**Section 760.780 Evidence of Unpaid Debt or Undischarged Obligation**

a) *A record of a* person subject to examination *showing an unpaid debt or undischarged obligation is prima facie evidence of the debt or obligation*. [765 ILCS 1026/15-1005(a)]

b) A person subject to examination *may establish by a preponderance of the evidence that there is no unpaid debt or undischarged obligation for a debt or obligation or that the debt or obligation was not, or no longer is, a fixed and certain obligation of the* person subject to examination. [765 ILCS 1026/15-1005(b)] Thus, the prima facie evidence may be rebutted by the person subject to examination.

c) A person subject to examination *may overcome prima facie evidence by establishing by a preponderance of the evidence that a check, draft, or similar instrument was:*

1) *issued as an unaccepted offer in settlement of an unliquidated amount;*

2) *issued but later was replaced with another instrument because the earlier instrument was lost or contained an error that was corrected;*

3) *issued to a party affiliated with the issuer;*

4) *paid, satisfied, or discharged;*

5) *issued in error;*

6) *issued without consideration;*

7) *issued but there was a failure of consideration;*

8) *voided not later than 90 days after issuance for a valid business reason set forth in a contemporaneous record;*

A) for purposes of this provision "valid business reason" does not include a policy of voiding outstanding checks, drafts, or similar instruments after a specified number of days;

B) a policy of automatically voiding would be tantamount to a private escheat law in violation of longstanding public policy in Illinois (see People ex rel. Callahan v. Marshall Field & Co., 83 Ill. App. 3d 811, 818, 404 N.E.2d 368, 374 (1980));

C) this defense merely indicates that when a check, draft, or similar instrument is voided quickly, for a valid business reason (i.e., not as a private escheat law), and the reason is indicated in a contemporaneous record, there is sufficient evidence to overcome the prima facie evidence of the existence of a debt or obligation; or

9) *issued but not delivered to the third-party payee for a sufficient reason recorded within a reasonable time after issuance.* [765 ILCS 1026/15-1005(c)]

d) *In asserting a defense under this Section, and subject to the records retention requirements of the* Act*, a putative holder may present evidence of a course of dealing between the putative holder and the apparent owner.* [765 ILCS 1026/15-1005(d)]