

## LEGISLATIVE BILL 919

Approved by the Governor March 15, 1984

Introduced by Morehead, 30

AN ACT relating to banking; to amend section 4-212, Uniform Commercial Code; to change provisions relating to rights of revocation, charge-back, and refund; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 4-212, Uniform Commercial Code, be amended to read as follows:  
4-212. Right of Charge-back or Refund.

(1) If a collecting bank has made provisional settlement with its customer for an item and itself fails by reason of dishonor, suspension of payments by a bank or otherwise to receive a settlement for the item which is or becomes final, the bank may revoke the settlement given by it, charge back the amount of any credit given for the item to its customer's account or obtain refund from its customer whether or not it is able to return the items if by its midnight deadline or within a longer reasonable time after it learns the facts it returns the item or sends notification of the facts. These rights to revoke, charge-back and obtain refund terminate if and when a settlement for the item received by the bank is or becomes final (subsection (3) of Section 4-211 and subsections (2) and (3) of Section 4-213).

(2) Within the time and manner prescribed by this section and Section 4-301, an intermediary or payor bank, as the case may be, may return an unpaid item directly to the depository bank and may send for collection a draft on the depository bank and obtain reimbursement. In such case, if the depository bank has received provisional settlement for the item, it must reimburse the bank drawing the draft and any provisional credits for the item between banks shall become and remain final.

(3) ~~(2)~~ A depository bank which is also the payor may charge-back the amount of an item to its customer's account or obtain refund in accordance with the section governing return of an item received by a payor bank for credit on its books (Section 4-301).

(4) ~~(3)~~ The right to charge-back is not affected by

- (a) prior use of the credit given for the item;
- or
- (b) failure by any bank to exercise ordinary care with respect to the item but any bank so failing remains liable.

(5) ~~(4)~~ A failure to charge-back or claim refund does not affect other rights of the bank against the customer or any other party.

(6) ~~(5)~~ If credit is given in dollars as the equivalent of the value of an item payable in a foreign currency the dollar amount of any charge-back or refund shall be calculated on the basis of the buying sight rate for the foreign currency prevailing on the day when the person entitled to the charge-back or refund learns that it will not receive payment in ordinary course.

Sec. 2. That original section 4-212, Uniform Commercial Code, is repealed.