

DRAFTING COMMITTEE ON THE UNIFORM COMMERCIAL CODE AND EMERGING TECHNOLOGIES

AGENDA

Edwin E. Smith, Chair
Juliet M. Moringiello, Vice Chair
Charles W. Mooney, Jr., Reporter
Stephen L. Sepinuck, Associate Reporter

March 7, 2022
11:00 am – 2:00 pm CST

March 8, 2022
1:00 pm – 4:00 pm CST

Materials:

1. February 28, 2022 Draft, Uniform Commercial Code and Emerging Technologies (UCC Draft).
2. Track changes comparison UCC Draft (marked to reflect changes from January 17 Draft)
3. Memorandum from Chair and Reporter, February 28, 2022

- I. Introductory remarks from the Chair
- II. Introductory remarks from the Reporter

Note: The agenda below identifies particular changes from earlier drafts and other issues that should be discussed. However, time permitting, the entire draft is open for discussion.

- III. “Money” definition in 1-201(b)(24) (UCC Draft, pp. xx-xx).
- IV. “Conspicuous” definition in 1-201(b)(10) (UCC Draft, pp. xx-xx).
- V. “Signed” definition in 1-201(b)(37) (UCC Draft, pp. xx-xx) and treatment of “writing,” “written,” and “record” in Articles 2 and 2A (UCC Draft, pp. xx-xx).
- VI. Revised 9-605(b) and 9-628(f) on exceptions from exculpatory provisions when secured party lacks knowledge necessary for compliance with Article 9 duties (UCC Draft, pp. xx-xx).
- VII. New choice-of-law rules for perfection and priority for chattel paper in 9-301(5) and new 9-306A (former 9-306A on perfection and priority for CAs, CERs, and CPIs changed to 9-306B). (UCC Draft, pp. xx-xx). New 9-306A adopts the “electronic chattel paper’s jurisdiction

(see, e.g., 8-110/9-305) for electronic copies of records evidencing CP when no tangible copies exist. Revised 9-301(5) adopts location of tangible CP for perfection by possession and priority when no electronic copies exist. Perfection by filing in CP continues to be in location of debtor.

VIII. Revised 9-317(f) for non-SP buyers of chattel paper and new 9-317 (g) and (h) for buyers of electronic documents of title and CERs (UCC Draft, pp. xx-xx).

IX. “Control” issues:

a. “Person” in 7-106 (no change from current law and earlier drafts), 9-105A, and 12-105 (no change from earlier drafts) (UCC Draft, pp. xx-xx).

b. “Secured party” changed to “Purchaser” in 9-105 (no change from January draft) (UCC Draft, pp. xx-xx).

c. “Purchaser” in 8-106 (no change from current law) (UCC Draft, pp. xx-xx).

d. Control through another person: Provisions on no duty to acknowledge, no duties on person who acknowledges, and no duty to confirm acknowledgment, based on 9-313 provisions. Added to 7-106, 8-106, and 12-105 (UCC Draft, pp. xx-xx). and in new 9-107B for control under 9-104, 9-105, and 9-105A (UCC Draft, pp. xx-xx)..

e. New comment to 9-314 on shared control by debtor and secured party and relevance for perfection (UCC Draft, pp. xx-xx).

X. Article 2 - Sales and Article 2A – Leases

Note: The meeting will take up agenda item XX at approximately 1:00 pm on Tuesday, March 8.

a. Draft § 2-102, Scope; 2-106, Definitions. “Hybrid” transactions. (UCC Draft, pp. xx-xx).

b. Draft § 2A-102. Scope; 2A-103. Definitions. “Hybrid” leases. (UCC Draft, pp. xx-xx).

XI. New comment on “specific goods” in definition of “chattel paper” in 9-102 (UCC Draft, pp. xx-xx).

XII. Change of bottom of waterfall in 12-107 to District of Columbia from location of debtor with DC as a fallback (UCC Draft, pp. xx-xx).

XIII. New 12-104(b) on control of CA and CPI for purposes of becoming qualifying purchaser (UCC Draft, pp. xx-xx).

XIV. Possible changes of “written” and “writing” to “record” for consumer-goods transactions in 9-614, notice of plan to sell collateral, and 9-616, explanation of calculation of surplus or deficiency (UCC Draft, pp. xx-xx).

XV. Expansion of official comments to explain certain rules in Articles 7 and 9 (including those for security interests) for non-negotiable documents of title and goods covered by them (UCC Draft, pp. xx-xx).

XVI. New comment to 8-501(d) on “customer name” context for CERs, etc. (UCC Draft, pp. xx-xx).

XVII. Electronic money that cannot be subjected to “control”: (i) exclude from definition of “electronic money”? (UCC Draft, pp. 80, 86) (ii) exception from requirement of perfection only by control? (UCC Draft, pp. 110-11)

XVIII. ADJOURNMENT:

a. By 2:00 pm CST, March 7, 2022

b. By 4:00 pm CST, March 8, 2022