

REFERENCE TITLE: UCC; lost cashier's checks

State of Arizona  
Senate  
Forty-ninth Legislature  
First Regular Session  
2009

## **SB 1265**

Introduced by  
Senator Leff

AN ACT

AMENDING TITLE 47, CHAPTER 3, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 47-3312; RELATING TO NEGOTIABLE INSTRUMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 47, chapter 3, article 3, Arizona Revised Statutes,  
3 is amended by adding 47-3312, to read:

4 47-3312. Lost, destroyed or stolen cashier's check, teller's  
5 check or certified check

6 A. IN THIS SECTION:

7 1. "CHECK" MEANS A CASHIER'S CHECK, TELLER'S CHECK OR CERTIFIED CHECK.

8 2. "CLAIMANT" MEANS A PERSON WHO CLAIMS THE RIGHT TO RECEIVE THE  
9 AMOUNT OF A CASHIER'S CHECK, TELLER'S CHECK OR CERTIFIED CHECK THAT WAS LOST,  
10 DESTROYED OR STOLEN.

11 3. "DECLARATION OF LOSS" MEANS A WRITTEN STATEMENT, MADE UNDER PENALTY  
12 OF PERJURY, TO THE EFFECT THAT ALL OF THE FOLLOWING:

13 (a) THE DECLARER LOST POSSESSION OF A CHECK.

14 (b) THE DECLARER IS THE DRAWER OR PAYEE OF THE CHECK, IN THE CASE OF A  
15 CERTIFIED CHECK, OR THE REMITTER OR PAYEE OF THE CHECK, IN THE CASE OF A  
16 CASHIER'S CHECK OR TELLER'S CHECK.

17 (c) THE LOSS OF POSSESSION WAS NOT THE RESULT OF A TRANSFER BY THE  
18 DECLARER OR A LAWFUL SEIZURE.

19 (d) THE DECLARER CANNOT REASONABLY OBTAIN POSSESSION OF THE CHECK  
20 BECAUSE THE CHECK WAS DESTROYED, ITS WHEREABOUTS CANNOT BE DETERMINED OR IT  
21 IS IN THE WRONGFUL POSSESSION OF AN UNKNOWN PERSON OR A PERSON THAT CANNOT BE  
22 FOUND OR IS NOT AMENABLE TO SERVICE OF PROCESS.

23 4. "OBLIGATED BANK" MEANS THE ISSUER OF A CASHIER'S CHECK OR TELLER'S  
24 CHECK OR THE ACCEPTOR OF A CERTIFIED CHECK.

25 B. A CLAIMANT MAY ASSERT A CLAIM TO THE AMOUNT OF A CHECK BY A  
26 COMMUNICATION TO THE OBLIGATED BANK DESCRIBING THE CHECK WITH REASONABLE  
27 CERTAINTY AND REQUESTING PAYMENT OF THE AMOUNT OF THE CHECK, IF ALL OF THE  
28 FOLLOWING:

29 1. THE CLAIMANT IS THE DRAWER OR PAYEE OF A CERTIFIED CHECK OR THE  
30 REMITTER OR PAYEE OF A CASHIER'S CHECK OR TELLER'S CHECK.

31 2. THE COMMUNICATION CONTAINS OR IS ACCOMPANIED BY A DECLARATION OF  
32 LOSS OF THE CLAIMANT WITH RESPECT TO THE CHECK.

33 3. THE COMMUNICATION IS RECEIVED AT A TIME AND IN A MANNER AFFORDING  
34 THE BANK A REASONABLE TIME TO ACT ON IT BEFORE THE CHECK IS PAID.

35 4. THE CLAIMANT PROVIDES REASONABLE IDENTIFICATION IF REQUESTED BY THE  
36 OBLIGATED BANK.

37 C. DELIVERY OF A DECLARATION OF LOSS IS A WARRANTY OF THE TRUTH OF THE  
38 STATEMENTS MADE IN THE DECLARATION. IF A CLAIM IS ASSERTED IN COMPLIANCE  
39 WITH SUBSECTION B OF THIS SECTION, THE FOLLOWING RULES APPLY:

40 1. THE CLAIM BECOMES ENFORCEABLE AT THE LATER OF EITHER OF THE  
41 FOLLOWING:

42 (a) THE TIME THE CLAIM IS ASSERTED.

43 (b) THE NINETIETH DAY FOLLOWING THE DATE OF THE CHECK, IN THE CASE OF  
44 A CASHIER'S CHECK OR TELLER'S CHECK, OR THE NINETIETH DAY FOLLOWING THE DATE  
45 OF THE ACCEPTANCE, IN THE CASE OF A CERTIFIED CHECK.

- 1           2. UNTIL THE CLAIM BECOMES ENFORCEABLE, IT HAS NO LEGAL EFFECT AND THE  
2 OBLIGATED BANK MAY PAY THE CHECK OR, IN THE CASE OF A TELLER'S CHECK, MAY  
3 PERMIT THE DRAWEE TO PAY THE CHECK. PAYMENT TO A PERSON ENTITLED TO ENFORCE  
4 THE CHECK DISCHARGES ALL LIABILITY OF THE OBLIGATED BANK WITH RESPECT TO THE  
5 CHECK.
- 6           3. IF THE CLAIM BECOMES ENFORCEABLE BEFORE THE CHECK IS PRESENTED FOR  
7 PAYMENT, THE OBLIGATED BANK IS NOT OBLIGED TO PAY THE CHECK.
- 8           4. WHEN THE CLAIM BECOMES ENFORCEABLE, THE OBLIGATED BANK BECOMES  
9 OBLIGED TO PAY THE AMOUNT OF THE CHECK TO THE CLAIMANT IF PAYMENT OF THE  
10 CHECK HAS NOT BEEN MADE TO A PERSON ENTITLED TO ENFORCE THE CHECK. SUBJECT  
11 TO SECTION 47-4302, SUBSECTION A, PARAGRAPH 1, PAYMENT TO THE CLAIMANT  
12 DISCHARGES ALL LIABILITY OF THE OBLIGATED BANK WITH RESPECT TO THE CHECK.
- 13           D. IF THE OBLIGATED BANK PAYS THE AMOUNT OF A CHECK TO A CLAIMANT  
14 UNDER SUBSECTION C, PARAGRAPH 4 OF THIS SECTION AND THE CHECK IS PRESENTED  
15 FOR PAYMENT BY A PERSON HAVING RIGHTS OF A HOLDER IN DUE COURSE, THE CLAIMANT  
16 IS OBLIGED TO EITHER:
- 17           1. REFUND THE PAYMENT TO THE OBLIGATED BANK IF THE CHECK IS PAID.  
18           2. PAY THE AMOUNT OF THE CHECK TO THE PERSON HAVING RIGHTS OF A HOLDER  
19 IN DUE COURSE IF THE CHECK IS DISHONORED.
- 20           E. IF A CLAIMANT HAS THE RIGHT TO ASSERT A CLAIM UNDER SUBSECTION B OF  
21 THIS SECTION AND IS ALSO A PERSON ENTITLED TO ENFORCE A CASHIER'S CHECK,  
22 TELLER'S CHECK OR CERTIFIED CHECK WHICH IS LOST, DESTROYED OR STOLEN, THE  
23 CLAIMANT MAY ASSERT RIGHTS WITH RESPECT TO THE CHECK EITHER UNDER THIS  
24 SECTION OR SECTION 47-3309.