

Alaska State Legislature

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HB 9 - SECURED TRANSACTIONS AND FUNDS TRANSFERS

"An Act relating to secured transactions under the Uniform Commercial Code and to the regulation of funds transfers, including remittance transfers, under the Uniform Commercial Code and federal law; and providing for an effective date."

Article 9 of the Uniform Commercial Code (U.C.C.) governs secured transactions and personal property. It has been adopted in all 50 states and in the District of Columbia. In 1998 Article 9 was extensively amended. These amendments have been adopted in all states and in the District of Columbia. In 2010, additional new amendments responding to filing issues and other matters were drafted. These amendments were promulgated by the Uniform Law Commission in order to keep uniformity and prevent ambiguities within the Uniform Commercial Code. The commissioners have requested and the states are attempting to adopt these new statutory amendments to make them effective July 1, 2013. Therefore it is important that this bill pass this year.

The 2010 amendments are of great importance, as they provide greater guidance as to the identity of a debtor on financial statements, improve the system for filing financial statements, remove some extraneous information currently required on financing statements, and make some technical changes responding to issues arising in the marketplace. HB 9 amends AS 45.29 (U.C.C. Art. 9) to make these changes. Currently, 30 states have adopted these changes, with legislation pending in 12 others and in the District of Columbia.

The Federal Electronic Fund Transfer Act (EFTA) was drafted in 1978 to govern consumer wire transfers. Article 4A of the Uniform Commercial Code was drafted, with this in mind and governs transfers between commercial parties. The Dodd-Frank Wall Street Reform Act amended EFTA that has an important impact on the scope of U.C.C. Article 4A. When the Dodd-Frank amendments went into effect in February 2013, discrepancies between federal law (EFTA) and state law (U.C.C. Art. 4A) arose. As a result, certain transfers are not covered by either law. HB 9 amends AS 45.14 (U.C.C. 4A) to fix this problem and to provide that if there is an ambiguity between federal and state law, federal law rules supreme.

If HB 9 is not passed this session, interstate secured transactions and fund transfers occurring between companies in Alaska and companies in states that have adopted the 2010 Article 9, and 2012 Article 4A amendments to the U.C.C. could result in no statutory rules for remittance transfers that may involve

mistaken addresses or payees, duties of intermediaries, and other issues beyond the initial sending of the transfer. Failure to pass HB 9 may significantly increase the cost and uncertainty surrounding the affected transactions.

Adopting these changes this session will benefit the State of Alaska so that it may continue to benefit from the existing Article 9 and keep it up to date.

If you have any questions, contact Representative Gruenberg's aide, Miles Brookes, at (907) 465-4940.