A DEFENSE OR CLAIM IN
20 RECOUPMENT (SECTION 3305(1)) OF ANY PARTY THAT CAN BE ASSERTED
21 AGAINST THE WARRANTOR.~~

~~22 (E) THAT THE WARRANTOR HAS NO KNOWLEDGE OF ANY INSOLVENCY
23 PROCEEDING COMMENCED WITH RESPECT TO THE MAKER OR ACCEPTOR OR, IN
24 THE CASE OF AN UNACCEPTED DRAFT, THE DRAWER.~~

~~25 (2) IF AN ITEM IS DISHONORED, A CUSTOMER OR COLLECTING BANK
26 TRANSFERRING THE ITEM AND RECEIVING SETTLEMENT OR OTHER
27 CONSIDERATION IS OBLIGED TO PAY THE AMOUNT DUE ON THE ITEM (i)~~

1 ACCORDING TO THE TERMS OF THE ITEM AT THE TIME IT WAS
2 TRANSFERRED, OR (ii) IF THE TRANSFER WAS OF AN INCOMPLETE ITEM,
3 ACCORDING TO ITS TERMS WHEN COMPLETED AS STATED IN SECTIONS 3115
4 AND 3407. THE OBLIGATION OF A TRANSFEROR IS OWED TO THE TRANS-
5 Feree AND TO ANY SUBSEQUENT COLLECTING BANK THAT TAKES THE ITEM
6 IN GOOD FAITH. A TRANSFEROR CANNOT DISCLAIM ITS OBLIGATION UNDER
7 THIS SUBSECTION BY AN ENDORSEMENT STATING THAT IT IS MADE
8 "WITHOUT RECOURSE" OR OTHERWISE DISCLAIMING LIABILITY.

9 (3) A PERSON TO WHOM THE WARRANTIES UNDER SUBSECTION (1) ARE
10 MADE AND WHO TOOK THE ITEM IN GOOD FAITH MAY RECOVER FROM THE
11 WARRANTOR AS DAMAGES FOR BREACH OF WARRANTY AN AMOUNT EQUAL TO
12 THE LOSS SUFFERED AS A RESULT OF THE BREACH, BUT NOT MORE THAN
13 THE AMOUNT OF THE ITEM PLUS EXPENSES AND LOSS OF INTEREST
14 INCURRED AS A RESULT OF THE BREACH.

15 (4) THE WARRANTIES STATED IN SUBSECTION (1) CANNOT BE DIS-
16 CLAIMED WITH RESPECT TO CHECKS. UNLESS NOTICE OF A CLAIM FOR
17 BREACH OF WARRANTY IS GIVEN TO THE WARRANTOR WITHIN 30 DAYS AFTER
18 THE CLAIMANT HAS REASON TO KNOW OF THE BREACH AND THE IDENTITY OF
19 THE WARRANTOR, THE WARRANTOR IS DISCHARGED TO THE EXTENT OF ANY
20 LOSS CAUSED BY THE DELAY IN GIVING NOTICE OF THE CLAIM.

21 (5) A CAUSE OF ACTION FOR BREACH OF WARRANTY UNDER THIS SEC-
22 TION ACCRUES WHEN THE CLAIMANT HAS REASON TO KNOW OF THE BREACH.

23 Sec. 4208. ~~(1) A bank has a security interest in an item~~
24 ~~and any accompanying documents or the proceeds of either~~

25 ~~(a) in case of an item deposited in an account to the extent~~
26 ~~to which credit given for the item has been withdrawn or applied;~~

1 ~~(b) in case of an item for which it has given credit~~
2 ~~available for withdrawal as of right, to the extent of the credit~~
3 ~~given whether or not the credit is drawn upon and whether or not~~
4 ~~there is a right of charge back; or~~

5 ~~(c) if it makes an advance on or against the item.~~

6 ~~(2) When credit which has been given for several items~~
7 ~~received at one time or pursuant to a single agreement is with-~~
8 ~~drawn or applied in part the security interest remains upon all~~
9 ~~the items, any accompanying documents or the proceeds of either.~~
10 ~~For the purpose of this section, credits first given are first~~
11 ~~withdrawn.~~

12 ~~(3) Receipt by a collecting bank of a final settlement for~~
13 ~~an item is a realization on its security interest in the item,~~
14 ~~accompanying documents and proceeds. To the extent and so long~~
15 ~~as the bank does not receive final settlement for the item or~~
16 ~~give up possession of the item or accompanying documents for pur-~~
17 ~~poses other than collection, the security interest continues and~~
18 ~~is subject to the provisions of article 9 except that~~

19 ~~(a) no security agreement is necessary to make the security~~
20 ~~interest enforceable (subsection (1)(b) of section 9203); and~~

21 ~~(b) no filing is required to perfect the security interest;~~
22 ~~and~~

23 ~~(c) the security interest has priority over conflicting per-~~
24 ~~fected security interests in the item, accompanying documents or~~
25 ~~proceeds. (1) IF AN UNACCEPTED DRAFT IS PRESENTED TO THE DRAWEE~~
26 ~~FOR PAYMENT OR ACCEPTANCE AND THE DRAWEE PAYS OR ACCEPTS THE~~
27 ~~DRAFT, (i) THE PERSON OBTAINING PAYMENT OR ACCEPTANCE, AT THE~~

1 TIME OF PRESENTMENT, AND (ii) A PREVIOUS TRANSFEROR OF THE DRAFT,
2 AT THE TIME OF TRANSFER, WARRANT TO THE DRAVEE THAT PAYS OR
3 ACCEPTS THE DRAFT IN GOOD FAITH ALL OF THE FOLLOWING:

4 (A) THE WARRANTOR IS, OR WAS, AT THE TIME THE WARRANTOR
5 TRANSFERRED THE DRAFT, A PERSON ENTITLED TO ENFORCE THE DRAFT OR
6 AUTHORIZED TO OBTAIN PAYMENT OR ACCEPTANCE OF THE DRAFT ON BEHALF
7 OF A PERSON ENTITLED TO ENFORCE THE DRAFT.

8 (B) THE DRAFT HAS NOT BEEN ALTERED.

9 (C) THE WARRANTOR HAS NO KNOWLEDGE THAT THE SIGNATURE OF THE
10 PURPORTED DRAWER OF THE DRAFT IS UNAUTHORIZED.

11 (2) A DRAVEE MAKING PAYMENT MAY RECOVER FROM A WARRANTOR
12 DAMAGES FOR BREACH OF WARRANTY EQUAL TO THE AMOUNT PAID BY THE
13 DRAVEE LESS THE AMOUNT THE DRAVEE RECEIVED OR IS ENTITLED TO
14 RECEIVE FROM THE DRAWER BECAUSE OF THE PAYMENT. IN ADDITION THE
15 DRAVEE IS ENTITLED TO COMPENSATION FOR EXPENSES AND LOSS OF
16 INTEREST RESULTING FROM THE BREACH. THE RIGHT OF THE DRAVEE TO
17 RECOVER DAMAGES UNDER THIS SUBSECTION IS NOT AFFECTED BY ANY
18 FAILURE OF THE DRAVEE TO EXERCISE ORDINARY CARE IN MAKING
19 PAYMENT. IF THE DRAVEE ACCEPTS THE DRAFT (i) BREACH OF WARRANTY
20 IS A DEFENSE TO THE OBLIGATION OF THE ACCEPTOR, AND (ii) IF THE
21 ACCEPTOR MAKES PAYMENT WITH RESPECT TO THE DRAFT, THE ACCEPTOR IS
22 ENTITLED TO RECOVER FROM A WARRANTOR FOR BREACH OF WARRANTY THE
23 AMOUNTS STATED IN THIS SUBSECTION.

24 (3) IF A DRAVEE ASSERTS A CLAIM FOR BREACH OF WARRANTY UNDER
25 SUBSECTION (1) BASED ON AN UNAUTHORIZED ENDORSEMENT OF THE DRAFT
26 OR AN ALTERATION OF THE DRAFT, THE WARRANTOR MAY DEFEND BY
27 PROVING THAT THE ENDORSEMENT IS EFFECTIVE UNDER SECTION 3404 OR

1 3405 OR THE DRAWER IS PRECLUDED UNDER SECTION 3406 OR 4406 FROM
2 ASSERTING AGAINST THE DRAWEE THE UNAUTHORIZED ENDORSEMENT OR
3 ALTERATION.

4 (4) IF (i) A DISHONORED DRAFT IS PRESENTED FOR PAYMENT TO
5 THE DRAWER OR AN ENDORSER OR (ii) ANY OTHER ITEM IS PRESENTED FOR
6 PAYMENT TO A PARTY OBLIGED TO PAY THE ITEM, AND THE ITEM IS PAID,
7 THE PERSON OBTAINING PAYMENT AND A PRIOR TRANSFEROR OF THE ITEM
8 WARRANT TO THE PERSON MAKING PAYMENT IN GOOD FAITH THAT THE WAR-
9 RANTOR IS, OR WAS, AT THE TIME THE WARRANTOR TRANSFERRED THE
10 ITEM, A PERSON ENTITLED TO ENFORCE THE ITEM OR AUTHORIZED TO
11 OBTAIN PAYMENT ON BEHALF OF A PERSON ENTITLED TO ENFORCE THE
12 ITEM. THE PERSON MAKING PAYMENT MAY RECOVER FROM ANY WARRANTOR
13 FOR BREACH OF WARRANTY AN AMOUNT EQUAL TO THE AMOUNT PAID PLUS
14 EXPENSES AND LOSS OF INTEREST RESULTING FROM THE BREACH.

15 (5) THE WARRANTIES STATED IN SUBSECTIONS (1) AND (4) CANNOT
16 BE DISCLAIMED WITH RESPECT TO CHECKS. UNLESS NOTICE OF A CLAIM
17 FOR BREACH OF WARRANTY IS GIVEN TO THE WARRANTOR WITHIN 30 DAYS
18 AFTER THE CLAIMANT HAS REASON TO KNOW OF THE BREACH AND THE IDEN-
19 TITY OF THE WARRANTOR, THE WARRANTOR IS DISCHARGED TO THE EXTENT
20 OF ANY LOSS CAUSED BY THE DELAY IN GIVING NOTICE OF THE CLAIM.

21 (6) A CAUSE OF ACTION FOR BREACH OF WARRANTY UNDER THIS SEC-
22 TION ACCRUES WHEN THE CLAIMANT HAS REASON TO KNOW OF THE BREACH.

23 Sec. 4209. ~~For purposes of determining its status as a~~
24 ~~holder in due course, the bank has given value to the extent that~~
25 ~~it has a security interest in an item provided that the bank oth-~~
26 ~~erwise complies with the requirements of section 3302 on what~~
27 ~~constitutes a holder in due course.~~ (1) A PERSON WHO ENCODES

1 INFORMATION ON OR WITH RESPECT TO AN ITEM AFTER ISSUE WARRANTS TO
2 ANY SUBSEQUENT COLLECTING BANK AND TO THE PAYOR BANK OR OTHER
3 PAYOR THAT THE INFORMATION IS CORRECTLY ENCODED. IF THE CUSTOMER
4 OF A DEPOSITARY BANK ENCODES, THAT BANK ALSO MAKES THE WARRANTY.

5 (2) A PERSON WHO UNDERTAKES TO RETAIN AN ITEM PURSUANT TO AN
6 AGREEMENT FOR ELECTRONIC PRESENTMENT WARRANTS TO ANY SUBSEQUENT
7 COLLECTING BANK AND TO THE PAYOR BANK OR OTHER PAYOR THAT RETEN-
8 TION AND PRESENTMENT OF THE ITEM COMPLY WITH THE AGREEMENT. IF A
9 CUSTOMER OF A DEPOSITARY BANK UNDERTAKES TO RETAIN AN ITEM, THAT
10 BANK ALSO MAKES THIS WARRANTY.

11 (3) A PERSON TO WHOM WARRANTIES ARE MADE UNDER THIS SECTION
12 AND WHO TOOK THE ITEM IN GOOD FAITH MAY RECOVER FROM THE WARRANT-
13 TOR AS DAMAGES FOR BREACH OF WARRANTY AN AMOUNT EQUAL TO THE LOSS
14 SUFFERED AS A RESULT OF THE BREACH, PLUS EXPENSES AND LOSS OF
15 INTEREST INCURRED AS A RESULT OF THE BREACH.

16 Sec. 4210. ~~(1) Unless otherwise instructed, a collecting~~
17 ~~bank may present an item not payable by, through or at a bank by~~
18 ~~sending to the party to accept or pay a written notice that the~~
19 ~~bank holds the item for acceptance or payment. The notice must~~
20 ~~be sent in time to be received on or before the day when present-~~
21 ~~ment is due and the bank must meet any requirement of the party~~
22 ~~to accept or pay under section 3505 by the close of the bank's~~
23 ~~next banking day after it knows of the requirement.~~

24 ~~(2) Where presentment is made by notice and neither honor~~
25 ~~nor request for compliance with a requirement under section 3505~~
26 ~~is received by the close of business on the day after maturity or~~
27 ~~in the case of demand items by the close of business on the third~~

~~1 banking day after notice was sent, the presenting bank may treat~~
~~2 the item as dishonored and charge any secondary party by sending~~
~~3 him notice of the facts.~~ (1) A COLLECTING BANK HAS A SECURITY
4 INTEREST IN AN ITEM AND ANY ACCOMPANYING DOCUMENTS OR THE PRO-
5 CEEDS OF ANY OF THE FOLLOWING:

6 (A) IN CASE OF AN ITEM DEPOSITED IN AN ACCOUNT TO THE EXTENT
7 TO WHICH CREDIT GIVEN FOR THE ITEM HAS BEEN WITHDRAWN OR
8 APPLIED.

9 (B) IN CASE OF AN ITEM FOR WHICH IT HAS GIVEN CREDIT AVAIL-
10 ABLE FOR WITHDRAWAL AS OF RIGHT, TO THE EXTENT OF THE CREDIT
11 GIVEN WHETHER OR NOT THE CREDIT IS DRAWN UPON AND WHETHER OR NOT
12 THERE IS A RIGHT OF CHARGE-BACK.

13 (C) IF IT MAKES AN ADVANCE ON OR AGAINST THE ITEM.

14 (2) IF CREDIT GIVEN FOR SEVERAL ITEMS RECEIVED AT ONE TIME
15 OR PURSUANT TO A SINGLE AGREEMENT IS WITHDRAWN OR APPLIED IN PART
16 THE SECURITY INTEREST REMAINS UPON ALL THE ITEMS, ANY ACCOMPANY-
17 ING DOCUMENTS OR THE PROCEEDS OF EITHER. FOR THE PURPOSE OF THIS
18 SECTION, CREDITS FIRST GIVEN ARE FIRST WITHDRAWN.

19 (3) RECEIPT BY A COLLECTING BANK OF A FINAL SETTLEMENT FOR
20 AN ITEM IS A REALIZATION ON ITS SECURITY INTEREST IN THE ITEM,
21 ACCOMPANYING DOCUMENTS AND PROCEEDS. SO LONG AS THE BANK DOES
22 NOT RECEIVE FINAL SETTLEMENT FOR THE ITEM OR GIVE UP POSSESSION
23 OF THE ITEM OR ACCOMPANYING DOCUMENTS FOR PURPOSES OTHER THAN
24 COLLECTION, THE SECURITY INTEREST CONTINUES TO THAT EXTENT AND IS
25 SUBJECT TO ARTICLE 9 EXCEPT FOR THE FOLLOWING:

26 (A) NO SECURITY AGREEMENT IS NECESSARY TO MAKE THE SECURITY
27 INTEREST ENFORCEABLE (SUBSECTION (1)(B) OF SECTION 9203).

1 (B) NO FILING IS REQUIRED TO PERFECT THE SECURITY INTEREST.

2 (C) THE SECURITY INTEREST HAS PRIORITY OVER CONFLICTING PER-
3 FECTED SECURITY INTERESTS IN THE ITEM, ACCOMPANYING DOCUMENTS OR
4 PROCEEDS.

5 Sec. 4211. ~~(1) A collecting bank may take in settlement of~~
6 ~~an item~~

7 ~~(a) a check of the remitting bank or of another bank on any~~
8 ~~bank except the remitting bank; or~~

9 ~~(b) a cashier's check or similar primary obligation of a~~
10 ~~remitting bank which is a member of or clears through a member of~~
11 ~~the same clearing house or group as the collecting bank; or~~

12 ~~(c) appropriate authority to charge an account of the remit-~~
13 ~~ting bank or of another bank with the collecting bank; or~~

14 ~~(d) if the item is drawn upon or payable by a person other~~
15 ~~than a bank, a cashier's check, certified check or other bank~~
16 ~~check or obligation.~~

17 ~~(2) If before its midnight deadline the collecting bank~~
18 ~~properly dishonors a remittance check or authorization to charge~~
19 ~~on itself or presents or forwards for collection a remittance~~
20 ~~instrument of or on another bank which is of a kind approved by~~
21 ~~subsection (1) or has not been authorized by it, the collecting~~
22 ~~bank is not liable to prior parties in the event of the dishonor~~
23 ~~of such check, instrument or authorization.~~

24 ~~(3) A settlement for an item by means of a remittance~~
25 ~~instrument or authorization to charge is or becomes a final set-~~
26 ~~tlement as to both the person making and the person receiving the~~
27 ~~settlement~~

1 ~~(a) if the remittance instrument or authorization to charge~~
 2 ~~is of a kind approved by subsection (1) or has not been autho-~~
 3 ~~rized by the person receiving the settlement and in either case~~
 4 ~~the person receiving the settlement acts seasonably before its~~
 5 ~~midnight deadline in presenting, forwarding for collection or~~
 6 ~~paying the instrument or authorization, at the time the remit-~~
 7 ~~tance instrument or authorization is finally paid by the payor by~~
 8 ~~which it is payable;~~

9 ~~(b) if the person receiving the settlement has authorized~~
 10 ~~remittance by a non bank check or obligation or by a cashier's~~
 11 ~~check or similar primary obligation of or a check upon the payor~~
 12 ~~or other remitting bank which is not of a kind approved by sub-~~
 13 ~~section (1)(b), at the time of the receipt of such remittance~~
 14 ~~check or obligation; or~~

15 ~~(c) if in a case not covered by sub paragraphs (a) or (b)~~
 16 ~~the person receiving the settlement fails to seasonably present,~~
 17 ~~forward for collection, pay or return a remittance instrument or~~
 18 ~~authorization to it to charge before its midnight deadline, at~~
 19 ~~such midnight deadline. FOR PURPOSES OF DETERMINING ITS STATUS~~
 20 ~~AS A HOLDER IN DUE COURSE, A BANK HAS GIVEN VALUE TO THE EXTENT~~
 21 ~~IT HAS A SECURITY INTEREST IN AN ITEM, IF THE BANK OTHERWISE COM-~~
 22 ~~PLIES WITH THE REQUIREMENTS OF SECTION 3302 ON WHAT CONSTITUTES A~~
 23 ~~HOLDER IN DUE COURSE.~~

24 Sec. 4212. ~~-(1) If a collecting bank has made provisional~~
 25 ~~settlement with its customer for an item and itself fails by~~
 26 ~~reason of dishonor, suspension of payments by a bank or otherwise~~
 27 ~~to receive a settlement for the item which is or becomes final,~~

~~1 the bank may revoke the settlement given by it, charge back the
2 amount of any credit given for the item to its customer's account
3 or obtain refund from its customer whether or not it is able to
4 return the items if by its midnight deadline or within a longer
5 reasonable time after it learns the facts it returns the item or
6 sends notification of the facts. These rights to revoke,
7 charge back and obtain refund terminate if and when a settlement
8 for the item received by the bank is or becomes final (subsection
9 (3) of section 4211 and subsections (2) and (3) of section
10 4213).~~

~~11 (2) Within the time and manner prescribed by this section
12 and section 4301, an intermediary or payor bank, as the case may
13 be, may return an unpaid item directly to the depositary bank and
14 may send for collection a draft on the depositary bank and obtain
15 reimbursement. In such case, if the depositary bank has received
16 provisional settlement for the item, it must reimburse the bank
17 drawing the draft and any provisional credits for the item
18 between banks shall become and remain final.~~

~~19 (3) A depositary bank which is also the payor may
20 charge back the amount of an item to its customer's account or
21 obtain refund in accordance with the section governing return of
22 an item received by a payor bank for credit on its books (section
23 4301).~~

~~24 (4) The right to charge back is not affected by
25 (a) prior use of the credit given for the item; or
26 (b) failure by any bank to exercise ordinary care with
27 respect to the item but any bank so failing remains liable.~~

1 ~~(5) A failure to charge back or claim refund does not affect~~
2 ~~other rights of the bank against the customer or any other~~
3 ~~party.~~

4 ~~(6) If credit is given in dollars as the equivalent of the~~
5 ~~value of an item payable in a foreign currency the dollar amount~~
6 ~~of any charge back or refund shall be calculated on the basis of~~
7 ~~the buying sight rate for the foreign currency prevailing on the~~
8 ~~day when the person entitled to the charge back or refund learns~~
9 ~~that it will not receive payment in ordinary course. (1) UNLESS~~
10 ~~OTHERWISE INSTRUCTED, A COLLECTING BANK MAY PRESENT AN ITEM NOT~~
11 ~~PAYABLE BY, THROUGH OR AT A BANK BY SENDING TO THE PARTY TO~~
12 ~~ACCEPT OR PAY A WRITTEN NOTICE THAT THE BANK HOLDS THE ITEM FOR~~
13 ~~ACCEPTANCE OR PAYMENT. THE NOTICE MUST BE SENT IN TIME TO BE~~
14 ~~RECEIVED ON OR BEFORE THE DAY WHEN PRESENTMENT IS DUE AND THE~~
15 ~~BANK MUST MEET ANY REQUIREMENT OF THE PARTY TO ACCEPT OR PAY~~
16 ~~UNDER SECTION 3501 BY THE CLOSE OF THE BANK'S NEXT BANKING DAY~~
17 ~~AFTER IT KNOWS OF THE REQUIREMENT.~~

18 (2) IF PRESENTMENT IS MADE BY NOTICE AND PAYMENT, ACCEP-
19 TANCE, OR REQUEST FOR COMPLIANCE WITH A REQUIREMENT UNDER SECTION
20 3501 IS NOT RECEIVED BY THE CLOSE OF BUSINESS ON THE DAY AFTER
21 MATURITY OR IN THE CASE OF DEMAND ITEMS BY THE CLOSE OF BUSINESS
22 ON THE THIRD BANKING DAY AFTER NOTICE WAS SENT, THE PRESENTING
23 BANK MAY TREAT THE ITEM AS DISHONORED AND CHARGE ANY DRAWER OR
24 ENDORSER BY SENDING IT NOTICE OF THE FACTS.

25 Sec. 4213. ~~(1) An item is finally paid by a payor bank~~
26 ~~when the bank has done any of the following, whichever happens~~
27 ~~first:~~

1 ~~(a) paid the item in cash; or~~

2 ~~(b) settled for the item without reserving a right to revoke~~
3 ~~the settlement and without having such right under statute,~~
4 ~~clearing house rule or agreement; or~~

5 ~~(c) completed the process of posting the item to the indi-~~
6 ~~cated account of the drawer, maker or other person to be charged~~
7 ~~therewith; or~~

8 ~~(d) made a provisional settlement for the item and failed to~~
9 ~~revoke the settlement in the time and manner permitted by stat-~~
10 ~~ute, clearing house rule or agreement.~~

11 ~~Upon a final payment under subparagraphs (b), (c) or (d) the~~
12 ~~payor bank shall be accountable for the amount of the item.~~

13 ~~(2) If provisional settlement for an item between the~~
14 ~~presenting and payor banks is made through a clearing house or by~~
15 ~~debits or credits in an account between them, then to the extent~~
16 ~~that provisional debits or credits for the item are entered in~~
17 ~~accounts between the presenting and payor banks or between the~~
18 ~~presenting and successive prior collecting banks seriatim, they~~
19 ~~become final upon final payment of the item by the payor bank.~~

20 ~~(3) If a collecting bank receives a settlement for an item~~
21 ~~which is or becomes final (subsection (3) of section 4211, sub-~~
22 ~~section (2) of section 4213) the bank is accountable to its cus-~~
23 ~~tomers for the amount of the item and any provisional credit given~~
24 ~~for the item in an account with its customer becomes final.~~

25 ~~(4) Subject to any right of the bank to apply the credit to~~
26 ~~an obligation of the customer, credit given by a bank for an item~~

~~1 in an account with its customer becomes available for withdrawal
2 as of right.~~

~~3 (a) in any case where the bank has received a provisional
4 settlement for the item, when such settlement becomes final and
5 the bank has had a reasonable time to learn that the settlement
6 is final,~~

~~7 (b) in any case where the bank is both a depository bank and
8 a payor bank and the item is finally paid, at the opening of the
9 bank's second banking day following receipt of the item.~~

~~10 (5) A deposit of money in a bank is final when made but,
11 subject to any right of the bank to apply the deposit to an obli-
12 gation of the customer, the deposit becomes available for with-
13 drawal as of right at the opening of the bank's next banking day
14 following receipt of the deposit. (1) WITH RESPECT TO SETTLEMENT
15 BY A BANK, THE MEDIUM AND TIME OF SETTLEMENT MAY BE PRESCRIBED BY
16 FEDERAL RESERVE REGULATIONS OR CIRCULARS, CLEARING-HOUSE RULES,
17 AND THE LIKE, OR AGREEMENT. IN THE ABSENCE OF SUCH PRESCRIPTION,
18 THE FOLLOWING APPLY:~~

~~19 (A) THE MEDIUM OF SETTLEMENT IS CASH OR CREDIT TO AN ACCOUNT
20 IN A FEDERAL RESERVE BANK OF OR SPECIFIED BY THE PERSON TO
21 RECEIVE SETTLEMENT.~~

~~22 (B) THE TIME OF SETTLEMENT IS AS FOLLOWS:~~

~~23 (i) WITH RESPECT TO TENDER OF SETTLEMENT BY CASH, A
24 CASHIER'S CHECK, OR TELLER'S CHECK, WHEN THE CASH OR CHECK IS
25 SENT OR DELIVERED.~~

~~26 (ii) WITH RESPECT TO TENDER OF SETTLEMENT BY CREDIT IN AN
27 ACCOUNT IN A FEDERAL RESERVE BANK, WHEN THE CREDIT IS MADE.~~

1 (iii) WITH RESPECT TO TENDER OF SETTLEMENT BY A CREDIT OR
2 DEBIT TO AN ACCOUNT IN A BANK, WHEN THE CREDIT OR DEBIT IS MADE
3 OR, IN THE CASE OF TENDER OF SETTLEMENT BY AUTHORITY TO CHARGE AN
4 ACCOUNT, WHEN THE AUTHORITY IS SENT OR DELIVERED.

5 (iv) WITH RESPECT TO TENDER OF SETTLEMENT BY A FUNDS TRANS-
6 FER, WHEN PAYMENT IS MADE PURSUANT TO SECTION 4406A(1) TO THE
7 PERSON RECEIVING SETTLEMENT.

8 (2) IF THE TENDER OF SETTLEMENT IS NOT BY A MEDIUM AUTHO-
9 RIZED BY SUBSECTION (1) OR THE TIME OF SETTLEMENT IS NOT FIXED BY
10 SUBSECTION (1), NO SETTLEMENT OCCURS UNTIL THE TENDER OF SETTLE-
11 MENT IS ACCEPTED BY THE PERSON RECEIVING SETTLEMENT.

12 (3) IF SETTLEMENT FOR AN ITEM IS MADE BY CASHIER'S CHECK OR
13 TELLER'S CHECK AND THE PERSON RECEIVING SETTLEMENT, BEFORE ITS
14 MIDNIGHT DEADLINE THEN 1 OF THE FOLLOWING APPLY:

15 (A) PRESENTS OR FORWARDS THE CHECK FOR COLLECTION, SETTLE-
16 MENT IS FINAL WHEN THE CHECK IS FINALLY PAID.

17 (B) FAILS TO PRESENT OR FORWARD THE CHECK FOR COLLECTION,
18 SETTLEMENT IS FINAL AT THE MIDNIGHT DEADLINE OF THE PERSON
19 RECEIVING SETTLEMENT.

20 (4) IF SETTLEMENT FOR AN ITEM IS MADE BY GIVING AUTHORITY TO
21 CHARGE THE ACCOUNT OF THE BANK GIVING SETTLEMENT IN THE BANK
22 RECEIVING SETTLEMENT, SETTLEMENT IS FINAL WHEN THE CHARGE IS MADE
23 BY THE BANK RECEIVING SETTLEMENT IF THERE ARE FUNDS AVAILABLE IN
24 THE ACCOUNT FOR THE AMOUNT OF THE ITEM.

25 Sec. 4214. ~~(1) Any item in or coming into the possession~~
26 ~~of a payor or collecting bank which suspends payment and which~~
27 ~~item is not finally paid shall be returned by the receiver,~~

~~1 trustee or agent in charge of the closed bank to the presenting
2 bank or the closed bank's customer.~~

~~3 (2) If a payor bank finally pays an item and suspends pay-
4 ments without making a settlement for the item with its customer
5 or the presenting bank which settlement is or becomes final, the
6 owner of the item has a preferred claim against the payor bank.~~

~~7 (3) If a payor bank gives or a collecting bank gives or
8 receives a provisional settlement for an item and thereafter sus-
9 pends payments, the suspension does not prevent or interfere with
10 the settlement becoming final if such finality occurs automati-
11 cally upon the lapse of certain time or the happening of certain
12 events (subsection (3) of section 4211, subsections (1)(d), (2)
13 and (3) of section 4213).~~

~~14 (4) If a collecting bank receives from subsequent parties
15 settlement for an item which settlement is or becomes final and
16 suspends payments without making a settlement for the item with
17 its customer which is or becomes final, the owner of the item has
18 a preferred claim against such collecting bank.~~ (1) IF A COL-
19 LECTING BANK HAS MADE PROVISIONAL SETTLEMENT WITH ITS CUSTOMER
20 FOR AN ITEM AND ITSELF FAILS BY REASON OF DISHONOR, SUSPENSION OF
21 PAYMENTS BY A BANK OR OTHERWISE TO RECEIVE A SETTLEMENT FOR THE
22 ITEM WHICH IS OR BECOMES FINAL, THE BANK MAY REVOKE THE SETTLE-
23 MENT GIVEN BY IT, CHARGE BACK THE AMOUNT OF ANY CREDIT GIVEN FOR
24 THE ITEM TO ITS CUSTOMER'S ACCOUNT OR OBTAIN REFUND FROM ITS CUS-
25 TOMER WHETHER OR NOT IT IS ABLE TO RETURN THE ITEMS IF BY ITS
26 MIDNIGHT DEADLINE OR WITHIN A LONGER REASONABLE TIME AFTER IT
27 LEARNS THE FACTS IT RETURNS THE ITEM OR SENDS NOTIFICATION OF THE

1 FACTS. IF THE RETURN OR NOTICE IS DELAYED BEYOND THE BANK'S
2 MIDNIGHT DEADLINE OR A LONGER REASONABLE TIME AFTER IT LEARNS THE
3 FACTS, THE BANK MAY REVOKE THE SETTLEMENT, CHARGE BACK THE
4 CREDIT, OR OBTAIN RETURN FROM ITS CUSTOMER, BUT IT IS LIABLE FOR
5 ANY LOSS RESULTING FROM THE DELAY. THESE RIGHTS TO REVOKE,
6 CHARGE-BACK AND OBTAIN REFUND TERMINATE IF AND WHEN A SETTLEMENT
7 FOR THE ITEM RECEIVED BY THE BANK IS OR BECOMES FINAL.

8 (2) A COLLECTING BANK RETURNS AN ITEM WHEN IT IS SENT OR
9 DELIVERED TO THE BANK'S CUSTOMER OR TRANSFEROR OR PURSUANT TO ITS
10 INSTRUCTIONS.

11 (3) A DEPOSITARY BANK THAT IS ALSO THE PAYOR MAY CHARGE-BACK
12 THE AMOUNT OF AN ITEM TO ITS CUSTOMER'S ACCOUNT OR OBTAIN REFUND
13 IN ACCORDANCE WITH THE SECTION GOVERNING RETURN OF AN ITEM
14 RECEIVED BY A PAYOR BANK FOR CREDIT ON ITS BOOKS (SECTION 4301).

15 (4) THE RIGHT TO CHARGE-BACK IS NOT AFFECTED BY EITHER OF
16 THE FOLLOWING:

17 (A) PREVIOUS USE OF A CREDIT GIVEN FOR THE ITEM.

18 (B) FAILURE BY ANY BANK TO EXERCISE ORDINARY CARE WITH
19 RESPECT TO THE ITEM, BUT A BANK SO FAILING REMAINS LIABLE.

20 (5) A FAILURE TO CHARGE-BACK OR CLAIM REFUND DOES NOT AFFECT
21 OTHER RIGHTS OF THE BANK AGAINST THE CUSTOMER OR ANY OTHER
22 PARTY.

23 (6) IF CREDIT IS GIVEN IN DOLLARS AS THE EQUIVALENT OF THE
24 VALUE OF AN ITEM PAYABLE IN A FOREIGN MONEY THE DOLLAR AMOUNT OF
25 ANY CHARGE-BACK OR REFUND SHALL BE CALCULATED ON THE BASIS OF THE
26 BANK-OFFERED SPOT RATE FOR THE FOREIGN MONEY PREVAILING ON THE

1 DAY WHEN THE PERSON ENTITLED TO THE CHARGE-BACK OR REFUND LEARNS
2 THAT IT WILL NOT RECEIVE PAYMENT IN ORDINARY COURSE.

3 SEC. 4215. (1) AN ITEM IS FINALLY PAID BY A PAYOR BANK WHEN
4 THE BANK HAS FIRST DONE ANY OF THE FOLLOWING:

5 (A) PAID THE ITEM IN CASH.

6 (B) SETTLED FOR THE ITEM WITHOUT HAVING A RIGHT TO REVOKE
7 THE SETTLEMENT UNDER STATUTE, CLEARING-HOUSE RULE OR AGREEMENT.

8 (C) MADE A PROVISIONAL SETTLEMENT FOR THE ITEM AND FAILED TO
9 REVOKE THE SETTLEMENT IN THE TIME AND MANNER PERMITTED BY STAT-
10 UTE, CLEARING-HOUSE RULE OR AGREEMENT.

11 (2) IF PROVISIONAL SETTLEMENT FOR AN ITEM DOES NOT BECOME
12 FINAL, THE ITEM IS NOT FINALLY PAID.

13 (3) IF PROVISIONAL SETTLEMENT FOR AN ITEM BETWEEN THE
14 PRESENTING AND PAYOR BANKS IS MADE THROUGH A CLEARING-HOUSE OR BY
15 DEBITS OR CREDITS IN AN ACCOUNT BETWEEN THEM, THEN TO THE EXTENT
16 THAT PROVISIONAL DEBITS OR CREDITS FOR THE ITEM ARE ENTERED IN
17 ACCOUNTS BETWEEN THE PRESENTING AND PAYOR BANKS OR BETWEEN THE
18 PRESENTING AND SUCCESSIVE PRIOR COLLECTING BANKS SERIATIM, THEY
19 BECOME FINAL UPON FINAL PAYMENT OF THE ITEMS BY THE PAYOR BANK.

20 (4) IF A COLLECTING BANK RECEIVES A SETTLEMENT FOR AN ITEM
21 WHICH IS OR BECOMES FINAL, THE BANK IS ACCOUNTABLE TO ITS CUS-
22 TOMER FOR THE AMOUNT OF THE ITEM AND ANY PROVISIONAL CREDIT GIVEN
23 FOR THE ITEM IN AN ACCOUNT WITH ITS CUSTOMER BECOMES FINAL.

24 (5) SUBJECT TO (i) APPLICABLE LAW STATING A TIME FOR AVAIL-
25 ABILITY OF FUNDS AND (ii) ANY RIGHT OF THE BANK TO APPLY THE
26 CREDIT TO AN OBLIGATION OF THE CUSTOMER, CREDIT GIVEN BY A BANK

1 FOR AN ITEM IN A CUSTOMER'S ACCOUNT BECOMES AVAILABLE FOR
2 WITHDRAWAL AS OF RIGHT IF EITHER OF THE FOLLOWING APPLY:

3 (A) THE BANK HAS RECEIVED A PROVISIONAL SETTLEMENT FOR THE
4 ITEM, WHEN THE SETTLEMENT BECOMES FINAL AND THE BANK HAS HAD A
5 REASONABLE TIME TO RECEIVE RETURN OF THE ITEM AND THE ITEM HAS
6 NOT BEEN RECEIVED WITHIN THAT TIME.

7 (B) THE BANK IS BOTH THE DEPOSITARY BANK AND THE PAYOR BANK
8 AND THE ITEM IS FINALLY PAID, AT THE OPENING OF THE BANK'S SECOND
9 BANKING DAY FOLLOWING RECEIPT OF THE ITEM.

10 (6) SUBJECT TO APPLICABLE LAW STATING A TIME FOR AVAILABIL-
11 ITY OF FUNDS AND ANY RIGHT OF A BANK TO APPLY A DEPOSIT TO AN
12 OBLIGATION OF THE DEPOSITOR, A DEPOSIT OF MONEY BECOMES AVAILABLE
13 FOR WITHDRAWAL AS OF RIGHT AT THE OPENING OF THE BANK'S NEXT
14 BANKING DAY AFTER RECEIPT OF THE DEPOSIT.

15 SEC. 4216. (1) IF AN ITEM IS IN OR COMES INTO THE POSSES-
16 SION OF A PAYOR OR COLLECTING BANK THAT SUSPENDS PAYMENT AND THE
17 ITEM HAS NOT BEEN FINALLY PAID, THE ITEM MUST BE RETURNED BY THE
18 RECEIVER, TRUSTEE, OR AGENT IN CHARGE OF THE CLOSED BANK TO THE
19 PRESENTING BANK OR THE CLOSED BANK'S CUSTOMER.

20 (2) IF A PAYOR BANK FINALLY PAYS AN ITEM AND SUSPENDS PAY-
21 MENTS WITHOUT MAKING A SETTLEMENT FOR THE ITEM WITH ITS CUSTOMER
22 OR THE PRESENTING BANK WHICH SETTLEMENT IS OR BECOMES FINAL, THE
23 OWNER OF THE ITEM HAS A PREFERRED CLAIM AGAINST THE PAYOR BANK.

24 (3) IF A PAYOR BANK GIVES OR A COLLECTING BANK GIVES OR
25 RECEIVES A PROVISIONAL SETTLEMENT FOR AN ITEM AND THEREAFTER SUS-
26 PENDS PAYMENTS, THE SUSPENSION DOES NOT PREVENT OR INTERFERE WITH
27 THE SETTLEMENT'S BECOMING FINAL IF THE FINALITY OCCURS

1 AUTOMATICALLY UPON THE LAPSE OF CERTAIN TIME OR THE HAPPENING OF
2 CERTAIN EVENTS.

3 (4) IF A COLLECTING BANK RECEIVES FROM SUBSEQUENT PARTIES
4 SETTLEMENT FOR AN ITEM, WHICH SETTLEMENT IS OR BECOMES FINAL AND
5 THE BANK SUSPENDS PAYMENTS WITHOUT MAKING A SETTLEMENT FOR THE
6 ITEM WITH ITS CUSTOMER, WHICH SETTLEMENT IS OR BECOMES FINAL, THE
7 OWNER OF THE ITEM HAS A PREFERRED CLAIM AGAINST THE COLLECTING
8 BANK.

9 Sec. 4301. (1) ~~Where an authorized settlement~~ IF A PAYOR
10 BANK SETTLES for a demand item ~~(~~ other than a documentary draft
11 ~~) received by a payor bank~~ PRESENTED otherwise than for immedi-
12 ate payment over the counter ~~has been made~~ before midnight of
13 the banking day of receipt the payor bank may revoke the settle-
14 ment and recover ~~any payment~~ THE SETTLEMENT if, before it has
15 made final payment ~~(subsection (1) of section 4213)~~ and before
16 its midnight deadline, it DOES EITHER OF THE FOLLOWING:

17 (a) ~~returns~~ RETURNS the item. ~~;~~ or

18 (b) ~~sends~~ SENDS written notice of dishonor or nonpayment
19 if the item is ~~held for protest or is otherwise~~ unavailable for
20 return.

21 (2) If a demand item is received by a payor bank for credit
22 on its books, it may return ~~such~~ THE item or send notice of
23 dishonor and may revoke any credit given or recover the amount
24 thereof withdrawn by its customer, if it acts within the time
25 limit and in the manner specified in ~~the preceding~~ subsection
26 (1).

1 (3) Unless previous notice of dishonor has been sent, an
 2 item is dishonored at the time when for purposes of dishonor it
 3 is returned or notice sent in accordance with this section.

4 (4) An item is returned WHEN 1 OF THE FOLLOWING OCCURS:

5 (a) ~~as~~ AS to an item ~~received~~ PRESENTED through a
 6 ~~clearing house~~ CLEARING-HOUSE, when it is delivered to the
 7 presenting or last collecting bank or to the ~~clearing house~~
 8 CLEARING-HOUSE or is sent or delivered in accordance with its
 9 rules. ~~, or~~

10 (b) ~~in~~ IN all other cases, when it is sent or delivered to
 11 the bank's customer or transferor or pursuant to his OR HER
 12 instructions.

13 Sec. 4302. ~~In the absence of a valid defense such as~~
 14 ~~breach of a presentment warranty (subsection (1) of section~~
 15 ~~4207), settlement effected or the like, if~~ (1) IF an item is
 16 presented on and received by a payor bank the bank is accountable
 17 for the amount of THE FOLLOWING:

18 (a) ~~a~~ A demand item other than a documentary draft whether
 19 properly payable or not if the bank, in any case where it is not
 20 also the depositary bank, retains the item beyond midnight of the
 21 banking day of receipt without settling for it or, regardless of
 22 whether it is also the depositary bank, does not pay or return
 23 the item or send notice of dishonor until after its midnight
 24 deadline. ~~, or~~

25 (b) ~~any~~ ANY other properly payable item unless within the
 26 time allowed for acceptance or payment of that item the bank

1 either accepts or pays the item or returns it and accompanying
2 documents.

3 (2) THE LIABILITY OF A PAYOR BANK TO PAY AN ITEM PURSUANT TO
4 SUBSECTION (1) IS SUBJECT TO DEFENSES BASED ON BREACH OF A PRE-
5 SENTMENT WARRANTY (SECTION 4208) OR PROOF THAT THE PERSON SEEKING
6 ENFORCEMENT OF THE LIABILITY PRESENTED OR TRANSFERRED THE ITEM
7 FOR THE PURPOSE OF DEFRAUDING THE PAYOR BANK.

8 Sec. 4303. (1) Any knowledge, notice, or ~~stop order~~
9 STOP-PAYMENT ORDER received by, legal process served upon or
10 setoff exercised by a payor bank ~~, whether or not effective~~
11 ~~under other rules of law~~ COMES TOO LATE to terminate, suspend,
12 or modify the bank's right or duty to pay an item or to charge
13 its customer's account for the item ~~, comes too late to so ter~~
14 ~~minate, suspend or modify such right or duty~~ if the knowledge,
15 notice, ~~stop order~~ STOP-PAYMENT ORDER or legal process is
16 received or served and a reasonable time for the bank to act
17 thereon expires or the setoff is exercised after the ~~bank has~~
18 ~~done any~~ EARLIEST of the following:

19 (a) ~~accepted or certified~~ THE BANK ACCEPTS OR CERTIFIES
20 the item. ~~—~~

21 (b) ~~paid~~ THE BANK PAYS the item in cash. ~~—~~

22 (c) ~~settled~~ THE BANK SETTLES for the item without
23 ~~reserving~~ HAVING a right to revoke the settlement ~~and without~~
24 ~~having such right~~ under statute, ~~clearing house~~ CLEARING-HOUSE
25 rule or agreement. ~~—~~

26 ~~(d) completed the process of posting the item to the~~
27 ~~indicated account of the drawer, maker or other person to be~~

1 ~~charged therewith or otherwise has evidenced by examination of~~
 2 ~~such indicated account and by action its decision to pay the~~
 3 ~~item, or~~

4 (D) ~~(e) become~~ THE BANK BECOMES accountable for the amount
 5 of the item under ~~subsection (1) (d) of section 4213 and sec-~~
 6 tion 4302 dealing with the payor bank's responsibility for late
 7 return of items.

8 (E) WITH RESPECT TO CHECKS, A CUTOFF HOUR NO EARLIER THAN 1
 9 HOUR AFTER THE OPENING OF THE NEXT BANKING DAY AFTER THE BANKING
 10 DAY ON WHICH THE BANK RECEIVED THE CHECK AND NO LATER THAN THE
 11 CLOSE OF THAT NEXT BANKING DAY OR, IF NO CUTOFF HOUR IS FIXED,
 12 THE CLOSE OF THE NEXT BANKING DAY AFTER THE BANKING DAY ON WHICH
 13 THE BANK RECEIVED THE CHECK.

14 (2) Subject to ~~the provisions of~~ subsection (1) items may
 15 be accepted, paid, certified, or charged to the indicated account
 16 of its customer in any order. ~~convenient to the bank.~~

17 Sec. 4401. (1) ~~As against its customer, a~~ A bank may
 18 charge against ~~his~~ THE account ~~any~~ OF A CUSTOMER AN item
 19 ~~which~~ THAT is ~~otherwise~~ properly payable from that account
 20 even though the charge creates an overdraft. AN ITEM IS PROPERLY
 21 PAYABLE IF IT IS AUTHORIZED BY THE CUSTOMER AND IS IN ACCORDANCE
 22 WITH ANY AGREEMENT BETWEEN THE CUSTOMER AND BANK.

23 (2) A CUSTOMER IS NOT LIABLE FOR THE AMOUNT OF AN OVERDRAFT
 24 IF THE CUSTOMER NEITHER SIGNED THE ITEM NOR BENEFITED FROM THE
 25 PROCEEDS OF THE ITEM.

26 (3) A BANK MAY CHARGE AGAINST THE ACCOUNT OF A CUSTOMER A
 27 CHECK THAT IS OTHERWISE PROPERLY PAYABLE FROM THE ACCOUNT, EVEN

1 THOUGH PAYMENT WAS MADE BEFORE THE DATE OF THE CHECK, UNLESS THE
 2 CUSTOMER HAS GIVEN NOTICE TO THE BANK OF THE POSTDATING DESCRIB-
 3 ING THE CHECK WITH REASONABLE CERTAINTY. THE NOTICE IS EFFECTIVE
 4 FOR THE PERIOD STATED IN SECTION 4403(2) FOR STOP-PAYMENT ORDERS,
 5 AND MUST BE RECEIVED AT SUCH TIME AND IN SUCH MANNER AS TO AFFORD
 6 THE BANK A REASONABLE OPPORTUNITY TO ACT ON IT BEFORE THE BANK
 7 TAKES ANY ACTION WITH RESPECT TO THE CHECK DESCRIBED IN SECTION
 8 4303. IF A BANK CHARGES AGAINST THE ACCOUNT OF A CUSTOMER A
 9 CHECK BEFORE THE DATE STATED IN THE NOTICE OF POSTDATING, THE
 10 BANK IS LIABLE FOR DAMAGES FOR THE LOSS RESULTING FROM ITS ACT.
 11 THE LOSS MAY INCLUDE DAMAGES FOR DISHONOR OF SUBSEQUENT ITEMS
 12 UNDER SECTION 4402.

13 (4) ~~(2)~~ A bank ~~which~~ THAT in good faith makes payment to
 14 a holder may charge the indicated account of its customer accord-
 15 ing to EITHER OF THE FOLLOWING:

16 (a) ~~the~~ THE original ~~tenor~~ TERMS of ~~his~~ THE altered
 17 item. ~~or~~

18 (b) ~~the tenor~~ THE TERMS of ~~his~~ THE completed item, even
 19 though the bank knows the item has been completed unless the bank
 20 has notice that the completion was improper.

21 Sec. 4402. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTI-
 22 CLE, A PAYOR BANK WRONGFULLY DISHONORS AN ITEM IF IT DISHONORS AN
 23 ITEM THAT IS PROPERLY PAYABLE, BUT A BANK MAY DISHONOR AN ITEM
 24 THAT WOULD CREATE AN OVERDRAFT UNLESS IT HAS AGREED TO PAY THE
 25 OVERDRAFT.

26 (2) A payor bank is liable to its customer for damages
 27 proximately caused by the wrongful dishonor of an item. ~~when~~

1 ~~the dishonor occurs through mistake liability~~ LIABILITY is
2 limited to actual damages proved ~~. If so proximately caused and~~
3 ~~proved damages~~ AND may include damages for an arrest or prosecu-
4 tion of the customer or other consequential damages. Whether any
5 consequential damages are proximately caused by the wrongful dis-
6 honor is a question of fact to be determined in each case.

7 (3) A PAYOR BANK'S DETERMINATION OF THE CUSTOMER'S ACCOUNT
8 BALANCE ON WHICH A DECISION TO DISHONOR FOR INSUFFICIENCY OF
9 AVAILABLE FUNDS IS BASED MAY BE MADE AT ANY TIME BETWEEN THE TIME
10 THE ITEM IS RECEIVED BY THE PAYOR BANK AND THE TIME THAT THE
11 PAYOR BANK RETURNS THE ITEM OR GIVES NOTICE IN LIEU OF RETURN,
12 AND NO MORE THAN 1 DETERMINATION NEED BE MADE. IF, AT THE ELEC-
13 TION OF THE PAYOR BANK, A SUBSEQUENT BALANCE DETERMINATION IS
14 MADE FOR THE PURPOSE OF REEVALUATING THE BANK'S DECISION TO DIS-
15 HONOR THE ITEM, THE ACCOUNT BALANCE AT THAT TIME IS DETERMINATIVE
16 OF WHETHER A DISHONOR FOR INSUFFICIENCY OF AVAILABLE FUNDS IS
17 WRONGFUL.

18 Sec. 4403. (1) A customer ~~may by order to his bank stop~~
19 ~~payment of any item payable for his account but the order must~~
20 ~~be~~ OR ANY PERSON AUTHORIZED TO DRAW ON THE ACCOUNT IF THERE IS
21 MORE THAN 1 PERSON MAY STOP PAYMENT OF ANY ITEM DRAWN ON THE
22 CUSTOMER'S ACCOUNT OR CLOSE THE ACCOUNT BY AN ORDER TO THE BANK
23 DESCRIBING THE ITEM OR ACCOUNT WITH REASONABLE CERTAINTY received
24 at ~~such~~ A time and in ~~such~~ A manner ~~as to afford~~ THAT
25 AFFORDS the bank a reasonable opportunity to act on it ~~prior to~~
26 BEFORE any action by the bank with respect to the item described
27 in section 4303. IF THE SIGNATURE OF MORE THAN 1 PERSON IS

1 REQUIRED TO DRAW ON AN ACCOUNT, ANY OF THESE PERSONS MAY STOP
2 PAYMENT OR CLOSE THE ACCOUNT.

3 (2) ~~An oral order is binding upon the bank only for 14 cal-~~
4 ~~endar days unless confirmed in writing within that period. A~~
5 ~~written order is effective for only 6 months unless renewed in~~
6 ~~writing. A STOP-PAYMENT ORDER IS EFFECTIVE FOR 6 MONTHS, BUT IT~~
7 ~~LAPSES AFTER 14 CALENDAR DAYS IF THE ORIGINAL ORDER WAS ORAL AND~~
8 ~~WAS NOT CONFIRMED IN WRITING WITHIN THAT PERIOD. A STOP-PAYMENT~~
9 ~~ORDER MAY BE RENEWED FOR ADDITIONAL 6-MONTH PERIODS BY A WRITING~~
10 ~~GIVEN TO THE BANK WITHIN A PERIOD DURING WHICH THE STOP-PAYMENT~~
11 ~~ORDER IS EFFECTIVE.~~

12 (3) The burden of establishing the fact and amount of loss
13 resulting from the payment of an item contrary to a ~~binding stop~~
14 ~~payment~~ STOP-PAYMENT order OR ORDER TO CLOSE AN ACCOUNT is on
15 the customer. THE LOSS FROM PAYMENT OF AN ITEM CONTRARY TO A
16 STOP-PAYMENT ORDER MAY INCLUDE DAMAGES FOR DISHONOR OF SUBSEQUENT
17 ITEMS UNDER SECTION 4402.

18 Sec. 4406. (1) ~~When a bank sends to its customer a state-~~
19 ~~ment of account accompanied by items paid in good faith in sup-~~
20 ~~port of the debit entries or holds the statement and items pursu-~~
21 ~~ant to a request or instructions of its customer or otherwise in~~
22 ~~a reasonable manner makes the statement and items available to~~
23 ~~the customer, the customer must exercise reasonable care and~~
24 ~~promptness to examine the statement and items to discover his~~
25 ~~unauthorized signature or any alteration on an item and must~~
26 ~~notify the bank promptly after discovery thereof. A BANK THAT~~
27 SENDS OR MAKES AVAILABLE TO A CUSTOMER A STATEMENT OF ACCOUNT

1 SHOWING PAYMENT OF ITEMS FOR THE ACCOUNT SHALL EITHER RETURN OR
2 MAKE AVAILABLE TO THE CUSTOMER THE ITEMS PAID OR PROVIDE INFORMA-
3 TION IN THE STATEMENT OF ACCOUNT SUFFICIENT TO ALLOW THE CUSTOMER
4 REASONABLY TO IDENTIFY THE ITEMS PAID. THE STATEMENT OF ACCOUNT
5 PROVIDES SUFFICIENT INFORMATION IF THE ITEM IS DESCRIBED BY ITEM
6 NUMBER, AMOUNT, AND DATE OF PAYMENT.

7 (2) IF THE ITEMS ARE NOT RETURNED TO THE CUSTOMER, THE
8 PERSON RETAINING THE ITEMS SHALL EITHER RETAIN THE ITEMS OR, IF
9 THE ITEMS ARE DESTROYED, MAINTAIN THE CAPACITY TO FURNISH LEGIBLE
10 COPIES OF THE ITEMS UNTIL THE EXPIRATION OF 7 YEARS AFTER RECEIPT
11 OF THE ITEMS. A CUSTOMER MAY REQUEST AN ITEM FROM THE BANK THAT
12 PAID THE ITEM, AND THAT BANK MUST PROVIDE IN A REASONABLE TIME
13 EITHER THE ITEM OR, IF THE ITEM HAS BEEN DESTROYED OR IS NOT OTH-
14 ERWISE OBTAINABLE, A LEGIBLE COPY OF THE ITEM.

15 (3) IF A BANK SENDS OR MAKES AVAILABLE A STATEMENT OF
16 ACCOUNT OR ITEMS PURSUANT TO SUBSECTION (1), THE CUSTOMER MUST
17 EXERCISE REASONABLE PROMPTNESS IN EXAMINING THE STATEMENT OR THE
18 ITEMS TO DETERMINE WHETHER ANY PAYMENT WAS NOT AUTHORIZED BECAUSE
19 OF AN ALTERATION OF AN ITEM OR BECAUSE A PURPORTED SIGNATURE BY
20 OR ON BEHALF OF THE CUSTOMER WAS NOT AUTHORIZED. IF, BASED ON
21 THE STATEMENT OR ITEMS PROVIDED, THE CUSTOMER SHOULD REASONABLY
22 HAVE DISCOVERED THE UNAUTHORIZED PAYMENT, THE CUSTOMER MUST
23 PROMPTLY NOTIFY THE BANK OF THE RELEVANT FACTS.

24 (4) ~~-(2)-~~ If the bank ~~-establishes-~~ PROVES that the customer
25 failed, with respect to an item, to comply with the duties
26 imposed on the customer by subsection ~~-(1)-~~ (3), the customer is
27 precluded from asserting against the bank THE FOLLOWING:

1 (a) ~~his~~ THE CUSTOMER'S unauthorized signature or any
2 alteration on the item, if the bank also ~~establishes~~ PROVES
3 that it suffered a loss by reason of ~~such~~ THE failure. ~~and~~

4 (b) ~~an~~ THE CUSTOMER'S unauthorized signature or alteration
5 by the same wrongdoer on any other item paid in good faith by the
6 bank ~~after the first item and statement was available to the~~
7 ~~customer for a reasonable period not exceeding 14 calendar days~~
8 ~~and before the bank receives notification from the customer of~~
9 ~~any such unauthorized signature or alteration~~ IF THE PAYMENT WAS
10 MADE BEFORE THE BANK RECEIVED NOTICE FROM THE CUSTOMER OF THE
11 UNAUTHORIZED SIGNATURE OR ALTERATION AND AFTER THE CUSTOMER HAD
12 BEEN AFFORDED A REASONABLE PERIOD OF TIME, NOT EXCEEDING 30 DAYS,
13 IN WHICH TO EXAMINE THE ITEM OR STATEMENT OF ACCOUNT AND NOTIFY
14 THE BANK.

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

18 (5) IF SUBSECTION (4) APPLIES AND THE CUSTOMER PROVES THAT
19 THE BANK FAILED TO EXERCISE ORDINARY CARE IN PAYING THE ITEM AND
20 THAT THE FAILURE SUBSTANTIALLY CONTRIBUTED TO LOSS, THE LOSS IS
21 ALLOCATED BETWEEN THE CUSTOMER PRECLUDED AND THE BANK ASSERTING
22 THE PRECLUSION ACCORDING TO THE EXTENT TO WHICH THE FAILURE OF
23 THE CUSTOMER TO COMPLY WITH SUBSECTION (3) AND THE FAILURE OF THE
24 BANK TO EXERCISE ORDINARY CARE CONTRIBUTED TO THE LOSS. IF THE
25 CUSTOMER PROVES THAT THE BANK DID NOT PAY THE ITEM IN GOOD FAITH,
26 THE PRECLUSION UNDER SUBSECTION (4) DOES NOT APPLY.

1 (6) ~~(4)~~ Without regard to care or lack of care of either
2 the customer or the bank, a customer who does not within 1 year
3 ~~from the time~~ AFTER the statement ~~and~~ OR items are made
4 available to the customer (subsection (1)) discover and report
5 his OR HER unauthorized signature ~~of~~ ON OR any alteration on
6 the ~~face or back of the item or does not within 3 years from~~
7 ~~that time discover and report any unauthorized indorsement~~ ITEM
8 is precluded from asserting against the bank ~~such~~ THE unautho-
9 rized signature ~~or indorsement~~ or ~~such~~ alteration. IF THERE
10 IS A PRECLUSION UNDER THIS SUBSECTION, THE PAYOR BANK MAY NOT
11 RECOVER FOR BREACH OF WARRANTY UNDER SECTION 4208 WITH RESPECT TO
12 THE UNAUTHORIZED SIGNATURE OR ALTERATION TO WHICH THE PRECLUSION
13 APPLIES.

14 ~~(5) If under this section a payor bank has a valid defense~~
15 ~~against a claim of a customer upon or resulting from payment of~~
16 ~~an item and waives or fails upon request to assert the defense~~
17 ~~the bank may not assert against any collecting bank or other~~
18 ~~prior party presenting or transferring the item a claim based~~
19 ~~upon the unauthorized signature or alteration giving rise to the~~
20 ~~customer's claim.~~

21 Sec. 4407. If a payor bank has paid an item over the ~~stop~~
22 ~~payment~~ order of the drawer or maker TO STOP PAYMENT, OR AFTER
23 AN ACCOUNT HAS BEEN CLOSED, or otherwise under circumstances
24 giving a basis for objection by the drawer or maker, to prevent
25 unjust enrichment and only to the extent necessary to prevent
26 loss to the bank by reason of its payment of the item, the payor
27 bank ~~shall be~~ IS subrogated to the rights OF THE FOLLOWING:

1 (a) ~~of~~ OF any holder in due course on the item against the
2 drawer or maker. ~~, and~~

3 (b) ~~of~~ OF the payee or any other holder of the item
4 against the drawer or maker either on the item or under the
5 transaction out of which the item arose. ~~, and~~

6 (c) ~~of~~ OF the drawer or maker against the payee or any
7 other holder of the item with respect to the transaction out of
8 which the item arose.

9 Section 2. Sections 3120, 3121, 3122, 3208, 3506, 3507,
10 3508, 3509, 3510, 3511, 3606, 3701, 3801, 3802, 3803, 3804, and
11 3805 of Act No. 174 of the Public Acts of 1962, being sections
12 440.3120, 440.3121, 440.3122, 440.3208, 440.3506, 440.3507,
13 440.3508, 440.3509, 440.3510, 440.3511, 440.3606, 440.3701,
14 440.3801, 440.3802, 440.3803, 440.3804, and 440.3805 of the
15 Michigan Compiled Laws, are repealed.

16 Section 3. This amendatory act shall take effect
17 September 30, 1993.