

UNIFORM COMMERCIAL CODE (EXCERPT)
Act 174 of 1962
Part 1
GENERAL PROVISIONS AND DEFINITIONS

440.4101 Uniform commercial code—bank deposits and collections; short title.

Sec. 4101.

This article shall be known and may be cited as uniform commercial code—bank deposits and collections.

History: 1962, Act 174, Eff. Jan. 1, 1964

440.4102 Conflict of laws; provisions applicable.

Sec. 4102.

(1) To the extent that items within this article are also within articles 3 and 8, they are subject to those articles. If there is conflict, this article governs article 3 but article 8 governs this article.

(2) The liability of a bank for action or non-action with respect to an item handled by it for purposes of presentment, payment, or collection is governed by the law of the place where the bank is located. In the case of action or non-action by or at a branch or separate office of a bank, its liability is governed by the law of the place where the branch or separate office is located.

History: 1962, Act 174, Eff. Jan. 1, 1964 ;— Am. 1993, Act 130, Eff. Sept. 30, 1993

440.4103 Variation by agreement; measure of damages; action constituting ordinary care.

Sec. 4103.

(1) The effect of the provisions of this article may be varied by agreement but the parties to the agreement cannot disclaim a bank's responsibility for its lack of good faith or failure to exercise ordinary care or limit the measure of damages for the lack or failure. However, the parties may determine by agreement the standards by which the bank's responsibility is to be measured if those standards are not manifestly unreasonable.

(2) Federal Reserve regulations and operating circulars, clearing-house rules, and the like have the effect of agreements under subsection (1), whether or not specifically assented to by all parties interested in items handled.

(3) Action or non-action approved by this article or pursuant to Federal Reserve regulations or operating circulars is the exercise of ordinary care and, in the absence of special instructions, action or non-action consistent with clearing-house rules and the like or with a general banking usage not disapproved by this article, is prima facie the exercise of ordinary care.

(4) The specification or approval of certain procedures by this article is not disapproval of other procedures which may be reasonable under the circumstances.

(5) The measure of damages for failure to exercise ordinary care in handling an item is the amount of the item reduced by an amount that could not have been realized by the exercise of ordinary care. If there is also bad faith, it includes any other damages the party suffered as a proximate consequence.

History: 1962, Act 174, Eff. Jan. 1, 1964 ;— Am. 1993, Act 130, Eff. Sept. 30, 1993

440.4104 Definitions used in article.

Sec. 4104.

(1) As used in this article unless the context otherwise requires:

(a) "Account" means any depositor credit account with a bank, including a demand, time, savings, passbook, share draft, or like account, other than an account evidenced by a certificate of deposit.

(b) "Afternoon" means the period of a day between noon and midnight.

(c) "Banking day" means the part of a day on which a bank is open to the public for carrying on substantially all of its banking functions.

(d) "Clearing-house" means an association of banks or other payors regularly clearing items.

(e) "Customer" means any person having an account with a bank or for whom a bank has agreed to collect items, including a bank that maintains an account at another bank.

(f) "Documentary draft" means a draft to be presented for acceptance or payment if specified documents, certificated securities as defined in section 8102 or instructions for uncertificated securities as defined in section 8102, or other certificates, statements, or the like are to be received by the drawee or other payor before acceptance or payment of the draft.

(g) "Draft" means a draft as defined in section 3104 or an item, other than an instrument, that is an order.

(h) "Drawee" means a person ordered in a draft to make payment.

(i) "Item" means an instrument or a promise or order to pay money handled by a bank for collection or pay. The term does not include a payment order governed by article 4a or a credit or debit card slip.

(j) "Midnight deadline" with respect to a bank is midnight on its next banking day following the banking day on which it receives the relevant item or notice or from which the time for taking action commences to run, whichever is later.

(k) "Settle" means to pay in cash, by clearing-house settlement, in a charge or credit or by remittance, or otherwise as agreed. A settlement may be either provisional or final.

(l) "Suspends payments" with respect to a bank means that it has been closed by order of the supervisory authorities, that a public officer has been appointed to take it over or that it ceases or refuses to make payments in the ordinary course of business.

(2) Other definitions applying to this article and the sections in which they appear are:

"Agreement for electronic presentment". Section 4110.

"Collecting bank". Section 4105.

"Depository bank". Section 4105.

"Intermediary bank". Section 4105.

"Payor bank". Section 4105.

"Presenting bank". Section 4105.

"Presentment notice". Section 4110.

(3) "Control" as provided in section 7106 and the following definitions in other articles apply to this article:

"Acceptance". Section 3409.

"Alteration". Section 3409.

"Certificate of deposit". Section 3104.

"Cashier's check". Section 3104.

"Certified check". Section 3409.

"Check". Section 3104.

"Draft". Section 3104.

"Holder in due course". Section 3302.

"Instrument". Section 3104.

"Notice of dishonor". Section 3503.

"Order". Section 3103.

"Ordinary care". Section 3103.

"Person entitled to enforce". Section 3301.

"Presentment". Section 3501.

"Promise". Section 3103.

"Prove". Section 3103.

"Remotely created consumer item". Section 3103.

"Teller's check". Section 3104.

"Unauthorized signature". Section 3403.

(4) In addition, article 1 contains general definitions and principles of construction and interpretation applicable

throughout this article.

History: 1962, Act 174, Eff. Jan. 1, 1964 ;-- Am. 1993, Act 130, Eff. Sept. 30, 1993 ;-- Am. 1998, Act 278, Imd. Eff. July 27, 1998 ;-- Am. 2012, Act 87, Eff. July 1, 2013 ;-- Am. 2014, Act 103, Imd. Eff. Apr. 10, 2014

440.4105 Additional definitions.

Sec. 4105.

As used in this article unless the context otherwise requires:

(a) "Bank" means a person engaged in the business of banking, including a saving bank, saving and loan association, credit union, or trust company.

(b) "Depository bank" means the first bank to take an item even though it is also the payor bank, unless the item is presented for immediate payment over the counter.

(c) "Payor bank" means a bank that is the drawee of a draft.

(d) "Intermediary bank" means a bank to which an item is transferred in course of collection except the depository or payor bank.

(e) "Collecting bank" means a bank handling the item for collection except the payor bank.

(f) "Presenting bank" means a bank presenting an item except a payor bank.

History: 1962, Act 174, Eff. Jan. 1, 1964 ;-- Am. 1993, Act 130, Eff. Sept. 30, 1993

440.4106 "Payable through" and "payable at" explained; bank as collecting bank.

Sec. 4106.

(1) If an item states that it is "payable through" a bank identified in the item, (i) the item designates the bank as a collecting bank and does not by itself authorize the bank to pay the item, and (ii) the item may be presented for payment only by or through the bank.

(2) If an item states that it is "payable at" a bank identified in the item, (i) the item designates the bank as a collecting bank and does not by itself authorize the bank to pay the item, and (ii) the item may be presented for payment only by or through the bank.

(3) If a draft names a nonbank drawee and it is unclear whether a bank named in the draft is a co-drawee or a collecting bank, the bank is a collecting bank.

History: 1962, Act 174, Eff. Jan. 1, 1964 ;-- Am. 1964, Act 250, Eff. Aug. 28, 1964 ;-- Am. 1993, Act 130, Eff. Sept. 30, 1993

440.4107 Bank branch or separate office as separate bank.

Sec. 4107.

A branch or separate office of a bank is a separate bank for the purpose of computing the time within which and determining the place at or to which action may be taken or notices or orders shall be given under this article and under article 3.

History: 1962, Act 174, Eff. Jan. 1, 1964 ;-- Am. 1993, Act 130, Eff. Sept. 30, 1993

440.4108 Time of receipt of items.

Sec. 4108.

(1) For the purpose of allowing time to process items, prove balances and make the necessary entries on its books to determine its position for the day, a bank may fix an afternoon hour of 2 P.M. or later as a cut-off hour for the handling of money and items and the making of entries on its books.

(2) An item or deposit of money received on any day after a cut-off hour so fixed or after the close of the banking day may be treated as being received at the opening of the next banking day.

History: 1962, Act 174, Eff. Jan. 1, 1964 ;-- Am. 1993, Act 130, Eff. Sept. 30, 1993

440.4109 Collecting bank; waiving, modifying, or extending time limits; excuse for delay.

Sec. 4109.

(1) Unless otherwise instructed, a collecting bank in a good faith effort to secure payment of a specific item drawn on a payor other than a bank and with or without the approval of any person involved, may waive, modify, or extend time limits imposed or permitted by this act for a period not exceeding 2 additional banking days without discharge of drawers or endorsers or liability to its transferor or any prior party.

(2) Delay by a collecting bank or payor bank beyond time limits prescribed or permitted by this act or by instructions is excused if (i) the delay is caused by interruption of communication or computer facilities, suspension of payments by another bank, war, emergency conditions, failure of equipment, or other circumstances beyond the control of the bank and (ii) the bank exercises such diligence as the circumstances require.

History: Add. 1964, Act 250, Eff. Aug. 28, 1964 ;-- Am. 1993, Act 130, Eff. Sept. 30, 1993

440.4110 Agreement for electronic presentment defined; presentment notice.

Sec. 4110.

(1) "Agreement for electronic presentment" means an agreement, clearing-house rule, or Federal Reserve regulation or operating circular, providing that presentment of an item may be made by transmission of an image of an item or information describing the item ("presentment notice") rather than delivery of the item itself. The agreement may provide for procedures governing retention, presentment, payment, dishonor, and other matters concerning items subject to the agreement.

(2) Presentment of an item pursuant to an agreement for presentment is made when the presentment notice is received.

(3) If presentment is made by presentment notice, a reference to "item" or "check" in this article means the presentment notice unless the context otherwise indicates.

History: Add. 1993, Act 130, Eff. Sept. 30, 1993

440.4111 Commencement of action under article; time period.

Sec. 4111.

An action to enforce an obligation, duty, or right arising under this article must be commenced within 3 years

after the cause of action accrues.

History: Add. 1993, Act 130, Eff. Sept. 30, 1993