

sub-agent of the owner of the time and any settlement given for the item is provisional. This provision applies regardless of the form of indorsement or lack of indorsement and even though credit given for the item is subject to immediate withdrawal as of right or is in fact withdrawn; but the continuance of ownership of an item by its owner and any rights of the owner to proceeds of the item are subject to right of a collecting bank such as those resulting from outstanding advances on the item and valid rights of setoff. When an item is handled by banks for purposes of presentment, payment and collection, the relevant provisions of this article apply even though action of parties clearly establishes that a particular bank has purchased the item and is the owner of it.

(2) After an item has been indorsed with the words "pay any bank" or the like, only a bank may acquire the rights of a holder.

- (a) until the item has been returned to the customer initiating collection; or
- (b) until the item has been specially indorsed by a bank to a person who is not a bank.

§ 28:4—202. Responsibility for collection; when action seasonable

- (1) A collecting bank must use ordinary care in
 - (a) presenting an item or sending it for presentment; and
 - (b) sending notice of dishonor or non-payment or returning an item other than a documentary draft to the bank's transferor or directly to the depository bank under subsection (2) of section 28:4—212 after learning that the item has not been paid or accepted, as the case may be; and
 - (c) settling for an item when the bank receives final settlement; and
 - (d) making or providing for any necessary protest; and
 - (e) notifying its transferor of any loss or delay in transit within a reasonable time after discovery thereof.
- (2) A collecting bank taking proper action before its midnight deadline following receipt of an item, notice or payment acts seasonably; taking proper action within a reasonably longer time may be seasonable but the bank has the burden of so establishing.
- (3) Subject to subsection (1) (a), a bank is not liable for the insolvency, neglect, misconduct, mistake or default of another bank or person or for loss or destruction of an item in transit or in the possession of others.

§ 28:4—203. Effect of instructions

Subject to the provisions of article 3 concerning conversion of instruments (section 28:3—419) and the provisions of both article 3 and this article concerning restrictive indorsements only a collecting bank's transferor can give instructions which affect the bank or constitute notice to it and a collecting bank is not liable to prior parties for any action taken pursuant to such instructions or in accordance with any agreement with its transferor.

§ 28:4—204. Methods of sending and presenting; sending direct to payor bank

- (1) A collecting bank must send items by reasonably prompt method taking into consideration any relevant instructions, the nature of the item, the number of such items on hand, and the cost of collection involved and the method generally used by it or others to present such items.
- (2) A collecting bank may send
 - (a) any item direct to the payor bank;
 - (b) any item to any non-bank payor if authorized by its transferor; and
 - (c) any item other than documentary drafts to any non-bank payor, if authorized by Federal Reserve regulation or operating letter, clearing house rule or the like.
- (3) Presentment may be made by a presenting bank at a place where the payor bank has requested that presentment be made.

§ 28:4—205. Supplying missing indorsement; no notice from prior indorsement

- (1) A depository bank which has taken an item for collection may supply any indorsement of the customer which is necessary to title unless the item contains the words "payee's indorsement required" or the like. In the absence of such a requirement a statement placed on the item by the depository bank to the effect that the item was deposited by a customer or credited to his account is effective as the customer's indorsement.
- (2) An intermediary bank, or payor bank which is not a depository bank, is neither given notice nor otherwise affected by a restrictive indorsement of any person except the bank's immediate transferor.