

2024 Regular Session

HOUSE BILL NO. 232

BY REPRESENTATIVE MUSCARELLO

CIVIL/LAW: Provides relative to warranty for negotiable instruments and depository and collecting banks

1 AN ACT

2 To amend and reenact R.S. 10:3-416(b) and (c), 3-417(b), (c), and (e), 4-207(c) and (d), and
3 4-208(b), (c), and (e), relative to warranties for negotiable instruments and bank
4 deposits and collections; to provide for breach of warranty notice requirement
5 procedures; to provide for liability of parties; to provide for attorney fees; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 10:3-416(b) and (c), 3-417(b), (c), and (e), 4-207(c) and (d), and 4-
9 208(b), (c), and (e) are hereby amended and reenacted to read as follows:

10 §3-416. Transfer warranties

11 * * *

12 (b) A person to whom the warranties under Subsection (a) of this Section are
13 made and who took the instrument in good faith may recover from the warrantor as
14 damages for breach of warranty an amount equal to the loss suffered as a result of
15 the breach, but not more than the amount of the instrument plus expenses and loss
16 of interest incurred as a result of the breach. If the person to whom the warranties
17 are made sends written notice by certified or registered mail or commercial courier
18 to the warrantor of its claim for breach of warranty and the warrantor fails to pay the
19 claim within thirty days after receiving the notice, the expenses of the person to
20 whom the warranties are made shall include reasonable attorney fees.

1 (c) The warranties stated in Subsection (a) of this Section cannot be
 2 disclaimed with respect to checks. Unless notice of a claim for breach of warranty
 3 is given to the warrantor within 30 days after the claimant has reason to know of the
 4 breach and the identity of the warrantor, the liability of the warrantor under
 5 Subsection (b) of this Section is discharged to the extent of any loss caused by the
 6 delay in giving notice of the claim.

7 * * *

8 §3-417. Presentment warranties

9 * * *

10 (b) A drawee making payment may recover from any warrantor damages for
 11 breach of warranty equal to the amount paid by the drawee less the amount the
 12 drawee received or is entitled to receive from the drawer because of the payment.
 13 In addition, the drawee is entitled to compensation for expenses and loss of interest
 14 resulting from the breach. If the drawee making payment sends written notice by
 15 certified or registered mail or commercial courier to the warrantor of its claim for
 16 breach of warranty and the warrantor fails to pay the claim within thirty days after
 17 receiving the notice, the expenses of the person to whom the warranties are made
 18 shall include reasonable attorney fees. The right of the drawee to recover damages
 19 under this Subsection is not affected by any failure of the drawee to exercise ordinary
 20 care in making payment. If the drawee accepts the draft, breach of warranty is a
 21 defense to the obligation of the acceptor. If the acceptor makes payment with respect
 22 to the draft, the acceptor is entitled to recover from any warrantor for breach of
 23 warranty the amounts stated in this Subsection.

24 (c) If a drawee asserts a claim for breach of warranty under Subsection (a)
 25 of this Section based on an unauthorized indorsement of the draft or an alteration of
 26 the draft, the warrantor may defend by proving that the indorsement is effective
 27 under R.S. 10:3-404 or 10:3-405 or the drawer is precluded under R.S. 10:3-406 or

1 10:4-406 from asserting against the drawee the unauthorized indorsement or
2 alteration.

3 * * *

4 (e) The warranties stated in Subsections (a) and (d) of this Section cannot be
5 disclaimed with respect to checks. Unless notice of a claim for breach of warranty
6 is given to the warrantor within 30 days after the claimant has reason to know of the
7 breach and the identity of the warrantor, the liability of the warrantor under
8 Subsection (b) or (d) of this Section is discharged to the extent of any loss caused by
9 the delay in giving notice of the claim.

10 * * *

11 §4-207. Transfer warranties

12 * * *

13 (c) A person to whom the warranties under Subsection (a) of this Section are
14 made and who took the item in good faith may recover from the warrantor as
15 damages for breach of warranty an amount equal to the loss suffered as a result of
16 the breach, but not more than the amount of the item plus expenses and loss of
17 interest incurred as a result of the breach. If the person to whom the warranties are
18 made sends written notice by certified or registered mail or commercial courier to
19 the warrantor of its claim for breach of warranty and the warrantor fails to pay the
20 claim within thirty days after receiving the notice, the expenses of the person to
21 whom the warranties are made shall include reasonable attorney fees.

22 (d) The warranties stated in Subsection (a) of this Section cannot be
23 disclaimed with respect to checks. Unless notice of a claim for breach of warranty
24 is given to the warrantor within 30 days after the claimant has reason to know of the
25 breach and the identity of the warrantor, the warrantor is discharged to the extent of
26 any loss caused by the delay in giving notice of the claim.

27 * * *

1 §4-208. Presentment warranties

2 * * *

3 (b) A drawee making payment may recover from a warrantor damages for
4 breach of warranty equal to the amount paid by the drawee less the amount the
5 drawee received or is entitled to receive from the drawer because of the payment.
6 In addition, the drawee is entitled to compensation for expenses and loss of interest
7 resulting from the breach. If the drawee making payment sends written notice by
8 certified or registered mail or commercial courier to the warrantor of its claim for
9 breach of warranty and the warrantor fails to pay the claim within thirty days after
10 receiving the notification, the expenses of the person to whom the warranties are
11 made shall include reasonable attorney fees. The right of the drawee to recover
12 damages under this Subsection is not affected by any failure of the drawee to
13 exercise ordinary care in making payment. If the drawee accepts the draft (i) breach
14 of warranty is a defense to the obligation of the acceptor, and (ii) if the acceptor
15 makes payment with respect to the draft, the acceptor is entitled to recover from a
16 warrantor for breach of warranty the amounts stated in this Subsection.

17 (c) If a drawee asserts a claim for breach of warranty under Subsection (a)
18 of this Section based on an unauthorized indorsement of the draft or an alteration of
19 the draft, the warrantor may defend by proving that the indorsement is effective
20 under R.S. 10:3-404 or 10:3-405 or the drawer is precluded under R.S. 10:3-406 or
21 10:4-406 from asserting against the drawee the unauthorized indorsement or
22 alteration.

23 * * *

24 (e) The warranties stated in Subsections (a) and (d) of this Section cannot be
25 disclaimed with respect to checks. Unless notice of a claim for breach of warranty
26 is given to the warrantor within 30 days after the claimant has reason to know of the
27 breach and the identity of the warrantor, the warrantor is discharged to the extent of
28 any loss caused by the delay in giving notice of the claim.

29 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 232 Reengrossed

2024 Regular Session

Muscarello

Abstract: Requires warrantors to pay expenses for failure to timely pay warranty claims under certain circumstances.

Present law (R.S. 10:3-416(b)) provides that a holder of a warranty under present law who took the instrument in good faith may recover from the warrantor damages for breach of warranty in an amount equal to the loss suffered as a result of the breach not to exceed the amount of the instrument plus expenses and loss of interest incurred.

Proposed law retains present law and requires a warrantor of a claim to pay expenses and attorney fees if the warrantor fails to pay the claim within 30 days of receiving written notice from the person to whom warranties are to be made. Proposed law also requires the notice be delivered via commercial courier or by either registered or certified mail.

Present law (R.S. 10:3-417(b)) provides that a drawee making payment may recover from any warrantor damages for breach of warranty equal to the amount paid by the drawee less the amount the drawee received or is entitled to receive from the drawer because of the payment. Present law also provides that a drawee is entitled to compensation for expenses and loss of interest resulting from the breach.

Present law (R.S. 10:3-417(b)) establishes that a right for a drawee to recover damages under present law is not affected if the drawee fails to exercise ordinary care in making payment.

Present law (R.S. 10:3-417(b)) provides that if a drawee accepts a draft that a breach of warranty is a defense to the obligation of the acceptor. Present law also provides that an acceptor who makes a payment with respect to the draft is entitled to recover from any warrantor for breach of warranty the amounts provided by present law.

Proposed law retains present law and requires a warrantor of a claim to pay expenses and attorney fees if the warrantor fails to pay the claim within 30 days of receiving written notice from the drawee to whom warranties are to be made. Proposed law also requires the notice be delivered via commercial courier or by either registered or certified mail.

Present law (R.S. 10:4-207(c)) provides that a holder of a warranty under present law who took the instrument in good faith may recover from the warrantor damages for breach of warranty in an amount equal to the loss suffered as a result of the breach not to exceed the amount of the instrument plus expenses and loss of interest incurred.

Proposed law retains present law and requires a warrantor of a claim to pay expenses and attorney fees if the warrantor fails to pay the claim within 30 days of receiving written notice from the person to whom warranties are to be made. Proposed law also requires the notice be delivered via commercial courier or by either registered or certified mail.

Present law (R.S. 10:4-208(b)) provides that a drawee making payment may recover from any warrantor damages for breach of warranty equal to the amount paid by the drawee less the amount the drawee received or is entitled to receive from the drawer because of the payment. Present law also provides that a drawee is entitled to compensation for expenses and loss of interest resulting from the breach.

Present law (R.S. 10:4-208(b)) establishes that a right for a drawee to recover damages under present law is not affected if the drawee fails to exercise ordinary care in making payment.

Present law (R.S. 10:4-208(b)) provides that if a drawee accepts a draft that a breach of warranty is a defense to the obligation of the acceptor. Present law also provides that an acceptor who makes a payment with respect to the draft is entitled to recover from any warrantor for breach of warranty the amounts provided by present law.

Proposed law retains present law and requires a warrantor of a claim to pay expenses and attorney fees if the warrantor fails to pay the claim within 30 days of receiving written notice from the drawee to whom warranties are to be made. Proposed law also requires the notice be delivered via commercial courier or by either registered or certified mail.

(Amends R.S. 10:3-416(b) and (c), 3-417(b), (c), and (e), 4-207(c) and (d), and 4-208(b), (c), and (e))

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Make technical changes.