

MEMORANDUM

TO: Committee on the Uniform Commercial Code and Emerging Technologies

FROM: Steven Harris, Reporter

RE: Revised Draft of Section 12-106 (to be discussed on April 27, 2 p.m. CT)

DATE: April 23, 2021

This Memorandum supplements the Memorandum re: Controllable Electronic Records dated April 18, 2021. It contains a revised draft of Section 12-106.

Section 12-106. Discharge of Account Debtor on Controllable Account or Controllable Payment Intangible.

(a) Subject to subsections (b) through (g), the account debtor on a controllable account or controllable payment intangible may discharge its obligation:

(1) by paying the person having control of the controllable electronic record that evidences the controllable account or controllable payment intangible; or

(2) by paying a person that formerly had control of the controllable electronic record.

(b) Subject to subsection (g), an account debtor may not discharge its obligation by paying a person that formerly had control if the account debtor receives a notification, authenticated by a person that formerly had control or the person to which control was transferred, that reasonably identifies the controllable account or controllable payment intangible, notifies the account debtor that control of the controllable electronic record that evidences the controllable account or controllable payment intangible was transferred, identifies the transferee, and provides a reasonable method by which the account debtor is to make payments to the transferee. The transferee may be identified in any way, including by name,

identifying number, cryptographic key, office, or account number. After receipt of the notification, the account debtor may discharge its obligation by paying in accordance with the notification and may not discharge the obligation by paying a person that formerly had control.

(c) [**When notification ineffective.**] Subject to subsection (g), notification is ineffective under subsection (b):

(1) unless, prior to the sending of the notification, the account debtor and the person that at that time had control of the controllable electronic record that evidences the controllable account or controllable payment intangible agree in an authenticated record to a reasonable method by which a person can furnish reasonable proof that control has been transferred;

~~(4)~~ (2) to the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this article; or

~~(2)~~ (3) at the option of the account debtor, if the notification notifies the account debtor to divide a payment and send portions by more than one method.

(d) [**Request for proof of transfer.**] Subject to subsection (g), if requested by the account debtor, the person giving the notification shall seasonably furnish reasonable proof, by using the agreed method, that control of the controllable electronic record has been transferred. Unless the person complies, the account debtor may discharge its obligation by paying a person that formerly had control, even if the account debtor has received a notification under subsection (b).

(e) [**Proof of transfer.**] A person furnishes reasonable proof that control has been transferred if the person demonstrates, by using the agreed method, that the transferee has the power to avail itself of substantially all the benefit from the controllable electronic record, to

prevent others from availing themselves of substantially all the benefit from the controllable electronic record, and to transfer these powers to another person.

(f) **[Subsection (c)(2) not waivable.]** Subject to subsection (g), an account debtor may not waive or vary its option under subsection (c)(2).

(g) **[Rule for individual under other law.]** This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.