

CHAPTER 621

S.B. No. 463

An Act relating to the final payment, acceptance, certification, or charge of items by payor banks; amending Sections 4.213 and 4.303 and repealing Section 4.109, Business & Commerce Code.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subsection (a), Section 4.213, Business & Commerce Code, is amended to read as follows:

“(a) An item is finally paid by a payor bank when the bank has done any of the following, whichever happens first:

“(1) paid the item in cash; or

“(2) settled for the item without reserving a right to revoke the settlement and without having such right under statute, clearing house rule or agreement; or

"(3) ~~completed the process of posting the item to the indicated account of the drawer, maker or other person to be charged therewith; or~~

"~~(4)~~ made a provisional settlement for the item and failed to revoke the settlement in the time and manner permitted by statute, clearing house rule or agreement.

"Upon a final payment under Subdivisions (2) or (3), ~~(3) or (4)~~ the payor bank shall be accountable for the amount of the item."

SECTION 2. Section 4.303, Business & Commerce Code, is amended to read as follows:

"Section 4.303. WHEN ITEMS SUBJECT TO NOTICE, STOP-ORDER, LEGAL PROCESS OR SETOFF; ORDER IN WHICH ITEMS MAY BE CHARGED OR CERTIFIED. (a) Any knowledge, notice or stop-order received by, legal process served upon or setoff exercised by a payor bank, whether or not effective under other rules of law to terminate, suspend or modify the bank's right or duty to pay an item or to charge its customer's account for the item, comes too late to so terminate, suspend or modify such right or duty if the knowledge, notice, stop-order or legal process is received or served and *the bank does not have a reasonable time for the bank* to act thereon *before, [expires]* or the setoff is exercised after, *the happening of [the bank has done]* any of the following:

"(1) *the bank has accepted or certified the item;*

"(2) *the bank has paid the item in cash;*

"(3) *the bank has settled for the item without reserving a right to revoke the settlement and without having such right under statute, clearing house rule or agreement; or*

"(4) *the bank has [completed the process of posting the item to the indicated account of the drawer, maker or other person to be charged therewith or otherwise has evidenced by examination of such indicated account and by action its decision to pay the item; or*

"~~(5)~~ become accountable for the amount of the item under Subsection (a) (3) ~~(4)~~ of Section 4.213 and Section 4.302 dealing with the payor bank's responsibility for late return of items.

"(b) Subject to the provisions of Subsection (a) items may be accepted, paid, certified or charged to the indicated account of its customer in any order convenient to the bank *and before or after its regular banking hours. A bank is under no obligation to determine the time of day an item is received and without liability may withhold the amount thereof pending a determination of the effect, consequence or priority of any knowledge, notice, stop-order or legal process concerning the same, or interplead such amount and the claimants thereto.*"

SECTION 3. Section 4.109, Business & Commerce Code, is repealed.

SECTION 4. This Act is intended to eliminate the uncertainty of the completion of the process of posting items by payor banks as a determining factor with respect to liability of a payor bank for final payment of items drawn on it and the point in time at which knowledge, notice, or stop-order received by, legal process served upon, or setoff exercised by a payor bank is too late to be effective.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on April 30, 1985, by the following vote: Yeas 28, Nays 0; passed the House on May 25, 1985, by the following vote: Yeas 136, Nays 0, two present not voting.

Approved: June 14, 1985

Effective: Immediately