



March 23, 1999

ENGROSSED HOUSE BILL No. 1261

DIGEST OF HB1261 (Updated March 18, 1999 11:16 am - DI 100)

Citations Affected: IC 26-1-3.1-312.

Synopsis: Lost, destroyed, or stolen bank checks. Adds an alternative procedure to the uniform commercial code for lost, destroyed, or stolen bank checks. Allows a person who claims the right to receive the amount of a bank check that was lost, destroyed, or stolen to file a description of the check and a declaration of loss with the obligated bank. Provides rules for the enforceability of a claim. Establishes the obligated bank's degree of liability to a claimant with respect to the lost, destroyed, or stolen check.

Effective: July 1, 1999.

Bodiker, Ruppel, Yount, Lawson

(SENATE SPONSORS — SERVER, LANANE)

January 11, 1999, read first time and referred to Committee on Financial Institutions.
January 14, 1999, reported — Do Pass.
January 19, 1999, read second time, ordered engrossed. Engrossed.
January 21, 1999, read third time, passed. Yeas 97, nays 0.

SENATE ACTION

February 25, 1999, read first time and referred to Committee on Insurance and Financial Institutions.
March 22, 1999, reported favorably — Do Pass.

EH 1261—LS 7366/DI 100+



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March 23, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

ENGROSSED HOUSE BILL No. 1261

A BILL FOR AN ACT to amend the Indiana Code concerning commercial law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 26-1-3.1-312 IS ADDED TO THE INDIANA
2 CODE AS A NEW SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 1999]: **Sec. 312. (a) In this section:**
4 (1) "Check" means a cashier's check, teller's check, or
5 certified check.
6 (2) "Claimant" means a person who claims the right to
7 receive the amount of a cashier's check, teller's check, or
8 certified check that was lost, destroyed, or stolen.
9 (3) "Declaration of loss" means a written statement, made
10 under penalty of perjury, to the effect that (i) the declarer lost
11 possession of a check, (ii) the declarer is the drawer or payee
12 of the check, in the case of a certified check, or the remitter or
13 payee of the check, in the case of a cashier's check or teller's
14 check, (iii) the loss of possession was not the result of a
15 transfer by the declarer or a lawful seizure, and (iv) the
16 declarer cannot reasonably obtain possession of the check

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1 because the check was destroyed, its whereabouts cannot be
2 determined, or it is in the wrongful possession of an unknown
3 person or a person that cannot be found or is not amenable to
4 service of process.

5 (4) "Obligated bank" means the issuer of a cashier's check or
6 teller's check or the acceptor of a certified check.

7 (b) A claimant may assert a claim to the amount of a check by
8 a communication to the obligated bank describing the check with
9 reasonable certainty and requesting payment of the amount of the
10 check if (i) the claimant is the drawer or payee of a certified check
11 or the remitter or payee of a cashier's check or teller's check, (ii)
12 the communication contains or is accompanied by a declaration of
13 loss of the claimant with respect to the check, (iii) the
14 communication is received at a time and in a manner affording the
15 bank a reasonable time to act on it before the check is paid, and (iv)
16 the claimant provides reasonable identification if requested by the
17 obligated bank. Delivery of a declaration of loss is a warranty of
18 the truth of the statements made in the declaration. If a claim is
19 asserted in compliance with this subsection, the following rules
20 apply:

21 (1) The claim becomes enforceable at the later of (i) the time
22 the claim is asserted, or (ii) ninety (90) days after the date of
23 the check, in the case of a cashier's check or teller's check, or
24 ninety (90) days after the date of the acceptance, in the case of
25 a certified check.

26 (2) Until the claim becomes enforceable, the claim has no legal
27 effect and the obligated bank may pay the check or, in the
28 case of a teller's check, may permit the drawee to pay the
29 check. Payment to a person entitled to enforce the check
30 discharges all liability of the obligated bank with respect to
31 the check.

32 (3) If the claim becomes enforceable before the check is
33 presented for payment, the obligated bank is not obliged to
34 pay the check.

35 (4) When the claim becomes enforceable, the obligated bank
36 becomes obliged to pay the amount of the check to the
37 claimant if payment of the check has not been made to a
38 person entitled to enforce the check. Subject to
39 IC 26-1-4-302(a)(1), payment to the claimant discharges all
40 liability of the obligated bank with respect to the check.

41 (c) If the obligated bank pays the amount of the check to a
42 claimant under subsection (b)(4) and the check is presented for

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1 **payment by a person having rights of a holder in due course, the**
2 **claimant is obliged to (i) refund the payment to the obligated bank**
3 **if the check is paid, or (ii) pay the amount of the check to the**
4 **person having rights of a holder in due course if the check is**
5 **dishonored.**
6 **(d) If a claimant has the right to assert a claim under subsection**
7 **(b) and is also a person entitled to enforce a cashier's check, teller's**
8 **check, or certified check which is lost, destroyed, or stolen, the**
9 **claimant may assert rights with respect to the check either under**
10 **this section or IC 26-1-3.1-309.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1261, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BODIKER, Chair

Committee Vote: yeas 11, nays 0.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Insurance and Financial Institutions, to which was referred House Bill No. 1261, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1261 as printed January 15, 1999.)

PAUL, Chairperson

Committee Vote: Yeas 8, Nays 0.

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