

- (3) Presentment is also entirely excused when
- (a) the maker, acceptor or drawee of any instrument except a documentary draft is dead or in insolvency proceedings instituted after the issue of the instrument; or
 - (b) acceptance or payment is refused but not for want of proper presentment.
- (4) Where a draft has been dishonored by nonacceptance a later presentment for payment and any notice of dishonor and protest for nonpayment are excused unless in the meantime the instrument has been accepted.
- (5) A waiver of protest is also a waiver of presentment and of notice of dishonor even though protest is not required.
- (6) Where a waiver of presentment or notice or protest is embodied in the instrument itself it is binding upon all parties; but where it is written above the signature of an indorser it binds him only.

PART 6—DISCHARGE

§ 28:3—601. Discharge of parties

- (1) The extent of the discharge of any party from liability on an instrument is governed by the sections on
- (a) payment or satisfaction (section 28:3—603); or
 - (b) tender of payment (section 28:3—604); or
 - (c) cancellation or renunciation (section 28:3—605); or
 - (d) impairment of right of recourse or of collateral (section 28:3—606); or
 - (e) reacquisition of the instrument by a prior party (section 28:3—208); or
 - (f) fraudulent and material alteration (section 28:3—407); or
 - (g) certification of a check (section 28:3—411); or
 - (h) acceptance varying a draft (section 28:3—412); or
 - (i) unexcused delay in presentment or notice of dishonor or protest (section 28:3—502).
- (2) Any party is also discharged from his liability on an instrument to another party by any other act or agreement with such party which would discharge his simple contract for the payment of money.
- (3) The liability of all parties is discharged when any party who has himself no right of action or recourse on the instrument
- (a) reacquires the instrument in his own right; or
 - (b) is discharged under any provision of this article except as otherwise provided with respect to discharge for impairment of recourse or of collateral (section 28:3—606).

§ 28:3—602. Effect of discharge against holder in due course

No discharge of any party provided by this article is effective against a subsequent holder in due course unless he has notice thereof when he takes the instrument.

§ 28:3—603. Payment or satisfaction

- (1) The liability of any party is discharged to the extent of his payment or satisfaction to the holder even though it is made with knowledge of a claim of another person to the instrument unless prior to such payment or satisfaction the person making the claim either supplies indemnity deemed adequate by the party seeking the discharge or enjoins payment or satisfaction by order of a court of competent jurisdiction in an action in which the adverse claimant and the holder are parties. This subsection does not, however, result in the discharge of the liability
- (a) of a party who in bad faith pays or satisfies a holder who acquired the instrument by theft or who (unless having the rights of a holder in due course) holds through one who so acquired it; or
 - (b) of a party (other than an intermediary bank or a payor bank which is not a depository bank) who pays or satisfies the holder of an instrument which has been restrictively indorsed in a manner not consistent with the terms of such restrictive indorsement.
- (2) Payment or satisfaction may be made with the consent of the holder by any person including a stranger to the instrument. Surrender of the instrument to such a person gives him the rights of a transferee (section 28:3—201).