

Part 3

Collection of Items - Payor Banks

70A-4-301 Deferred posting -- Recovery of payment by return of items -- Time of dishonor -- Return of item by payor bank.

- (1) 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 if, before it has made final payment and before its midnight deadline, it:
 - (a) returns the item; or
 - (b) sends written notice of dishonor or nonpayment if the item is unavailable for return.
- (2) 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books, it may return the item or send notice of dishonor and may revoke any credit given or recover the amount thereof withdrawn by its customer, if it acts within the time limit and in the manner specified in Subsection (1).
- (3) 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.
- (4) An item is returned:
 - (a) as to an item presented through a clearinghouse, when it is delivered to the presenting or last collecting bank or to the clearinghouse or is sent or delivered in accordance with clearinghouse rules; or
 - (b) in all other cases, when it is sent or delivered to the bank's customer or transferor or pursuant to his instructions.

Amended by Chapter 237, 1993 General Session

70A-4-302 Payor bank's responsibility for late return of item.

- (1) If an item is presented to and received by a payor bank, the bank is accountable for the amount of:
 - (a) a demand item, other than a documentary draft, whether properly payable or not, if the bank, in any case in which it is not also the depository bank, retains the item beyond midnight of the banking day of receipt without settling for it or, whether or not it is also the depository bank, does not pay or return the item or send notice of dishonor until after its midnight deadline; or
 - (b) any other properly payable item unless, within the time allowed for acceptance or payment of that item, the bank either accepts or pays the item or returns it and accompanying documents.
- (2) The liability of a payor bank to pay an item pursuant to Subsection (1) is subject to defenses based on breach of a presentment warranty, Section 70A-4-208, or proof that the person seeking enforcement of the liability presented or transferred the item for the purpose of defrauding the payor bank.

Amended by Chapter 237, 1993 General Session

70A-4-303 When items subject to notice, stop payment order, legal process or setoff -- Order in which items may be charged or certified.

- (1) Any knowledge, notice, or stop-payment order received by, legal process served upon, or setoff exercised by a payor bank, comes too late to terminate, suspend, or modify the bank's right or

duty to pay an item or to charge its customer's account for the item if the knowledge, notice, stop-payment order, or legal process is received or served and a reasonable time for the bank to act thereon expires or the setoff is exercised after the earliest of the following:

- (a) the bank accepts or certifies the item;
 - (b) the bank pays the item in cash;
 - (c) the bank settles for the item without having a right to revoke the settlement under statute, clearinghouse rule, or agreement;
 - (d) the bank becomes accountable for the amount of the item under Section 70A-4-302 dealing with the payor bank's responsibility for late return of items; or
 - (e) with respect to checks, a cutoff hour is earlier than one hour after the opening of the next banking day after the banking day on which the bank received the check and no later than the close of that next banking day, or, if no cutoff hour is fixed, the close of the next banking day after the banking day on which the bank received the check.
- (2) Subject to Subsection (1), items may be accepted, paid, certified, or charged to the indicated account of its customer in any order.

Amended by Chapter 237, 1993 General Session