



OFFICE OF THE GOVERNOR

THOMAS J. VILSACK
GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

March 21, 2005

The Honorable Chester Culver
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

Senate File 139, an Act relating to negotiable instruments, by providing for liabilities among certain parties, and providing a statute of limitations.

The above Senate File is hereby approved this date.

Sincerely,

A handwritten signature in black ink that reads "Thomas J. Vilsack".

Thomas J. Vilsack
Governor

TJV:jmc

cc: Secretary of the Senate
Chief Clerk of the House





SENATE FILE 139

AN ACT

RELATING TO NEGOTIABLE INSTRUMENTS, BY PROVIDING FOR
LIABILITIES AMONG CERTAIN PARTIES, AND PROVIDING A STATUTE
OF LIMITATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 554.3103, subsections 2 and 3, Code
2005, are amended to read as follows:

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

<u>a.</u>	"Acceptance"	Section 554.3409.
<u>b.</u>	"Accommodated party"	Section 554.3419.
<u>c.</u>	"Accommodation party"	Section 554.3419.
<u>d.</u>	"Alteration"	Section 554.3407.
<u>e.</u>	"Anomalous endorsement"	Section 554.3205.
<u>f.</u>	"Blank endorsement"	Section 554.3205.
<u>g.</u>	"Cashier's check"	Section 554.3104.
<u>h.</u>	"Certificate of deposit"	Section 554.3104.
<u>i.</u>	"Certified check"	Section 554.3409.
<u>j.</u>	"Check"	Section 554.3104.
<u>k.</u>	"Consideration"	Section 554.3303.
<u>l.</u>	"Demand draft"	Section 554.3104.
<u>m.</u>	"Draft"	Section 554.3104.
<u>n.</u>	"Holder in due course"	Section 554.3302.
<u>o.</u>	"Incomplete instrument"	Section 554.3115.
<u>p.</u>	"Endorsement"	Section 554.3204.
<u>q.</u>	"Endorser"	Section 554.3204.
<u>r.</u>	"Instrument"	Section 554.3104.
<u>s.</u>	"Issue"	Section 554.3105.

<u>t.</u> "Issuer"	Section 554.3105.
<u>u.</u> "Negotiable instrument"	Section 554.3104.
<u>v.</u> "Negotiation"	Section 554.3201.
<u>w.</u> "Note"	Section 554.3104.
<u>x.</u> "Payable at a definite time"	Section 554.3108.
<u>y.</u> "Payable on demand"	Section 554.3108.
<u>z.</u> "Payable to bearer"	Section 554.3109.
<u>aa.</u> "Payable to order"	Section 554.3109.
<u>ab.</u> "Payment"	Section 554.3602.
<u>ac.</u> "Person entitled to enforce"	Section 554.3301.
<u>ad.</u> "Presentment"	Section 554.3501.
<u>ae.</u> "Reacquisition"	Section 554.3207.
<u>af.</u> "Special endorsement"	Section 554.3205.
<u>ag.</u> "Teller's check"	Section 554.3104.
<u>ah.</u> "Transfer of instrument"	Section 554.3203.
<u>ai.</u> "Traveler's check"	Section 554.3104.
<u>aj.</u> "Value"	Section 554.3303.

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

<u>a.</u> "Bank"	Section 554.4105.
<u>b.</u> "Banking day"	Section 554.4104.
<u>c.</u> "Clearing house"	Section 554.4104.
<u>d.</u> "Collecting bank"	Section 554.4105.
<u>e.</u> "Depository bank"	Section 554.4105.
<u>f.</u> "Documentary draft"	Section 554.4104.
<u>g.</u> "Intermediary bank"	Section 554.4105.
<u>h.</u> "Item"	Section 554.4104.
<u>i.</u> "Payor bank"	Section 554.4105.
<u>j.</u> "Suspends payments"	Section 554.4104.

Sec. 2. Section 554.3104, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 11. a. "Demand draft" means a writing not signed by a customer as defined in section 554.4104 that is created by a third party under the purported authority of the customer for the purpose of charging the customer's account with a bank. The writing must contain the customer's account number and may contain any of the following:

- (1) The customer's printed or typewritten name;
- (2) A notation that the customer authorized the draft; or
- (3) The statement "no signature required", "authorized on file", "signature on file", or words to that effect.

b. "Demand draft" does not include a check purportedly drawn by and bearing the signature of a fiduciary as defined in section 554.3307.

Sec. 3. Section 554.3309, subsection 1, Code 2005, is amended to read as follows:

1. A person not in possession of an instrument is entitled to enforce the instrument if: ~~(i)~~

a. the person was-in-possession-of-the-instrument-and entitled-to-enforce-it seeking to enforce the instrument:

(1) was entitled to enforce the instrument when loss or possession occurred, or

(2) has directly or indirectly acquired ownership of the instrument from a person who was entitled to the instrument when loss of possession occurred;~~(ii);~~

b. the loss of possession was not the result of a transfer by the person or a lawful seizure; and ~~(iii)~~

c. the person cannot reasonably obtain possession of the instrument because the instrument was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of an unknown person or a person that cannot be found or is not amenable to service of process.

Sec. 4. Section 554.3416, subsection 1, paragraphs d and e, Code 2005, are amended to read as follows:

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

f. if the instrument is a demand draft, creation of the instrument according to the terms on its face was authorized by the person identified as the drawer.

Sec. 5. Section 554.3416, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. If a warranty under subsection 1, paragraph "f", is not given by a transferor under applicable

conflict of laws rules, the warranty is not given to that transferor when that transferor is a transferee.

Sec. 6. Section 554.3417, subsection 1, paragraphs b and c, Code 2005, are amended to read as follows:

b. the draft has not been altered; and

c. the warrantor has no knowledge that the signature of the drawer of the draft is unauthorized; and

d. if the draft is a demand draft, the creation of the demand draft according to the terms on its face was authorized by the person identified as the drawer.

Sec. 7. Section 554.3417, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 7. A demand draft is a check as provided in section 554.3104, subsection 6.

NEW SUBSECTION. 8. If a warranty under subsection 1, paragraph "d", is not given by a transferor under applicable conflict of laws rules, the warranty is not given to that transferor when that transferor is a transferee.

Sec. 8. NEW SECTION. 554.4111 STATUTE OF LIMITATIONS.

An action to enforce an obligation, duty, or right arising under this Article must be commenced within three years after the cause of action accrues.

Sec. 9. Section 554.4207, subsection 1, paragraphs d and e, Code 2005, are amended to read as follows:

d. the item is not subject to a defense or claim in recoupment (section 554.3305, subsection 1) 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

f. if the item is a demand draft, creation of the item according to the terms on its face was authorized by the person identified as the drawer.

Sec. 10. Section 554.4207, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 6. If the warranty under subsection 1, paragraph "f", is not given by a transferor or collecting bank under applicable conflict of laws rules, the warranty is not given to that transferor when the transferor is a transferee or to any prior collecting bank of that transferee.


Sec. 11. Section 554.4208, subsection 1, paragraphs b and c, Code 2005, are amended to read as follows:

- b. the draft has not been altered; and
- c. the warrantor has no knowledge that the signature of the purported drawer of the draft is unauthorized; and
- d. if the draft is a demand draft, the creation of the demand draft according to the terms on its face was authorized by the person identified as the drawer.

Sec. 12. Section 554.4208, Code 2005, is amended by adding the following new subsections:


NEW SUBSECTION. 7. A demand draft is a check as provided in section 554.3104, subsection 6.

NEW SUBSECTION. 8. If a warranty under subsection 1, paragraph "d", is not given by a transferor under applicable conflict of laws rules, the warranty is not given to that transferor when that transferor is a transferee.



JEFFREY M. LAMBERTI

President of the Senate



CHRISTOPHER C. RANTS

Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 139, Eighty-first General Assembly.



MICHAEL E. MARSHALL

Secretary of the Senate

Approved MARCH 21, 2005



THOMAS J. VILSACK

Governor