Chapter 28—Holder in Due Course

A. Requirements of a Holder in Due Course

A holder in due course must

1. **be a holder of a negotiable instrument**
2. **take it for value**
3. **take it in good faith**
4. **take it without notice that it is overdue or dishonored, or that the instrument contains an unauthorized signature or an alteration, or that any person has any defense against or claim to it;**
5. **and take it without reason to question its authenticity due to apparent evidence of forgery, alteration, incompleteness, or other irregularity**

Value, for purposes of negotiable instruments, is defined as

1. **the actual performing of the agreed promise**
2. **the acquiring of a security interest or a lien in the instrument, other than a judicial lien**
3. **the taking of the instrument in payment of or as security for an antecedent debt**
4. **the giving of a negotiable instrument; or**
5. **the giving of an irrevocable obligation to a third party**

B. Holder in Due Course Status

A Payee May Be a Holder in Due Course

A payee may become a holder in due course if she satisfies all of the requirements. Nevertheless, the holder in due course doctrine will not provide a payee with the benefits of a holder in due course where the issuer and the payee are the only parties to the instrument.

D. Limitations Upon Holder in Due Course Rights

The FTC promulgated a rule affecting consumer credit contracts that undercuts much of the protection afforded a holder in due course. In such contracts a provision must be included that warns any holder that she takes the instrument subject to all claims or defenses, whether real or personal, that the consumer could assert against the seller.

The rule is intended to prevent consumer purchase transactions from being financed in such a manner that the purchaser is legally obligated to a third party for the full payment price, even though the dealer from whom the purchaser bought the goods committed fraud or the goods sold were defective.