

Five days after date (or after sight) pay to John Doe, or order,
Fifty Dollars, value received.

To John Jones

Richard Roe

Draft payable at sight or at a certain date after sight, or at any other date not fixed, must be presented to the drawee for acceptance in order that the date for payment shall be determined. This is called "presentment for acceptance."

Checks are simply drafts drawn on a deposit of funds in a bank.

The person making the draft or checks is the **drawer** (Richard Roe); the one upon whom it is drawn, the **drawee** (John Jones), or in the case of a check, the bank, who if they accept it, are the **acceptor**.

Promissory Note: A promissory note that is negotiable is an unconditional promise in writing by the maker that he will pay, on demand, or on a specified date a sum of money to the bearer, or order.

Example:
\$50.00

Middletown, Ohio
Hamilton, Ohio

Ninety days after date, I promise to pay John Black or order, Fifty Dollars, value received.

Richard Roe

The signer of the note is called the **maker** (Richard Roe); the person to whom it is payable, the **payee** (John Black). If John Black assigns his interest in the note, he signs his name on the back and becomes an **indorser**, and the person to whom he assigns it, the **indorsee**.

Under Ohio law, when the holder of a bill of exchange or note presents it properly to the Maker, Drawer or Acceptor on the day it falls due, and the payment is refused, the instrument is said to be "dishonored." In order to get payment, then, from the Drawer or Indorser, a "notice of dishonor" must be given to the Drawer or Indorser.

The reason for the "notice of dishonor" is that the contract made by the Drawer and Indorser holds him liable only if payment or acceptance is refused after presentment for payment, and only if he receives notice of the dishonor. This notice may be given by the holder of the bill or note, or by someone in his behalf, (for instance, a Notary Public). It may be oral, or in writing, and may be given personally or by mail. If the notice or dishonor is not received by the Drawer or Indorser within one day after the dishonor (if residing in the same place as the Notary Public) he is discharged from all liability on the instrument.

The contract of the Maker and Acceptor is different. It holds them liable even if the bill or note is not presented for payment on the day after it falls due. (A drawee is never liable until he has accepted the bill). In addition to the notice of dishonor, if the instrument were made outside of Ohio, a "protest" of the non-acceptance or non-payment must be made on the day of the dishonor.

PROTEST

A notarial protest is a solemn declaration under the hand and seal of a Notary Public stating that he, at a certain time, presented the bill or note for payment or acceptance, that it was refused and that the notice of the dishonor was given to the Drawers or Indorsers. Its purpose is merely to furnish formal evidence of the dishonor of a bill or note by showing that all the necessary requisites have been complied with to hold the Drawers and Indorsers liable on the instrument. It is received in Court as prima facie evidence of the facts stated therein.

The usual procedure in protests of negotiable instruments is thus: (1) the holder, or one authorized by him, presents the instrument for acceptance of payment and is refused, (2) he gives the instrument to a notary, who again formally makes demand for its payment or acceptance, (3) if payment or acceptance is again refused, the notary gives notice of the dishonor to the Drawers and Indorsers immediately, and (4) fills out the formal Certificate of Protest (a form which may be obtained at any legal stationers) and attaches the bill or note to it. He then records a copy of the Certificate of Protest and the instrument in his official register.

Since the use of a Certificate of Protest is much easier than obtaining evidence of dishonor, the Courts allow a protest form to be used also in cases involving Ohio negotiable instruments. This is allowed, but is not required, as in the case of foreign instruments.

It is impossible in this small guidebook to cover all the statutes dealing with the protests of negotiable instruments. The law describes what constitutes proper presentment, protest, and notice of dishonor. When a notary is called upon to protest a negotiable instrument, it is suggested that he acquaint himself with the statutes that are applicable.

CHANGE OF NAME

If, by marriage or otherwise, a notary changes his or her name, he or she may use the new name, but must indicate the name in which the commission was issued in parenthesis after it. **Example:** Mary Roe married John Doe. She would sign Mary Doe (Roe).

AUTHENTICATION

When payers are to be used outside of the State, an authentication is usually required. This is merely a declaration by the Clerk of Common Pleas Court that the notary is properly commissioned under law at the time of notarizing the instrument. The authentication is forwarded with the papers to the foreign jurisdiction.

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