

obligated to comply with subparagraph (A) or (B).

**(2) Recredit does not abrogate other liabilities**

Providing a recredit under this subsection to a claimant bank with respect to a substitute check shall not absolve the indemnifying bank from liability for claims brought under any other law or from additional damages under section 5005 or 5009 of this title with respect to such check.

**(3) Refund to indemnifying bank**

If a claimant bank reverses, in accordance with section 5006(e) of this title, a recredit previously made to a consumer account under section 5006(c) of this title, or otherwise receives a credit or recredit with regard to such substitute check, the claimant bank shall promptly refund to any indemnifying bank any amount previously advanced by the indemnifying bank in connection with such substitute check.

**(d) Production of original check or a sufficient copy governed by section 5005(d)**

If the indemnifying bank provides the claimant bank with the original check or a copy of the original check (including an image or a substitute check) under subsection (c)(1)(A), section 5005(d) of this title shall govern any right of the indemnifying bank to any repayment of any funds the indemnifying bank has recredited to the claimant bank pursuant to subsection (c).

(Pub. L. 108–100, § 8, Oct. 28, 2003, 117 Stat. 1186.)

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Section effective at the end of the 12-month period beginning on Oct. 28, 2003, see section 20 of Pub. L. 108–100, set out as a note under section 5001 of this title.

**§ 5008. Delays in an emergency**

A delay by a bank beyond the time limits prescribed or permitted by this chapter shall be excused if the delay is caused by interruption of communication or computer facilities, suspension of payments by another bank, war, emergency conditions, failure of equipment, or other circumstances beyond the control of a bank and if the bank uses such diligence as the circumstances require.

(Pub. L. 108–100, § 9, Oct. 28, 2003, 117 Stat. 1188.)

**Editorial Notes**

**REFERENCES IN TEXT**

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 108–100, Oct. 28, 2003, 117 Stat. 1177, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5001 of this title and Tables.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Section effective at the end of the 12-month period beginning on Oct. 28, 2003, see section 20 of Pub. L. 108–100, set out as a note under section 5001 of this title.

**§ 5009. Measure of damages**

**(a) Liability**

**(1) In general**

Except as provided in section 5005 of this title, any person who, in connection with a substitute check, breaches any warranty under this chapter or fails to comply with any requirement imposed by, or regulation prescribed pursuant to, this chapter with respect to any other person shall be liable to such person in an amount equal to the sum of—

(A) the lesser of—

(i) the amount of the loss suffered by the other person as a result of the breach or failure; or

(ii) the amount of the substitute check; and

(B) interest and expenses (including costs and reasonable attorney’s fees and other expenses of representation) related to the substitute check.

**(2) Offset of recredits**

The amount of damages any person receives under paragraph (1), if any, shall be reduced by the amount, if any, that the claimant receives and retains as a recredit under section 5006 or 5007 of this title.

**(b) Comparative negligence**

**(1) In general**

If a person incurs damages that resulted in whole or in part from the negligence or failure of that person to act in good faith, then the amount of any liability due to that person under subsection (a) shall be reduced in proportion to the amount of negligence or bad faith attributable to that person.

**(2) Rule of construction**

Nothing in this subsection reduces the rights of a consumer or any other person under the Uniform Commercial Code or other applicable provision of Federal or State law.

(Pub. L. 108–100, § 10, Oct. 28, 2003, 117 Stat. 1188.)

**Editorial Notes**

**REFERENCES IN TEXT**

This chapter, referred to in subsec. (a)(1), was in the original “this Act”, meaning Pub. L. 108–100, Oct. 28, 2003, 117 Stat. 1177, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5001 of this title and Tables.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Section effective at the end of the 12-month period beginning on Oct. 28, 2003, see section 20 of Pub. L. 108–100, set out as a note under section 5001 of this title.

**§ 5010. Statute of limitations and notice of claim**

**(a) Actions under this chapter**

**(1) In general**

An action to enforce a claim under this chapter may be brought in any United States district court, or in any other court of competent jurisdiction, before the end of the 1-