

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 3012

By: Morgan (Fred)

COMMITTEE SUBSTITUTE

An Act relating to the Uniform Commercial Code; amending 12A O.S. 2001, Sections 4-102, 4-104, as amended by Section 56, Chapter 140, O.S.L. 2005, 4-105, 4-212, 4-301 and 4-403 (12A O.S. Supp. 2005, Section 4-104), which relate to Article 4 of the Uniform Commercial Code which pertains to bank deposits and collections; stating applicable law for certain liability; eliminating definition now covered by another article; modifying reference to definition in another article; modifying terminology to reflect inscription of information in medium other than written document; modifying circumstances under which payor bank may revoke settlement and recover any settlement made; amending 12A O.S. 2001, Section 4A-505, which relates to period of objection to debit of consumer accounts; allowing for modification of period, with limitation; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 12A O.S. 2001, Section 4-102, is amended to read as follows:

Section 4-102.

APPLICABILITY

(a) To the extent that items within this article are also within Articles 3 and 8 of this title, they are subject to those articles. If there is conflict, this article governs Article 3, but Article 8 governs this article.

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

branch or separate office of a bank, its liability is governed by the law of the place where the branch or separate office is located.

SECTION 2. AMENDATORY 12A O.S. 2001, Section 4-104, as amended by Section 56, Chapter 140, O.S.L. 2005 (12A O.S. Supp. 2005, Section 4-104), is amended to read as follows:

Section 4-104.

DEFINITIONS AND INDEX OF DEFINITIONS

(a) In this article unless the context otherwise requires:

(1) "Account" means any deposit or credit account with a bank, including a demand, time, savings, passbook, share draft, or like account, other than an account evidenced by a certificate of deposit;

(2) "Afternoon" means the period of a day between noon and midnight;

(3) "Banking day" means the part of a day on which a bank is open to the public for carrying on substantially all of its banking functions;

(4) "Clearing house" means an association of banks or other payors regularly clearing items;

(5) "Customer" means a person having an account with a bank or for whom a bank has agreed to collect items, including a bank that maintains an account at another bank;

(6) "Documentary draft" means a draft to be presented for acceptance or payment if specified documents, certified securities (Section 8-102 of this title) or instructions for uncertificated securities (Section 8-102 of this title) or other certificates, statements, or the like are to be received by the drawee or other payor before acceptance or payment of the draft;

(7) "Draft" means a draft as defined in Section 3-104 of this title or an item, other than an instrument, that is an order;

(8) "Drawee" means a person ordered in a draft to make payment;

(9) "Item" means an instrument or a promise or order to pay money handled by a bank for collection or payment. The term does not include a payment order governed by Article 4A of this title or a credit or debit card slip;

(10) "Midnight deadline" with respect to a bank is midnight on its next banking day following the banking day on which it receives the relevant item or notice or from which the time for taking action commences to run, whichever is later;

(11) "Settle" means to pay in cash, by clearing-house settlement, in a charge or credit or by remittance, or otherwise as agreed. A settlement may be either provisional or final; and

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

(b) Other definitions applying to this article and the sections of this title in which they appear are:

"Agreement for electronic presentment" Section 4-110.

~~"Bank" Section 4-105.~~

"Collecting bank" Section 4-105.

"Depositary bank" Section 4-105.

"Intermediary bank" Section 4-105.

"Payor bank" Section 4-105.

"Presenting bank" Section 4-105.

"Presentment Notice" Section 4-110.

(c) "Control" as provided in Section 7-106 of this title and the following definitions in other articles of this title apply to this article:

"Acceptance" Section 3-409.

"Alteration" Section 3-407.

"Cashier's check" Section 3-104.

"Certificate of deposit" Section 3-104.

"Certified check" Section 3-409.
"Check" Section 3-104.
"Draft" Section 3-104.
"Good faith" Section 3-103.
"Holder in due course" Section 3-302.
"Instrument" Section 3-104.
"Notice of dishonor" Section 3-503.
"Order" Section 3-103.
"Ordinary care" Section 3-103.
"Person entitled to enforce" Section 3-301.
"Presentment" Section 3-501.
"Promise" Section 3-103.
"Prove" Section 3-103.
"Record" Section 3-103
"Teller's check" Section 3-104.
"Unauthorized signature" Section 3-403.

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

SECTION 3. AMENDATORY 12A O.S. 2001, Section 4-105, is amended to read as follows:

Section 4-105.

~~"BANK"; "DEPOSITARY BANK"; "PAYOR BANK";~~

~~"INTERMEDIARY BANK"; "COLLECTING BANK";~~

~~"PRESENTING BANK"~~ DEFINITIONS OF TYPES OF BANKS

In this article:

(1) ~~"Bank" means a person engaged in the business of banking, including a savings bank, savings and loan association, credit union, or trust company~~ Reserved;

(2) "Depositary bank" means the first bank to take an item even though it is also the payor bank, unless the item is presented for immediate payment over the counter;

(3) "Payor bank" means a bank that is the drawee of a draft;

(4) "Intermediary bank" means a bank to which an item is transferred in course of collection except the depository or payor bank;

(5) "Collecting bank" means a bank handling an item for collection except the payor bank; and

(6) "Presenting bank" means a bank presenting an item except a payor bank.

SECTION 4. AMENDATORY 12A O.S. 2001, Section 4-212, is amended to read as follows:

Section 4-212.

PRESENTMENT BY NOTICE OF ITEM NOT PAYABLE BY, THROUGH, OR AT BANK;

LIABILITY OF DRAWER OR INDORSER

(a) Unless otherwise instructed, a collecting bank may present an item not payable by, through, or at a bank by sending to the party to accept or pay a ~~written~~ record providing notice that the bank holds the item for acceptance or payment. The notice must be sent in time to be received on or before the day when presentment is due and the bank must meet any requirement of the party to accept or pay under Section 3-501 of this title by the close of the bank's next banking day after it knows of the requirement.

(b) If presentment is made by notice and payment, acceptance, or request for compliance with a requirement under Section 3-501 of this title is not received by the close of business on the day after maturity or, in the case of demand items, by the close of business on the third banking day after notice was sent, the presenting bank may treat the item as dishonored and charge any drawer or indorser by sending it notice of the facts.

SECTION 5. AMENDATORY 12A O.S. 2001, Section 4-301, is amended to read as follows:

Section 4-301.

DEFERRED POSTING; RECOVERY OF PAYMENT BY RETURN OF ITEMS;

TIME OF DISHONOR; RETURN OF ITEMS BY PAYOR BANK

(a) If a payor bank settles for a demand item other than a documentary draft presented otherwise than for immediate payment over the counter before midnight of the banking day of receipt, the payor bank may revoke the settlement and recover the settlement if, before it has made final payment and before its midnight deadline, it:

- (1) Returns the item; ~~or~~
- (2) ~~Sends written~~ Returns an image of the item, if the party to which the return is made has entered into an agreement to accept an image as a return of the item and the image is returned in accordance with that agreement; or
- (3) Sends a record providing notice of dishonor or nonpayment if the item is unavailable for return.

(b) If a demand item is received by a payor bank for credit on its books, it may return the item or send notice of dishonor and may revoke any credit given or recover the amount thereof withdrawn by its customer, if it acts within the time limit and in the manner specified in subsection (a) of this section.

(c) Unless previous notice of dishonor has been sent an item is dishonored at the time when for purposes of dishonor it is returned or notice sent in accordance with this section.

(d) An item is returned:

- (1) As to an item presented through a clearing-house, when it is delivered to the presenting or last collecting bank or to the clearing-house or is sent or delivered in accordance with clearing-house rules; or
- (2) In all other cases, when it is sent or delivered to the bank's customer or transferor or pursuant to instructions.

SECTION 6. AMENDATORY 12A O.S. 2001, Section 4-403, is amended to read as follows:

Section 4-403.

CUSTOMER'S RIGHT TO STOP PAYMENT; BURDEN OF PROOF OF LOSS

(a) A customer or any person authorized to draw on the account if there is more than one person may stop payment of any item drawn on the customer's account or close the account by an order to the bank describing the item or account with reasonable certainty received at a time and in a manner that affords the bank a reasonable opportunity to act on it before any action by the bank with respect to the item described in Section 4-303 of this title. If the signature of more than one person is required to draw on an account, any of these persons may stop payment or close the account.

(b) A stop-payment order is effective for six (6) months, but it lapses after fourteen (14) calendar days if the original order was oral and was not confirmed in ~~writing~~ a record within that period. A stop-payment order may be renewed for additional six-month periods by a ~~writing~~ record given to the bank within a period during which the stop-payment order is effective.

(c) The burden of establishing the fact and amount of loss resulting from the payment of an item contrary to a stop-payment order or order to close an account is on the customer. The loss from payment of an item contrary to a stop-payment order may include damages for dishonor of subsequent items under Section 4-402 of this title.

SECTION 7. AMENDATORY 12A O.S. 2001, Section 4A-505, is amended to read as follows:

Section 4A-505.

PRECLUSION OF OBJECTION TO DEBIT OF CUSTOMER'S ACCOUNT

(a) If a receiving bank has received payment from its customer with respect to a payment order issued in the name of the customer as sender and accepted by the bank, and the customer received

notification reasonably identifying the order, the customer is precluded from asserting that the bank is not entitled to retain the payment unless the customer notifies the bank of the customer's objection to the payment within (1) one year after the notification was received by the customer.

(b) The one-year period provided for in subsection (a) of this section may be reduced by agreement, but not to less than sixty (60) days.

SECTION 8. This act shall become effective January 1, 2007.

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