

2015 HOUSE JUDICIARY

HB 1134


2015 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee Prairie Room, State Capitol

HB 1134
1/12/2015
21838

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to funds transfers under the Uniform Commercial Code; and to declare an emergency.

Minutes:

Testimony #1

Chairman K.Koppelman: Opened the hearing on HB 1134 with testimony in support. Uniform Law Commission puts together statutes that they want to see some uniformity in from state to state. We are under no obligation to pass these bills just because the ULC gives them to us. How important is uniformity to this issue from state to state.

Rep. L. Klemin: (See Testimony #1) (3:00-7:22)

Marilyn Foss, General Counsel to the NDBA: Support of the bill. We have banks in North Dakota that have business in other states so we are critically interested in uniformity in this area of law. We have customers that do wire transfers. When the funds transfer section of the UCC was first adopted there was a decision to simply split jurisdiction; Federal and State jurisdiction for wire transfers between the electronic funds transfer act, which set forth substituent requirements for financial institutions as they relate to consumer transactions and commercial wire transfers. In that decision to split the laws that applied foreign wire transfers were defined to be commercial transfers and all governed by state law. The change to the EFTA that Rep. Klemin referenced took some foreign wire transfers that are made for family and household purposes and reclassified them as consumer transactions for EFTA. This bill just resorts to reflect the current law. We have had banks just tell us they support this bill to eliminate confusion. We strongly urge passage of this bill.

Chairman K.Koppelman: We are just trying to get this the same as other states for uniformity. Is that right?

Marilyn Foss: I do not know of litigation in North Dakota over specific wire transfers. I do know where wire transfers have been involved in efforts to defraud people in ND. This is where you would go to look for jurisdiction.

Tony Weiler, Executive Director, State Bar Association of ND: We are in support of this bill and urge a do pass.

Opposition: None

Hearing closed.

Motion Made to Do Pass by Rep. Maragos; Seconded by Rep. Lois Delmore:

Discussion: None

Vote: 13 Yes 0 No 0 Absent Carrier: Rep. Kretschmar

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB1134**

House JUDICIARY Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Maragos Seconded By Rep. Delmore

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman	✓		Rep. Pamela Anderson	✓	
Vice Chairman Karls	✓		Rep. Delmore	✓	
Rep. Brabandt	✓		Rep. K. Wallman	✓	
Rep. Hawken	✓				
Rep. Mary Johnson	✓				
Rep. Klemin	✓				
Rep. Kretschmar	✓				
Rep. D. Larson	✓				
Rep. Maragos	✓				
Rep. Paur	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep. Kretschmar

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1134: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **DO PASS**
(13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1134 was placed on the
Eleventh order on the calendar.

2015 SENATE JUDICIARY

HB 1134

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1134
3/16/2015
24840

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Minutes:

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Chairman Hogue opened the public hearing on HB 1134. Representative Klemin was on hand to introduce the bill.

Representative Klemin: See attachment #1.

Marilyn Foss: General Counsel North Dakota Bankers Association. We support passage of this bill because it restores North Dakota law. The reason it is technical is because Congress in pulling remittance transfers into the EFTA did so quickly and for the purpose of requiring financial institutions additional disclosure. The overall scheme is that if they are covered by the EFTA then they are not covered by article 4A of the uniform commercial code. Article 4A was drafted to say that and when Congress pulled these foreign fund transfers for consumers into EFTA the kinds of things that our law address no longer apply to only these consumer foreign funds transfers.

Greg Tscheider: Credit Union Association of the Dakotas. The intent is that there is uniformity amongst the states and that is all we are trying to accomplish here.

Barry Haugen: Independent Community Banks of North Dakota. We too, support HB 1134, transparency and knowns are good things in our industry.

Tony Weiler: Executive Director of the State Bar Association. We also support this legislation and ask for a do pass.

Chairman Hogue then closed the hearing on HB 1134. A motion for a do pass was made by Senator Grabinger with a second by Senator Casper, there was

Senate Judiciary Committee

HB 1134

3/16//2015

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no discussion, roll was taken, the motion passed on a 6-0-0 vote with Senator Grabinger carrying the bill to the floor.

Date: 3/16/15

Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTE

BILL/RESOLUTION NO. 1134

Senate JUDICIARY Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment

☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation

☐ As Amended ☐ Rerefer to Appropriations

☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen. Grabinger Seconded By Sen. Casper

Senators	Yes	No	Senators	Yes	No
Chairman Hogue			Sen. Grabinger		
Sen. Armstrong			Sen. C. Nelson		
Sen. Casper					
Sen. Luick					

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Grabinger

REPORT OF STANDING COMMITTEE

HB 1134: Judiciary Committee (Sen. Hogue, Chairman) recommends **DO PASS**
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1134 was placed on the
Fourteenth order on the calendar.

2015 TESTIMONY

HB 1134

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1-12-15
#1
pg 1

TESTIMONY OF REP. LAWRENCE R. KLEMIN

HOUSE JUDICIARY COMMITTEE

HOUSE BILL NO. 1134

JANUARY 12, 2015

Mr. Chairman and members of the House Judiciary Committee. I am Lawrence R. Klemin, Representative from District 47 in Bismarck. I am also a Commissioner serving on the Uniform Law Commission. House Bill 1134 is a technical amendment and relates to certain wire funds transfers under the Uniform Commercial Code (UCC) contained in Chapter 41-04.1 of the North Dakota Century Code. This chapter is also referred to as Article 4A of the UCC.

The purpose of HB 1134 is to comply with federal regulations of the Consumer Financial Protection Bureau implementing provisions of the federal Electronic Funds Transfer Act (EFTA) for international wire funds transfers from the United States to foreign countries, known as remittance transfers. Remittance transfers include wire transfers to friends, family members, or businesses in foreign countries.

Section 1 of HB 1134 revises Section 41-04.1-08 [UCC §4A-108] to provide that state law applies to a remittance transfer, unless the remittance transfer is an electronic funds transfer as defined in the EFTA. If there is any inconsistency between state law and federal law on this subject, then federal law controls. Attached to my testimony is a detailed explanation of this change to UCC Article 4A from the National Uniform Law Commission.

Similar amendments to the UCC have been enacted throughout most of the states in order to maintain consistency with federal law and uniformity among the states. See the map attached to my testimony.

Section 2 includes an emergency clause, so that the bill will become effective when signed by the Governor and filed with the Secretary of State, rather than on the normal effective date of August 1, 2015. We would like to have this amendment take effect at an early date, since North Dakota is now one of the last states to enact this change.

I encourage the committee to give a favorable recommendation to HB 1134.

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1-22-13
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Summary of the Amendment to UCC Article 4A

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. Presently Article 4A does not apply to a funds transfer any part of which is governed by EFTA. The implementing regulations for the federal act were published in the Federal Register in November 2011, with a delayed effective date of the rules to February 2013, expressly to permit changes to UCC 4A so it might continue to govern aspects of some remittance transfers. Absent a change to Article 4A, there could be legal uncertainty for a class of remittance transfers currently governed by Article 4A. The Permanent Editorial Board for the Uniform Commercial Code has recommended an amendment to §4A-108 and its comments. 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 EFTA governed only consumer wire transfers. UCC §4A-108 was drafted with that in mind. 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 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 (not a consumer remittance transfer). Thus 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.

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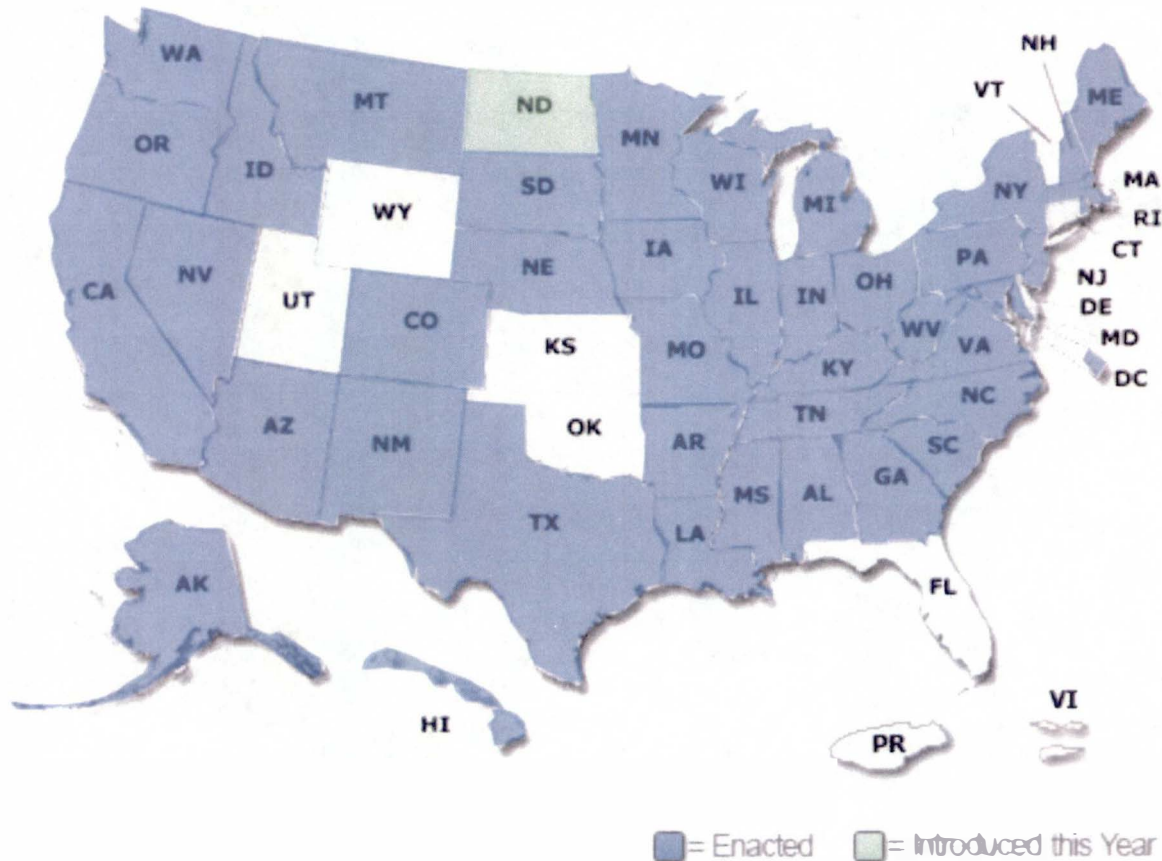
Uniform Law Commission

The National Conference of Commissioners on Uniform State Laws



Contact Us: 312.450.6600

Legislative Enactment Status UCC Article 4A Amendments (2012)



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111 N. Wabash Avenue Suite 1010 Chicago, Illinois 60602

TESTIMONY OF REP. LAWRENCE R. KLEMIN**SENATE JUDICIARY COMMITTEE****HOUSE BILL NO. 1134****MARCH 16, 2015**

Mr. Chairman and members of the Senate Judiciary Committee. I am Lawrence R. Klemin, Representative from District 47 in Bismarck. I am also a Commissioner serving on the Uniform Law Commission. House Bill 1134 is a technical amendment and relates to certain wire funds transfers under the Uniform Commercial Code (UCC) contained in Chapter 41-04.1 of the North Dakota Century Code. This chapter is also referred to as Article 4A of the UCC.

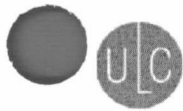
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I encourage the committee to give a favorable recommendation to HB 1134.

**Uniform Law Commission**

The National Conference of Commissioners on Uniform State Laws

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3-16-15
HB
1134

UCC Article 4A Amendments (2012) Summary

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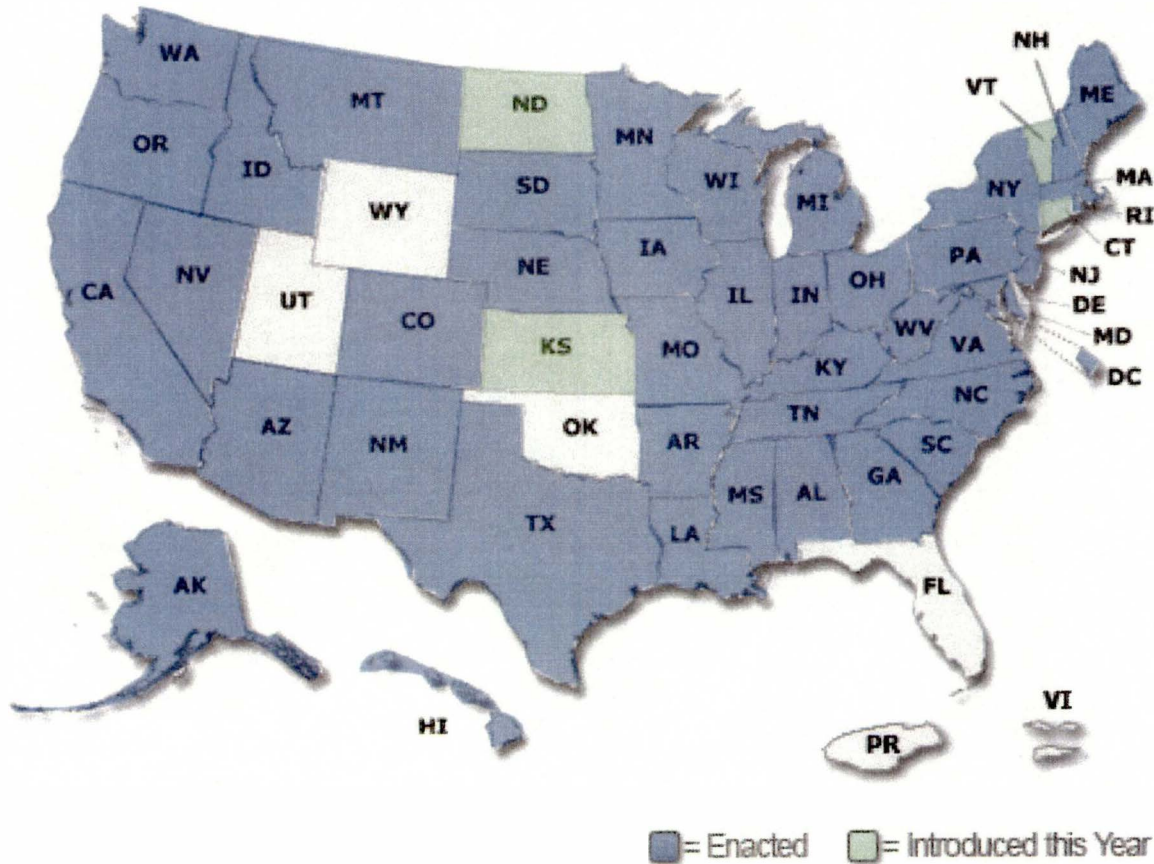
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