



# HOUSE BILL 1060: Conform Full-payment Check Law to UCC.

2016-2017 General Assembly

<b>Committee:</b>	House Judiciary IV	<b>Date:</b>	June 2, 2016
<b>Introduced by:</b>	Rep. Bryan	<b>Prepared by:</b>	Nicholas Giddings
<b>Analysis of:</b>	First Edition		Committee Co-Counsel

**SUMMARY:** *House Bill 1060 would provide an option for claimants to repay monies received as full satisfaction of a claim within 90 days of receipt to maintain their claim against the debtor for full payment. This change was recommended by the General Statutes Commission and will allow for North Carolina to mirror the Uniform Commercial Code ("UCC").*

**CURRENT LAW:** G.S. 25-3-311 allows a debtor to settle an unliquidated debt or a debt disputed in good faith if they tender payment to the creditor with conspicuous language, either on the payment instrument or in an accompanying statement, noting the payment is in full satisfaction of the claim. If the creditor deposits the payment, the debt is discharged.

One exception to discharge is provided to organizations that can prove it sent a conspicuous statement to the debtor within a reasonable time before payment asserting that any debt disputes and full satisfaction payments must be sent to a designated person, office or place and that designated person, office or place did not receive the payment instrument or dispute communication.

**BILL ANALYSIS:** House Bill 1060 would rewrite G.S. 25-3-311(c) to include an additional exception to discharge in cases where the claimant, whether or not an organization, can prove that within 90 days of receipt of the satisfaction instrument, it tendered repayment of the monies back to the debtor. This exception would not apply to organizations that sent a statement to the debtor asserting that any full satisfaction payments or communications concerning disputed debts must be sent to a designated person, office or place and the debtor sent the instrument or communication to that designated entity.

This change will fully conform G.S. 25-3-311 to mirror the UCC. For additional information, see the General Statutes Commission's memo on House Bill 1060.

**EFFECTIVE DATE:** This act becomes effective October 1, 2016, and applies to negotiable instruments tendered in full satisfaction of a claim on or after that date.

**BACKGROUND:** The UCC is a model body of laws governing commercial transactions. As it is a model code, states are free to adopt, reject or modify the UCC language when enacting its own statutes.

In 1995, the North Carolina General Assembly adopted the current language of G.S. 25-3-311. In adopting the UCC language it deleted the 90-day repayment exception. The language was deleted at that time because of some opposition from individual legislators, at least one being unsympathetic to automated check processing; thus, as a compromise, the language was removed.

Karen Cochrane-Brown  
Director



Legislative Analysis  
Division  
919-733-2578