

SENATE BILL REPORT

SHB 1115

As of March 15, 2013

Title: An act relating to the Uniform Commercial code.

Brief Description: Concerning the Uniform Commercial code.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Pedersen and Rodne; by request of Uniform Laws Commission).

Brief History: Passed House: 2/25/13, 92-0.

Committee Activity: Law & Justice: 3/15/13.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Jessica Stevenson (786-7465)

Background: The Uniform Commercial Code (UCC), organized into 11 articles, is a model code drafted by the National Conference of Commissioners on Uniform State Laws (NCCUSL) for the purpose of providing a consistent and integrated framework of rules for commercial transactions. All 50 states have adopted the UCC.

Article 4A of the UCC governs funds transfers by establishing the rights and responsibilities of the parties to a funds transfer.

The federal Electronic Fund Transfer Act (EFTA) provides consumer protections to consumers engaging in electronic funds transfers. The EFTA applies to remittance transfers, which are electronic transfers of funds requested by a consumer in the United States to a recipient in a foreign country that is made by any person or financial institution that provides consumer remittance transfers in the normal course of business.

The EFTA governs a remittance transfer, even if the remittance transfer is not an electronic fund transfer under the EFTA. The UCC Article 4A-108 provides that Article 4A does not apply to a funds transfer, any part of which is governed by the EFTA.

The American Law Institute and NCCUSL recently approved revisions to Article 4A to ensure that Article 4A will apply to a funds transfer that is a remittance transfer, so long as the transfer does not also meet the definition of electronic fund transfer under the EFTA.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Article 9A of the UCC governs the creation and operation of security interests in various types of personal property and fixtures. Article 9A provides methods of creating and filing a security interest and the manner in which a security interest may be perfected. Perfection of a security interest allows a secured creditor to obtain priority over other creditors who have a security interest in the same collateral. Perfection can be achieved by filing a financing statement that indicates the debtor, the secured party, and the property subject to the security interest.

Article 9A was revised in 2011 to incorporate Article 9 amendments adopted by NCCUSL. The 2011 revision addressed the standards for the sufficiency of a debtor's name on a financing statement. NCCUSL provided states with two options, Alternate A and Alternate B, for identifying the name of an individual debtor on a financing statement.

Washington adopted Alternate B, which provides that, with respect to an individual, the name of the debtor is sufficient if the financing statement provides the individual name of the debtor, the surname and first personal name of the debtor, or the name of the individual indicated on an unexpired Washington driver's license or identification card. In contrast, Alternate A requires that an individual debtor be identified by the name on the debtor's valid driver's license or identification card.

Summary of Bill: Article 4A applies to a funds transfer that is a remittance transfer under the EFTA unless the remittance transfer is an electronic fund transfer under the EFTA. The EFTA controls in the case of an inconsistency between an applicable provision of Article 4A and the EFTA.

Various technical corrections are made to Article 4A to correct drafting errors and inconsistencies with the uniform act created when Article 4A was originally enacted. Provisions of Article 4A are renumbered to be consistent with the numbering system used in the uniform act.

Article 9A is amended to alter the acceptable methods for indicating the name of a debtor who is an individual on a financing statement. A financing statement sufficiently provides the name of an individual debtor if it provides the name indicated on the individual's valid driver's license or identification card. If the individual does not have a valid driver's license or identification card, the financing statement is sufficient if it provides the individual name of the debtor or the surname and first personal name of the debtor.

With respect to the effectiveness of a recorded mortgage filed as a fixture filing or a financing statement covering as-extracted collateral or timber to be cut, the record sufficiently provides the name of an individual debtor if it provides the individual name of the debtor or the surname and first personal name of the debtor.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The changes to Article 4A should be uncontroversial since they make Article 4A conform with changes made to EFTA. Washington had previously adopted Alternate B, but this is not the alternate that most states chose. Thus, the amendments to Article 9A are appropriate so Washington law aligns with the laws for financing statements in other states.

Persons Testifying: PRO: Representative Pedersen, prime sponsor.