

HOUSE BILL No. 1261

DIGEST OF INTRODUCED BILL

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 L

January 11, 1999, read first time and referred to Committee on Financial Institutions.

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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.

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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
17 because the check was destroyed, its whereabouts cannot be



1 determined, or it is in the wrongful possession of an unknown
2 person or a person that cannot be found or is not amenable to
3 service of process.

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

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

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

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

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

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

40 (c) If the obligated bank pays the amount of the check to a
41 claimant under subsection (b)(4) and the check is presented for
42 payment by a person having rights of a holder in due course, the

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1 claimant is obliged to (i) refund the payment to the obligated bank
2 if the check is paid, or (ii) pay the amount of the check to the
3 person having rights of a holder in due course if the check is
4 dishonored.

5 (d) If a claimant has the right to assert a claim under subsection
6 (b) and is also a person entitled to enforce a cashier's check, teller's
7 check, or certified check which is lost, destroyed, or stolen, the
8 claimant may assert rights with respect to the check either under
9 this section or IC 26-1-3.1-309.

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