

Chapter 26—Form and Content

Negotiable instruments—refers to checks, promissory notes, drafts, and certificates of deposit. In today's business world, the use of negotiable instruments has grown to such a degree that the number of payments made with negotiable instruments far outnumber those made with cash.

C. Formal Requirements of Negotiable Instruments

Because negotiability is a matter of form not all negotiable instruments will qualify for this special status. The four corners rule requires that the instrument contain all the elements of negotiability within the document itself. Reference to other documents is not permitted. If the paper is non-negotiable, the law of assignment applies to the transfers.

Unconditional

A promise or order to pay is unconditional if it is absolute and not subject to any contingencies or qualifications.

**Reference to other agreements—
destroys negotiability if the instrument
is made subject to the terms of another
agreement, but not if another
instrument is merely mentioned.**

**Particular fund doctrine—prior article 3
considered a promise to pay only out
of a particular fund nonnegotiable, but
revised article 3 reverses this.**

Be payable to order or bearer—words of negotiability must be present on the face of the instrument (not in an endorsement) at the time it is first issued or when it comes into the possession of the bearer. The magic words of negotiability typically are “to the order of” or “to bearer” although other words that carry the same meaning may also fulfill this requirement.

Revised article 3 allows checks that meet all requirements except this one to still be considered negotiable. Revised article 3 further disallows use of the word “assigns.”