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Senate Bill 550 (as introduced 9-25-13)
Sponsor: Senator Darwin L. Booher
Committee: Banking and Financial Institutions

Date Completed: 10-9-13

CONTENT

The bill would amend Article 4A of the Uniform Commercial Code, which governs funds transfers, to apply the article to a remittance transfer, and provide that if there were an inconsistency between the article and an applicable provision of the Federal Electronic Fund Transfer Act (EFTA), the Act would govern.

Article 4A states that it does not apply to a funds transfer that is governed by the EFTA.

Under the bill, Article 4A would apply to a funds transfer that was a remittance transfer, unless the remittance transfer was an electronic funds transfer.

"Remittance transfer" would mean that term as defined under the EFTA, which defines it as an electronic transfer of funds requested by a sender located in any state to a designated recipient that is initiated by a remittance transfer provider, whether or not the sender holds an account with the remittance transfer provider or whether or not the remittance transfer is also an electronic fund transfer.

"Electronic fund transfer" also would mean that term as defined under the EFTA; i.e., any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. The term includes, but is not limited to, point-of-sale transfers, ATM transactions, direct deposits or withdrawals of funds, and transfers initiated by telephone.

In a funds transfer subject to Article 4A, if there were an inconsistency between Article 4A and the EFTA, the provisions of EFTA would govern to the extent of the inconsistency.

MCL 440.4608

Legislative Analyst: Glenn Steffens

BACKGROUND

According to the National Conference of Commissioners on Uniform State Laws (the Uniform Law Commission, or ULC), Article 4A of the Uniform Commercial Code was originally drafted to govern transfers between commercial parties. At that time, the Electronic Fund Transfer Act governed only consumer wire transfers. As a result of an amendment under the Dodd-Frank Wall Street Reform and Consumer Protection Act, the EFTA also governs remittance transfers, which involve transfers of funds through electronic means by consumers to recipients in another country through persons or financial institutions that provide such

transfers in the normal course of their business. Preemptive Federal regulations implementing the amendment went into effect in February 2013.

Since the EFTA applies to remittance transfers whether or not they are also electronic fund transfers, and Article 4A does not apply to fund transfers that are governed by the EFTA, a fund transfer initiated by a remittance transfer will be outside the scope of Article 4A, even if the remittance transfer is not an electronic fund transfer. To address this, the ULC recommended an amendment to Article 4A, so it might continue to govern aspects of some remittance transfers.

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Josh Sefton