

§5-1109. Fraud and forgery

(1). If a presentation is made that appears on its face strictly to comply with the terms and conditions of the letter of credit, but a required document is forged or materially fraudulent, or honor of the presentation would facilitate a material fraud by the beneficiary on the issuer or applicant:

(a). The issuer shall honor the presentation, if honor is demanded by:

(i) A nominated person who has given value in good faith and without notice of forgery or material fraud;

(ii) A confirmer who has honored its confirmation in good faith;

(iii) A holder in due course of a draft drawn under the letter of credit that was taken after acceptance by the issuer or nominated person; or

(iv) An assignee of the issuer's or nominated person's deferred obligation that was taken for value and without notice of forgery or material fraud after the obligation was incurred by the issuer or nominated person; and [PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]

(b). The issuer, acting in good faith, may honor or dishonor the presentation in any other case. [PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]
[PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]

(2). If an applicant claims that a required document is forged or materially fraudulent or that honor of the presentation would facilitate a material fraud by the beneficiary on the issuer or applicant, a court of competent jurisdiction may temporarily or permanently enjoin the issuer from honoring a presentation or grant similar relief against the issuer or other persons only if the court finds that:

(a). The relief is not prohibited under the law applicable to an accepted draft or deferred obligation incurred by the issuer; [PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]

(b). A beneficiary, issuer or nominated person who may be adversely affected is adequately protected against loss that it may suffer because the relief is granted; [PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]

(c). All of the conditions to entitle a person to the relief under the law of this State have been met; and [PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]

(d). on the basis of the information submitted to the court, the applicant is more likely than not to succeed under its claim of forgery or material fraud and the person demanding honor does not qualify for protection under subsection (1), paragraph (a). [PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]

[PL 1997, c. 429, Pt. A, §2 (NEW); PL 1997, c. 429, Pt. A, §4 (AFF).]

SECTION HISTORY

PL 1997, c. 429, §A2 (NEW). PL 1997, c. 429, §A4 (AFF).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the First Regular and First Special Session of the 131st Maine Legislature and is current through November 1, 2023. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.