

mination date established by this chapter for the mortgage.

(Pub. L. 105-216, §11, July 29, 1998, 112 Stat. 908.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 1 year after July 29, 1998, see section 13 of Pub. L. 105-216, set out as a note under section 4901 of this title.

CHAPTER 50—CHECK TRUNCATION

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§ 5001. Findings; purposes

(a) Findings

The Congress finds as follows:

(1) In the Expedited Funds Availability Act [12 U.S.C. 4001 et seq.], enacted on August 10, 1987, the Congress directed the Board of Governors of the Federal Reserve System to consider establishing regulations requiring Federal reserve banks and depository institutions to provide for check truncation, in order to improve the check processing system.

(2) In that same Act, the Congress—

(A) provided the Board of Governors of the Federal Reserve System with full authority to regulate all aspects of the payment system, including the receipt, payment, collection, and clearing of checks, and related functions of the payment system pertaining to checks; and

(B) directed that the exercise of such authority by the Board superseded any State law, including the Uniform Commercial Code, as in effect in any State.

(3) Check truncation is no less desirable in 2003 for both financial service customers and the financial services industry, to reduce costs, improve efficiency in check collections, and expedite funds availability for customers than it was over 15 years ago when Congress first directed the Board to consider establishing such a process.

(b) Purposes

The purposes of this chapter are as follows:

(1) To facilitate check truncation by authorizing substitute checks.

(2) To foster innovation in the check collection system without mandating receipt of checks in electronic form.

(3) To improve the overall efficiency of the Nation's payments system.

(Pub. L. 108-100, §2, Oct. 28, 2003, 117 Stat. 1177.)

Editorial Notes

REFERENCES IN TEXT

The Expedited Funds Availability Act, referred to in subsec. (a)(1), (2), is title VI of Pub. L. 100-86, Aug. 10, 1987, 101 Stat. 635, which is classified principally to chapter 41 (§4001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

This chapter, referred to in subsec. (b), was in the original “this Act”, meaning Pub. L. 108-100, Oct. 28, 2003, 117 Stat. 1177, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 108-100, §20, Oct. 28, 2003, 117 Stat. 1194, provided that: “This Act [enacting this chapter, amending section 412 of this title, and enacting provisions set out as notes under this section] shall take effect at the end of the 12-month period beginning on the date of the enactment of this Act [Oct. 28, 2003], except as otherwise specifically provided in this Act.”

SHORT TITLE

Pub. L. 108-100, §1(a), Oct. 28, 2003, 117 Stat. 1177, provided that: “This Act [enacting this chapter, amending section 412 of this title, and enacting provisions set out as notes under this section] may be cited as the ‘Check Clearing for the 21st Century Act’ or the ‘Check 21 Act.’”

§ 5002. Definitions

For purposes of this chapter, the following definitions shall apply:

(1) Account

The term “account” means a deposit account at a bank.

(2) Bank

The term “bank” means any person that is located in a State and engaged in the business of banking and includes—

- (A) any depository institution (as defined in section 461(b)(1)(A) of this title);
- (B) any Federal reserve bank;
- (C) any Federal home loan bank; or
- (D) to the extent it acts as a payor—
 - (i) the Treasury of the United States;
 - (ii) the United States Postal Service;
 - (iii) a State government; or
 - (iv) a unit of general local government (as defined in section 4001(24) of this title).

(3) Banking terms

(A) Collecting bank

The term “collecting bank” means any bank handling a check for collection except the paying bank.

(B) Depository bank

The term “depository bank” means—

- (i) the first bank to which a check is transferred, even if such bank is also the paying bank or the payee; or

(ii) a bank to which a check is transferred for deposit in an account at such bank, even if the check is physically received and indorsed first by another bank.

(C) Paying bank

The term “paying bank” means—

(i) the bank by which a check is payable, unless the check is payable at or through another bank and is sent to the other bank for payment or collection; or

(ii) the bank at or through which a check is payable and to which the check is sent for payment or collection.

(D) Returning bank

(i) In general

The term “returning bank” means a bank (other than the paying or depositary bank) handling a returned check or notice in lieu of return.

(ii) Treatment as collecting bank

No provision of this chapter shall be construed as affecting the treatment of a returning bank as a collecting bank for purposes of section 4-202(b) of the Uniform Commercial Code.

(4) Board

The term “Board” means the Board of Governors of the Federal Reserve System.

(5) Business day

The term “business day” has the same meaning as in section 4001(3) of this title.

(6) Check

The term “check”—

(A) means a draft, payable on demand and drawn on or payable through or at an office of a bank, whether or not negotiable, that is handled for forward collection or return, including a substitute check and a travelers check; and

(B) does not include a noncash item or an item payable in a medium other than United States dollars.

(7) Consumer

The term “consumer” means an individual who—

(A) with respect to a check handled for forward collection, draws the check on a consumer account; or

(B) with respect to a check handled for return, deposits the check into, or cashes the check against, a consumer account.

(8) Consumer account

The term “consumer account” has the same meaning as in section 4001(10) of this title.

(9) Customer

The term “customer” means a person having an account with a bank.

(10) Forward collection

The term “forward collection” means the transfer by a bank of a check to a collecting bank for settlement or the paying bank for payment.

(11) Indemnifying bank

The term “indemnifying bank” means a bank that is providing an indemnity under

section 5005 of this title with respect to a substitute check.

(12) MICR line

The terms “MICR line” and “magnetic ink character recognition line” mean the numbers, which may include the bank routing number, account number, check number, check amount, and other information, that are printed near the bottom of a check in magnetic ink in accordance with generally applicable industry standards.

(13) Noncash item

The term “noncash item” has the same meaning as in section 4001(14) of this title.

(14) Person

The term “person” means a natural person, corporation, unincorporated company, partnership, government unit or instrumentality, trust, or any other entity or organization.

(15) Reconvertor bank

The term “reconvertor bank” means—

(A) the bank that creates a substitute check; or

(B) if a substitute check is created by a person other than a bank, the first bank that transfers or presents such substitute check.

(16) Substitute check

The term “substitute check” means a paper reproduction of the original check that—

(A) contains an image of the front and back of the original check;

(B) bears a MICR line containing all the information appearing on the MICR line of the original check, except as provided under generally applicable industry standards for substitute checks to facilitate the processing of substitute checks;

(C) conforms, in paper stock, dimension, and otherwise, with generally applicable industry standards for substitute checks; and

(D) is suitable for automated processing in the same manner as the original check.

(17) State

The term “State” has the same meaning as in section 1813(a) of this title.

(18) Truncate

The term “truncate” means to remove an original paper check from the check collection or return process and send to a recipient, in lieu of such original paper check, a substitute check or, by agreement, information relating to the original check (including data taken from the MICR line of the original check or an electronic image of the original check), whether with or without subsequent delivery of the original paper check.

(19) Uniform Commercial Code

The term “Uniform Commercial Code” means the Uniform Commercial Code in effect in a State.

(20) Other terms

Unless the context requires otherwise, the terms not defined in this section shall have the same meanings as in the Uniform Commercial Code.

(Pub. L. 108–100, § 3, Oct. 28, 2003, 117 Stat. 1178.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 108–100, Oct. 28, 2003, 117 Stat. 1177, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5001 of this title and Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective at the end of the 12-month period beginning on Oct. 28, 2003, see section 20 of Pub. L. 108–100, set out as a note under section 5001 of this title.

§ 5003. General provisions governing substitute checks

(a) No agreement required

A person may deposit, present, or send for collection or return a substitute check without an agreement with the recipient, so long as a bank has made the warranties in section 5004 of this title with respect to such substitute check.

(b) Legal equivalence

A substitute check shall be the legal equivalent of the original check for all purposes, including any provision of any Federal or State law, and for all persons if the substitute check—

(1) accurately represents all of the information on the front and back of the original check as of the time the original check was truncated; and

(2) bears the legend: “This is a legal copy of your check. You can use it the same way you would use the original check.”

(c) Endorsements

A bank shall ensure that the substitute check for which the bank is the reconverting bank bears all endorsements applied by parties that previously handled the check (whether in electronic form or in the form of the original paper check or a substitute check) for forward collection or return.

(d) Identification of reconverting bank

A bank shall identify itself as a reconverting bank on any substitute check for which the bank is a reconverting bank so as to preserve any previous reconverting bank identifications in conformance with generally applicable industry standards.

(e) Applicable law

A substitute check that is the legal equivalent of the original check under subsection (b) shall be subject to any provision, including any provision relating to the protection of customers, of part 229 of title 12 of the Code of Federal Regulations, the Uniform Commercial Code, and any other applicable Federal or State law as if such substitute check were the original check, to the extent such provision of law is not inconsistent with this chapter.

(Pub. L. 108–100, § 4, Oct. 28, 2003, 117 Stat. 1180.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (e), was in the original “this Act”, meaning Pub. L. 108–100, Oct. 28,

2003, 117 Stat. 1177, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5001 of this title and Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective at the end of the 12-month period beginning on Oct. 28, 2003, see section 20 of Pub. L. 108–100, set out as a note under section 5001 of this title.

§ 5004. Substitute check warranties

A bank that transfers, presents, or returns a substitute check and receives consideration for the check warrants, as a matter of law, to the transferee, any subsequent collecting or returning bank, the depositary bank, the drawee, the drawer, the payee, the depositor, and any endorser (regardless of whether the warrantee receives the substitute check or another paper or electronic form of the substitute check or original check) that—

(1) the substitute check meets all the requirements for legal equivalence under section 5003(b) of this title; and

(2) no depositary bank, drawee, drawer, or endorser will receive presentment or return of the substitute check, the original check, or a copy or other paper or electronic version of the substitute check or original check such that the bank, drawee, drawer, or endorser will be asked to make a payment based on a check that the bank, drawee, drawer, or endorser has already paid.

(Pub. L. 108–100, § 5, Oct. 28, 2003, 117 Stat. 1181.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective at the end of the 12-month period beginning on Oct. 28, 2003, see section 20 of Pub. L. 108–100, set out as a note under section 5001 of this title.

§ 5005. Indemnity

(a) Indemnity

A reconverting bank and each bank that subsequently transfers, presents, or returns a substitute check in any electronic or paper form, and receives consideration for such transfer, presentment, or return shall indemnify the transferee, any subsequent collecting or returning bank, the depositary bank, the drawee, the drawer, the payee, the depositor, and any endorser, up to the amount described in subsections (b) and (c), as applicable, to the extent of any loss incurred by any recipient of a substitute check if that loss occurred due to the receipt of a substitute check instead of the original check.

(b) Indemnity amount

(1) Amount in event of breach of warranty

The amount of the indemnity under subsection (a) shall be the amount of any loss (including costs and reasonable attorney's fees and other expenses of representation) proximately caused by a breach of a warranty provided under section 5004 of this title.

(2) Amount in absence of breach of warranty

In the absence of a breach of a warranty provided under section 5004 of this title, the