

SENATE BILL NO. 198—SENATORS CARE AND AMODEI

MARCH 17, 2005

JOINT SPONSOR: ASSEMBLYWOMAN OHRENSCHALL

Referred to Committee on Judiciary

SUMMARY—Revises provisions of Articles 3 and 4 of Uniform Commercial Code. (BDR 8-542)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to the Uniform Commercial Code; revising the provisions of Articles 3 and 4 of the Uniform Commercial Code; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

The Uniform Commercial Code is a set of uniform laws governing commercial transactions, which was originally adopted by the National Conference of Commissioners on Uniform State Laws in 1951. Under existing law, negotiable instruments such as drafts, checks and certificates of deposit are regulated by Article 3 of the Uniform Commercial Code. (NRS 104.3101-104.3605) Bank deposits and collections are regulated by Article 4 of the Uniform Commercial Code. (NRS 104.4101-104.4504) The Uniform Law Commissioners have adopted certain revisions to Articles 3 and 4 of the Uniform Commercial Code and recommend that states incorporate these revisions into their statutes.

This bill incorporates the revisions recommended by the Uniform Law Commissioners to Articles 3 and 4 of the Uniform Commercial Code into the Nevada Revised Statutes. The substance of those revisions govern: (1) the transfer and enforcement of a lost, destroyed or stolen negotiable instrument to clarify that the party seeking to enforce such an instrument does not have to be in possession of the instrument at the time that it was lost; (2) the payments by a person on a negotiable instrument after the instrument has been transferred when the person has not received notice of the transfer, and the requirements for providing such notice; (3) the enforcement of a negotiable instrument with respect to the rights and remedies of a principal obligor and secondary obligor; (4) the responsibilities of banks for unauthorized telephonically generated checks; and (5) the enforcement of an obligation to pay a negotiable instrument that involves a consumer transaction



22 which does not include a statement required by another law not included in the  
23 Uniform Commercial Code. This bill also makes various changes to accommodate  
24 and address electronic transactions for purposes of Articles 3 and 4 of the Uniform  
25 Commercial Code and makes various technical changes.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     **Section 1.** NRS 104.3103 is hereby amended to read as  
2 follows:

3     104.3103   1. In this Article:

4     (a) "Acceptor" means a drawee who has accepted a draft.

5     (b) *"Consumer account" means an account established by a*  
6 *natural person primarily for personal, family, or household*  
7 *purposes.*

8     (c) *"Consumer transaction" means a transaction in which a*  
9 *natural person incurs an obligation primarily for personal, family,*  
10 *or household purposes.*

11    (d) "Drawee" means a person ordered in a draft to make  
12 payment.

13    ~~(e)~~ (e) "Drawer" means a person who signs or is identified in  
14 a draft as a person ordering payment.

15    ~~(f)~~ (f) "Good faith" means honesty in fact and the observance  
16 of reasonable commercial standards of fair dealing.

17    ~~(g)~~ (g) "Maker" means a person who signs or is identified in a  
18 note as a person undertaking to pay.

19    ~~(h)~~ (h) "Order" means a written instruction to pay money  
20 signed by the person giving the instruction. The instruction may be  
21 addressed to any person, including the person giving the instruction,  
22 or to one or more persons jointly or in the alternative but not in  
23 succession. An authorization to pay is not an order unless the person  
24 authorized to pay is also instructed to pay.

25    ~~(i)~~ (i) "Ordinary care" in the case of a person engaged in  
26 business means observance of reasonable commercial standards,  
27 prevailing in the area in which he is located, with respect to the  
28 business in which he is engaged. In the case of a bank that takes an  
29 instrument for processing for collection or payment by automated  
30 means, reasonable commercial standards do not require the bank to  
31 examine the instrument if the failure to examine does not violate its  
32 prescribed procedures and its procedures do not vary unreasonably  
33 from general banking usage not disapproved by this Article or  
34 Article 4.

35    ~~(j)~~ (j) "Party" means a party to an instrument.

36    ~~(k)~~ (k) *"Principal obligor," with respect to an instrument,*  
37 *means the accommodated party or any other party to the*



*instrument against whom a secondary obligor has recourse under this Article.*

(l) "Promise" means a written undertaking to pay money signed by the person undertaking to pay. An acknowledgment of an obligation by the obligor is not a promise unless the obligor also undertakes to pay the obligation.

~~(j)~~ (m) "Prove" with respect to a fact means to meet the burden of establishing the fact (subsection 8 of NRS 104.1201).

~~(k)~~ (n) *"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.*

(o) "Remitter" means a person who purchases an instrument from its issuer if the instrument is payable to an identified person other than the purchaser.

(p) *"Remotely-created consumer item" means an item drawn on a consumer account, which is not created by the payor bank and does not bear a handwritten signature purporting to be the signature of the drawer.*

(q) *"Secondary obligor," with respect to an instrument, means:*

*(1) An endorser or an accommodation party;*

*(2) A drawer having the obligation described in subsection 4 of NRS 104.3414; or*

*(3) Any other party to the instrument that has recourse against another party to the instrument pursuant to subsection 2 of NRS 104.3116.*

2. Other definitions applying to this Article and the sections in which they appear are:

"Acceptance." NRS 104.3409.

"Accommodated party." NRS 104.3419.

"Accommodation party." NRS 104.3419.

*"Account." NRS 104.4104.*

"Alteration." NRS 104.3407.

"Anomalous endorsement." NRS 104.3205.

"Blank endorsement." NRS 104.3205.

"Cashier's check." NRS 104.3104.

"Certificate of deposit." NRS 104.3104.

"Certified check." NRS 104.3409.

"Check." NRS 104.3104.

"Consideration." NRS 104.3303.

"Draft." NRS 104.3104.

"Endorsement." NRS 104.3204.

"Endorser." NRS 104.3204.

"Holder in due course." NRS 104.3302.



1 "Incomplete instrument." NRS 104.3115.  
2 "Instrument." NRS 104.3104.  
3 "Issue." NRS 104.3105.  
4 "Issuer." NRS 104.3105.  
5 "Negotiable instrument." NRS 104.3104.  
6 "Negotiation." NRS 104.3201.  
7 "Note." NRS 104.3104.  
8 "Payable at a definite time." NRS 104.3108.  
9 "Payable on demand." NRS 104.3108.  
10 "Payable to bearer." NRS 104.3109.  
11 "Payable to order." NRS 104.3109.  
12 "Payment." NRS 104.3602.  
13 "Person entitled to enforce." NRS 104.3301.  
14 "Presentment." NRS 104.3501.  
15 "Reacquisition." NRS 104.3207.  
16 "Special endorsement." NRS 104.3205.  
17 "Teller's check." NRS 104.3104.  
18 "Transfer of instrument." NRS 104.3203.  
19 "Traveler's check." NRS 104.3104.  
20 "Value." NRS 104.3303.

21  
22 3. The following definitions in other Articles apply to this  
23 Article:

24  
25 "Bank." NRS 104.4105.  
26 "Banking day." NRS 104.4104.  
27 "Clearinghouse." NRS 104.4104.  
28 "Collecting bank." NRS 104.4105.  
29 "Customer." NRS 104.4104.  
30 "Depository bank." NRS 104.4105.  
31 "Documentary draft." NRS 104.4104.  
32 "Intermediary bank." NRS 104.4105.  
33 "Item." NRS 104.4104.  
34 "Payor bank." NRS 104.4105.  
35 "Suspends payments." NRS 104.4104.  
36

37 4. In addition Article 1 contains general definitions and  
38 principles of construction and interpretation applicable throughout  
39 this Article.

40 **Sec. 2.** NRS 104.3106 is hereby amended to read as follows:  
41 104.3106 1. Except as otherwise provided in this section, for  
42 the purposes of subsection 1 of NRS 104.3104, a promise or order is  
43 unconditional unless it states:

44 (a) An express condition to payment;



(b) That the promise or order is subject to or governed by another ~~{writing.}~~ **record**; or

(c) That rights or obligations with respect to the promise or order are stated in another ~~{writing.}~~ **record**.

➡ A reference to another ~~{writing}~~ **record** does not of itself make the promise or order conditional.

2. A promise or order is not made conditional by a reference to another ~~{writing}~~ **record** for a statement of rights with respect to collateral, prepayment or acceleration, or because payment is limited to resort to a particular fund or source.

3. If a promise or order requires, as a condition to payment, a countersignature by a person whose specimen signature appears on the promise or order, the condition does not make the promise or order conditional for the purposes of subsection 1 of NRS 104.3104. If the person whose specimen signature appears on an instrument fails to countersign the instrument, the failure to countersign is a defense to the obligation of the issuer, but the failure does not prevent a transferee of the instrument from becoming a holder of the instrument.

4. If a promise or order at the time it is issued or first comes into possession of a holder contains a statement, required by applicable statutory or administrative law, to the effect that the rights of a holder or transferee are subject to claims or defenses that the issuer could assert against the original payee, the promise or order is not thereby made conditional for the purposes of subsection 1 of NRS 104.3104; but if the promise or order is an instrument, there cannot be a holder in due course of the instrument.

**Sec. 3.** NRS 104.3116 is hereby amended to read as follows:

104.3116 1. Except as otherwise provided in the instrument, two or more persons who have the same liability on an instrument as makers, drawers, acceptors, endorsers who endorse as joint payees, or anomalous endorsers are jointly and severally liable in the capacity in which they sign.

2. Except as otherwise provided in subsection ~~{5}~~ **6** of NRS 104.3419 or by agreement of the affected parties, a party having joint and several liability who pays the instrument is entitled to receive from any party having the same joint and several liability contribution in accordance with applicable law.

~~{3. Discharge of one party having joint and several liability by a person entitled to enforce the instrument does not affect the right under subsection 2 of a party having the same joint and several liability to receive contribution from the party discharged.}~~

**Sec. 4.** NRS 104.3119 is hereby amended to read as follows:

104.3119 In an action for breach of an obligation for which a third person is answerable over pursuant to this Article or Article 4,



1 the defendant may give the third person ~~written~~ notice of the  
2 litigation ~~in~~ *in a record*, and the person notified may then give  
3 similar notice to any other person who is answerable over. If the  
4 notice states that the person notified may come in and defend and  
5 that failure to do so will bind the person notified in an action later  
6 brought by the person giving the notice as to any determination of  
7 fact common to the two litigations, the person notified is so bound  
8 unless after seasonable receipt of the notice the person notified does  
9 come in and defend.

10 **Sec. 5.** NRS 104.3305 is hereby amended to read as follows:

11 104.3305 1. Except as otherwise provided in ~~subsection 2,~~  
12 *this section*, the right to enforce the obligation of a party to pay an  
13 instrument is subject to the following:

14 (a) A defense of the obligor based on:

15 (1) Infancy of the obligor to the extent it is a defense to a  
16 simple contract;

17 (2) Duress, lack of legal capacity or illegality of the  
18 transaction which, under other law, nullifies the obligation of the  
19 obligor;

20 (3) Fraud that induced the obligor to sign the instrument with  
21 neither knowledge nor reasonable opportunity to learn of its  
22 character or its essential terms; or

23 (4) Discharge of the obligor in insolvency proceedings;

24 (b) A defense of the obligor stated in another section of this  
25 Article or a defense of the obligor that would be available if the  
26 person entitled to enforce the instrument were enforcing a right to  
27 payment under a simple contract; and

28 (c) A claim in recoupment of the obligor against the original  
29 payee of the instrument if the claim arose from the transaction that  
30 gave rise to the instrument; but the claim of the obligor may be  
31 asserted against a transferee of the instrument only to reduce the  
32 amount owing on the instrument at the time the action is brought.

33 2. The right of a holder in due course to enforce the obligation  
34 of a party to pay the instrument is subject to defenses of the obligor  
35 stated in paragraph (a) of subsection 1, but is not subject to defenses  
36 of the obligor stated in paragraph (b) of subsection 1 or claims in  
37 recoupment stated in paragraph (c) of subsection 1 against a person  
38 other than the holder.

39 3. Except as otherwise provided in subsection 4, in an action to  
40 enforce the obligation of a party to pay the instrument, the obligor  
41 may not assert against the person entitled to enforce the instrument a  
42 defense, claim in recoupment or claim to the instrument (NRS  
43 104.3306) of another person, but the other person's claim to the  
44 instrument may be asserted by the obligor if the other person is  
45 joined in the action and personally asserts the claim against the



1 person entitled to enforce the instrument. An obligor is not obliged  
2 to pay the instrument if the person seeking enforcement of the  
3 instrument does not have rights of a holder in due course and the  
4 obligor proves that the instrument is a lost or stolen instrument.

5 4. In an action to enforce the obligation of an accommodation  
6 party to pay an instrument, the accommodation party may assert  
7 against the person entitled to enforce the instrument any defense or  
8 claim in recoupment under subsection 1 that the accommodated  
9 party could assert against the person entitled to enforce the  
10 instrument, except the defenses of discharge in insolvency  
11 proceedings, infancy and lack of legal capacity.

12 *5. In a consumer transaction, if law other than this Article*  
13 *requires that an instrument include a statement to the effect that*  
14 *the rights of a holder or transferee are subject to a claim or*  
15 *defense that the issuer could assert against the original payee, and*  
16 *the instrument does not include such a statement:*

17 (a) *The instrument has the same effect as if the instrument*  
18 *included such a statement;*

19 (b) *The issuer may assert against the holder or transferee all*  
20 *claims and defenses that would have been available if the*  
21 *instrument included such a statement; and*

22 (c) *The extent to which claims may be asserted against the*  
23 *holder or transferee is determined as if the instrument included*  
24 *such a statement.*

25 *6. This section is subject to law other than this Article that*  
26 *establishes a different rule for consumer transactions.*

27 **Sec. 6.** NRS 104.3309 is hereby amended to read as follows:

28 104.3309 1. A person not in possession of an instrument is  
29 entitled to enforce the instrument if:

30 (a) ~~He was in possession of~~ *The person seeking to enforce* the  
31 instrument ~~and~~ :

32 (1) *Was* entitled to enforce ~~it~~ *the instrument* when loss of  
33 possession occurred; *or*

34 (2) *Has directly or indirectly acquired ownership of the*  
35 *instrument from a person who was entitled to enforce the*  
36 *instrument when loss of possession occurred;*

37 (b) The loss of possession was not the result of a transfer by  
38 ~~him~~ *the person* or a lawful seizure; and

39 (c) ~~He~~ *The person* cannot reasonably obtain possession of the  
40 instrument because the instrument was destroyed, its whereabouts  
41 cannot be determined, or it is in the wrongful possession of an  
42 unknown person or a person that cannot be found or is not amenable  
43 to service of process.

44 2. A person seeking enforcement of an instrument under  
45 subsection 1 must prove the terms of the instrument and his right to



1 enforce the instrument. If that proof is made, NRS 104.3308 applies  
2 to the case as if the person seeking enforcement had produced the  
3 instrument. The court may not enter judgment in favor of the person  
4 seeking enforcement unless it finds that the person required to pay  
5 the instrument is adequately protected against loss that might occur  
6 by reason of a claim by another person to enforce the instrument.  
7 Adequate protection may be provided by any reasonable means.

8 **Sec. 7.** NRS 104.3312 is hereby amended to read as follows:

9 104.3312 1. In this section:

10 (a) "Check" means a cashier's check, teller's check or certified  
11 check.

12 (b) "Claimant" means a person who claims the right to receive  
13 the amount of a cashier's check, teller's check or certified check that  
14 was lost, destroyed or stolen.

15 (c) "Declaration of loss" means a ~~written~~ statement, made *in a*  
16 *record* under penalty of perjury, to the effect that:

17 (1) The declarer lost possession of a check;

18 (2) The declarer is the drawer or payee of the check, in the  
19 case of a certified check, or the remitter or payee of the check, in the  
20 case of a cashier's check or teller's check;

21 (3) The loss of possession was not the result of a transfer by  
22 the declarer or a lawful seizure; and

23 (4) The declarer cannot reasonably obtain possession of the  
24 check because the check was destroyed, its whereabouts cannot be  
25 determined, or it is in the wrongful possession of an unknown  
26 person or a person that cannot be found or is not amenable to service  
27 of process.

28 (d) "Obligated bank" means the issuer of a cashier's check or  
29 teller's check or the acceptor of a certified check.

30 2. A claimant may assert a claim to the amount of a check by a  
31 communication to the obligated bank describing the check with  
32 reasonable certainty and requesting payment of the amount of the  
33 check, if:

34 (a) The claimant is the drawer or payee of a certified check or  
35 the remitter or payee of a cashier's check or teller's check;

36 (b) The communication contains or is accompanied by a  
37 declaration of loss of the claimant with respect to the check;

38 (c) The communication is received at a time and in a manner  
39 affording the bank a reasonable time to act on it before the check is  
40 paid; and

41 (d) The claimant provides reasonable identification if requested  
42 by the obligated bank.

43 3. Delivery of a declaration of loss is a warranty of the truth of  
44 the statements made in the declaration. If a claim is asserted in  
45 compliance with this subsection, the following rules apply:



(a) The claim becomes enforceable at the later of:

(1) The time the claim is asserted; or

(2) The 90th day following the date of the check, in the case of a cashier's check or teller's check, or the 90th day following the date of the acceptance, in the case of a certified check.

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

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

(d) When the claim becomes enforceable, the obligated bank becomes obliged to pay the amount of the check to the claimant if payment of the check has not been made to a person entitled to enforce the check. Subject to paragraph (a) of subsection 1 of NRS 104.4302, payment to the claimant discharges all liability of the obligated bank with respect to the check.

4. If the obligated bank pays the amount of a check to a claimant under paragraph (d) of subsection 2 and the check is presented for payment by a person having rights of a holder in due course, the claimant is obliged to refund the payment to the obligated bank if the check is paid, or pay the amount of the check to the person having rights of a holder in due course if the check is dishonored.

5. If a claimant has the right to assert a claim under subsection 2 and is also a person entitled to enforce a cashier's check, teller's check or certified check which is lost, destroyed or stolen, the claimant may assert rights with respect to the check either under this section or NRS 104.3309.

**Sec. 8.** NRS 104.3416 is hereby amended to read as follows:

104.3416 1. A person who transfers an instrument for consideration warrants to the transferee and, if the transfer is by endorsement, to any subsequent transferee that:

(a) The warrantor is a person entitled to enforce the instrument;

(b) All signatures on the instrument are authentic and authorized;

(c) The instrument has not been altered;

(d) The instrument is not subject to a defense or claim in recoupment of any party which can be asserted against the warrantor; ~~and~~

(e) The warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted draft, the drawer ~~and~~; **and**



1       (f) *With respect to a remotely-created consumer item, that the*  
2 *person on whose account the item is drawn authorized the*  
3 *issuance of the item in the amount for which the item is drawn.*

4       2. A person to whom the warranties under subsection 1 are  
5 made and who took the instrument in good faith may recover from  
6 the warrantor as damages for breach of warranty an amount equal to  
7 the loss suffered as a result of the breach, but not more than the  
8 amount of the instrument plus expenses and loss of interest incurred  
9 as a result of the breach.

10       3. The warranties stated in subsection 1 cannot be disclaimed  
11 with respect to checks. Unless notice of a claim for breach of  
12 warranty is given to the warrantor within 30 days after the claimant  
13 has reason to know of the breach and the identity of the warrantor,  
14 the liability of the warrantor under subsection 2 is discharged to the  
15 extent of any loss caused by the delay in giving notice of the claim.

16       4. A cause of action for breach of warranty under this section  
17 accrues when the claimant has reason to know of the breach.

18       **Sec. 9.** NRS 104.3417 is hereby amended to read as follows:

19       104.3417 1. If an unaccepted draft is presented to the drawee  
20 for payment or acceptance and the drawee pays or accepts the draft,  
21 the person obtaining payment or acceptance, at the time of  
22 presentment, and a previous transferor of the draft, at the time of  
23 transfer, warrant to the drawee making payment or accepting the  
24 draft in good faith that:

25       (a) The warrantor is, or was, at the time the warrantor  
26 transferred the draft, a person entitled to enforce the draft or  
27 authorized to obtain payment or acceptance of the draft on behalf of  
28 a person entitled to enforce the draft;

29       (b) The draft has not been altered; ~~and~~

30       (c) The warrantor has no knowledge that the signature of the  
31 drawer of the draft is unauthorized ~~and~~; and

32       (d) *With respect to a remotely-created consumer item, that the*  
33 *person on whose account the item is drawn authorized the*  
34 *issuance of the item in the amount for which the item is drawn.*

35       2. A drawee making payment may recover from any warrantor  
36 damages for breach of warranty equal to the amount paid by the  
37 drawee less the amount the drawee received or is entitled to receive  
38 from the drawer because of the payment. In addition, the drawee is  
39 entitled to compensation for expenses and loss of interest resulting  
40 from the breach. The right of the drawee to recover damages under  
41 this subsection is not affected by any failure of the drawee to  
42 exercise ordinary care in making payment. If the drawee accepts the  
43 draft, breach of warranty is a defense to the obligation of the  
44 acceptor. If the acceptor makes payment with respect to the draft,



1 the acceptor is entitled to recover from any warrantor for breach of  
2 warranty the amounts stated in this subsection.

3 3. If a drawee asserts a claim for breach of warranty under  
4 subsection 1 based on an unauthorized endorsement of the draft or  
5 an alteration of the draft, the warrantor may defend by proving that  
6 the endorsement is effective under NRS 104.3404 or 104.3405 or  
7 the drawer is precluded under NRS 104.3406 or 104.4406 from  
8 asserting against the drawee the unauthorized endorsement or  
9 alteration.

10 4. If a dishonored draft is presented for payment to the drawer  
11 or an endorser or any other instrument is presented for payment to a  
12 party obliged to pay the instrument, and payment is received, the  
13 following rules apply:

14 (a) The person obtaining payment and a prior transferor of the  
15 instrument warrant to the person making payment in good faith that  
16 the warrantor is, or was at the time he transferred the instrument, a  
17 person entitled to enforce the instrument or authorized to obtain  
18 payment on behalf of a person entitled to enforce the instrument.

19 (b) The person making payment may recover from any  
20 warrantor for breach of warranty an amount equal to the amount  
21 paid plus expenses and loss of interest resulting from the breach.

22 5. The warranties stated in subsections 1 and 4 cannot be  
23 disclaimed with respect to checks. Unless notice of a claim for  
24 breach of warranty is given to the warrantor within 30 days after the  
25 claimant has reason to know of the breach and the identity of the  
26 warrantor, the liability of the warrantor under subsection 2 or 4 is  
27 discharged to the extent of any loss caused by the delay in giving  
28 notice of the claim.

29 6. A cause of action for breach of warranty under this section  
30 accrues when the claimant has reason to know of the breach.

31 **Sec. 10.** NRS 104.3419 is hereby amended to read as follows:

32 104.3419 1. If an instrument is issued for value given for the  
33 benefit of a party to the instrument ("accommodated party") and  
34 another party to the instrument ("accommodation party") signs the  
35 instrument for the purpose of incurring liability on the instrument  
36 without being a direct beneficiary of the value given for the  
37 instrument, the instrument is signed by the accommodation party  
38 "for accommodation."

39 2. An accommodation party may sign the instrument as maker,  
40 drawer, acceptor or endorser and, subject to subsection 4, is obliged  
41 to pay the instrument in the capacity in which he signs. The  
42 obligation of an accommodation party may be enforced  
43 notwithstanding any statute of frauds and whether or not he receives  
44 consideration for the accommodation.



3. A person signing an instrument is presumed to be an accommodation party and there is notice that the instrument is signed for accommodation if the signature is an anomalous endorsement or is accompanied by words indicating that the signer is acting as surety or guarantor with respect to the obligation of another party to the instrument. Except as otherwise provided in NRS 104.3605, the obligation of an accommodation party to pay the instrument is not affected by the fact that the person enforcing the obligation had notice when the instrument was taken by that person that the accommodation party signed the instrument for accommodation.

4. If the signature of a party to an instrument is accompanied by words indicating unambiguously that the party is guaranteeing collection rather than payment of the obligation of another party to the instrument, the signer is obliged to pay the amount due on the instrument to a person entitled to enforce the instrument only if:

(a) Execution of judgment against the other party has been returned unsatisfied;

(b) The other party is insolvent or in an insolvency proceeding;

(c) The other party cannot be served with process; or

(d) It is otherwise apparent that payment cannot be obtained from the other party.

*5. If the signature of a party to an instrument is accompanied by words indicating that the party guarantees payment or the signer signs the instrument as an accommodation party in some other manner that does not unambiguously indicate an intention to guarantee collection rather than payment, the signer is obliged to pay the amount due on the instrument to a person entitled to enforce the instrument in the same circumstances as the accommodated party would be obliged, without prior resort to the accommodated party by the person entitled to enforce the instrument.*

6. An accommodation party ~~[who]~~ *that* pays the instrument is entitled to reimbursement from the accommodated party and is entitled to enforce the instrument against the accommodated party. *In proper circumstances, an accommodation party may obtain relief that requires the accommodated party to perform its obligations on the instrument.* An accommodated party ~~[who]~~ *that* pays the instrument has no right of recourse against, and is not entitled to contribution from, an accommodation party.

**Sec. 11.** NRS 104.3602 is hereby amended to read as follows:

104.3602 1. ~~[Except as otherwise provided in subsection 2,]~~ *Subject to subsection 5,* an instrument is paid to the extent payment is made by or on behalf of a party obliged to pay the instrument, and



1 to a person entitled to enforce the instrument. ~~[To the extent of the~~  
2 ~~payment.]~~

3 *2. Subject to subsection 5, a note is paid to the extent payment*  
4 *is made by or on behalf of a party obliged to pay the note to a*  
5 *person who formerly was entitled to enforce the note only if at the*  
6 *time of the payment the party obliged to pay has not received*  
7 *adequate notification that the note has been transferred and that*  
8 *payment is to be made to the transferee. A notification is adequate*  
9 *only if it:*

10 (a) *Is signed by the transferor or the transferee;*

11 (b) *Reasonably identifies the transferred note; and*

12 (c) *Provides an address at which payments subsequently are to*  
13 *be made.*

14 *↳ Upon request, a transferee shall seasonably furnish reasonable*  
15 *proof that the note has been transferred. Unless the transferee*  
16 *complies with the request, a payment to the person that formerly*  
17 *was entitled to enforce the note is effective for purposes of*  
18 *subsection 3 even if the party obliged to pay the note has received*  
19 *a notification under this subsection.*

20 *3. Subject to subsection 5, to the extent of a payment under*  
21 *subsections 1 and 2, the obligation of the party obliged to pay the*  
22 *instrument is discharged even though payment is made with*  
23 *knowledge of a claim to the instrument under NRS 104.3306 by*  
24 *another person.*

25 ~~[2-]~~ *4. Subject to subsection 5, a transferee, or any party that*  
26 *has acquired rights in the instrument directly or indirectly from a*  
27 *transferee, including any such party that has rights as a holder in*  
28 *due course, is deemed to have notice of any payment that is made*  
29 *under subsection 2 after the date that the note is transferred to the*  
30 *transferee but before the party obliged to pay the note receives*  
31 *adequate notification of the transfer.*

32 *5. The obligation of a party to pay the instrument is not*  
33 *discharged under ~~[subsection 4]~~ subsections 1 to 4, inclusive, if:*

34 (a) *A claim to the instrument under NRS 104.3306 is*  
35 *enforceable against the party receiving payment and:*

36 (1) *Payment is made with knowledge by the payor that*  
37 *payment is prohibited by injunction or similar process of a court of*  
38 *competent jurisdiction; or*

39 (2) *In the case of an instrument other than a cashier's check,*  
40 *teller's check or certified check, the party making payment*  
41 *accepted, from the person having a claim to the instrument,*  
42 *indemnity against loss resulting from refusal to pay the person*  
43 *entitled to enforce the instrument; or*



(b) The person making payment knows that the instrument is a stolen instrument and pays a person he knows is in wrongful possession of the instrument.

*6. As used in this section, "signed," with respect to a record that is not a writing, includes the attachment to or logical association with the record of an electronic symbol, sound, or process with the present intent to adopt or accept the record.*

**Sec. 12.** NRS 104.3604 is hereby amended to read as follows:

104.3604 1. A person entitled to enforce an instrument, with or without consideration, may discharge the obligation of a party to pay the instrument:

(a) By an intentional voluntary act, such as surrender of the instrument to the party, destruction, mutilation or cancellation of the instrument, cancellation or striking out of the party's signature, or the addition of words to the instrument indicating discharge; or

(b) By agreeing not to sue or otherwise renouncing rights against the party by a signed ~~[writing.]~~ **record**.

2. Cancellation or striking out of an endorsement pursuant to subsection 1 does not affect the status and rights of a party derived from the endorsement.

*3. As used in this section, "signed," with respect to a record that is not a writing, includes the attachment to or logical association with the record of an electronic symbol, sound, or process with the present intent to adopt or accept the record.*

**Sec. 13.** NRS 104.3605 is hereby amended to read as follows:

~~104.3605 1. [In this section, the term "endorser" includes a drawer having the obligation described in subsection 4 of NRS 104.3414.~~

~~2. Discharge, under NRS 104.3604, of the obligation of a party to pay an instrument does not discharge the obligation of an endorser or accommodation party having a right of recourse against the discharged party.~~

~~3. If a person entitled to enforce an instrument agrees, with or without consideration, to an extension of the due date of the obligation of a party to pay the instrument, the extension discharges an endorser or accommodation party having a right of recourse against the party whose obligation is extended to the extent the endorser or accommodation party proves that the extension caused loss to him with respect to the right of recourse.~~

~~4. If a person entitled to enforce an instrument agrees, with or without consideration, to a material modification of the obligation of a party other than an extension of the due date, the modification discharges the obligation of an endorser or accommodation party having a right of recourse against the person whose obligation is modified to the extent the modification causes loss to the endorser~~



~~1 or accommodation party with respect to the right of recourse. The  
2 loss suffered by the endorser or accommodation party as a result of  
3 the modification is equal to the amount of the right of recourse  
4 unless the person enforcing the instrument proves that no loss was  
5 caused by the modification or that the loss caused by the  
6 modification was an amount less than the amount of the right of  
7 recourse.~~

~~8 —5. If the obligation of a party to pay an instrument is secured by  
9 an interest in collateral and a person entitled to enforce the  
10 instrument impairs the value of the interest in collateral, the  
11 obligation of an endorser or accommodation party having a right of  
12 recourse against the obligor is discharged to the extent of the  
13 impairment. The value of an interest in collateral is impaired to  
14 the extent the value of the interest is reduced to an amount less than  
15 the amount of the right of recourse of the party asserting discharge,  
16 or the reduction in value of the interest causes an increase in the  
17 amount by which the amount of the right of recourse exceeds  
18 the value of the interest. The burden of proving impairment is on the  
19 party asserting discharge.~~

~~20 —6. If the obligation of a party is secured by an interest in  
21 collateral not provided by an accommodation party and a person  
22 entitled to enforce the instrument impairs the value of the interest in  
23 collateral, the obligation of any party who is jointly and severally  
24 liable with respect to the secured obligation is discharged to the  
25 extent the impairment causes the party asserting discharge to pay  
26 more than he would have been obliged to pay, taking into account  
27 rights of contribution, if impairment had not occurred. If the party  
28 asserting discharge is an accommodation party not entitled to  
29 discharge under subsection 5, he is deemed to have a right  
30 to contribution based on joint and several liability rather than a right  
31 to reimbursement. The burden of proving impairment is on the party  
32 asserting discharge.~~

~~33 —7. Under subsection 5 or 6, impairing value of an interest in  
34 collateral includes:~~

~~35 —(a) Failure to obtain or maintain perfection or recordation of the  
36 interest in collateral;~~

~~37 —(b) Release of collateral without substitution of collateral of  
38 equal value;~~

~~39 —(c) Failure to perform a duty to preserve the value of collateral  
40 owed under Article 9 or other law to a debtor or surety or other  
41 person secondarily liable; or~~

~~42 —(d) Failure to comply with applicable law in disposing of  
43 collateral.~~

~~44 —8. An accommodation party is not discharged under subsection  
45 3, 4 or 5 unless the person entitled to enforce the instrument knows~~



~~of the accommodation or has notice under subsection 3 of NRS 104.3419 that the instrument was signed for accommodation.~~

~~9. A party is not discharged under this section if:~~

~~(a) The party asserting discharge consents to the event or conduct that is the basis of the discharge; or~~

~~(b) The instrument or a separate agreement of the party provides for waiver of discharge under this section either specifically or by general language indicating that parties waive defenses based on suretyship or impairment of collateral.]~~

*If a person entitled to enforce an instrument releases the obligation of a principal obligor in whole or in part, and another party to the instrument is a secondary obligor with respect to the obligation of that principal obligor, the following rules apply:*

*(a) Any obligations of the principal obligor to the secondary obligor with respect to any previous payment by the secondary obligor are not affected. Unless the terms of the release preserve the secondary obligor's recourse, the principal obligor is discharged, to the extent of the release, from any other duties to the secondary obligor under this Article.*

*(b) Unless the terms of the release provide that the person entitled to enforce the instrument retains the right to enforce the instrument against the secondary obligor, the secondary obligor is discharged to the same extent as the principal obligor from any unperformed portion of its obligation on the instrument. If the instrument is a check and the obligation of the secondary obligor is based on an endorsement of the check, the secondary obligor is discharged without regard to the language or circumstances of the discharge or other release.*

*(c) If the secondary obligor is not discharged under paragraph (b), the secondary obligor is discharged to the extent of the value of the consideration for the release, and to the extent that the release would otherwise cause the secondary obligor a loss.*

*2. If a person entitled to enforce an instrument grants a principal obligor an extension of the time at which one or more payments are due on the instrument and another party to the instrument is a secondary obligor with respect to the obligation of that principal obligor, the following rules apply:*

*(a) Any obligations of the principal obligor to the secondary obligor with respect to any previous payment by the secondary obligor are not affected. Unless the terms of the extension preserve the secondary obligor's recourse, the extension correspondingly extends the time for performance of any other duties owed to the secondary obligor by the principal obligor under this Article.*

*(b) The secondary obligor is discharged to the extent that the extension would otherwise cause the secondary obligor a loss.*



1       (c) *To the extent that the secondary obligor is not discharged*  
2 *under paragraph (b), the secondary obligor may perform its*  
3 *obligations to a person entitled to enforce the instrument as if the*  
4 *time for payment had not been extended or, unless the terms of*  
5 *the extension provide that the person entitled to enforce the*  
6 *instrument retains the right to enforce the instrument against the*  
7 *secondary obligor as if the time for payment had not been*  
8 *extended, treat the time for performance of its obligations as*  
9 *having been extended correspondingly.*

10       3. *If a person entitled to enforce an instrument agrees, with*  
11 *or without consideration, to a modification of the obligation of a*  
12 *principal obligor other than a complete or partial release or an*  
13 *extension of the due date and another party to the instrument is a*  
14 *secondary obligor with respect to the obligation of that principal*  
15 *obligor, the following rules apply:*

16       (a) *Any obligations of the principal obligor to the secondary*  
17 *obligor with respect to any previous payment by the secondary*  
18 *obligor are not affected. The modification correspondingly*  
19 *modifies any other duties owed to the secondary obligor by the*  
20 *principal obligor under this Article.*

21       (b) *The secondary obligor is discharged from any unperformed*  
22 *portion of its obligation to the extent that the modification would*  
23 *otherwise cause the secondary obligor a loss.*

24       (c) *To the extent that the secondary obligor is not discharged*  
25 *under paragraph (b), the secondary obligor may satisfy its*  
26 *obligation on the instrument as if the modification had not*  
27 *occurred, or treat its obligation on the instrument as having been*  
28 *modified correspondingly.*

29       4. *If the obligation of a principal obligor is secured by an*  
30 *interest in collateral, another party to the instrument is a*  
31 *secondary obligor with respect to that obligation, and a person*  
32 *entitled to enforce the instrument impairs the value of the interest*  
33 *in collateral, the obligation of the secondary obligor is discharged*  
34 *to the extent of the impairment. The value of an interest in*  
35 *collateral is impaired to the extent the value of the interest is*  
36 *reduced to an amount less than the amount of the recourse of the*  
37 *secondary obligor, or the reduction in value of the interest causes*  
38 *an increase in the amount by which the amount of the recourse*  
39 *exceeds the value of the interest. For purposes of this subsection,*  
40 *impairing the value of an interest in collateral includes failure to*  
41 *obtain or maintain perfection or recordation of the interest in*  
42 *collateral, release of collateral without substitution of collateral of*  
43 *equal value or equivalent reduction of the underlying obligation,*  
44 *failure to perform a duty to preserve the value of collateral owed,*  
45 *under Article 9 or other law, to a debtor or other person*



1 *secondarily liable, and failure to comply with applicable law in*  
2 *disposing of or otherwise enforcing the interest in collateral.*

3 5. *A secondary obligor is not discharged under paragraph (c)*  
4 *of subsection 1 or subsection 2, 3 or 4 unless the person entitled to*  
5 *enforce the instrument knows that the person is a secondary*  
6 *obligor or has notice under subsection 3 of NRS 104.3419 that the*  
7 *instrument was signed for accommodation.*

8 6. *A secondary obligor is not discharged under this section if*  
9 *the secondary obligor consents to the event or conduct that is the*  
10 *basis of the discharge, or the instrument or a separate agreement*  
11 *of the party provides for waiver of discharge under this section*  
12 *specifically or by general language indicating that parties waive*  
13 *defenses based on suretyship or impairment of collateral. Unless*  
14 *the circumstances indicate otherwise, consent by the principal*  
15 *obligor to an act that would lead to a discharge under this section*  
16 *constitutes consent to that act by the secondary obligor if the*  
17 *secondary obligor controls the principal obligor or deals with the*  
18 *person entitled to enforce the instrument on behalf of the principal*  
19 *obligor.*

20 7. *A release or extension preserves a secondary obligor's*  
21 *recourse if the terms of the release or extension provide that:*

22 (a) *The person entitled to enforce the instrument retains the*  
23 *right to enforce the instrument against the secondary obligor; and*

24 (b) *The recourse of the secondary obligor continues as if the*  
25 *release or extension had not been granted.*

26 8. *Except as otherwise provided in subsection 9, a secondary*  
27 *obligor asserting discharge under this section has the burden of*  
28 *persuasion both with respect to the occurrence of the acts alleged*  
29 *to harm the secondary obligor and loss or prejudice caused by*  
30 *those acts.*

31 9. *If the secondary obligor demonstrates prejudice caused by*  
32 *an impairment of its recourse, and the circumstances of the case*  
33 *indicate that the amount of loss is not reasonably susceptible of*  
34 *calculation or requires proof of facts that are not ascertainable, it*  
35 *is presumed that the act impairing recourse caused a loss or*  
36 *impairment equal to the liability of the secondary obligor on the*  
37 *instrument. In that event, the burden of persuasion as to any*  
38 *lesser amount of the loss is on the person entitled to enforce the*  
39 *instrument.*

40 **Sec. 14.** NRS 104.4104 is hereby amended to read as follows:

41 104.4104 1. In this Article, unless the context otherwise  
42 requires:

43 (a) "Account" means any deposit or credit account with a bank  
44 including a demand, time, savings, passbook, share draft or like  
45 account, other than an account evidenced by a certificate of deposit.



(b) "Afternoon" means the period of a day between noon and midnight.

(c) "Banking day" means that part of any day on which a bank is open to the public for carrying on substantially all of its banking functions.

(d) "Clearinghouse" means any association of banks or other payors regularly clearing items.

(e) "Customer" means any person having an account with a bank or for whom a bank has agreed to collect items, including a bank that maintains an account at another bank.

(f) "Documentary draft" means a draft to be presented for acceptance or payment if specified documents, certificated securities or instructions for uncertificated securities, or other certificates, statements or the like are to be received by the drawee or other payor before acceptance or payment of the draft.

(g) "Draft" means a draft as defined in NRS 104.3104 or an item, other than an instrument, that is an order.

(h) "Drawee" means a person ordered in a draft to make payment.

(i) "Item" means an instrument or a promise or order to pay money handled by a bank for collection or payment. The term does not include a payment order governed by Article 4A or a credit or debit card slip.

(j) "Midnight deadline" with respect to a bank is midnight on its next banking day following the banking day on which it receives the relevant item or notice or from which the time for taking action commences to run, whichever is later.

(k) "Settle" means to pay in cash, by clearinghouse settlement, in a charge or credit or by remittance, or otherwise as instructed. A settlement may be either provisional or final.

(l) "Suspends payments" with respect to a bank means that it has been closed by order of the supervisory authorities, that a public officer has been appointed to take it over or that it ceases or refuses to make payments in the ordinary course of business.

2. Other definitions applying to this Article and the sections in which they appear are:

"Agreement for electronic presentment." NRS 104.4110.

"Bank." NRS 104.4105.

"Collecting bank." NRS 104.4105.

"Depository bank." NRS 104.4105.

"Intermediary bank." NRS 104.4105.

"Payor bank." NRS 104.4105.

"Presenting bank." NRS 104.4105.

"Presentment notice." NRS 104.4110.



3. The following definitions in other Articles apply to this Article:

- “Acceptance.” NRS 104.3409.
- “Alteration.” NRS 104.3407.
- “Cashier’s check.” NRS 104.3104.
- “Certificate of deposit.” NRS 104.3104.
- “Certified check.” NRS 104.3409.
- “Check.” NRS 104.3104.
- “Good faith.” NRS 104.3103.
- “Holder in due course.” NRS 104.3302.
- “Instrument.” NRS 104.3104.
- “Notice of dishonor.” NRS 104.3503.
- “Order.” NRS 104.3103.
- “Ordinary care.” NRS 104.3103.
- “Person entitled to enforce.” NRS 104.3301.
- “Presentment.” NRS 104.3501.
- “Promise.” NRS 104.3103.
- “Prove.” NRS 104.3103.
- “Record.” NRS 104.3103.***
- “Remotely-created consumer item.” NRS 104.3103.***
- “Teller’s check.” NRS 104.3104.
- “Unauthorized signature.” NRS 104.3403.

4. In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

**Sec. 15.** NRS 104.4207 is hereby amended to read as follows:

104.4207 1. A customer or collecting bank that transfers an item and receives a settlement or other consideration warrants to the transferee and to any subsequent collecting bank that:

- (a) The warrantor is a person entitled to enforce the item;
- (b) All signatures on the item are authentic and authorized;
- (c) The item has not been altered;
- (d) The item is not subject to a defense or claim in recoupment (subsection 1 of NRS 104.3305) of any party that can be asserted against the warrantor; ~~and~~

(e) The warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted draft, the drawer ~~and~~; ***and***

***(f) With respect to a remotely-created consumer item, that the person on whose account the item is drawn authorized the issuance of the item in the amount for which the item is drawn.***

2. If an item is dishonored, a customer or collecting bank transferring the item and receiving settlement or other consideration



1 is obliged to pay the amount due on the item according to the terms  
2 of the item at the time it was transferred, or if the transfer was of an  
3 incomplete item, according to its terms when completed as stated in  
4 NRS 104.3115 and 104.3407. The obligation of a transferor is owed  
5 to the transferee and to any subsequent collecting bank that takes the  
6 item in good faith. A transferor cannot disclaim its obligation under  
7 this subsection by an endorsement stating that it is made "without  
8 recourse" or otherwise disclaiming liability.

9 3. A person to whom the warranties under subsection 1 are  
10 made and who took the item in good faith may recover from the  
11 warrantor as damages for breach of warranty an amount equal to the  
12 loss suffered as a result of the breach, but not more than the amount  
13 of the item plus expenses and loss of interest incurred as a result of  
14 the breach.

15 4. The warranties stated in subsection 1 cannot be disclaimed  
16 with respect to checks. Unless notice of a claim for breach of  
17 warranty is given to the warrantor within 30 days after the claimant  
18 has reason to know of the breach and the identity of the warrantor,  
19 the warrantor is discharged to the extent of any loss caused by the  
20 delay in giving notice of the claim.

21 5. A cause of action for breach of warranty under this section  
22 accrues when the claimant has reason to know of the breach.

23 **Sec. 16.** NRS 104.4208 is hereby amended to read as follows:

24 104.4208 1. If an unaccepted draft is presented to the drawee  
25 for payment or acceptance and the drawee pays or accepts the draft,  
26 the person obtaining payment or acceptance, at the time of  
27 presentment, and a previous transferor of the draft, at the time of  
28 transfer, warrant to the drawee that pays or accepts the draft in good  
29 faith that:

30 (a) The warrantor is, or was at the time he transferred the draft, a  
31 person entitled to enforce the draft or authorized to obtain payment  
32 or acceptance of the draft on behalf of a person entitled to enforce  
33 the draft;

34 (b) The draft has not been altered; ~~and~~

35 (c) The warrantor has no knowledge that the signature of the  
36 purported drawer of the draft is unauthorized ~~[-]~~; and

37 *(d) With respect to a remotely-created consumer item, that the*  
38 *person on whose account the item is drawn authorized the*  
39 *issuance of the item in the amount for which the item is drawn.*

40 2. A drawee making payment may recover from a warrantor  
41 damages for breach of warranty equal to the amount paid by the  
42 drawee less the amount the drawee received or is entitled to receive  
43 from the drawer because of the payment. In addition, the drawee is  
44 entitled to compensation for expenses and loss of interest resulting  
45 from the breach. The right of the drawee to recover damages under



1 this subsection is not affected by any failure of the drawee to  
2 exercise ordinary care in making payment. If the drawee accepts the  
3 draft:

4 (a) Breach of warranty is a defense to the obligation of the  
5 acceptor; and

6 (b) If the acceptor makes payment with respect to the draft, the  
7 acceptor is entitled to recover from a warrantor for breach of  
8 warranty the amounts stated in this subsection.

9 3. If a drawee asserts a claim for breach of warranty under  
10 subsection 1 based on an unauthorized endorsement of the draft or  
11 an alteration of the draft, the warrantor may defend by proving that  
12 the endorsement is effective under NRS 104.3404 or 104.3405 or  
13 the drawer is precluded under NRS 104.3406 or 104.4406 from  
14 asserting against the drawee the unauthorized endorsement or  
15 alteration.

16 4. If a dishonored draft is presented for payment to the drawer  
17 or an endorser, or any other item is presented for payment to a party  
18 obliged to pay the item, and the item is paid, the person obtaining  
19 payment and a prior transferor of the item warrant to the person  
20 making payment in good faith that the warrantor is, or was at the  
21 time he transferred the item, a person entitled to enforce the item or  
22 authorized to obtain payment on behalf of a person entitled to  
23 enforce the item. The person making payment may recover from any  
24 warrantor for breach of warranty an amount equal to the amount  
25 paid plus expenses and loss of interest resulting from the breach.

26 5. The warranties stated in subsections 1 and 4 cannot be  
27 disclaimed with respect to checks. Unless notice of a claim for  
28 breach of warranty is given to the warrantor within 30 days after the  
29 claimant has reason to know of the breach and the identity of the  
30 warrantor, the warrantor is discharged to the extent of any loss  
31 caused by the delay in giving notice of the claim.

32 6. A cause of action for breach of warranty under this section  
33 accrues when the claimant has reason to know of the breach.

34 **Sec. 17.** NRS 104.4212 is hereby amended to read as follows:

35 104.4212 1. Unless otherwise instructed, a collecting bank  
36 may present an item not payable by, through or at a bank by sending  
37 to the party to accept or pay a ~~[written]~~ **record providing** notice that  
38 the bank holds the item for acceptance or payment. The notice must  
39 be sent in time to be received on or before the day when  
40 presentment is due and the bank must meet any requirement of the  
41 party to accept or pay under NRS 104.3501 by the close of the  
42 bank's next banking day after it knows of the requirement.

43 2. If presentment is made by notice and payment, acceptance or  
44 request for compliance with a requirement under NRS 104.3501 is  
45 not received by the close of business on the day after maturity or in



1 the case of demand items by the close of business on the third  
2 banking day after notice was sent, the presenting bank may treat the  
3 item as dishonored and charge any drawer or endorser by sending  
4 him notice of the facts.

5 **Sec. 18.** NRS 104.4301 is hereby amended to read as follows:

6 104.4301 1. If a payor bank settles for a demand item other  
7 than a documentary draft presented otherwise than for immediate  
8 payment over the counter before midnight of the banking day of  
9 receipt the payor bank may revoke the settlement and recover the  
10 settlement if, before it has made final payment and before its  
11 midnight deadline, it:

12 (a) Returns the item; ~~for~~

13 ~~—(b) Sends written}~~

14 *(b) Returns an image of the item, if the party to which the*  
15 *return is made has entered into an agreement to accept an image*  
16 *as a return of the item and the image is returned in accordance*  
17 *with that agreement; or*

18 *(c) Sends a record providing* notice of dishonor or nonpayment  
19 if the item is unavailable for return.

20 2. If a demand item is received by a payor bank for credit on its  
21 books it may return the item or send notice of dishonor and may  
22 revoke any credit given or recover the amount thereof withdrawn by  
23 its customer, if it acts within the time limit and in the manner  
24 specified in subsection 1.

25 3. Unless previous notice of dishonor has been sent an item is  
26 dishonored at the time when for purposes of dishonor it is returned  
27 or notice sent in accordance with this section.

28 4. An item is returned:

29 (a) As to an item presented through a clearinghouse, when it is  
30 delivered to the presenting or last collecting bank or to the  
31 clearinghouse or is sent or delivered in accordance with  
32 clearinghouse rules; or

33 (b) In all other cases, when it is sent or delivered to the bank's  
34 customer or transferor or pursuant to his instructions.

35 **Sec. 19.** NRS 104.4403 is hereby amended to read as follows:

36 104.4403 1. A customer or any person authorized to draw on  
37 the account if there is more than one person, may stop payment of  
38 any item drawn on the customer's account or close the account by  
39 an order to the bank describing the item or account with reasonable  
40 certainty received at a time and in a manner that affords the bank a  
41 reasonable opportunity to act on it before the happening of any of  
42 the events described in NRS 104.4303. If the signature of more than  
43 one person is required to draw on an account, any of these persons  
44 may stop payment or close the account.



- 1        2. A stop-payment order is effective for 6 months, but it lapses  
2 after 14 calendar days if the original order was oral and was not  
3 confirmed in ~~{writing}~~ *a record* within that period. A stop-payment  
4 order may be renewed for additional 6-month periods by a ~~{writing}~~  
5 *record* given to the bank within a period during which the  
6 stop-payment order is effective.
- 7        3. The burden of establishing the fact and amount of loss  
8 resulting from the payment of an item contrary to a stop-payment  
9 order or order to close an account is on the customer. The loss from  
10 payment of an item contrary to a stop-payment order may include  
11 damages for dishonor of subsequent items under NRS 104.4402.

