

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 1060*

Short Title: Conform Full-payment Check Law to UCC. (Public)

Sponsors: Representative Bryan.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary IV

May 11, 2016

A BILL TO BE ENTITLED

AN ACT TO CONFORM TO THE COMPARABLE PROVISION OF THE UNIFORM
COMMERCIAL CODE THIS STATE'S LAW ON ACCORD AND SATISFACTION OF A
DISPUTED DEBT THROUGH THE TENDERING OF A NEGOTIABLE INSTRUMENT
AS FULL PAYMENT OF THE DEBT, AS RECOMMENDED BY THE GENERAL
STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 25-3-311 reads as rewritten:

"§ 25-3-311. Accord and satisfaction by use of instrument.

(a) If a person against whom a claim is asserted proves that (i) that person in good faith tendered an instrument to the claimant as full satisfaction of the claim, (ii) the amount of the claim was unliquidated or subject to a bona fide dispute, and (iii) the claimant obtained payment of the instrument, the following subsections apply.

(b) Unless subsection (c) of this section applies, the claim is discharged if the person against whom the claim is asserted proves that the instrument or an accompanying written communication contained a conspicuous statement to the effect that the instrument was tendered as full satisfaction of the claim.

(c) Subject to subsection (d) of this section, a claim is not discharged under subsection (b) of this section ~~when the claimant, if an organization, proves that (i) within a reasonable time before the tender, the claimant sent a conspicuous statement to the person against whom the claim is asserted that communications concerning disputed debts, including an instrument tendered as full satisfaction of a debt, are to be sent to a designated person, office, or place, and (ii) the instrument or accompanying communication was not received by that designated person, office, or place.~~ if either of the following applies:

(1) The claimant, if an organization, proves that (i) within a reasonable time before the tender, the claimant sent a conspicuous statement to the person against whom the claim is asserted that communications concerning disputed debts, including an instrument tendered as full satisfaction of a debt, are to be sent to a designated person, office, or place and (ii) the instrument or accompanying communication was not received by that designated person, office, or place.

(2) The claimant, whether or not an organization, proves that within 90 days after payment of the instrument, the claimant tendered repayment of the amount of the instrument to the person against whom the claim is asserted. This subdivision does not apply if the claimant is an organization that sent a statement complying with clause (i) of subdivision (1) of this subsection.



1 (d) A claim is discharged if the person against whom the claim is asserted proves that
2 within a reasonable time before collection of the instrument was initiated, the claimant, or an agent
3 of the claimant having direct responsibility with respect to the disputed obligation, knew that the
4 instrument was tendered in full satisfaction of the claim."

5 **SECTION 2.** This act becomes effective October 1, 2016, and applies to negotiable
6 instruments tendered in full satisfaction of a claim on or after that date.