

ASSEMBLY BILL

No. 2858

Introduced by Assembly Member Chu

February 19, 2016

An act to amend Section 4202 of the Commercial Code, relating to commercial transactions.

LEGISLATIVE COUNSEL'S DIGEST

AB 2858, as introduced, Chu. Bank deposits and collections.

Existing law requires a collecting bank, as defined, to exercise ordinary care when performing specific roles in a commercial banking transaction, and limits the liability of a collecting bank for the insolvency, neglect, misconduct, mistake, or default of another bank or person or for loss or destruction of an item in the possession of others or in transit, as specified.

This bill would make a nonsubstantive change to this provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 4202 of the Commercial Code is amended
- 2 to read:
- 3 4202. (a) A collecting bank shall exercise ordinary care in all
- 4 of the following:
- 5 (1) Presenting an item or sending it for presentment.
- 6 (2) Sending notice of dishonor or nonpayment or returning an
- 7 item other than a documentary draft to the bank's transferor after

1 learning that the item has not been paid or accepted, as the case
2 may be.

3 (3) Settling for an item when the bank receives final settlement.

4 (4) Notifying its transferor of any loss or delay in transit within
5 a reasonable time after discovery thereof.

6 (b) A collecting bank exercises ordinary care under subdivision
7 (a) by taking proper action before its midnight deadline following
8 receipt of an item, notice, or settlement. Taking proper action
9 within a reasonably longer time may constitute the exercise of
10 ordinary care, but the bank has the burden of establishing
11 timeliness.

12 (c) Subject to paragraph (1) of subdivision (a), a bank ~~is not~~
13 *shall not be* liable for the insolvency, neglect, misconduct, mistake,
14 or default of another bank or person or for loss or destruction of
15 an item in the possession of others or in transit.