

Senate Engrossed

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

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

CHAPTER 66

# **SENATE BILL 1265**

AN ACT

AMENDING SECTIONS 9-249 AND 11-634, ARIZONA REVISED STATUTES; 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. Section 9-249, Arizona Revised Statutes, is amended to  
3 read:

4 9-249. Warrants, substitute checks and vouchers; presentment;  
5 payment; registry; definitions

6 A. The treasurer of a city or town shall not pay any warrant,  
7 substitute check or voucher unless presented for payment by the person in  
8 whose favor it is drawn or the person's assignee, executor or  
9 administrator. When a warrant, substitute check or voucher on the treasurer  
10 is properly presented for payment, the treasurer shall pay it and write or  
11 stamp on the face of it "paid" and the date of payment and shall sign it. AN  
12 ELECTRONIC IMAGE OF THE ORIGINAL WARRANT PROVIDED BY OR MADE AVAILABLE BY THE  
13 SERVICING BANK IN A FORMAT APPROVED BY THE TREASURER OF A CITY OR TOWN SHALL  
14 BE DEEMED PROPERLY PRESENTED. If the treasurer cannot pay the warrant,  
15 substitute check or voucher for want of funds, the treasurer shall write or  
16 stamp on the face of it "not paid for want of funds" and the date of  
17 presentation and shall sign it, and, from that date until paid, the warrant,  
18 substitute check or voucher shall bear interest at a rate to be determined by  
19 the council, but in no case to exceed six per cent per year. The city or  
20 town and the servicing bank shall agree upon the method of delivery of the  
21 warrant, substitute check or voucher.

22 B. The treasurer shall keep a registry of warrants, substitute checks  
23 and vouchers presented for payment.

24 C. For the purposes of this section ARTICLE:

25 1. "Substitute check" means a paper reproduction of an original  
26 warrant created from an electronic image of the original warrant that:

27 (a) Contains an image of the front and back of the original check.

28 (b) Bears a magnetic ink character recognition line containing all of  
29 the information in the magnetic ink character recognition line of the  
30 original check.

31 (c) Conforms in paper stock, dimension and otherwise with generally  
32 applicable industry standards for substitute checks.

33 (d) Is suitable for automated processing in the same manner as the  
34 original warrant.

35 2. "Warrant" means an original warrant or an electronic image of an  
36 original warrant from which a substitute check may be created.

37 Sec. 2. Section 11-634, Arizona Revised Statutes, is amended to read:

38 11-634. Payment of warrants and substitute checks; definitions

39 A. When the board of supervisors, the county superintendent of schools  
40 or a special district presents a warrant or substitute check for payment, the  
41 county treasurer shall pay it and make a charge against the appropriate  
42 account. AN ELECTRONIC IMAGE OF THE ORIGINAL WARRANT PROVIDED BY OR MADE  
43 AVAILABLE BY THE SERVICING BANK IN A FORMAT APPROVED BY THE COUNTY TREASURER  
44 SHALL BE DEEMED PROPERLY PRESENTED.

1 B. For the purposes of this section, "substitute check" and "warrant"  
2 have the same meanings prescribed in section 9-249.

3 Sec. 3. Title 47, chapter 3, article 3, Arizona Revised Statutes, is  
4 amended by adding section 47-3312, to read:

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

7 A. IN THIS SECTION:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (a) THE TIME THE CLAIM IS ASSERTED.

1 (b) THE NINETIETH DAY FOLLOWING THE DATE OF THE CHECK, IN THE CASE OF  
2 A CASHIER'S CHECK OR TELLER'S CHECK, OR THE NINETIETH DAY FOLLOWING THE DATE  
3 OF THE ACCEPTANCE, IN THE CASE OF A CERTIFIED CHECK.

4 2. UNTIL THE CLAIM BECOMES ENFORCEABLE, IT HAS NO LEGAL EFFECT AND THE  
5 OBLIGATED BANK MAY PAY THE CHECK OR, IN THE CASE OF A TELLER'S CHECK, MAY  
6 PERMIT THE DRAWEE TO PAY THE CHECK. PAYMENT TO A PERSON ENTITLED TO ENFORCE  
7 THE CHECK DISCHARGES ALL LIABILITY OF THE OBLIGATED BANK WITH RESPECT TO THE  
8 CHECK.

9 3. IF THE CLAIM BECOMES ENFORCEABLE BEFORE THE CHECK IS PRESENTED FOR  
10 PAYMENT, THE OBLIGATED BANK IS NOT OBLIGED TO PAY THE CHECK.

11 4. WHEN THE CLAIM BECOMES ENFORCEABLE, THE OBLIGATED BANK BECOMES  
12 OBLIGED TO PAY THE AMOUNT OF THE CHECK TO THE CLAIMANT IF PAYMENT OF THE  
13 CHECK HAS NOT BEEN MADE TO A PERSON ENTITLED TO ENFORCE THE CHECK. SUBJECT  
14 TO SECTION 47-4302, SUBSECTION A, PARAGRAPH 1, PAYMENT TO THE CLAIMANT  
15 DISCHARGES ALL LIABILITY OF THE OBLIGATED BANK WITH RESPECT TO THE CHECK.

16 D. IF THE OBLIGATED BANK PAYS THE AMOUNT OF A CHECK TO A CLAIMANT  
17 UNDER SUBSECTION C, PARAGRAPH 4 OF THIS SECTION AND THE CHECK IS PRESENTED  
18 FOR PAYMENT BY A PERSON HAVING RIGHTS OF A HOLDER IN DUE COURSE, THE CLAIMANT  
19 IS OBLIGED TO EITHER:

20 1. REFUND THE PAYMENT TO THE OBLIGATED BANK IF THE CHECK IS PAID.

21 2. PAY THE AMOUNT OF THE CHECK TO THE PERSON HAVING RIGHTS OF A HOLDER  
22 IN DUE COURSE IF THE CHECK IS DISHONORED.

23 E. IF A CLAIMANT HAS THE RIGHT TO ASSERT A CLAIM UNDER SUBSECTION B OF  
24 THIS SECTION AND IS ALSO A PERSON ENTITLED TO ENFORCE A CASHIER'S CHECK,  
25 TELLER'S CHECK OR CERTIFIED CHECK WHICH IS LOST, DESTROYED OR STOLEN, THE  
26 CLAIMANT MAY ASSERT RIGHTS WITH RESPECT TO THE CHECK EITHER UNDER THIS  
27 SECTION OR SECTION 47-3309.

APPROVED BY THE GOVERNOR JULY 10, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 10, 2009.

Passed the House June 26, 20 09,

by the following vote: 50 Ayes,

0 Nays, 10 Not Voting

[Signature]  
Speaker of the House  
Pro Tempore

[Signature]  
Chief Clerk of the House

Passed the Senate June 15, 20 09,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this  
1st day of July, 20 09

at 8:53 o'clock A. M.

[Signature]  
Secretary to the Governor

Approved this 10th day of

July, 20 09,

at 9:55 o'clock A. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this 10 day of July, 20 09,

at 12:30 o'clock P. M.

[Signature]  
Secretary of State

S.B. 1265