



## Ohio Revised Code

### Section 1304.03 Variation by agreement - measure of damages - action constituting ordinary care - UCC 4-103.

Effective: August 19, 1994

Legislation: Senate Bill 147 - 120th General Assembly

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(A) The effect of the provisions of this chapter may be varied by agreement, but the parties to the agreement cannot disclaim a bank's responsibility for its lack of good faith or failure to exercise ordinary care or limit the measure of damages for the lack or failure. However, the parties may determine by agreement the standards by which the bank's responsibility is to be measured if those standards are not manifestly unreasonable.

(B) Federal Reserve regulations and operating circulars, clearing house rules, and similar regulations, documents, and rules have the effect of agreements under division (A) of this section, whether or not specifically assented to by all parties interested in items handled.

(C) Action or non-action approved by sections 1304.01 to 1304.40 of the Revised Code or pursuant to Federal Reserve regulations or operating circulars is the exercise of ordinary care, and, in the absence of special instructions, action or non-action consistent with clearing house rules and similar rules or with a general banking usage not disapproved by sections 1304.01 to 1304.40 of the Revised Code is prima facie the exercise of ordinary care.

(D) The specification or approval of certain procedures by sections 1304.01 to 1304.40 of the Revised Code is not disapproval of other procedures that may be reasonable under the circumstances.

(E) The measure of damages for failure to exercise ordinary care in handling an item is the amount of the item reduced by an amount that could not have been realized by the exercise of ordinary care. If there also is bad faith, the measure of damages includes any other damages the party suffered as a proximate consequence.

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