

(ii) the warranty claim;

(B) a statement that the claimant bank has suffered a loss or is obligated to recredit the consumer's account under section 5006 of this title, together with an estimate of the amount of the loss or recredit;

(C) the reason why production of the original check, another substitute check, or a better copy of the original check is necessary to determine the validity of the charge to the consumer account or the warranty claim; and

(D) information sufficient for the indemnifying bank to identify the substitute check and to investigate the claim.

(2) Requirements relating to copies of substitute checks

If the information submitted by a claimant bank pursuant to paragraph (1) in connection with a claim for an expedited recredit includes a copy of any substitute check for which any such claim is made, the claimant bank shall take reasonable steps to ensure that any such copy cannot be—

(A) mistaken for the legal equivalent of the check under section 5003(b) of this title; or

(B) sent or handled by any bank, including the indemnifying bank, as a forward collection or returned check.

(3) Claim in writing

(A) In general

An indemnifying bank may, in the discretion of the bank, require the claimant bank to submit the information required by paragraph (1) in writing, including a copy of the written or electronically submitted claim, if any, that the consumer provided in accordance with section 5006(b) of this title.

(B) Means of submission

An indemnifying bank that requires a submission of information under subparagraph (A) may permit the claimant bank to make the submission electronically, if the claimant bank has agreed to communicate with the indemnifying bank in that manner.

(c) Recredit by indemnifying bank

(1) Prompt action required

No later than 10 business days after the business day on which an indemnifying bank receives a claim under subsection (a) from a claimant bank with respect to a substitute check, the indemnifying bank shall—

(A) provide, to the claimant bank, the original check (with respect to such substitute check) or a copy of the original check (including an image or a substitute check) that—

(i) accurately represents all of the information on the front and back of the original check (as of the time the original check was truncated); or

(ii) is otherwise sufficient to determine the bank's claim is not valid; and

(B) recredit the claimant bank for the amount of the claim up to the amount of the substitute check, plus interest if applicable; or

(C) provide information to the claimant bank as to why the indemnifying bank is not obligated to comply with subparagraph (A) or (B).

(2) Recredit does not abrogate other liabilities

Providing a recredit under this subsection to a claimant bank with respect to a substitute check shall not absolve the indemnifying bank from liability for claims brought under any other law or from additional damages under section 5005 or 5009 of this title with respect to such check.

(3) Refund to indemnifying bank

If a claimant bank reverses, in accordance with section 5006(e) of this title, a recredit previously made to a consumer account under section 5006(c) of this title, or otherwise receives a credit or recredit with regard to such substitute check, the claimant bank shall promptly refund to any indemnifying bank any amount previously advanced by the indemnifying bank in connection with such substitute check.

(d) Production of original check or a sufficient copy governed by section 5005(d)

If the indemnifying bank provides the claimant bank with the original check or a copy of the original check (including an image or a substitute check) under subsection (c)(1)(A), section 5005(d) of this title shall govern any right of the indemnifying bank to any repayment of any funds the indemnifying bank has credited to the claimant bank pursuant to subsection (c).

(Pub. L. 108-100, §8, Oct. 28, 2003, 117 Stat. 1186.)

§ 5008. Delays in an emergency

A delay by a bank beyond the time limits prescribed or permitted by this chapter shall be excused if the delay is caused by interruption of communication or computer facilities, suspension of payments by another bank, war, emergency conditions, failure of equipment, or other circumstances beyond the control of a bank and if the bank uses such diligence as the circumstances require.

(Pub. L. 108-100, §9, Oct. 28, 2003, 117 Stat. 1188.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 108-100, Oct. 28, 2003, 117 Stat. 1177, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5001 of this title and Tables.

§ 5009. Measure of damages

(a) Liability

(1) In general

Except as provided in section 5005 of this title, any person who, in connection with a substitute check, breaches any warranty under this chapter or fails to comply with any requirement imposed by, or regulation prescribed pursuant to, this chapter with respect to any other person shall be liable to such person in an amount equal to the sum of—

(A) the lesser of—