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SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 3/22/93

FURTHER:

DATE TURNED INTO OFFICE: 3-23-93

The Finance Committee considered **SENATE BILL NO. 112**

"An Act relating to the Uniform Commercial Code; amending Alaska Rules of Civil Procedure 8 and 82, and Alaska Rule of Evidence 402; and providing for an effective date."

and recommends:

[] replace with _____ CS _____ (FINANCE)
 or [] adopt previous CS 5B 112 (Jud.)
 [] attaches amendment(s)

[] same title
 [] new title
 [] technical title change (HB only)

[] adopts _____ Letter of Intent

[] further referral to the _____

[] do pass

[] do not pass

[] no recommendation

[] individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
DCKED	3-2-93	0	
DOLAW	2-18-93	0	
DNR	3-15-93	0	

[] Appropriation No Fiscal Note

DO PASS.

Tim Kelly

OTHER RECOMMENDATIONS:

_____ *Steve P... - No Rec*
 _____ *Bob... - No Rec*
 _____ *And No Rec*

1. _____

Co-Chair: Signature/Recommendation

2. *True League - No Rec*

Co-Chair: Signature/Recommendation

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 112

3/4/93

CIC then JUD, FIN

Revision Date: _____

Department Affected: Commerce and Economic Development

Title: An Act relating to the UCC

BRU: Banking, Securities and Corporations

Sponsor: Senator Kerttula

Component: _____

Requestor: _____

COMPONENT SERIAL NO. 1233

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
----------------	---	---	---	---	---	---

REVENUE FUND SOURCE:	0	0	0	0	0	0
-----------------------------	---	---	---	---	---	---

FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY 93) impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Willis F. Kirkpatrick, Director
 Division: Banking, Securities and Corporations

Phone: 465-2521
 Date: _____

Approved by Commissioner: Paul Fuhs
 Agency: Commerce and Economic Development

Date: 3-2-93

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SB112

FISCAL NOTE

2/19/93

BILL NO. SB 112

STATE OF ALASKA
1993 LEGISLATIVE SESSION

LFC than 300, FPA

Revision Date: February 18, 1993
Title: "An Act relating to the Uniform Commercial Code..."
Sponsor: Senator Kerttula
Requestor: Senator Kerttula

Department Affected: Department of Law
BRU: Legal Services
Component: Operations
COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Richard I. Peques

Prepared by: Richard I. Peques, Director
Division: Administrative Services Division

Phone: 465-3672
Date: February 18, 1993

Approved by Commissioner: Charles E. Cole, Attorney General
Agency: Department of Law

Date: February 18, 1993

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 112

ANALYSIS (Continued):

This bill makes substantial amendments to the state's Uniform Commercial Code (UCC) under AS 45.01- AS 45.09 and AS 45.12. This bill is a major effort to update Alaska's UCC by adding a new article (Art. 2A) on personal property leasing; amending the UCC's Arts. 3 and 4, regarding negotiable instruments and bank deposits and collections; repealing UCC Art. 6, on bulk sales; and making other changes in the UCC that are necessary to accommodate the basic changes being made in the bill. These basic changes have been proposed by the National Conference of Commissioners on Uniform State Laws (NCCUSL), and they are needed to help bring Alaska business and consumers involved in commercial transactions up to date with businesses and consumers in the rest of the country. Because the bill deals with transactions between private parties it will not have a fiscal impact for the Department of Law. To the extent that the bill impacts state-funded loan and investment programs, it should have a beneficial effect.

FISCAL NOTE

3/17/93
TRA when L&C, F&D

**STATE OF ALASKA
1993 LEGISLATIVE SESSION**

BILL NO. CSSB112(L&C)

Revision Date 15-Mar-93 Department Affected: Natural Resources
 Title: "An Act relating to the Uniform Commercial Code" BRU: Management & Administration
 Components: Recorder's Office
 Sponsor: Senator Kerttula
 Requestor: Senate Judiciary Committee Component Serial No. 802

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE fund source:	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY93) impact: \$ No fiscal impact anticipated

ANALYSIS:

SB112 is a comprehensive revision of the State's Uniform Commercial Code and proposes addition of a new chapter (A.S.45.12) on leases. While the proposed lease provisions are extensive, the impact on the statewide Recorder's/UCC offices should be negligible. Although the new chapter includes extensive provisions relating to commercial leases (rights, remedies, default, warranties, etc.), only leases "intended as security" are entitled to be filed with the Recorder's/UCC offices under Chapter 9 governing secured transactions. This represents no change from existing law which already covers leases intended as security (A.S.45.09.102(b)). Contact with other jurisdictions which have enacted the comprehensive leasing provisions indicates there has been no noticeable impact on filing volumes. The Uniform Law Commissioner has confirmed that the bill as drafted should not present any perceptible burden on the Recorder's/UCC offices and the minor language changes requested by the component in previous sessions have been incorporated. Other provisions of SB112 relating to Chapter 3 (Negotiable Instruments) and Chapter 4 (Bank Deposits and Collections) do not affect the Recorder's/UCC component.

Prepared by: Sharon Young, State Recorder Phone: 762-2437
 Division: Recorder's Office Date: 15-Mar-93
 Approved by Commissioner: Glenn A. Olds Date: 15-Mar-93
 Agency: Department of Natural Resources

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CSS13112

CHANGES TO SB 112

Changes made to SB 112 in Labor & Commerce Committee:

Page 4, line 20: the words "the code" are new, replacing the older citation of specific chapters. Housecleaning change, making the bill easier to read.

Page 4, line 21: "AS 45.12.207" is new, it was inadvertently dropped in the original bill.

Page 48, line 16: the words "subject to B through E" were added. The original bill had "subject to B through D" which is an error in the National version of this bill and that version is being corrected to reflect this new language. Essentially a typo.

Page 86, lines 13-15 were added by the Labor & Commerce Committee then, after further thought, it was determined by the legal experts that this was unnecessary and would be better placed in other existing statutes that don't deal with the Uniform Commercial Code. The Judiciary Committee agreed, and, on March 19th, deleted these lines from the bill during its hearing on CSSB 112.

Page 106, lines 28 & 29: the last sentence of subsection C on this page was added--the language was recommended by Professor Fred Miller, of the University of Oklahoma, and the executive director of the National Conference of Commissioners on Uniform State Laws.

Page 112, line 16: the words "under B or C, and D" were added to replace the words "under B -(das) D" to clarify intent.

Page 112, line 25: the word "or" was changed to "of", correcting a typo.

Page 112, line 28: the word "and" was changed to "or", again correcting a typo.

Page 112, lines 29 & 30: the words "or lessee" were added.

3/26/93

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSSB 112 (Jud)

RLS

Revision Date: _____
Title: An Act relating to the UCC
Sponsor: Senator Kertula
Requestor: _____

Department Affected: Commerce and Economic Development
BRU: Banking, Securities and Corporations
Component: _____
COMPONENT SERIAL NO. 1233

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY 93) impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Willis F. Kirkpatrick, Director
Division: Banking, Securities and Corporations

Phone: 465-2521
Date: _____

Approved by Commissioner: Paul Fuhs
Agency: Commerce and Economic Development

Date: 3/23/93

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FISCAL NOTE

3/25/93

**STATE OF ALASKA
1993 LEGISLATIVE SESSION**

BILL NO. CSSB 112 (I&C)

RLS

Revision Date: _____

Department Affected: Commerce and Economic Development

Title: An Act relating to the UCC

BRU: Banking, Securities and Corporations

Sponsor: Senator Kerttula

Component: _____

Requestor: _____

COMPONENT SERIAL NO. 1233

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY 93) impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Willis F. Kirkpatrick, Director
Division: Banking, Securities and Corporations

Phone: 465-2521
Date: _____

Approved by Commissioner: Paul Fuhs
Agency: Commerce and Economic Development

Date: 3-24-93

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STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 19, 1993

WALTER I. HICKEL, GOVERNOR

PLEASE REPLY TO:

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FAX: (907) 276-3697

KEY BANK BUILDING
100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 452-1568
FAX: (907) 456-1317

P. O. BOX 110300 - STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 463-5295

465-6735

Hon. Drue Pearce
Hon. Steve Frank
Co-Chairs
Alaska State Senate Finance Committee
State Capitol Building, Room 508
Juneau, AK 99811

Re: SB 112

Dear Senators:

The Department of Law has reviewed SB 112 and finds no legal problems.

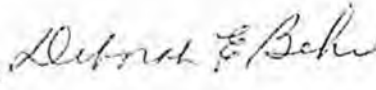
The bill makes important improvements to the Uniform Commercial Code.

We understand that the bill is before your committee and that the bill is scheduled for hearing on Monday, March 22, 1993. We appreciate the early scheduling of this important legislation.

If you have questions, please let us know.

Sincerely,

CHARLES E. COLE
ATTORNEY GENERAL

By: 
Deborah E. Behr
Assistant Attorney General

DEB:cl

cc: Alaska's Uniform Law Commissioners Delegation
Justice Jay Rabinowitz
Arthur H. Peterson, Esq.
Jerry Kurtz, Esq.
Tam Cook, Esq.
Grant Callow, Esq.

Kris Lethin, Legislative Liaison
Office of the Governor

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Sitka, Alaska 99835
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February 16, 1993

Terry Bannister
Legislative Counsel
Legislative Affairs Agency
130 Seward St., Rm. 405
Juneau, Alaska 99801-2105

HAND DELIVERED

Re: SB 112, UCC misc. (art. 2A, personal property leasing;
arts. 3 & 4, negotiable instruments; art. 6, bulk sales)

Dear Terry:

A copy of Professor Fred Miller's February 11, 1993 reply to my February 5 inquiry about your draft of this bill is attached, along with his marked-up copy of my letter, your page 112, and a sheet of citation updates. SB 112 was introduced last Thursday, February 11.

Fred designated parts of my letter with numbers, and referred to those numbers in his letter. Using the same numbers, here are my comments on his comments:

1. O.k. All of the identified changes should be made.
2. O.k. AS 45.03.102(a) (page 13, line 6, of the bill) should be changed as indicated in my letter, when the art. 4A bill (SB 86) passes.
3. O.k. AS 45.03.415(a) (page 48, line 16) should be changed to refer to "(b) - (e)."
4. O.k. The change in proposed AS 45.12.108(d) (page 93, line 15) has already been made.
5. Add the following sentence to the text of proposed AS 45.12.304(c) (page 106, line 26): "If the certificate of title statute is silent on the issue of transfer, this section controls." This is not a perfect solution, but it states their intent on the basic point, putting it in

Terry Bannister
February 16, 1993

Page 2

Re: SB 112, UCC misc. (art. 2A, personal property leasing; arts. 3 & 4, negotiable instruments; art. 6, bulk sales)

the text rather than "legislative history." It seems like a better approach than other proposals, although I still rather like my "provided by statute" (which Fred said was ambiguous).

6. I believe that Fred is wrong; proposed AS 45.12.--310(e) is not "technically correct." But, what he means by his "(3) and (4) are tied together and subsections (2) and (4) also are tied together," is that paragraph (4) is the constant. I.e, the correct interpretation is, in your and my description, "(2) or (3), and (4)." I also disagree with Fred that the best solution is to leave the provision alone and rely on legislative history, and I suggest that the correction be in the text. The fact that UCC § 9-314(4) (our AS 45.09.314(d), which changed NCCUSL's version to "(a) -- (c)") is also incorrectly drafted in the same way is not a persuasive reason to ignore the problem here. See Fred's corrections in your subsec. (f), which should also be made.

Presumably, these little amendments can be made in the Senate Labor and Commerce Committee. I would guess that Sen. Kerttula will want you to prepare them on an amendment sheet, for ease in presenting them to the committee. So far as I know, the bill has not yet been scheduled for a hearing.

So, that's it for now.

Yours truly,

Dillon & Findley

By: 

Arthur H. Peterson

AHP/sh
Enclosure

cc w/enc.: ✓ Hon. Jay Kerttula (Hand Delivered)
Alaska State Senate

L. S. Kurtz, Jr., Esq.
Anchorage

cc w/o enc.: Prof. Fred Miller, Exec. Dir., NCCUSL
c/o Univ. of Oklahoma College of Law



The
University of Oklahoma

COLLEGE OF LAW
300 Timberdell Road
Norman, Oklahoma 73019-0701
(405) 325-4889
FAX # (405) 325-6282

February 11, 1993

Arthur H. Peterson
Dillon & Findley
One Sealaska Plaza, Ste. 202
Juneau, AK 99801
FAX 907-586-3777

Re: UCC Amendments

Dear Art:

Hopefully this will respond to your letter to me dated February 5, 1993 (enclosed and questions numbered).

1. There are a number of cross references that should be updated, including the two you found. I enclose a sheet where the ones that Jack Burton and I have found to date are listed.

2. I have no idea why ULA drops the language about payment orders in § 3-102(a). That language should appear.

3. I agree with you the reference in § 3-415(a) should be to subsections (b) through (e); apparently we have made an error. I am copying the reporter with this letter, however, just in case I have overlooked something and we would be in error in making the change.

4. I am not sure how to respond because I do not have Alaska Civil Rule 82. It may be helpful to observe that often the specific rule will be construed to control the general rule; your proposed amendment to § 2A-108(4) would simply reflect that approach. Thus it should be okay.

5. The statute and the comment to § 2A-304 I believe are consistent. The statute is a general rule that both the certificate of title act and Article 2A must be considered. The comment says, if when that is done, the certificate of title act does not address the point, then Article 2A will control. This simply states the obvious. The first change to the statute that you propose would change the rule, however, and the second change leaves the matter ambiguous. If a change must be made, I would put in the Alaska legislative history or comments a change to the comment sentence: "If the certificate of title statute, after being consulted on the issue of


transfer, is silent, this section will control."

6. I agree the statement in § 2A-310(5) is unclear; in my opinion it could read: "When under subsections (2), (3) or (4)" However, the section is derived from § 9-314(4) (which reads (1) or (2) and (3)) and we do not want to create a different interpretation. Moreover, since subsections (3) and (4) are tied together and subsections (2) and (4) also are tied together, the provision technically is correct. On balance, I would not change it; if more clarity is necessary, again I would use Alaska legislative history or comments.

By the way, I believe in restyling, your bill substantively changes the section. Your subsection (f) I believe should use "or" and not "and" between (1) and (2), and needs a reference to "lessor or the lessee" in (2). Also note the typo in the lead in.

If you have any other questions, please let me know.

Sincerely,



Fred H. Miller
Kenneth McAfee Centennial Professor of Law
George Lynn Cross Research Professor

/jw

Enclosures

cc: Robert L. Jordan FAX 310-206-7010
Carlyle C. Ring FAX 703-448-2956
John M. McCabe FAX 312-915-0187

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 Sitka, Alaska 99835
 Telephone (907) 747-3900
 Facsimile (907) 747-3990

February 5, 1993

Fred H. Miller, Exec. Dir.
 NCCUSL
 c/o Univ. of Oklahoma, College of Law
 300 Timberdell Road
 Norman, OK 73019

Re: UCC amendments

Dear Fred:

At the request of a senator who has agreed to introduce our UCC changes, I reviewed his draft bill covering arts. 2A, 3, 4, and 6 (repeal). I have some questions.

1. I do not find in any UCC material I have, including West's new 1990 Official Text, an amendment of § 1-201(44) (definition of "value"), to reflect the 1990 renumbering of §§ 4-208 (now 210) and 4-209 (now 211). § 4-208 used to be captioned "Security Interest of Collecting Banks in Items, Accompanying Documents, and Proceeds" and § 4-209 was captioned "When Bank Gives Value for Purposes of Holder in Due Course." In the main part of the West publication, those captions and provisions are in §§ 210 and 211, respectively, and 208 and 209 are on different subjects, the changes being shown in West's Appendix IX, giving the 1990 art. 4 amendments. Am I correct in assuming a direct correspondence, and that no substantive change requires doing something different in that cross reference, other than amending "208" and "209" to read "210" and "211," respectively, in § 1-201(44)? (In a nutshell, what is the reason for that cross reference to 208/210? How does that section affect § 1-201(44)'s definition of "value"?)

✓ Also, no material that I have indicates the amendment of § 2-103(3)'s reference to "'Dishonor', Section 3-507." The "dishonor" reference should now be to § 3-502.

2. Why does the DLA version of § 3-102(a) drop ", to payment orders governed by Article 4A," as I am told it does. Those words appear in the 8 1/2 x 11-inch sheets I received from NCCUSL (dated

sh/art/miller.let

Fred H. Miller, Exec. Dir., NCCUSL
February 5, 1993

Page 2

✓ 12/2/91) and in West's 1990 version. Am I correct in assuming that they should stay there?

3. Why does § 3-415(a) refer only to subsecs. (b) -- (d) of that section, and not to (e). Notwithstanding (e)'s condition referring back to (a), all four of the subsections after (a) speak of nonliability or discharge, thus making the general rule of (a) "subject to" (b) -- (e). No?

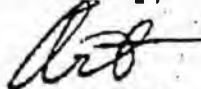
4. § 2A-108(4) provides for attorney fees in an action in which the lessee claims unconscionability, and sets out certain conditions for the award of those fees. Our Civil Rule 82 deals with attorney fees generally, so we need to clarify the relationship between the new statute and the rule. How about our starting the lead-in line of § 2A-108(4) with "Notwithstanding Rule 82, Alaska Rules of Civil Procedure"? That approach would have this statute govern in the particular circumstances described in it.

5. The Official Comment under § 2A-304 says, with regard to subsec. (3), "Where the certificate of title statute is silent on this issue of transfer, this section will control." How does that statement square with the use of "both" in the text? If the comment expresses your intent, shouldn't the text use "either"? Or perhaps say, simply, "provided by statute."

6. In § 2A-310, subsec. (5) says "When under subsections (2) or (3) and (4)" By joining the conjunctive "and" with the disjunctive "or" in the same series, this clause violates an important drafting principle and creates an ambiguity. Does the clause mean "(2), or (3) and (4)" or "(2) or (3), and (4)"? The Official Comment doesn't clarify the matter. Our legislative drafter changed the provision to read as shown on the attached sheet (substituting our (a), (b), (c), etc., for NCCUSL's (1), (2), (3), etc.). What do you think? *OK but subject*

We appreciate your help. Thanks.

Yours truly,


Arthur H. Peterson
Uniform Law Commissioner
for Alaska

AHP/sh
Enclosure

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Fred H. Miller, Exec. Dir., NCCUSL
February 5, 1993

Page 3

cc w/enc.: John McCabe, Legislative Director
and Legal Counsel
NCCUSL

Terry Bannister
Legislative Counsel
Legislative Affairs Agency

1993/02/05

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WORK DRAFT

WORK DRAFT

WORK DRAFT

32A-310

1 interests in the whole except as stated in (d) of this section but is subordinate to
2 interests in the whole existing at the time the lease contract was made unless the
3 holders of those interests in the whole have in writing consented to the lease or
4 disclaimed an interest in the goods as part of the whole.

5 (d) The interest of a lessor or a lessee under a lease contract described in (b)
6 or (c) of this section is subordinate to the interest of

7 (1) a buyer in the ordinary course of business or a lessee in the
8 ordinary course of business of any interest in the whole acquired after the goods
9 became accessions; or

10 (2) a creditor with a security interest in the whole perfected before the
11 lease contract was made to the extent that the creditor makes subsequent advances
12 without knowledge of the lease contract.

13 (e) When under (b) - (d) of this section, and subject to (f) of this section, a
14 lessor or a lessee of accessions holds an interest that is superior to all interests in the
15 whole, the lessor or the lessee may remove the goods from the whole, free and clear
16 of all interests in the whole, but the lessor or lessee must reimburse a holder of an
17 interest in the whole who is not the lessee and who has not otherwise agreed, for the
18 cost of repair of physical injury but not for a diminution in value of the whole caused
19 by the absence of the goods removed or by a necessity for replacing them. A person
20 entitled to reimbursement may refuse permission to remove until the party seeking
21 removal gives adequate security for the performance of this obligation.

22 (f) The lessor or the lessee may remove the goods under (e) of this section

23 (1) on default, expiration, termination, or cancellation of the lease
24 contract by the other party but subject to the provisions of the lease contract and this
25 chapter, and

26 (2) if necessary to enforce other rights and remedies of the lessor under
27 this chapter.

28 Sec. 45.12.311. PRIORITY SUBJECT TO SUBORDINATION. Nothing in
29 this chapter prevents subordination by agreement by a person entitled to priority.

30 ARTICLE 4. PERFORMANCE OF LEASE CONTRACT.

31 Sec. 45.12.401. INSECURITY: ADEQUATE ASSURANCE OF

1. The reference in UCC § 2-511 to § 3-802, upon enactment of Revised Article 3, should be § 3-310.
2. The reference in UCC § 2-403(4) to Article 6 should reflect the action taken with respect to Article 6, whether repeal or revision.
3. Upon enactment of Article 2A and Revised Articles 3 and 4, definitional cross references in the following sections need attention: § 5-103(3) (reference to "acceptance" should be from § 3-410 to § 3-409); § 9-203(1) (reference to § 4-208 should be § 4-210, and the reference to the "Article on Sales" should be the "Articles on Sales and Leases"); § 9-206(1) (reference to "Article on Commercial Paper (Article 3)" should be "Article on Negotiable Instruments (Article 3)"); § 9-312(1) (reference to § 4-208, should be to § 4-210); § 2-103(2) (reference to "dishonor" and § 3-507 should be § 3-502); § 1-201(44) (reference to §§ 4-208 and 4-209 should be §§ 4-210 and 4-211); § 2-511(3) (reference to § 3-802 should be § 3-310); and § 1-201(3) (reference to § 2A-207 should be added).

4-302 (1) (F)
~~2-103(2)~~
~~§ 3-507~~
~~§ 3-502~~

As Articles 2, 5, 8 and 9 are revised in the future, this same issue will present itself. Moreover, to the extent a state enacts revisions out of order, references may need to be amended twice; e.g., if a state were to enact revised Article 5 before revised Articles 3 and 4, the cross references in revised Article 5 would have to be changed to refer to old Article 3, and then again upon enactment of revised Article 3. Finally, some like kind additions to the Official Comments are in order; for example, to add the comparable references to Article 2A in the comments to §§ 1-102 and 1-203. Again, the question asked under the Overview as to Article 1 is raised.

SB 112

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 5, 1993

SUBJECT: Revised UCC bill (Work Order No. 8-LS0227J)
TO: Senator Jay Kerrtula
Attn: Bill
FROM: Theresa L. Bannister *TLB*
Legislative Counsel

This memo accompanies a final version of the above UCC bill. This version contains the changes requested by Art Peterson in his February 4, 1993, letter, except for the cross-reference to AS 45.14, the funds transfer chapter.

Because this bill does not enact the funds transfer chapter, the bill shouldn't include a reference to that chapter. Therefore, the phrase, "to payment orders governed by AS 45.14," is not included in sec. 45.03.102(a). However, you may wish to consider amending the funds transfer bill, SB 86, at some point to amend current AS 45.03.-103(a) by adding this phrase. Then, when both bills pass, the revisor will have legislative guidance that this phrase should be added to the new sec. 45.03.102(a). I have discussed this with Art.

The actual changes made are listed below.

1. The reference to AS 45.04.210 has been added to AS 45.01.201(45). Although it is not entirely clear how the cross-reference to sec. 45.04.210 fits in AS 45.01.201(45), it has been reinserted because it corresponds to a cross-reference in the original text. As Art indicated, he will contact the NCCUSL drafters to attempt to clarify why this cross-reference is included.
2. The phrase, "Notwithstanding Alaska Rule of Civil Procedure 82," was added to sec. 45.12.108(d).
3. The word "filing" was changed to "recording" in sec. 45.12.309(i).
4. The word "times" was substituted for "time" in sec. 45.12.507(a).

Senator Jay Kerttula
February 5, 1993
Page 2

5. The commas requested by Art to clarify that "of the type" referred to "default" were inserted where "of the type" occurred: AS 45.12.518(a), 45.12.524(a), 45.12.525(b), 45.12.527(a), and 45.12.529(a) and (e).

6. In sec. 45.12.529(e), "a default" became "default", and "by lessee" became "by the lessee".

CLARIFICATION. Contrary to what I said in my December 31, 1992 memo, the documents published by the National Conference of Commissioners on Uniform State Laws (NCCUSL) are the ultimate authority on uniform state laws, not the publications of the Uniform Laws Annotated (ULA) publications. However, the ULA is a convenient and comprehensive source for determining the content of these laws and the rationale behind them.

If I may be of further assistance, please advise.

TLB:gc:pl
93-108.glc

Enclosure

3B112

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February 4, 1993

The Honorable Jay Kerttula
Alaska State Senate
Room 427, State Capitol
Juneau, AK 99801-1182

HAND-DELIVERED

Re: Your draft bill on Uniform Commercial Code changes: Art. 2A (personal property leasing), Arts. 3 and 4 (negotiable instruments, etc.), and repeal of Art. 6 (bulk sales) LAA Work Order No. 8-LS0227\E

Dear Jay:

As you requested recently, I have reviewed the January 4, 1993 draft of this bill, accompanied by the December 31, 1992 cover memo from Terry Bannister to you. I have addressed the 38 points set out in her memo. The bill should now be ready for preparation in final form and early introduction.

In the art. 2A portion, the bill includes proposed AS 45.12.104(a)(4) (page 92, line 3), originally requested by the Department of Administration to make clear the relationship to the state's Procurement Code (existing AS 36.30). A spot check indicates that it also includes the NCCUSL's 1990 amendments to art. 2A.

As you also requested, you will find attached a brief description of the bill, citing bill section numbers as they appear in this draft. I could not keep it to one page, since the bill covers three major areas of the law and is 136 pages long. I trust that you will find this description helpful for press releases, committee discussion, and floor debate. The Department of Law, the Legislative Affairs Agency, and I have additional background material if you would care to see it.

Here are some changes to be made before introduction:

A. On page 11, line 25, "45.04.210 and" should be inserted in front of "45.04.211," to maintain a direct correspondence with the NCCUSL's numbering changes in art. 4.

The Honorable Jay Kerttula

Page 5

February 4, 1993

Re: Draft bill proposing UCC changes (arts 2A, 3, 4, & 6)

the appropriate clarification, and most closely tracks the official version.

Phew!!!

Let me know if I can be of further assistance.

Yours truly,



Arthur H. Peterson
Uniform Law Commissioner
for Alaska

AHP/sh
Enclosures

cc w/enc.: Rest of Alaska's ULC Delegation:

Jay A. Rabinowitz

W. Grant Callow

Tamara Brandt Cook (Hand-Delivered)

L. S. Kurtz, Jr.

Deborah E. Behr (Hand-Delivered)

Terry Bannister, Legislative Counsel (Hand-Delivered)
Legislative Affairs Agency

The Honorable Jay Kerttula

Page 2

February 4, 1993

Re: Draft bill proposing UCC changes (arts 2A, 3, 4, & 6)

B. On page 13, line 6, after "money," insert, "to payment orders governed by AS 45.14,". This change picks up the NCCUSL's reference to the new art. 4A (funds transfers) in your other UCC bill.

C. On page 111, line 8, "filing" needs to be corrected to "recording," in proposed AS 45.12.309(i). This change from the NCCUSL wording was already made in (j)(2) of that section (page 111, line 13). It accommodates a Department of Natural Resources request, to conform to existing AS 40.17.110(b)(51).

D. On page 119, line 26, change "time" to read "times," to conform to official NCCUSL wording.

E. On page 134, line 8, in proposed AS 45.12.529(e), the "a" in front of "default" should be deleted. On the following line, "the" should be inserted in front of "lessee." These two minor changes conform to the NCCUSL's wording, and correct what appear to be typographical errors.

Here are my comments on Terry's 32 points, using her numbers:

1. Although I would not have made some of the rearrangements that Terry made in the sections cited, I have no real objection to them. While there is a value to maintaining the national sequence of provisions, as well as the national wording, Terry's changes do not do violence to the national approach, and it is most important to get the bill introduced and enacted soon.

2 -- 4. O.k.

5. The insertion of the term "code" is an excellent idea.

6 & 7. O.k.

8. So far as I can tell at the moment, the applicability section (sec. 129) looks good.

9. I have not compared this draft word for word with the NCCUSL version, but, being somewhat familiar with the Alaska Legislature's drafting style, I assume that Terry's miscellaneous style changes are o.k.

10. Terry's cross reference to our existing statutory construction provisions is substantively o.k., and I am not

sh/art/kerttula.lt?

The Honorable Jay Kerttula

Page 3

February 4, 1993

Re: Draft bill proposing UCC changes (arts 2A, 3, 4, & 6)

requesting that the original NCCUSL language be restored. I should say, however, that I am slightly concerned about outsiders looking for the exact NCCUSL language in the cited provisions. But, again, it is most important to get this bill introduced soon, and I am not suggesting a change.

11 -- 13. O.k.

14. As indicated above, in my suggestions for change preceding this list of responses to Terry's points, I believe that the reference to AS 45.04.210 should be reinserted. I will write to the national experts to get their opinion on this. But, for now, it is important to get the bill introduced and moving.

15. Terry's change, based on the ULA version, reflects what appears to be an error in the ULA version. The following words appear in the official publication of the UCC by West Publishing Company under contract with NCCUSL, and should be reinserted in AS 45.03.102(a) (page 13, line 6), following "money": ", to payment orders governed by AS 45.14,".

16 & 17. O.k.

18. I think that Terry is right, but I am writing to the national experts to check on this point. In the meantime, proposed AS 45.03.415(a) (page 48 line 16) should remain as it appears in your draft.

19 & 20. O.k.

21. Terry is correct. The official NCCUSL version poses the two alternatives for subsec. (b). Subsection (c) is supposed to be there, regardless of which alternative is chosen for subsec. c. Terry has chosen Alternative A, and I believe that she has made the appropriate choice, but I will defer to the bankers on this one.

22 -- 25. O.k.

26. Terry's point is a good one. However, I recommend leaving the draft's provision alone and tracking the "official" NCCUSL version of AS 45.04.215.

27. I believe that Terry's draft is appropriate, and that the dollar amount should not be inserted. This is the approach taken

The Honorable Jay Kerttula

Page 4

February 4, 1993

Re: Draft bill proposing UCC changes (arts 2A, 3, 4, & 6)

in prior drafts of this part of your bill, including last legislature's HB 294. I heard no objections to it then.

28. This is a good point, comparable to the one Terry raised in connection with two provisions in your other UCC bill. However, to maintain as much consistency with the "official" NCCUSL version as possible, I recommend that we address the point by amending proposed AS 45.12.108(d), rather than deleting it. In the meantime, I will include this question with those I am sending to the national experts on this subject. My suggestion is that, at page 93, line 15, the following words be inserted in front of "in an action": "Notwithstanding Rule 82, Alaska Rules of Civil Procedure,".

29 & 30. O.k.

31. Again, Terry has raised a good point. I am inclined to think that the provision should be amended (at page 106, lines 25 and 26) simply to say "provided by statute." However, I prefer to leave proposed AS 45.12.304(c) as it appears in the draft until I hear from the national experts on this point.

32. O.k.

33. Another excellent point! I don't know the answer, but recommend keeping Terry's interpretation in the draft until I hear from the national experts. I will ask them about this point too.

34 & 35. O.k.

36. Terry's point is good, proposed AS 45.12.522(b) could be clearer. However, her assumption is correct, and I recommend that her draft's wording be retained until the official NCCUSL version is changed.

37. O.k.

38. Terry's point is good, but I think that her proposed solution is awkward. I recommend inserting commas around the intervening prepositional phrase, so that the references would read as follows: "After default, by the lessee under the lease contract, of the type described" This approach flows, makes

STATEMENT OF
SEN. JAY KERTTULA
ON
S.B. 86 AND S.B. 112
"UNIFORM COMMERCIAL CODE"
BEFORE THE
SENATE LABOR AND COMMERCE COMMITTEE
MARCH 2, 1993

GOOD AFTERNOON. I'D LIKE TO THANK COMMITTEE CHAIRMAN SENATOR KELLY AND THE MEMBERS OF THE LABOR AND COMMERCE COMMITTEE FOR SCHEDULING SENATE BILLS 86 AND 112 FOR A PUBLIC HEARING TODAY. THE BILLS ARE COMPANION PIECES OF LEGISLATION AMENDING ALASKA'S UNIFORM COMMERICAL CODE.

AS SPONSOR OF THE BILLS IN THE SENATE, I WILL PROVIDE A BRIEF OVERVIEW OF EACH BILL. I HAVE ALSO ASKED LEGISLATIVE LEGAL COUNSEL AND REPRESENTATIVES FOR THE DEPARTMENT OF LAW TO BE HERE TODAY TO EXPLAIN SOME OF THE MORE TECHNICAL AND LEGAL ASPECTS OF THESE BILLS.

I WILL BEGIN WITH SENATE BILL 86, ALSO KNOWN AS THE "FUNDS TRANSFERS" BILL.

**SPONSOR STATEMENT-SB 86 AND AB 112
PAGE 2**

GENERALLY SPEAKING, SENATE BILL 86 BRINGS THE FUNDS TRANSFERS PORTION OF ALASKA'S UNIFORM COMMERCIAL CODE UP TO DATE WITH REGARD TO CURRENT ELECTRONIC TECHNOLOGY AS IT APPLIES TO MODERN BUSINESS PRACTICES.

S.B. 86 WILL ENACT THE NEW ARTICLE 4A INTO THE STATE'S UNIFORM COMMERCIAL CODE. THE U.C.C. IS A COMPREHENSIVE CODIFICATION OF COMMERCIAL LAW THROUGHOUT THE COUNTRY. UNTIL 1989, HOWEVER, THE U.C.C. DID NOT DEAL WITH FUNDS TRANSFERS BETWEEN COMMERCIAL ENTITIES. AS BUSINESS PRACTICE HAS COME TO RELY MORE HEAVILY ON THE SPEED, EFFICIENCY, RELIABILITY AND RELATIVELY LOW COST OF ELECTRONIC TECHNOLOGY, IT IS APPARENT THAT ALASKA'S COMMERCIAL LAWS BE BROUGHT UP TO DATE.

THE NEW ARTICLE 4A EMBODIED IN S.B. 86 DOES THIS. THE PROVISIONS IN S.B. 86 HAVE ALREADY BEEN ADOPTED BY 44 OTHER STATES, INCLUDING NEW YORK, ILLINOIS AND CALIFORNIA--THE MAJOR FINANCIAL CENTERS FOR AMERICA.

**THE SHEER VOLUME OF COMMERICAL FUNDING
TRANSACTIONS VIA MODERN TECHNOLOGY MAKES ENACTMENT
OF S.B. 86 NECESSARY. IN 1989, A RECORD THREE TRILLION
DOLLARS WERE TRANSFERRED ON A SINGLE DAY--MORE MONEY
THAN THE 1989 U.S. GROSS NATIONAL PRODUCT. THE
AVERAGE INDIVIDUAL FUNDS TRANSFER IN 1989 WAS FIVE
MILLION DOLLARS, AND THE AVERAGE DAILY TRANSFER WAS
ONE TRILLION DOLLARS.**

**UNLESS THE PARTIES TO A TRANSACTION USE THE SAME
BANK, A FUNDS TRANSFER, ON AVERAGE, INVOLVES AT LEAST
FOUR ENTITIES: THE ORIGINATOR OF THE PAYMENT; THE BANK
TO WHICH THE ORIGINATOR COMMUNICATES THE FIRST
PAYMENT ORDER; THE BANK OF THE ENTITY RECEIVING THE
ORDER; AND THE RECIPIENT OR BENEFICIARY.**

**BECAUSE THESE TRANSACTIONS ARE DONE
ELECTRONICALLY, AND NOT IN CASH, A NUMBER OF
QUESTIONS REGARDING RESPONSIBILITY AND LIABILITY
ARISE. QUESTIONS SUCH AS: WHAT HAPPENS IF THE FIRST**

**SPONSOR STATEMENT--SB 86 AND SB 112
PAGE 4**

**BANK MAKES A MISTAKE ON THE AMOUNT TO BE PAID? WHAT
IF THE SECOND BANK FAILS TO NOTIFY THE RECIPIENT?
WHAT HAPPENS IF THE ORIGINAL PAYMENT ORDER IS
FRAUDULENT AND NOT ACTUALLY ISSUED BY THE
ORIGINATOR? WHO BEARS THE RISK OF LOSS AT A GIVEN
TIME IN THE TRANSACTION PROCESS? AND WHAT
CONSTITUTES ACCEPTANCE AND REJECTION OF A PAYMENT
ORDER?**

**THESE AND OTHER QUESTIONS ARE ANSWERED IN THE
ARTICLE 4A ENACTED BY SENATE BILL 86 WHICH,
BASICALLY, ESTABLISHES THE RULES GOVERNING THE
PAYMENT OF LARGE SUMS OF MONEY.**

**THE BILL PROVIDES A SIGNIFICANT IMPROVEMENT IN
ALASKA COMMERCIAL LAW. IT WILL HELP KEEP ALASKA'S
UNIFORM COMMERCIAL CODE UP TO DATE WHICH, IN TURN,
HELPS ASSURE A FAVORABLE COMMERCIAL CLIMATE IN
ALASKA--ONE THAT IS IN LINE WITH THE REST OF THE
NATION AND CAN, ACCORDINGLY, HELP ENCOURAGE
ECONOMIC DEVELOPMENT AND GROWTH IN ALASKA.**

**SPONSOR STATEMENT-SB 86 AND SB 112
PAGE 5**

S.B. 86 HAS A ZERO FISCAL NOTE FROM THE DEPARTMENT OF LAW. IN ADDITION, FEDERAL FINANCIAL REGULATORS ARE ENCOURAGING INDIVIDUAL STATES TO ENACT THE PROVISIONS EMBODIED IN S.B. 86. TO BRING THEIR RESPECTIVE STATE LAWS INTO COMPLIANCE WITH FEDERAL LAW. UNLESS STATES ADOPT THESE PROVISIONS, THE FEDERAL GOVERNMENT WILL STEP IN AND PERFORM THE REGULATORY AND ENFORCEMENT DUTIES RELATING TO FUNDS TRANSFERS.

THE PROVISIONS IN S.B. 86 HAVE BEEN ENDORSED BY THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS.

SENATE BILL 112

SENATE BILL 112, IN GENERAL, ALSO MAKES AMENDMENTS TO ALASKA'S UNIFORM COMMERCIAL CODE. IN MOST INSTANCES THESE CHANGES ARE DESIGNED TO BRING THE CODE UP TO DATE WITH THE REST OF THE COUNTRY.

THE FIRST CHANGE ADDS A NEW ARTICLE 2A TO THE EXISTING LAW. WHILE THE EXISTING LAW COVERS COMMERCIAL PROPERTY LEASES, THERE IS NO LANGUAGE RELATING TO PERSONAL PROPERTY LEASING.

PERSONAL PROPERTY BEING LEASED RANGES FROM CARS, HORSES, AND MOVING VANS TO CONSTRUCTION EQUIPMENT AND OIL RIGS.

ARTICLE 2A DEALS WITH WHAT ARE CALLED 'TRUE' LEASES AND 'FINANCE' LEASES. THE ARTICLE PROVIDES THE STATUTORY ANSWERS TO A BROAD RANGE OF LEGAL ISSUES, COVERING SUCH MATTERS AS OFFER AND ACCEPTANCE, WARRANTIES, MISTAKE, FAILURE TO PERFORM, RISK OF LOSS AND REMEDIES.

THE CURRENT ABSENCE OF THESE RULES PROMOTES LITIGATION.

ARTICLE 3 OF S.B. 112, FOR THE MOST PART, REORGANIZES THE EXISTING MATERIAL IN THE STATE CODE TO MAKE IT MORE CLEAR AND TO ACCOUNT FOR MODERN

TECHNOLOGIES. THESE REVISIONS FIX MANY OF THE PROBLEMS THAT HAVE ARISEN OVER THE PAST 40 YEARS WITH THE UNIFORM COMMERCIAL CODE AND WITH NEGOTIABLE INSTRUMENTS. SOME OF THE CHANGES INCLUDED IN ARTICLE 3 AND ARTICLE 1 OF S.B. 112 ARE NECESSARY TO BRING THESE ARTICLES INTO COMPLIANCE WITH THE NEW LANGUAGE IN ARTICLE 4A AS IT APPEARS IN S.B. 86.

ONE IMPORTANT CHANGE IN ARTICLE 3 IS THAT THE REVISION RECOGNIZES THAT THERE ARE TWO TYPES OF INSTRUMENTS--NOTES AND DRAFTS--WHICH USUALLY PERFORM DIFFERENT FUNCTIONS AND, THEREFORE, MERIT DIFFERENT TREATMENT.

BENEFITS FROM ENACTING ARTICLE 3 OF S.B. 112 INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING: CERTAINTY OF THE LAW, SPEED AND RELIABILITY, LOWER COSTS, REDUCED LITIGATION, AND STRICTER STANDARDS FOR FIDUCIARIES.

**SPONSOR STATEMENT-SB 86 & SB 112
PAGE 8**

FINALLY, SENATE BILL 112 SEEKS TO REPEAL ARTICLE 6 OF THE PRESENT UNIFORM COMMERCIAL CODE. ARTICLE 6 DEALS WITH BULK SALES. A BULK SALE IS ONE IN WHICH A BUSINESS SELLS ALL OR A LARGE PART OF ITS INVENTORY TO A SINGLE BUYER OUTSIDE THE ORDINARY COURSE OF BUSINESS.

THE EXISTING LAW WAS DESIGNED TO PROTECT CREDITORS OF SUCH BUSINESSES FROM THE PROPRIETOR WHO ABSCONDS WITH THE PROCEEDS OF SUCH A SALE. THESE LAWS WERE ENACTED IN A CLIMATE OF SMALLER BUSINESSES.

BUT THE CREDIT ENVIRONMENT HAS CHANGED DRASTICALLY OVER THE YEARS, SO THAT THE RISK OF THE ABSCONDING PROPRIETOR IS NO LONGER VERY GREAT. IT IS NOW EASIER FOR BUSINESSES TO ESTABLISH THE CREDITWORTHINESS OF A PROPRIETOR OR MERCHANTISER, AND EASIER TO PURSUE THOSE FEW WHO DO "TAKE THE MONEY AND RUN".

**SPONSOR STATEMENT-SB 86 AND SB 112
PAGE 9**

IN ADDITION, UNDER ARTICLE 9 OF THE EXISTING CODE, PROTECTIONS FOR CREDITORS ARE MORE SIGNIFICANT THAN IN THE PAST.

BECAUSE OF THESE FACTORS, THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS, AND A GROUP OF 16 ALASKA BUSINESS LAW ATTORNEYS, HAVE RECOMMENDED THAT ARTICLE 6 BE REPEALED. AS OF 1991, 14 STATES HAD APPROACHED THIS ISSUE AND TEN OF THEM OPTED FOR THE REPEAL APPROACH ENACTED IN SENATE BILL 112.

THIS BILL RECEIVED A ZERO FISCAL NOTE FROM THE DEPARTMENT OF LAW'S DIVISION OF LEGAL SERVICES. ACCORDING TO THE DEPARTMENT'S ANALYSIS ACCOMPANYING THIS FISCAL NOTE, THE BASIC CHANGES PROPOSED IN S.B. 112 ARE--AND I QUOTE:

". . .NEEDED TO HELP BRING ALASKA BUSINESSES AND CONSUMERS INVOLVED IN COMMERCIAL TRANSACTIONS UP TO DATE WITH BUSINESSES AND CONSUMERS IN THE REST OF THE COUNTRY." (END QUOTE).

**SPONSOR STATEMENT-SB 86 AND SB 112
PAGE 10**

**BECAUSE OF THIS, AND THE OTHER REASONS I HAVE
OUTLINED IN MY STATEMENT, IT IS MY HOPE THAT THIS
COMMITTEE WILL LOOK FAVORABLY ON BOTH SENATE BILL 86
AND SENATE BILL 112, GIVING IT A "DO PASS"
RECOMMENDATION.**

(end statement)

A Few Facts About The Uniform Commercial Code, Article 2A – Leases

Purpose: To provide states with a legal framework for any transaction, regardless of form, that creates a lease.

Origin: Completed by the Uniform Law Commissioners in 1987 and amended in 1990.

Endorsed by: American Bar Association
American Law Institute

**State
Adoptions of
1987 Act:**

Florida
Oregon

South Dakota
Utah

**Adoptions with
1990 Amendments:**

Alabama
Arizona
California
Colorado
Delaware
District of Columbia
Hawaii
Illinois
Indiana
Kansas
Kentucky
Maine
Michigan
Minnesota

Missouri
Montana
Nebraska
Nevada
New Mexico
North Dakota
Ohio
Oklahoma
Pennsylvania
Rhode Island
Virginia
Wisconsin
Wyoming

**1993
Introductions:**

Maryland
Massachusetts
New Hampshire

New Jersey
West Virginia

For any further information regarding Article 2A of the Uniform Commercial Code, please contact John McCabe or Katie Robinson at 312-915-0195.

(2/1/93)

STATES THAT HAVE ADOPTED
U.C.C. CHANGES

A Few Facts About Revised Article 3 of the UCC

(With Conforming and Miscellaneous Amendments to Articles 1 and 4)

Purpose: To update provisions of the UCC dealing with payment by checks and other paper instruments to provide essential rules for the new technologies and practices in payment systems.

Origin: Completed by the Uniform Law Commissioners in 1990.

Endorsed by: American Bar Association
American Law Institute

**State
Adoptions:**

Arkansas	Missouri
California	Montana
Connecticut	Nebraska
Florida	New Mexico
Hawaii	North Dakota
Illinois	Oklahoma
Kansas	Pennsylvania
Louisiana	Virginia
Minnesota	Wyoming
Mississippi	

1993

Introductions: Arizona New Hampshire
Massachusetts West Virginia

For any further information regarding Revised Article 3 of the Uniform Commercial Code (with conforming and miscellaneous amendments to Articles 1 and 4), please contact John McCabe or Katie Robinson at 312-915-0195.

(2/1/93)

A Few Facts About
REVISED ARTICLE 6 OF THE UNIFORM COMMERCIAL CODE

PURPOSE: To provide states with the option of repealing or revising current Article 6 of the UCC.

ORIGIN: Completed by the Uniform Law Commissioners in 1989.

ENDORSED BY: American Bar Association
American Law Institute

STATE ADOPTIONS
OF REVISED UCC6:

Arizona
California
Hawaii
Oklahoma
Utah

STATE REPEALS
OF UCC6:

Arkansas	Montana
Colorado	Nebraska
Illinois	Nevada
Kansas	New Mexico
Kentucky	Oregon
Louisiana	Pennsylvania
Maine	West Virginia
Minnesota	Wyoming

INTRODUCTIONS
TO REPEAL UCC6:

New Hampshire
New Jersey
North Dakota

INTRODUCTIONS
TO REVISE UCC6:

For any further information regarding the revised Article 6 of the Uniform Commercial Code, please contact John McCabe or Katie Robinson at 312-915-0195.

SENATE COMMITTEE REPORT

DATE: 3/5/93

FURTHER: FINANCE

DATE TURNED INTO OFFICE: 3-22-93

JUDICIARY Committee considered SENATE BILL NO. 112

"An Act relating to the Uniform Commercial Code; amending Alaska Rules of Civil Procedure 8 and 82, and Alaska Rule of Evidence 402; and providing for an effective date."

and recommends it
be replaced with

and recommends:

replace with _____ CS SB 112 (JUD)

or adopt previous _____ CS _____

attaches amendment(s) *report it back w/*

adopts _____ Letter of Intent *NO REC*

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

3 PLANS

NEW FISCAL NOTES

Department	Date	Zero	Fiscal
DNR	3/15/93	✓	REC CS
			QDCS

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
DCED	3/2/93	✓	
LAW	2/18/93	✓	

Appropriation No Fiscal Note

DO PASS:

OTHER RECOMMENDATIONS:

Gen. Tech NO REC.
~~_____~~
Rich Halford NO REC
Suzanne R. Little NO REC

Adrian L. Taylor
 Chair: Signature and Recommendation

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

JK

DATE: 2/11/93

FURTHER: JUDICIARY
FINANCE

Date of 5-Day Notice: 2-25-93
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3/5/93

L&C Committee considered SB 112

"An Act relating to the Uniform Commercial Code; amending Alaska Rules of Civil Procedure 8 and 82, and Alaska Rule of Evidence 402; and providing for an effective date."

and recommends:

replace with _____ CS SB 112 (L&C)

attaches amendment(s)

SMOJHOI 88 XCBQ
back as follows

and report it
back as follows

same title
 new title
 technical
title change
(HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

*207NS
SB & CS*

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
DCED	3/2/93	✓	
LAW	2/18/93	✓	

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

OTHER RECOMMENDATIONS:
 ② INTRO. FINANCE - NO Rec
 ② Public Policy No Rec
 ② ... NR

Tom Kelly - Do Pass
Chair: Signature and Recommendation