

Part 6

Discharge and Payment

70A-3-601 Discharge and effect of discharge.

- (1) The obligation of a party to pay the instrument is discharged as stated in this chapter or by an act or agreement with the party which would discharge an obligation to pay money under a simple contract.
- (2) Discharge of the obligation of a party is not effective against a person acquiring rights of a holder in due course of the instrument without notice of the discharge.

Repealed and Re-enacted by Chapter 237, 1993 General Session

70A-3-602 Payment.

- (1) Subject to Subsection (2), an instrument is paid to the extent payment is made by or on behalf of a party obliged to pay the instrument, and to a person entitled to enforce the instrument. To the extent of the payment, the obligation of the party obliged to pay the instrument is discharged even though payment is made with knowledge of a claim to the instrument under Section 70A-3-306 by another person.
- (2) The obligation of a party to pay the instrument is not discharged under Subsection (1) if:
 - (a) a claim to the instrument under Section 70A-3-306 is enforceable against the party receiving payment, and:
 - (i) payment is made with knowledge by the payor that payment is prohibited by injunction or similar process of a court of competent jurisdiction; or
 - (ii) in the case of an instrument other than a cashier's check, teller's check, or certified check, the party making payment accepted, from the person having a claim to the instrument, indemnity against loss resulting from refusal to pay the person entitled to enforce the instrument; or
 - (b) the person making payment knows that the instrument is a stolen instrument and pays a person it knows is in wrongful possession of the instrument.

Repealed and Re-enacted by Chapter 237, 1993 General Session

70A-3-603 Tender of payment.

- (1) If tender of payment of an obligation to pay an instrument is made to a person entitled to enforce the instrument, the effect of tender is governed by principles of law applicable to tender of payment under a simple contract.
- (2) If tender of payment of an obligation to pay an instrument is made to a person entitled to enforce the instrument and the tender is refused, there is discharge, to the extent of the amount of the tender, of the obligation of an indorser or accommodation party having a right of recourse with respect to the obligation to which the tender relates.
- (3) If tender of payment of an amount due on an instrument is made to a person entitled to enforce the instrument, the obligation of the obligor to pay interest after the due date on the amount tendered is discharged. If presentment is required with respect to an instrument and the obligor is able and ready to pay on the due date at every place of payment stated in the instrument, the obligor is deemed to have made tender of payment on the due date to the person entitled to enforce the instrument.

Repealed and Re-enacted by Chapter 237, 1993 General Session

70A-3-604 Discharge by cancellation or renunciation.

- (1) A person entitled to enforce an instrument, with or without consideration, may discharge the obligation of a party to pay the instrument by an intentional voluntary act, such as surrender of the instrument to the party, destruction, mutilation, or cancellation of the instrument, cancellation or striking out of the party's signature, or the addition of words to the instrument indicating discharge, or by agreeing not to sue or otherwise renouncing rights against the party by a signed writing.
- (2) Cancellation or striking out of an indorsement pursuant to Subsection (1) does not affect the status and rights of a party derived from the indorsement.

Repealed and Re-enacted by Chapter 237, 1993 General Session

70A-3-605 Discharge of indorsers and accommodation parties.

- (1) In this section, the term "indorser" includes a drawer having the obligation described in Subsection 70A-3-414(4).
- (2) Discharge, under Section 70A-3-604, of the obligation of a party to pay an instrument does not discharge the obligation of an indorser or accommodation party having a right of recourse against the discharged party.
- (3) If a person entitled to enforce an instrument agrees, with or without consideration, to an extension of the due date of the obligation of a party to pay the instrument, the extension discharges an indorser or accommodation party having a right of recourse against the party whose obligation is extended to the extent the indorser or accommodation party proves that the extension caused loss to the indorser or accommodation party with respect to the right of recourse.
- (4) If a person entitled to enforce an instrument agrees, with or without consideration, to a material modification of the obligation of a party other than an extension of the due date, the modification discharges the obligation of an indorser or accommodation party having a right of recourse against the person whose obligation is modified to the extent the modification causes loss to the indorser or accommodation party with respect to the right of recourse. The loss suffered by the indorser or accommodation party as a result of the modification is equal to the amount of the right of recourse unless the person enforcing the instrument proves that no loss was caused by the modification or that the loss caused by the modification was an amount less than the amount of the right of recourse.
- (5) If the obligation of a party to pay an instrument is secured by an interest in collateral and a person entitled to enforce the instrument impairs the value of the interest in collateral, the obligation of an indorser or accommodation party having a right of recourse against the obligor is discharged to the extent of the impairment. The value of an interest in collateral is impaired to the extent the value of the interest is reduced to an amount less than the amount of the right of recourse of the party asserting discharge, or the reduction in value of the interest causes an increase in the amount by which the amount of the right of recourse exceeds the value of the interest. The burden of proving impairment is on the party asserting discharge.
- (6) If the obligation of a party is secured by an interest in collateral not provided by an accommodation party and a person entitled to enforce the instrument impairs the value of the interest in collateral, the obligation of any party who is jointly and severally liable with respect to the secured obligation is discharged to the extent the impairment causes the party asserting discharge to pay more than that party would have been obliged to pay, taking

into account rights of contribution, if impairment had not occurred. If the party asserting discharge is an accommodation party not entitled to discharge under Subsection (5), the party is deemed to have a right to contribution based on joint and several liability rather than a right to reimbursement. The burden of proving impairment is on the party asserting discharge.

- (7) Under Subsection (5) or (6), impairing value of an interest in collateral includes failure to obtain or maintain perfection or recordation of the interest in collateral, release of collateral without substitution of collateral of equal value, failure to perform a duty to preserve the value of collateral owed, under Title 70A, Chapter 9a, Uniform Commercial Code - Secured Transactions, or other law, to a debtor or surety or other person secondarily liable, or failure to comply with applicable law in disposing of collateral.
- (8) An accommodation party is not discharged under Subsection (3), (4), or (5) unless the person entitled to enforce the instrument knows of the accommodation or has notice under Subsection 70A-3-419(3) that the instrument was signed for accommodation.
- (9) A party is not discharged under this section if the party asserting discharge consents to the event or conduct that is the basis of the discharge, or the instrument or a separate agreement of the party provides for waiver of discharge under this section either specifically or by general language indicating that parties waive defenses based on suretyship or impairment of collateral.

Amended by Chapter 252, 2000 General Session