



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

Appendix A

LRB BILL HISTORY RESEARCH APPENDIX

 The drafting file for

2011 LRB-4351 (For: LRB)

has been transferred to the drafting file for

2013 LRB-0219 (For: Rep. Vos)



RESEARCH APPENDIX - **PLEASE KEEP WITH THE DRAFTING FILE**

Date Transfer Requested: 10/08/2012 (Per: ARG)

 The attached draft was incorporated into the new draft listed above. For research purposes the attached materials were added, as a appendix, to the new drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

2011 DRAFTING REQUEST

Bill

Received: 07/18/2012

Received By: agary

Wanted: As time permits

Companion to LRB:

For: Legislative Reference Bureau

By/Representing: RAC/self

May Contact:

Drafter: agary

Subject: Fin. Inst. - UCC

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Aaron.Gary@legis.wisconsin.gov

Carbon copy (CC:) to: Rick.Champagne@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

UCC article 4A (chapter 410), funds transfers; remittance transfers

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	agary 07/24/2012	kfollett 07/25/2012		_____			
/1			phenry 07/25/2012	_____	sbasford 07/25/2012		
/2	agary 08/14/2012	kfollett 08/15/2012	phenry 08/20/2012	_____	sbasford 08/20/2012		

LRB-4351

08/20/2012 11:33:29 AM

Page 2

FE Sent For:

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/? /P1	agary 07/24/2012	kfollett 07/25/2012	<i>[Signature]</i> ph	<i>[Signature]</i> ph/jm			
/1		<i>[Signature]</i> 8/15	pherry 07/25/2012		sbasford 07/25/2012		

FE Sent For:

<END>

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Bill

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UCC article 4A (chapter 410), funds transfers; remittance transfers

Instructions:

See attached

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FE Sent For:

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Amendment to UCC Article 4A

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Need for Prompt Enactment in 2013

Preemptive federal regulations for remittance transfers will become effective in February 2013. The delayed implementation was given to provide NCCUSL and/or interested parties time to make changes that would permit wholesale (commercial) remittance transfers to continue to be covered by UCC 4A. The federal regulation is intended to cover primarily consumer overseas remittances.

The amendment maintains the coverage of UCC 4A for commercial wire transfers, while consumer remittance transfers will be covered by the federal rules. Without enactment of the amendment, neither the federal rule nor UCC 4A will apply to commercial remittance transfers. The result would be no statutory rules for overseas commercial remittance transfers that are typically in large dollar amounts.

The Impact of Federal Law and Regulations

The Dodd-Frank Wall Street Reform and Consumer Protection Act is an amendment to the federal Electronic Funds Transfer Act (EFTA) that will have an important impact on the scope of Article 4A of the Uniform Commercial Code. The implementing regulations were published in the Federal Register in November 2011, with a delayed effective date of the rules to February 2013. The impact could result in legal uncertainty for a class of transactions currently governed by Article 4A unless Section 4A-108 is amended.

The Permanent Editorial Board for the Uniform Commercial Code has recommended an amendment to §4A-108 and its comments. A bill supported by the N.Y. Clearing House embodying the amendment is proceeding in N.Y., and Federal Reserve Regulation J has been amended for Fedwire to adapt the amendment for that law. Both the ALI and the ULC have approved the amendment.

UCC Article 4A was originally drafted to govern transfers between commercial parties. At the time of drafting, the Electronic Funds Transfer Act governed consumer wire transfers. UCC §4A-108 was drafted to read that if any part of a funds transfers was subject to the federal act, that it would not be subject to Article 4A. When the amendment to EFTA goes into effect 2013, EFTA will govern "remittance transfers", whether or not those remittance transfers are also "electronic fund transfers" as defined in EFTA. Thus, when the amendment and its implementing regulation go into effect, the result of UCC §4A-108 in its present form will be that a fund transfer initiated by a remittance transfer will be entirely outside the coverage of Article 4A, even if the remittance transfer is not an electronic fund transfer, so that a number of important issues in those remittance transfers will be governed neither by Article 4A or the EFTA.

The proposed amendment revises UCC §4A-108 to provide that Article 4A does apply to a remittance transfer that is not an electronic funds transfer under the EFTA. The amendment then restates the rule of the supremacy clause that the federal statute will control in the case of any conflict between UCC Article 4A and the EFTA.

Sec. 4A-108. Exclusion of Consumer Transactions Governed by Federal Law Relationship to Electronic Fund Transfer Act.

(a) Except as provided in subsection (b), this Article does not apply to a funds transfer any part of which is governed by the Electronic Fund Transfer Act of 1978 (Title XX, Public Law 95-630, 92 Stat. 3728, 15 U.S.C. Sec. 1693 et. seq.) as amended from time to time.

(b) This Article applies to a funds transfer that is a remittance transfer as defined in the Electronic Fund Transfer Act (15 U.S.C. Sec. 1693o-1) as amended from time to time, unless the remittance transfer is an electronic fund transfer as defined in the Electronic Fund Transfer Act (15 U.S.C. Sec. 1693a) as amended from time to time.

(c) In a funds transfer to which this Article applies, in the event of an inconsistency between an applicable provision of this Article and an applicable provision of the Electronic Fund Transfer Act, the provision of the Electronic Fund Transfer Act governs to the extent of the inconsistency.

Official Comment

~~The Electronic Fund Transfer Act of 1978 is a federal statute that covers a wide variety of electronic funds transfers involving consumers. The types of transfers covered by the federal statute are essentially different from the wholesale wire transfers that are the primary focus of Article 4A. Section 4A-108 excludes a funds transfer from Article 4A if any part of the transfer is covered by the federal law. Existing procedures designed to comply with federal law will not be affected by Article 4A. The effect of Section 4A-108 is to make Article 4A and EFTA mutually exclusive. For example, if a funds transfer is to a consumer account in the beneficiary's bank and the funds transfer is made in part by use of Fedwire and in part by means of an automated clearing house, EFTA applies to the ACH part of the transfer but not to the Fedwire part. Under Section 4A-108, Article 4A does not apply to any part of the transfer. However, in the absence of any law to govern the part of the funds transfer that is not subject to EFTA, a court might apply appropriate principles from Article 4A by analogy.~~

Substitute this new comment for the old that is reproduced above, for ease of reading the new comment is not underlined.

1. The Electronic Fund Transfer Act (EFTA), implemented by Regulation E, 12 C.F.R. Part 1005, is a federal statute that covers aspects of electronic fund transfers involving consumers. EFTA also governs remittance transfers, defined in 15 U.S.C. Sec. 1693o-1, which involve transfers of funds through electronic means by consumers to recipients in another country through persons or financial institutions that provide such transfers in the normal course of their business. Not all "remittance transfers" as defined in EFTA, however, qualify as "electronic fund transfers" as defined under the EFTA, 15 U.S.C. Sec. 1693a(7). While Section 4A-108(a) broadly states that Article 4A does not apply to any funds transfer that is governed in any part by

EFTA, subsection (b) provides an exception. The purpose of Section 4A-108(b) is to allow this Article to apply to a funds transfer as defined in Section 4A-104(a) (see Section 4A-102) that also is a remittance transfer as defined in EFTA, so long as that remittance transfer is not an electronic fund transfer as defined in EFTA. If the resulting application of this Article to an EFTA-defined "remittance transfer" that is not an EFTA-defined "electronic fund transfer" creates an inconsistency between an applicable provision of this Article and an applicable provision of EFTA, as a matter of federal supremacy, the provision of EFTA governs to the extent of the inconsistency. Section 4A-108(c). Of course, applicable choice of law principles or enforceable choice of law provisions in an applicable agreement will also affect whether Article 4A will apply to all or part of any funds transfer, including a remittance transfer. See Section 4A-507. The following examples assume that choice of law principles or an enforceable choice of law provision will lead a court to examine the applicability of Article 4A to the funds transfer.

2. The following examples illustrate the relationship between EFTA and this Article pursuant to Section 4A-108.

Example 1. A commercial customer of Bank A sends a payment order to Bank A, instructing Bank A to transfer funds from its account at Bank A to the account of a consumer at Bank B. The funds transfer is executed by a payment order from Bank A to an intermediary bank and is executed by the intermediary bank by means of a clearinghouse credit entry to the consumer's account at Bank B (the beneficiary's bank). The transfer into the consumer's account is an electronic fund transfer as defined in 15 U.S.C. Sec. 1693a(7). Pursuant to Section 4A-108(a), Article 4A does not apply to any part of the funds transfer because EFTA governs part of the funds transfer. The funds transfer is not a remittance transfer as defined in 15 U.S.C. Sec. 1693o-1 because the originator is not a consumer customer. Thus Section 4A-108(b) does not apply.

A court might, however, apply appropriate principles from Article 4A by analogy in analyzing any part of the funds transfer that is not subject to the provisions of EFTA or other law, such as the obligation of the intermediary bank to execute the payment order of the originator's bank.

Example 2. A consumer originates a payment order that is a remittance transfer as defined in 15 U.S.C. Sec. 1693o-1 by providing the remittance transfer provider (Bank A) with cash in the amount of the transfer plus any relevant fees. The funds transfer is routed through an intermediary bank for final credit to the designated recipient's account at Bank B. Bank A's payment order identifies the designated recipient by both name and account number in Bank B, but the name and number provided identify different persons. This remittance transfer is not an electronic fund transfer as defined in 15 U.S.C. Sec. 1693a(7) because it is not initiated by electronic means from a consumer's account, but does qualify as a funds transfer as defined in Section 4A-104. Both Article 4A and EFTA apply to the funds transfer. Sections 4A-102, 4A-108(a), (b). Article 4A's provision on mistakes in identifying the designated beneficiary, Section 4A-207, would apply as long as not inconsistent with the governing EFTA provisions. Section 4A-108(c).

Example 3. A consumer originates a payment order from the consumer's account at Bank A to the designated recipient's account at Bank B located outside the United States. Bank A uses the CHIPS system to execute that payment order. The funds transfer is a remittance transfer as defined in 15 U.S.C. Sec. 1693o-1. This transfer is not an electronic fund transfer as defined in 15 U.S.C. Sec. 1693a(7) because of the exclusion for such types of transfers in 15 U.S.C. Sec. 1693a(7)(B), but qualifies as a funds transfer as defined in Section 4A-104. Under Sections 4A-

102 and 4A-108(b), both Article 4A and EFTA apply to the funds transfer. The EFTA will prevail to the extent of any inconsistency between EFTA and Article 4A. Section 4A-108(c). For example, suppose the consumer subsequently exercised the right to cancel the remittance transfer under the right given under EFTA and obtain a refund. Bank A would be required to comply with the EFTA rule concerning cancellation even if Article 4A prevents Bank A from cancelling or reversing its payment order it sent to its receiving bank. Section 4A-211.

Example 4. A person fraudulently originates an unauthorized payment order from a consumer's account through use of an online banking interface. This transaction is an electronic fund transfer as defined in 15 U.S.C. Sec. 1693a(7) and would be governed by EFTA and not Article 4A. Section 4A-108(a). Whether the funds transfer also qualifies as a remittance transfer under 15 U.S.C. Sec. 1693o-1 does not matter to the application of Article 4A.

Example 5. A person fraudulently originates an unauthorized payment order from a consumer's account at Bank A through forging written documents that are provided in person to an employee of Bank A. This funds transfer is not an electronic fund transfer as defined in 15 U.S.C. Sec. 1693a(7) because the fund transfer from the consumer's account is not initiated by electronic means, but the funds transfer qualifies as a funds transfer as defined in Section 4A-104. Article 4A will apply to this funds transfer regardless of whether the funds transfer also qualifies as a remittance transfer under 15 U.S.C. Sec. 1693o-1. If the funds transfer is not a remittance transfer, the provisions of Section 4A-108 are not implicated because the funds transfer does not fall under EFTA, and the general scope provision of Article 4A governs. Section 4A-102. If the funds transfer is a remittance transfer, and thus governed by EFTA, Section 4A-108(b) provides that Article 4A also applies. The provisions of Article 4A will allocate the loss arising from the unauthorized payment order as long as those provisions are not inconsistent with the provisions of the EFTA applicable to remittance transfers. Section 4A-108(c).

3. Regulation J, 12 C.F.R. Part 210, of the Federal Reserve Board addresses the application of that regulation and EFTA to fund transfers made through Fedwire. Fedwire transfers are further described in Official Comments 1 and 2 to Section 4A-107. In addition, funds transfer system rules may be applicable pursuant to Section 4A-501.

Legislative Note

In some states deference to possibly changing federal law, as in "the Electronic Fund Transfer Act of 1978 as amended from time to time," may constitute an unlawful delegation of legislative power, or the issue may be unresolved. In such instances, the references to "as amended from time to time" may be deleted. In these cases, if the federal law is changed, the legislature will have to amend the state law as necessary or, if permitted by state law, power may be delegated to a state agency to amend the statute by appropriate means.

**MINUTES OF THE EXECUTIVE COMMITTEE OF THE
UNIFORM LAW COMMISSION**

Tuesday, June 5, 2012

Conference Call

Harriet Lansing, Chair of the Executive Committee, called the meeting to order on June 5, 2012, at 3:00 p.m. central time. The following members of the Committee were present: Rex Blackburn, Vice President; Thomas J. Buiteweg; Richard T. Cassidy, Chair of the Scope and Program Committee; Steve Frost; Dale G. Higer; Michael Houghton, President; Anita Ramasastry, Secretary; Terry J. Care, Chair, Legislative Committee; Robert A. Stein, Immediate Past President; and Charles A. Trost, Treasurer. Commissioners Fred H. Miller and Carlyle C. Ring were also present for the consideration of the first agenda item. The following ULC staff members attended the call: John A. Sebert, Executive Director; J. Elizabeth Cotton-Murphy, Chief Administrative Officer; and Katie Robinson, Deputy Legislative Director / Communications Officer.

I. Proposed Revisions to UCC Section 4A-108 and its Comments, for approval under Section 4.3(b)(3) of the ULC Constitution

Harriet Lansing noted that the proposed revision to UCC Section 4A-108 was approved by the ALI Council and by the ALI membership on May 22, 2012.

Fred Miller reported that among the changes brought about by the Dodd-Frank Wall Street Reform and Consumer Protection Act is an amendment to the federal Electronic Funds Transfer Act (EFTA) that will have an important impact on the scope of Article 4A of the Uniform Commercial Code. The impact could result in legal uncertainty for a class of transactions currently governed by Article 4A unless Section 4A-108 is amended. Thus the Permanent Editorial Board for the Uniform Commercial Code is recommending an amendment to Section 4A-108 and its comments.

UCC 4A was originally drafted to govern transfers between commercial parties; at the time of drafting, the Electronic Funds Transfer Act governed consumer wire transfers. UCC 4A-108 was drafted to read that if any part of a funds transfer was subject to a federal act, that it would not be subject to article 4A. When the amendment to EFTA goes into effect in 2013, EFTA will govern "remittance transfers", whether or not those remittance transfers are also "electronic fund transfers" as defined in EFTA. Thus, when the amendment and its implementing rules go into effect, the result of UCC Section 4A-108 will be that a fund transfer initiated by a remittance transfer will be entirely outside the coverage of Article 4A, even if the remittance transfer is not an electronic fund transfer, so that those remittance transfers will be governed neither by Article 4A or the EFTA.

The proposed Amendment revises UCC 4A-108 to provide, in (b), that Article 4A does apply to a remittance transfer that is not an electronic funds transfer under the EFTA. Subsection (c)

restates the rule of the- supremacy clause, that the federal statute would control in case of any conflict between UCC Article 4A and the EFTA.

Connie Ring noted that the federal regulations do not go into effect until February of 2013, but that it still is unlikely that many states, with the possible exception of New York, will be able to enact the revision to 4A-108 before the federal regulation becomes effective. Fred Miller urged the Legislative Council to make the amendment to 4A-108 a targeted act.

A motion was made and passed unanimously approving the revisions to the UCC Section 4A-108 and its Comments under Section 4.3(b)(3) of the ULC Constitution. The proposed revision and the accompanying memorandum are attached to these minutes.

II. Privileges of the Floor

A motion was made and approved granting privileges of the floor to the following selected observers to drafting committees. The motion passed unanimously:

- A. Mary Ellison – Drafting Committee on Prevention of and Remedies for Human Trafficking
- B. John Meixell – Drafting Committee on Deployed Parents Visitation and Custody
- C. Neil Cohen – Drafting Committee on Manufactured Housing
- D. Linda Lee Viken – Drafting Committee on Premarital and Marital Agreements

III. Name Changes and Designation as Uniform or Model

- A. A motion was made and approved that the name of Deployed Parents Visitation and Custody Act be changed to “Deployed Parents Custody and Visitation Act”
- B. A motion was made and approved that the Deployed Parents Custody and Visitation Act be designated a Uniform Act.
- C. A motion was made and approved that the Manufactured Housing Act be designated a Uniform Act.

IV. Consideration of Requests for Life Membership

A motion was made and adopted nominating for election the following commissioners as life members of the Conference: K. King Burnett (MD); William R. Breetz (CT); Barry H. Evenchick (NJ); Robert L. McCurley (AL); Peden B. McLeod (SC); Sandra S. Stern (NY); and Edwin E. Smith (MA). Commissioner Lansing reported that the committee approved a similar request from Commissioner Mark H. Ramsey (OK) at the 2012 Midyear Meeting of the Executive Committee.

V. Report on the Implementation of the Hague Choice of Court Agreements Convention



State of Wisconsin
2011 - 2012 LEGISLATURE

in
7/24



LRB-4351/P1

ARG:.....

JFA

Information
7/25
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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen

- 1 AN ACT ...; relating to: remittance transfers under the uniform commercial code
- 2 funds transfers. Article 4A, relating to

Analysis by the Legislative Reference Bureau

This state has adopted article 4A of the uniform commercial code, governing funds transfers, as chapter 410 of the statutes. A "funds transfer" is defined as a series of transactions, beginning with the originator's payment order, made for the purpose of making payment to the beneficiary of the order. A "payment order" is defined as an instruction of a sender to a bank to pay, or to cause another bank to pay, a specified amount of money to the beneficiary of the payment order. The uniform commercial code - funds transfers establishes comprehensive provisions to govern funds transfers, but these provisions do not apply to a funds transfer any part of which is governed by the federal Electronic Fund Transfer Act (EFTA).

The federal Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203), signed into law on July 21, 2010, included amendments to the EFTA that impact the uniform commercial code - funds transfers. Federal regulations implementing these changes become effective in February 2013. As a result of these changes, the Uniform Laws Committee of the National Conference of Commissioners on Uniform State Laws and the American Law Institute have approved an amendment to the uniform commercial code - funds transfers. This bill adopts this amendment.

Under the bill, provisions of the uniform commercial code - funds transfers, as adopted in this state in chapter 410 of the statutes, apply to a funds transfer that is a remittance transfer as defined under the EFTA, unless the remittance transfer is

UCC
Article
4A

UCC
Articles
4A

an electronic fund transfer as defined under the EFTA. Under the EFTA, a "remittance transfer" means the electronic transfer of funds, requested by a consumer, to a designated recipient located in a foreign country that is initiated by a person or financial institution that provides remittance transfers for consumers in the normal course of its business, but does not include certain transfers of small value. Under the EFTA, "electronic fund transfer" means any transfer of funds that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. "Electronic fund transfer" includes point-of-sale transfers, automated teller machine transactions, direct deposits or withdrawals of funds, and transfers initiated by telephone, but does not include certain transactions such as transactions originated by check, draft, or similar paper instrument; Fedwire transfers; certain automatic transfers between a consumer's savings and checking accounts; and certain non-recurring transfers initiated by a consumer by telephone. If the provisions of the uniform commercial code funds transfers apply with respect to a funds transfer and there is an inconsistency between these provisions and the EFTA, the provision of the EFTA govern to the extent of the inconsistency.

UCC Article 4A

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 410.108 (title) of the statutes is repealed and recreated to read:

2 **410.108 (title) Relationship to Electronic Fund Transfer Act.**

3 SECTION 2. 410.108 of the statutes is renumbered 410.108 (1) and amended to
4 read:

5 410.108 (1) ~~This~~ Except as provided in sub. (2), this chapter does not apply to
6 a funds transfer any part of which is governed by the electronic fund transfer act, 15
7 USC 1693 to 1693r.

8 History: 1991 a. 304.
9 SECTION 3. 410.108 (2) and (3) of the statutes are created to read:

10 410.108 (2) This chapter applies to a funds transfer that is a remittance
11 transfer, as defined in 15 USC 1693o-1, unless the remittance transfer is an
electronic fund transfer, as defined in 15 USC 1693a.



State of Wisconsin
2011 - 2012 LEGISLATURE

in
8/14



LRB-4351/2
ARG:kjf:ph

RMR

2011 BILL

Regen

1 AN ACT *to renumber and amend* 410.108; *to repeal and recreate* 410.108
2 (title); and *to create* 410.108 (2) and (3) of the statutes; **relating to:** remittance
3 transfers under the Uniform Commercial Code Article 4A, relating to funds
4 transfers.

Analysis by the Legislative Reference Bureau

This state has adopted the Uniform Commercial Code (UCC) Article 4A, governing funds transfers, as chapter 410 of the statutes. A "funds transfer" is defined as a series of transactions, beginning with the originator's payment order, made for the purpose of making payment to the beneficiary of the order. A "payment order" is defined as an instruction of a sender to a bank to pay, or to cause another bank to pay, a specified amount of money to the beneficiary of the payment order. UCC Article 4A establishes comprehensive provisions to govern funds transfers, but these provisions do not apply to a funds transfer any part of which is governed by the federal Electronic Fund Transfer Act (EFTA).

The federal Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203), signed into law on July 21, 2010, included amendments to the ~~EFTA~~ EFTA that impact UCC Article 4A. Federal regulations implementing these changes become effective in February 2013. As a result of these changes, the Uniform Laws Committee of the National Conference of Commissioners on Uniform State Laws and the American Law Institute have approved an amendment to UCC Article 4A. This bill adopts this amendment.

made by the transfer provider

BILL

Under the bill, provisions of UCC Article 4A, as adopted in this state in chapter 410 of the statutes, apply to a funds transfer that is a remittance transfer as defined under the EFTA, unless the remittance transfer is an electronic fund transfer as defined under the EFTA. Under the EFTA, a "remittance transfer" means ~~the~~ ^{an} electronic transfer of funds, requested by a consumer, to a designated recipient ~~located~~ in a foreign country ~~that is initiated by a person or financial institution that provides remittance transfers for consumers~~ in the normal course of its business, but does not include ~~certain~~ transfers of small value. Under the EFTA, "electronic fund transfer" means ~~any~~ transfer of funds ~~that is~~ ^{that} initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape ~~so as to order, instruct or authorize a financial institution to debit or credit an account.~~ "Electronic fund transfer" includes point-of-sale transfers, automated teller machine transactions, direct deposits or withdrawals of funds, and transfers initiated by telephone, but does not include certain transactions such as transactions originated by check, draft, or similar paper instrument; Fedwire transfers; certain automatic transfers between a consumer's savings and checking accounts; and certain nonrecurring transfers initiated by a consumer by telephone. If the provisions of UCC Article 4A apply with respect to a funds transfer and there is an inconsistency between these provisions and the EFTA, the provision of the EFTA govern to the extent of the inconsistency.

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UPS:
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Stays
in

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 410.108 (title) of the statutes is repealed and recreated to read:
- 2 **410.108 (title) Relationship to Electronic Fund Transfer Act.**
- 3 **SECTION 2.** 410.108 of the statutes is renumbered 410.108 (1) and amended to
- 4 read:
- 5 410.108 (1) This Except as provided in sub. (2), this chapter does not apply to
- 6 a funds transfer any part of which is governed by the electronic fund transfer act, 15
- 7 USC 1693 to 1693r.
- 8 **SECTION 3.** 410.108 (2) and (3) of the statutes are created to read:
- 9 410.108 (2) This chapter applies to a funds transfer that is a remittance
- 10 transfer, as defined in 15 USC 1693o-1, unless the remittance transfer is an
- 11 electronic fund transfer, as defined in 15 USC 1693a.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-4351/2
ARG:kjf:ph

2011 BILL

1 **AN ACT** *to renumber and amend* 410.108; *to repeal and recreate* 410.108
2 (title); and *to create* 410.108 (2) and (3) of the statutes; **relating to:** remittance
3 transfers under the Uniform Commercial Code Article 4A, relating to funds
4 transfers.

Analysis by the Legislative Reference Bureau

This state has adopted the Uniform Commercial Code (UCC) Article 4A, governing funds transfers, as chapter 410 of the statutes. A “funds transfer” is defined as a series of transactions, beginning with the originator’s payment order, made for the purpose of making payment to the beneficiary of the order. A “payment order” is defined as an instruction of a sender to a bank to pay, or to cause another bank to pay, a specified amount of money to the beneficiary of the payment order. UCC Article 4A establishes comprehensive provisions to govern funds transfers, but these provisions do not apply to a funds transfer any part of which is governed by the federal Electronic Fund Transfer Act (EFTA).

The federal Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203), signed into law on July 21, 2010, included amendments to the EFTA that impact UCC Article 4A. Federal regulations implementing these changes become effective in February 2013. As a result of these changes, the Uniform Laws Committee of the National Conference of Commissioners on Uniform State Laws and the American Law Institute have approved an amendment to UCC Article 4A. This bill adopts this amendment.

BILL

Under the bill, provisions of UCC Article 4A, as adopted in this state in chapter 410 of the statutes, apply to a funds transfer that is a remittance transfer as defined under the EFTA, unless the remittance transfer is an electronic fund transfer as defined under the EFTA. Under the EFTA, a "remittance transfer" means an electronic transfer of funds, requested by a consumer, to a recipient in a foreign country, made by the transfer provider in the normal course of its business, but does not include transfers of small value. Under the EFTA, "electronic fund transfer" means a transfer of funds initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape that orders, instructs, or authorizes a financial institution to debit or credit an account. "Electronic fund transfer" includes point-of-sale transfers, automated teller machine transactions, direct deposits or withdrawals of funds, and transfers initiated by telephone, but does not include certain transactions such as transactions originated by check; Fedwire transfers; certain automatic transfers between a consumer's savings and checking accounts; and certain nonrecurring transfers initiated by a consumer by telephone. If the provisions of UCC Article 4A apply with respect to a funds transfer and there is an inconsistency between these provisions and the EFTA, the provision of the EFTA govern to the extent of the inconsistency.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 410.108 (title) of the statutes is repealed and recreated to read:

2 **410.108 (title) Relationship to Electronic Fund Transfer Act.**

3 **SECTION 2.** 410.108 of the statutes is renumbered 410.108 (1) and amended to
4 read:

5 410.108 (1) ~~This~~ Except as provided in sub. (2), this chapter does not apply to
6 a funds transfer any part of which is governed by the electronic fund transfer act, 15
7 USC 1693 to 1693r.

8 **SECTION 3.** 410.108 (2) and (3) of the statutes are created to read:

9 410.108 (2) This chapter applies to a funds transfer that is a remittance
10 transfer, as defined in 15 USC 1693o-1, unless the remittance transfer is an
11 electronic fund transfer, as defined in 15 USC 1693a.

BILL

1 (3) In a funds transfer to which this chapter applies, in the event of an
2 inconsistency between an applicable provision of this chapter and an applicable
3 provision of the electronic fund transfer act, the provision of the electronic fund
4 transfer act governs to the extent of the inconsistency.

5

(END)