



## Existing Consumer Protections

Substitute checks will be subject to all of the consumer protections granted under existing check law:

- UCC Articles 3 and 4: A bank may only charge a properly payable check to a customer's account, and must resolve claims timely in order to limit liability
- Federal Reserve Board's Regulation CC

## Warranties and Indemnities Under Check 21

Check 21 also provides additional warranties and an indemnity protection. Under Check 21, a bank that transfers, presents or returns a substitute check would:

- Warrant that the substitute check meets legal equivalence requirements
- Warrant that payment will not be requested based on a check that has already been presented (no double debit)
- Indemnify substitute check recipients for a loss that is due to the receipt of a substitute check instead of the original check

### Q. What amount is indemnified?

A. The indemnity applies to any loss (up to the amount of the substitute check, interest and expenses) incurred by any recipient of a substitute check if that loss occurred due to the receipt of a substitute check instead of the original check. If the loss is due to a warranty breach, the indemnity could also include proximate caused damages.

### Q. Are there limitations on indemnification amounts?

A. The bank is only liable for losses up to when the original or copy is provided, and the bank is entitled to a return of any funds in excess of that amount.

### Q. Can the indemnifying bank recover damages from other parties?

A. Yes, the indemnifying bank can recover from other parties. The indemnified party must comply with all reasonable requests for assistance from an indemnifying bank. The comparative negligence provision reduces the indemnity in proportion to the amount of negligence or bad faith.

## Expedited Recredit Provisions

Check 21 also includes expedited recredit provisions for consumers who suffer a loss because of a substitute check. A consumer may file a claim for expedited recredit within 40 days of receipt of the relevant statement or substitute check if certain conditions apply. Under the legislation, every bank must distribute to its customers an informational brochure, including descriptions of the substitute check process and consumer recredit rights.

For additional legislative information, visit the Federal Reserve Board site at [http://www.federalreserve.gov/paymentsystems/check\\_about.html](http://www.federalreserve.gov/paymentsystems/check_about.html).

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