

**AMENDMENTS APPROVED BY NCCUSL EXECUTIVE
COMMITTEE PENDING RATIFICATION OF THE CONFERENCE**

1. AMEND SECTION 103. SCOPE; EXCLUSIONS.

(a)

(b)

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(2) Subject to subsection (d)(2)(A), if a transaction includes an agreement for creating or for obtaining rights to create computer information and a motion picture, this [Act] does not apply to the agreement if the dominant character of the agreement is for creating or obtaining rights to create a motion picture. In all other such agreements, this [Act] does not apply to the part of the agreement that involves a motion picture excluded under subsection (d)(2), but does apply to the computer information.

(3) In all other cases

.....

(d) This [Act] does not apply to:

.....

(2)

(A) a motion picture or audio or visual programming, other than in (i) a mass-market transaction or (ii) a submission of an idea or information or release of informational rights that may result in making a motion picture or a similar information product that is provided by broadcast, satellite, or cable as defined or used in the Federal Communications Act and related regulations as they existed on July 1, 1999, or by similar methods of delivering that programming; or

(B) a motion picture, sound recording, musical work, or phonorecord as defined or used in Title 17 of the United States Code as of July 1, 1999, or an enhanced sound recording, other than in the submission of an idea or information or release of informational rights that may result in the creation of such material or a similar information product;

.....

(f) In this section, “motion picture” means:

(1) “motion picture” as defined in Title 17 of the United States Code as of July 1, 1999; or

(2) a separately identifiable product or service the dominant character of which consists of a linear motion picture, but which includes (i) statements or instructions whose purpose is to allow or control the perception, reproduction, or communication of the motion picture or (ii) other information as long as the motion picture constitutes the dominant character of the product or service despite the inclusion of the other information.

(g) In this section, “audio or visual programming” means audio or visual programming that is provided by broadcast, satellite, or cable as defined or used in the Communications Act of 1934 and related regulations as they existed on July 1, 1999, or by similar methods of delivery.

2. AMEND SECTION 201 AS FOLLOWS:

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(d) Between merchants, if, within a reasonable time, a record in confirmation of the

contract and sufficient against the sender is received and the party receiving it has reason to know its contents, the record satisfies subsection (a) against the party receiving it unless notice of objection to its contents is given in a record within a reasonable time ~~10 days~~ after the confirming record is received.

3. ADD THE FOLLOWING AFTER SECTION 215:

D. Idea or Information Submissions

SECTION 216. IDEA OR INFORMATION SUBMISSION.

(a) The following rules apply to a submission of an idea or information for the creation, development, or enhancement of computer information which is not made pursuant to an existing agreement requiring the submission:

(1) A contract is not formed and is not implied from the mere receipt of an unsolicited submission.

(2) Engaging in a business, trade, or industry that by custom or practice regularly acquires ideas is not in itself an express or implied solicitation of the information.

(3) If the recipient seasonably notifies the person making the submission that the recipient maintains a procedure to receive and review submissions, a contract is formed only if:

(A) the submission is made and a contract accepted pursuant to that procedure; or

(B) the recipient expressly agrees to terms concerning the submission.

(b) An agreement to disclose an idea creates a contract enforceable against the receiving party only if the idea as disclosed is confidential, concrete, and novel to the business, trade, or industry or the party receiving the disclosure otherwise expressly agreed.