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HOUSE BILL 2751

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State of Washington                      52nd Legislature                      1992 Regular Session

By Representatives Appelwick, Dellwo, Paris and Winsley

Read first time 01/27/92.            Referred to Committee on Financial  
Institutions & Insurance.

1            AN ACT Relating to negotiable instruments; and adding a new section  
2 to chapter 62A.3 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            NEW SECTION.    **Sec. 1.**    A new section, to be codified as RCW  
5 62A.3-312, is added to chapter 62A.3 RCW to read as follows:

6            LOST, DESTROYED, OR STOLEN CASHIER'S CHECK, TELLER'S CHECK, OR  
7 CERTIFIED CHECK.    (1) In this section:

8            (a) "Check" means a cashier's check, teller's check, or certified  
9 check.

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

13           (c) "Declaration of loss" means a written statement, made under  
14 penalty of perjury, to the effect that (i) the declarer lost possession

1 of a check, (ii) the declarer is the drawer or payee of the check, in  
2 the case of a certified check, or the remitter or payee of the check,  
3 in the case of a cashier's check or teller's check, (iii) the loss of  
4 possession was not the result of a transfer by the declarer or a lawful  
5 seizure, and (iv) the declarer cannot reasonably obtain possession of  
6 the check because the check was destroyed, its whereabouts cannot be  
7 determined, or it is in the wrongful possession of an unknown person or  
8 a person that cannot be found or is not amendable to service of  
9 process.

10 (d) "Obligated bank" means the insurer of a cashier's check or  
11 teller's check or the acceptor of a certified check.

12 (2) A claimant may assert a claim to the amount of a check by a  
13 communication to the obligated bank describing the check with  
14 reasonable certainty and requesting payment of the amount of the check,  
15 if (i) the claimant is the drawer or payee of a certified check or the  
16 remitter or payee of a cashier's check or teller's check, (ii) the  
17 communication contains or is accompanied by a declaration of loss of  
18 the claimant with respect to the check, (iii) the communication is  
19 received at a time and in a manner affording the bank a reasonable time  
20 to act on it before the check is paid, and (iv) the claimant provides  
21 reasonable identification if requested by the obligated bank. Delivery  
22 of a declaration of loss is a warranty of the truth of the statements  
23 made in the declaration. If a claim is asserted in compliance with  
24 this subsection, the following rules apply:

25 (a) The claim becomes enforceable at the later of (i) the time the  
26 claim is asserted, or (ii) the ninetieth day following the date of the  
27 check, in the case of a cashier's check or teller's check, or the  
28 ninetieth day following the date of the acceptance, in the case of a  
29 certified check.

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

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

8 (d) When the claim becomes enforceable, the obligated bank becomes  
9 obliged to pay the amount of the check to the claimant if payment of  
10 the check has not been made to a person entitled to enforce the check.  
11 Subject to RCW 62A.4-302(a), payment to the claimant discharges all  
12 liability of the obligated bank with respect to the check.

13 (3) If the obligated bank pays the amount of a check to a claimant  
14 under subsection (2)(d) of this section and the check is presented for  
15 payment by a person having rights of a holder in due course, the  
16 claimant is obliged to (i) refund the payment to the obligated bank if  
17 the check is paid, or (ii) pay the amount of the check to the person  
18 having rights of a holder in due course if the check is dishonored.

19 (4) If a claimant has the right to assert a claim under subsection  
20 (2) of this section and is also a person entitled to enforce a  
21 cashier's check, teller's check, or certified check that is lost,  
22 destroyed, or stolen, the claimant may assert rights with respect to  
23 the check under this section.