

(B) IN A LICENSE OTHER THAN IN A MASS-MARKET TRANSACTION, IF THE AGREEMENT REQUIRED A SINGLE DELIVERY OF A COPY AND THE PARTY RECEIVING TENDER OF DELIVERY WAS REQUIRED TO ACCEPT A NONCONFORMING COPY BECAUSE THE NONCONFORMITY WAS NOT A MATERIAL BREACH OF CONTRACT, THE PARTY IN BREACH SHALL PROMPTLY AND IN GOOD FAITH MAKE AN EFFORT TO CURE IF:

(1) THE PARTY IN BREACH RECEIVES SEASONABLE NOTICE OF THE SPECIFIC NONCONFORMITY AND A DEMAND FOR CURE OF IT; AND

(2) THE COST OF THE EFFORT TO CURE DOES NOT DISPROPORTIONATELY EXCEED THE DIRECT DAMAGES CAUSED BY THE NONCONFORMITY TO THE AGGRIEVED PARTY.

(C) A PARTY MAY NOT CANCEL A CONTRACT OR REFUSE A PERFORMANCE BECAUSE OF A BREACH OF CONTRACT THAT HAS BEEN SEASONABLY CURED UNDER SUBSECTION (A) OF THIS SECTION. HOWEVER, NOTICE OF INTENT TO CURE DOES NOT PRECLUDE REFUSAL OR CANCELLATION FOR THE UNCURED BREACH.

DEFECTIVE COPIES.

21-704. COPY: REFUSAL OF DEFECTIVE TENDER.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION AND § 21-705 OF THIS SUBTITLE, TENDER OF A COPY THAT IS A MATERIAL BREACH OF CONTRACT PERMITS THE PARTY TO WHICH TENDER IS MADE TO:

- (1) REFUSE THE TENDER;
- (2) ACCEPT THE TENDER; OR
- (3) ACCEPT ANY COMMERCIALY REASONABLE UNITS AND REFUSE THE REST.

(B) IN A MASS-MARKET TRANSACTION THAT CALLS FOR ONLY A SINGLE TENDER OF A COPY, A LICENSEE MAY REFUSE THE TENDER IF THE TENDER DOES NOT CONFORM TO THE CONTRACT.

(C) REFUSAL OF A TENDER IS INEFFECTIVE UNLESS:

- (1) IT IS MADE BEFORE ACCEPTANCE;
- (2) IT IS MADE WITHIN A REASONABLE TIME AFTER TENDER OR COMPLETION OF ANY PERMITTED EFFORT TO CURE; AND
- (3) THE REFUSING PARTY SEASONABLY NOTIFIES THE TENDERING PARTY OF THE REFUSAL.

(D) EXCEPT IN A CASE GOVERNED BY SUBSECTION (B) OF THIS SECTION, A PARTY THAT RIGHTFULLY REFUSES TENDER OF A COPY MAY CANCEL THE CONTRACT ONLY IF THE TENDER WAS A MATERIAL BREACH OF THE WHOLE CONTRACT OR THE AGREEMENT SO PROVIDES.