§ 229.39 Insolvency of bank.

(a) Duty of receiver. A check or returned check in, or coming into, the possession of a paying, collecting, depositary, or returning bank that suspends payment, and which is not paid, shall be returned by the receiver, trustee, or agent in charge of the closed bank to the bank or customer that transferred the check to the closed bank.

(b) Preference against paying or depositary bank. If a paying bank finally pays a check, or if a depositary bank becomes obligated to pay a returned check, and suspends payment without making a settlement for the check or returned check with the prior bank that is or becomes final, the prior bank has a preferred claim against the paying bank or the depositary bank.

(c) Preference against collecting, paying, or returning bank. If a collecting, paying, or returning bank receives settlement from a subsequent bank for a check or returned check, which settlement is or becomes final, and suspends payments without making a settlement for the check with the prior bank, which is or becomes final, the prior bank has a preferred claim against the collecting or returning bank.

(d) Preference against presenting bank. If a paying bank settles with a presenting bank for one or more checks, and if the presenting bank breaches a warranty specified in §229.34(c)(1) or (3) with respect to those checks and suspends payments before satisfying the paying bank’s warranty claim, the paying bank has a preferred claim against the presenting bank for the amount of the warranty claim.

§ 229.40 Effect of merger transaction.

(a) In general. For purposes of this subpart, two or more banks that have engaged in a merger transaction may be considered to be separate banks for a period of one year following the consummation of the merger transaction.