

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**  
4 **By: Senator Beebe**

# A Bill

**SENATE BILL**

## For An Act To Be Entitled

"AN ACT TO AMEND THE UNIFORM COMMERCIAL CODE BY ADDING A  
CHAPTER ON FUNDS TRANSFERS; AND FOR OTHER PURPOSES."

10  
11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

12  
13 SECTION 1. Title 4 of the Arkansas Code is hereby amended by inserting  
14 an additional chapter immediately following Chapter 4 to read as follows:

"CHAPTER 4A. FUNDS TRANSFERS

PART 1 -- SUBJECT MATTER AND DEFINITIONS

17  
18 § 4-4A-101. Short title.

19 This Chapter may be cited as 'Uniform Commercial Code--Funds  
20 Transfers'.

21  
22 § 4-4A-102. Subject matter.

23 Except as otherwise provided in § 4-4A-108, this Chapter applies to  
24 funds transfers defined in § 4-4A-104.

25  
26 § 4-4A-103. Payment order - Definitions.

27 (a) In this Chapter:

28 (1) 'Payment order' means an instruction of a sender to a  
29 receiving bank, transmitted orally, electronically, or in writing, to pay, or  
30 to cause another bank to pay, a fixed or determinable amount of money to a  
31 beneficiary if:

32 (i) the instruction does not state a condition to payment to  
33 the beneficiary other than time of payment,

34 (ii) the receiving bank is to be reimbursed by debiting an  
35 account of, or otherwise receiving payment from, the sender, and

1 (iii) the instruction is transmitted by the sender directly  
2 to the receiving bank or to an agent, funds-transfer system, or communication  
3 system for transmittal to the receiving bank.

4 (2) 'Beneficiary' means the person to be paid by the  
5 beneficiary's bank.

6 (3) 'Beneficiary's bank' means the bank identified in a payment  
7 order in which an account of the beneficiary is to be credited pursuant to the  
8 order or which otherwise is to make payment to the beneficiary if the order  
9 does not provide for payment to an account.

10 (4) 'Receiving bank' means the bank to which the sender's  
11 instruction is addressed.

12 (5) 'Sender' means the person giving the instruction to the  
13 receiving bank.

14 (b) If an instruction complying with subsection (a)(1) is to make more  
15 than one (1) payment to a beneficiary, the instruction is a separate payment  
16 order with respect to each payment.

17 (c) A payment order is issued when it is sent to the receiving bank.

18

19 § 4-4A-104. Funds transfer - Definitions.

20 In this Chapter:

21 (a) 'Funds transfer' means the series of transactions, beginning with  
22 the originator's payment order, made for the purpose of making payment to the  
23 beneficiary of the order. The term includes any payment order issued by the  
24 originator's bank or an intermediary bank intended to carry out the  
25 originator's payment order. A funds transfer is completed by acceptance by  
26 the beneficiary's bank of a payment order for the benefit of the beneficiary  
27 of the originator's payment order.

28 (b) 'Intermediary bank' means a receiving bank other than the  
29 originator's bank or the beneficiary's bank.

30 (c) 'Originator' means the sender of the first payment order in a  
31 funds transfer.

32 (d) 'Originator's bank' means (i) the receiving bank to which the  
33 payment order of the originator is issued if the originator is not a bank, or  
34 (ii) the originator if the originator is a bank.

35

1 § 4-4A-105. Other definitions.

2 (a) In this Chapter:

3 (1) 'Authorized account' means a deposit account of a customer  
4 in a bank designated by the customer as a source of payment of payment orders  
5 issued by the customer to the bank. If a customer does not so designate an  
6 account, any account of the customer is an authorized account if payment of a  
7 payment order from that account is not inconsistent with a restriction on the  
8 use of that account.

9 (2) 'Bank' means a person engaged in the business of banking and  
10 includes a savings bank, savings and loan association, credit union, and trust  
11 company. A branch or separate office of a bank is a separate bank for  
12 purposes of this Chapter.

13 (3) 'Customer' means a person, including a bank, having an  
14 account with a bank or from whom a bank has agreed to receive payment orders.

15 (4) 'Funds-transfer business day' of a receiving bank means the  
16 part of a day during which the receiving bank is open for the receipt,  
17 processing, and transmittal of payment orders and cancellations and amendments  
18 of payment orders.

19 (5) 'Funds-transfer system' means a wire transfer network,  
20 automated clearing house, or other communication system of a clearing house or  
21 other association of banks through which a payment order by a bank may be  
22 transmitted to the bank to which the order is addressed.

23 (6) 'Good faith' means honesty in fact and the observance of  
24 reasonable commercial standards of fair dealing.

25 (7) 'Prove' with respect to a fact means to meet the burden of  
26 establishing the fact (§ 4-1-201(8)).

27 (b) Other definitions applying to this Chapter and the sections in  
28 which they appear are:

29 'Acceptance.' § 4-4A-209.

30 'Beneficiary.' § 4-4A-103.

31 'Beneficiary's bank.' § 4-4A-103.

32 'Executed.' § 4-4A-301.

33 'Execution date.' § 4-4A-301.

34 'Funds transfer.' § 4-4A-104.

35 'Funds-transfer system rule.' § 4-4A-501.

- 1 'Intermediary bank.' § 4-4A-104.
- 2 'Originator.' § 4-4A-104.
- 3 'Originator's bank.' § 4-4A-104.
- 4 'Payment by beneficiary's bank to beneficiary.' § 4-4A-405.
- 5 'Payment by originator to beneficiary.' § 4-4A-406.
- 6 'Payment by sender to receiving bank.' § 4-4A-403.
- 7 'Payment date.' § 4-4A-401.
- 8 'Payment order.' § 4-4A-103.
- 9 'Receiving bank.' § 4-4A-103.
- 10 'Security procedure.' § 4-4A-201.
- 11 'Sender.' § 4-4A-103.

12 (c) The following definitions in Chapter 4 apply to this Chapter:

- 13 'Clearing house.' § 4-4-104.
- 14 'Item.' § 4-4-104.
- 15 'Suspends payments.' § 4-4-104.

16 (d) In addition Chapter 1 of this title contains general definitions  
17 and principles of construction and interpretation applicable throughout this  
18 Chapter.

19

20 § 4-4A-106. Time payment order is received.

21 (a) The time of receipt of a payment order or communication cancelling  
22 or amending a payment order is determined by the rules applicable to receipt  
23 of a notice stated in § 4-1-201(27). A receiving bank may fix a cut-off time  
24 or times on a funds-transfer business day for the receipt and processing of  
25 payment orders and communications cancelling or amending payment orders.  
26 Different cut-off times may apply to payment orders, cancellations, or  
27 amendments, or to different categories of payment orders, cancellations, or  
28 amendments. A cut-off time may apply to senders generally or different cut-  
29 off times may apply to different senders or categories of payment orders. If  
30 a payment order or communication cancelling or amending a payment order is  
31 received after the close of a funds-transfer business day or after the  
32 appropriate cut-off time on a funds-transfer business day, the receiving bank  
33 may treat the payment order or communication as received at the opening of the  
34 next funds-transfer business day.

35 (b) If this Chapter refers to an execution date or payment date or

1 states a day on which a receiving bank is required to take action, and the  
2 date or day does not fall on a funds-transfer business day, the next day that  
3 is a funds-transfer business day is treated as the date or day stated, unless  
4 the contrary is stated in this Chapter.

5

6 § 4-4A-107. Federal Reserve regulations and operating circulars.  
7 Regulations of the Board of Governors of the Federal Reserve System and  
8 operating circulars of the Federal Reserve banks supersede any inconsistent  
9 provision of this Chapter to the extent of the inconsistency.

10

11 § 4-4A-108. Exclusion of consumer transactions governed by federal law.  
12 This Chapter does not apply to a funds transfer any part of which is  
13 governed by the Electronic Fund Transfer Act of 1978 (Title XX, Public Law  
14 95-630, 92 Stat. 3728, 15 U.S.C. § 1693 et seq.) as amended from time to time.

15

16 PART 2--ISSUE AND ACCEPTANCE OF PAYMENT ORDER

17

18 § 4-4A-201. Security procedure.

19 'Security procedure' means a procedure established by agreement of a  
20 customer and a receiving bank for the purpose of (i) verifying that a payment  
21 order or communication amending or cancelling a payment order is that of the  
22 customer, or (ii) detecting error in the transmission or the content of the  
23 payment order or communication. A security procedure may require the use of  
24 algorithms or other codes, identifying words or numbers, encryption, callback  
25 procedures, or similar security devices. Comparison of a signature on a  
26 payment order or communication with an authorized specimen signature of the  
27 customer is not by itself a security procedure.

28

29 § 4-4A-202. Authorized and verified payment orders.

30 (a) A payment order received by the receiving bank is the authorized  
31 order of the person identified as sender if that person authorized the order  
32 or is otherwise bound by it under the law of agency.

33 (b) If a bank and its customer have agreed that the authenticity of  
34 payment orders issued to the bank in the name of the customer as sender will  
35 be verified pursuant to a security procedure, a payment order received by the

1 receiving bank is effective as the order of the customer, whether or not  
2 authorized, if (i) the security procedure is a commercially reasonable method  
3 of providing security against unauthorized payment orders, and (ii) the bank  
4 proves that it accepted the payment order in good faith and in compliance with  
5 the security procedure and any written agreement or instruction of the  
6 customer restricting acceptance of payment orders issued in the name of the  
7 customer. The bank is not required to follow an instruction that violates a  
8 written agreement with the customer or notice of which is not received at a  
9 time and in a manner affording the bank a reasonable opportunity to act on it  
10 before the payment order is accepted.

11 (c) Commercial reasonableness of a security procedure is a question of  
12 law to be determined by considering the wishes of the customer expressed to  
13 the bank, the circumstances of the customer known to the bank, including the  
14 size, type, and frequency of payment orders normally issued by the customer to  
15 the bank, alternative security procedures offered to the customer, and  
16 security procedures in general use by customers and receiving banks similarly  
17 situated. A security procedure is deemed to be commercially reasonable if (i)  
18 the security procedure was chosen by the customer after the bank offered, and  
19 the customer refused, a security procedure that was commercially reasonable  
20 for that customer, and (ii) the customer expressly agreed in writing to be  
21 bound by any payment order, whether or not authorized, issued in its name and  
22 accepted by the bank in compliance with the security procedure chosen by the  
23 customer.

24 (d) The term 'sender' in this Chapter includes the customer in whose  
25 name a payment order is issued if the order is the authorized order of the  
26 customer under subsection (a), or it is effective as the order of the customer  
27 under subsection (b).

28 (e) This section applies to amendments and cancellations of payment  
29 orders to the same extent it applies to payment orders.

30 (f) Except as provided in this section and in § 4-4A-203(a)(1), rights  
31 and obligations arising under this section or § 4-4A-203 may not be varied by  
32 agreement.

33

34 § 4-4A-203. Unenforceability of certain verified payment orders.

35 (a) If an accepted payment order is not, under § 4-4A-202(a), an

1 authorized order of a customer identified as sender, but is effective as an  
2 order of the customer pursuant to § 4-4A-202(b), the following rules apply:

3           (1) By express written agreement, the receiving bank may limit  
4 the extent to which it is entitled to enforce or retain payment of the payment  
5 order.

6           (2) The receiving bank is not entitled to enforce or retain  
7 payment of the payment order if the customer proves that the order was not  
8 caused, directly or indirectly, by a person (i) entrusted at any time with  
9 duties to act for the customer with respect to payment orders or the security  
10 procedure, or (ii) who obtained access to transmitting facilities of the  
11 customer or who obtained, from a source controlled by the customer and without  
12 authority of the receiving bank, information facilitating breach of the  
13 security procedure, regardless of how the information was obtained or whether  
14 the customer was at fault. Information includes any access device, computer  
15 software, or the like.

16           (b) This section applies to amendments of payment orders to the same  
17 extent it applies to payment orders.

18

19           § 4-4A-204. Refund of payment and duty of customer to report with  
20 respect to unauthorized payment order.

21           (a) If a receiving bank accepts a payment order issued in the name of  
22 its customer as sender which is (i) not authorized and not effective as the  
23 order of the customer under § 4-4A-202, or (ii) not enforceable, in whole or  
24 in part, against the customer under § 4-4A-203, the bank shall refund any  
25 payment of the payment order received from the customer to the extent the bank  
26 is not entitled to enforce payment and shall pay interest on the refundable  
27 amount calculated from the date the bank received payment to the date of the  
28 refund. However, the customer is not entitled to interest from the bank on  
29 the amount to be refunded if the customer fails to exercise ordinary care to  
30 determine that the order was not authorized by the customer and to notify the  
31 bank of the relevant facts within a reasonable time not exceeding ninety (90)  
32 days after the date the customer received notification from the bank that the  
33 order was accepted or that the customer's account was debited with respect to  
34 the order. The bank is not entitled to any recovery from the customer on  
35 account of a failure by the customer to give notification as stated in this

1 section.

2 (b) Reasonable time under subsection (a) may be fixed by agreement as  
3 stated in § 4-1-204(1), but the obligation of a receiving bank to refund  
4 payment as stated in subsection (a) may not otherwise be varied by agreement.

5

6 § 4-4A-205. Erroneous payment orders.

7 (a) If an accepted payment order was transmitted pursuant to a security  
8 procedure for the detection of error and the payment order (i) erroneously  
9 instructed payment to a beneficiary not intended by the sender, (ii)  
10 erroneously instructed payment in an amount greater than the amount intended  
11 by the sender, or (iii) was an erroneously transmitted duplicate of a payment  
12 order previously sent by the sender, the following rules apply:

13 (1) If the sender proves that the sender or a person acting on  
14 behalf of the sender pursuant to § 4-4A-206 complied with the security  
15 procedure and that the error would have been detected if the receiving bank  
16 had also complied, the sender is not obliged to pay the order to the extent  
17 stated in paragraphs (2) and (3).

18 (2) If the funds transfer is completed on the basis of an  
19 erroneous payment order described in clause (i) or (iii) of subsection (a),  
20 the sender is not obliged to pay the order and the receiving bank is entitled  
21 to recover from the beneficiary any amount paid to the beneficiary to the  
22 extent allowed by the law governing mistake and restitution.

23 (3) If the funds transfer is completed on the basis of a payment  
24 order described in clause (ii) of subsection (a), the sender is not obliged to  
25 pay the order to the extent the amount received by the beneficiary is greater  
26 than the amount intended by the sender. In that case, the receiving bank is  
27 entitled to recover from the beneficiary the excess amount received to the  
28 extent allowed by the law governing mistake and restitution.

29 (b) If (i) the sender of an erroneous payment order described in  
30 subsection (a) is not obliged to pay all or part of the order, and (ii) the  
31 sender receives notification from the receiving bank that the order was  
32 accepted by the bank or that the sender's account was debited with respect to  
33 the order, the sender has a duty to exercise ordinary care, on the basis of  
34 information available to the sender, to discover the error with respect to the  
35 order and to advise the bank of the relevant facts within a reasonable time,



1 not exceeding ninety (90) days, after the bank's notification was received by  
2 the sender. If the bank proves that the sender failed to perform that duty,  
3 the sender is liable to the bank for the loss the bank proves it incurred as a  
4 result of the failure, but the liability of the sender may not exceed the  
5 amount of the sender's order.

6 (c) This section applies to amendments to payment orders to the same  
7 extent it applies to payment orders.

8

9 § 4-4A-206. Transmission of payment order through funds-transfer or  
10 other communication system.

11 (a) If a payment order addressed to a receiving bank is transmitted to  
12 a funds-transfer system or other third-party communication system for  
13 transmittal to the bank, the system is deemed to be an agent of the sender for  
14 the purpose of transmitting the payment order to the bank. If there is a  
15 discrepancy between the terms of the payment order transmitted to the system  
16 and the terms of the payment order transmitted by the system to the bank, the  
17 terms of the payment order of the sender are those transmitted by the system.  
18 This section does not apply to a funds-transfer system of the Federal Reserve  
19 banks.

20 (b) This section applies to cancellations and amendments of payment  
21 orders to the same extent it applies to payment orders.

22

23 § 4-4A-207. Misdescription of beneficiary.

24 (a) Subject to subsection (b), if, in a payment order received by the  
25 beneficiary's bank, the name, bank account number, or other identification of  
26 the beneficiary refers to a nonexistent or unidentifiable person or account,  
27 no person has rights as a beneficiary of the order and acceptance of the order  
28 cannot occur.

29 (b) If a payment order received by the beneficiary's bank identifies  
30 the beneficiary both by name and by an identifying or bank account number and  
31 the name and number identify different persons, the following rules apply:

32 (1) Except as otherwise provided in subsection (c), if the  
33 beneficiary's bank does not know that the name and number refer to different  
34 persons, it may rely on the number as the proper identification of the  
35 beneficiary of the order. The beneficiary's bank need not determine whether

1 the name and number refer to the same person.

2           (2) If the beneficiary's bank pays the person identified by name  
3 or knows that the name and number identify different persons, no person has  
4 rights as beneficiary except the person paid by the beneficiary's bank if that  
5 person was entitled to receive payment from the originator of the funds  
6 transfer. If no person has rights as beneficiary, acceptance of the order  
7 cannot occur.

8           (c) If (i) a payment order described in subsection (b) is accepted,  
9 (ii) the originator's payment order described the beneficiary inconsistently  
10 by name and number, and (iii) the beneficiary's bank pays the person  
11 identified by number as permitted by subsection (b)(1), the following rules  
12 apply:

13           (1) If the originator is a bank, the originator is obliged to pay  
14 its order.

15           (2) If the originator is not a bank and proves that the person  
16 identified by number was not entitled to receive payment from the originator,  
17 the originator is not obliged to pay its order unless the originator's bank  
18 proves that the originator, before acceptance of the originator's order, had  
19 notice that payment of a payment order issued by the originator might be made  
20 by the beneficiary's bank on the basis of an identifying or bank account  
21 number even if it identifies a person different from the named beneficiary.  
22 Proof of notice may be made by any admissible evidence. The originator's bank  
23 satisfies the burden of proof if it proves that the originator, before the  
24 payment order was accepted, signed a writing stating the information to which  
25 the notice relates.

26           (d) In a case governed by subsection (b)(1), if the beneficiary's bank  
27 rightfully pays the person identified by number and that person was not  
28 entitled to receive payment from the originator, the amount paid may be  
29 recovered from that person to the extent allowed by the law governing mistake  
30 and restitution as follows:

31           (1) If the originator is obliged to pay its payment order as  
32 stated in subsection (c), the originator has the right to recover.

33           (2) If the originator is not a bank and is not obliged to pay its  
34 payment order, the originator's bank has the right to recover.

35

1 § 4-4A-208. Misdescription of intermediary bank or beneficiary's bank.

2 (a) This subsection applies to a payment order identifying an  
3 intermediary bank or the beneficiary's bank only by an identifying number.

4 (1) The receiving bank may rely on the number as the proper  
5 identification of the intermediary or beneficiary's bank and need not  
6 determine whether the number identifies a bank.

7 (2) The sender is obliged to compensate the receiving bank for  
8 any loss and expenses incurred by the receiving bank as a result of its  
9 reliance on the number in executing or attempting to execute the order.

10 (b) This subsection applies to a payment order identifying an  
11 intermediary bank or the beneficiary's bank both by name and an identifying  
12 number if the name and number identify different persons.

13 (1) If the sender is a bank, the receiving bank may rely on the  
14 number as the proper identification of the intermediary or beneficiary's bank  
15 if the receiving bank, when it executes the sender's order, does not know that  
16 the name and number identify different persons. The receiving bank need not  
17 determine whether the name and number refer to the same person or whether the  
18 number refers to a bank. The sender is obliged to compensate the receiving  
19 bank for any loss and expenses incurred by the receiving bank as a result of  
20 its reliance on the number in executing or attempting to execute the order.

21 (2) If the sender is not a bank and the receiving bank proves  
22 that the sender, before the payment order was accepted, had notice that the  
23 receiving bank might rely on the number as the proper identification of the  
24 intermediary or beneficiary's bank even if it identifies a person different  
25 from the bank identified by name, the rights and obligations of the sender and  
26 the receiving bank are governed by subsection (b)(1), as though the sender  
27 were a bank. Proof of notice may be made by any admissible evidence. The  
28 receiving bank satisfies the burden of proof if it proves that the sender,  
29 before the payment order was accepted, signed a writing stating the  
30 information to which the notice relates.

31 (3) Regardless of whether the sender is a bank, the receiving  
32 bank may rely on the name as the proper identification of the intermediary or  
33 beneficiary's bank if the receiving bank, at the time it executes the sender's  
34 order, does not know that the name and number identify different persons. The  
35 receiving bank need not determine whether the name and number refer to the

1 same person.

2           (4) If the receiving bank knows that the name and number identify  
3 different persons, reliance on either the name or the number in executing the  
4 sender's payment order is a breach of the obligation stated in § 4-  
5 4A-302(a)(1).

6

7           § 4-4A-209. Acceptance of payment order.

8           (a) Subject to subsection (d), a receiving bank other than the  
9 beneficiary's bank accepts a payment order when it executes the order.

10          (b) Subject to subsections (c) and (d), a beneficiary's bank accepts a  
11 payment order at the earliest of the following times:

12           (1) When the bank (i) pays the beneficiary as stated in § 4-  
13 4A-405(a) or § 4-4A-405(b), or (ii) notifies the beneficiary of receipt of the  
14 order or that the account of the beneficiary has been credited with respect to  
15 the order unless the notice indicates that the bank is rejecting the order or  
16 that funds with respect to the order may not be withdrawn or used until  
17 receipt of payment from the sender of the order;

18           (2) When the bank receives payment of the entire amount of the  
19 sender's order pursuant to § 4-4A-403(a)(1) or § 4-4A-403(a)(2); or

20           (3) The opening of the next funds-transfer business day of the  
21 bank following the payment date of the order if, at that time, the amount of  
22 the sender's order is fully covered by a withdrawable credit balance in an  
23 authorized account of the sender or the bank has otherwise received full  
24 payment from the sender, unless the order was rejected before that time or is  
25 rejected within (i) one (1) hour after that time, or (ii) one (1) hour after  
26 the opening of the next business day of the sender following the payment date  
27 if that time is later. If notice of rejection is received by the sender after  
28 the payment date and the authorized account of the sender does not bear  
29 interest, the bank is obliged to pay interest to the sender on the amount of  
30 the order for the number of days elapsing after the payment date to the day  
31 the sender receives notice or learns that the order was not accepted, counting  
32 that day as an elapsed day. If the withdrawable credit balance during that  
33 period falls below the amount of the order, the amount of interest payable is  
34 reduced accordingly.

35          (c) Acceptance of a payment order cannot occur before the order is

1 received by the receiving bank. Acceptance does not occur under subsection  
2 (b)(2) or (b)(3) if the beneficiary of the payment order does not have an  
3 account with the receiving bank, the account has been closed, or the receiving  
4 bank is not permitted by law to receive credits for the beneficiary's account.

5 (d) A payment order issued to the originator's bank cannot be accepted  
6 until the payment date if the bank is the beneficiary's bank, or the execution  
7 date if the bank is not the beneficiary's bank. If the originator's bank  
8 executes the originator's payment order before the execution date or pays the  
9 beneficiary of the originator's payment order before the payment date and the  
10 payment order is subsequently cancelled pursuant to § 4-4A-211(b), the bank  
11 may recover from the beneficiary any payment received to the extent allowed by  
12 the law governing mistake and restitution.

13

14 § 4-4A-210. Rejection of payment order.

15 (a) A payment order is rejected by the receiving bank by a notice of  
16 rejection transmitted to the sender orally, electronically, or in writing. A  
17 notice of rejection need not use any particular words and is sufficient if it  
18 indicates that the receiving bank is rejecting the order or will not execute  
19 or pay the order. Rejection is effective when the notice is given if  
20 transmission is by a means that is reasonable in the circumstances. If notice  
21 of rejection is given by a means that is not reasonable, rejection is  
22 effective when the notice is received. If an agreement of the sender and  
23 receiving bank establishes the means to be used to reject a payment order, (i)  
24 any means complying with the agreement is reasonable and (ii) any means not  
25 complying is not reasonable unless no significant delay in receipt of the  
26 notice resulted from the use of the noncomplying means.

27 (b) This subsection applies if a receiving bank other than the  
28 beneficiary's bank fails to execute a payment order despite the existence on  
29 the execution date of a withdrawable credit balance in an authorized account  
30 of the sender sufficient to cover the order. If the sender does not receive  
31 notice of rejection of the order on the execution date and the authorized  
32 account of the sender does not bear interest, the bank is obliged to pay  
33 interest to the sender on the amount of the order for the number of days  
34 elapsing after the execution date to the earlier of the day the order is  
35 cancelled pursuant to § 4-4A-211(d) or the day the sender receives notice or

1 learns that the order was not executed, counting the final day of the period  
2 as an elapsed day. If the withdrawable credit balance during that period  
3 falls below the amount of the order, the amount of interest is reduced  
4 accordingly.

5 (c) If a receiving bank suspends payments, all unaccepted payment  
6 orders issued to it are deemed rejected at the time the bank suspends  
7 payments.

8 (d) Acceptance of a payment order precludes a later rejection of the  
9 order. Rejection of a payment order precludes a later acceptance of the  
10 order.

11

12 § 4-4A-211. Cancellation and amendment of payment order.

13 (a) A communication of the sender of a payment order cancelling or  
14 amending the order may be transmitted to the receiving bank orally,  
15 electronically, or in writing. If a security procedure is in effect between  
16 the sender and the receiving bank, the communication is not effective to  
17 cancel or amend the order unless the communication is verified pursuant to the  
18 security procedure or the bank agrees to the cancellation or amendment.

19 (b) Subject to subsection (a), a communication by the sender cancelling  
20 or amending a payment order is effective to cancel or amend the order if  
21 notice of the communication is received at a time and in a manner affording  
22 the receiving bank a reasonable opportunity to act on the communication before  
23 the bank accepts the payment order.

24 (c) After a payment order has been accepted, cancellation or amendment  
25 of the order is not effective unless the receiving bank agrees or a funds-  
26 transfer system rule allows cancellation or amendment without agreement of the  
27 bank.

28 (1) With respect to a payment order accepted by a receiving bank  
29 other than the beneficiary's bank, cancellation or amendment is not effective  
30 unless a conforming cancellation or amendment of the payment order issued by  
31 the receiving bank is also made.

32 (2) With respect to a payment order accepted by the beneficiary's  
33 bank, cancellation or amendment is not effective unless the order was issued  
34 in execution of an unauthorized payment order, or because of a mistake by a  
35 sender in the funds transfer which resulted in the issuance of a payment order

1 (i) that is a duplicate of a payment order previously issued by the sender,  
2 (ii) that orders payment to a beneficiary not entitled to receive payment from  
3 the originator, or (iii) that orders payment in an amount greater than the  
4 amount the beneficiary was entitled to receive from the originator. If the  
5 payment order is cancelled or amended, the beneficiary's bank is entitled to  
6 recover from the beneficiary any amount paid to the beneficiary to the extent  
7 allowed by the law governing mistake and restitution.

8 (d) An unaccepted payment order is cancelled by operation of law at the  
9 close of the fifth funds-transfer business day of the receiving bank after the  
10 execution date or payment date of the order.

11 (e) A cancelled payment order cannot be accepted. If an accepted  
12 payment order is cancelled, the acceptance is nullified and no person has any  
13 right or obligation based on the acceptance. Amendment of a payment order is  
14 deemed to be cancellation of the original order at the time of amendment and  
15 issue of a new payment order in the amended form at the same time.

16 (f) Unless otherwise provided in an agreement of the parties or in a  
17 funds-transfer system rule, if the receiving bank, after accepting a payment  
18 order, agrees to cancellation or amendment of the order by the sender or is  
19 bound by a funds-transfer system rule allowing cancellation or amendment  
20 without the bank's agreement, the sender, whether or not cancellation or  
21 amendment is effective, is liable to the bank for any loss and expenses,  
22 including reasonable attorney's fees, incurred by the bank as a result of the  
23 cancellation or amendment or attempted cancellation or amendment.

24 (g) A payment order is not revoked by the death or legal incapacity of  
25 the sender unless the receiving bank knows of the death or of an adjudication  
26 of incapacity by a court of competent jurisdiction and has reasonable  
27 opportunity to act before acceptance of the order.

28 (h) A funds-transfer system rule is not effective to the extent it  
29 conflicts with subsection (c)(2).

30

31 § 4-4A-212. Liability and duty of receiving bank regarding unaccepted  
32 payment order.

33 If a receiving bank fails to accept a payment order that it is obliged  
34 by express agreement to accept, the bank is liable for breach of the agreement  
35 to the extent provided in the agreement or in this Chapter, but does not

1 otherwise have any duty to accept a payment order or, before acceptance, to  
2 take any action, or refrain from taking action, with respect to the order  
3 except as provided in this Chapter or by express agreement. Liability based  
4 on acceptance arises only when acceptance occurs as stated in § 4-4A-209, and  
5 liability is limited to that provided in this Chapter. A receiving bank is  
6 not the agent of the sender or beneficiary of the payment order it accepts, or  
7 of any other party to the funds transfer, and the bank owes no duty to any  
8 party to the funds transfer except as provided in this Chapter or by express  
9 agreement.

10

11 PART 3--EXECUTION OF SENDER'S PAYMENT ORDER BY RECEIVING BANK

12

13 § 4-4A-301. Execution and execution date.

14 (a) A payment order is 'executed' by the receiving bank when it issues  
15 a payment order intended to carry out the payment order received by the bank.  
16 A payment order received by the beneficiary's bank can be accepted but cannot  
17 be executed.

18 (b) 'Execution date' of a payment order means the day on which the  
19 receiving bank may properly issue a payment order in execution of the sender's  
20 order. The execution date may be determined by instruction of the sender but  
21 cannot be earlier than the day the order is received and, unless otherwise  
22 determined, is the day the order is received. If the sender's instruction  
23 states a payment date, the execution date is the payment date or an earlier  
24 date on which execution is reasonably necessary to allow payment to the  
25 beneficiary on the payment date.

26

27 § 4-4A-302. Obligations of receiving bank in execution of payment  
28 order.

29 (a) Except as provided in subsections (b) through (d), if the receiving  
30 bank accepts a payment order pursuant to § 4-4A-209(a), the bank has the  
31 following obligations in executing the order:

32 (1) The receiving bank is obliged to issue, on the execution  
33 date, a payment order complying with the sender's order and to follow the  
34 sender's instructions concerning (i) any intermediary bank or funds-transfer  
35 system to be used in carrying out the funds transfer, or (ii) the means by



1 which payment orders are to be transmitted in the funds transfer. If the  
2 originator's bank issues a payment order to an intermediary bank, the  
3 originator's bank is obliged to instruct the intermediary bank according to  
4 the instruction of the originator. An intermediary bank in the funds transfer  
5 is similarly bound by an instruction given to it by the sender of the payment  
6 order it accepts.

7           (2) If the sender's instruction states that the funds transfer is  
8 to be carried out telephonically or by wire transfer or otherwise indicates  
9 that the funds transfer is to be carried out by the most expeditious means,  
10 the receiving bank is obliged to transmit its payment order by the most  
11 expeditious available means, and to instruct any intermediary bank  
12 accordingly. If a sender's instruction states a payment date, the receiving  
13 bank is obliged to transmit its payment order at a time and by means  
14 reasonably necessary to allow payment to the beneficiary on the payment date  
15 or as soon thereafter as is feasible.

16           (b) Unless otherwise instructed, a receiving bank executing a payment  
17 order may (i) use any funds-transfer system if use of that system is  
18 reasonable in the circumstances, and (ii) issue a payment order to the  
19 beneficiary's bank or to an intermediary bank through which a payment order  
20 conforming to the sender's order can expeditiously be issued to the  
21 beneficiary's bank if the receiving bank exercises ordinary care in the  
22 selection of the intermediary bank. A receiving bank is not required to  
23 follow an instruction of the sender designating a funds-transfer system to be  
24 used in carrying out the funds transfer if the receiving bank, in good faith,  
25 determines that it is not feasible to follow the instruction or that following  
26 the instruction would unduly delay completion of the funds transfer.

27           (c) Unless subsection (a)(2) applies or the receiving bank is otherwise  
28 instructed, the bank may execute a payment order by transmitting its payment  
29 order by first class mail or by any means reasonable in the circumstances. If  
30 the receiving bank is instructed to execute the sender's order by transmitting  
31 its payment order by a particular means, the receiving bank may issue its  
32 payment order by the means stated or by any means as expeditious as the means  
33 stated.

34           (d) Unless instructed by the sender, (i) the receiving bank may not  
35 obtain payment of its charges for services and expenses in connection with the

1 execution of the sender's order by issuing a payment order in an amount equal  
2 to the amount of the sender's order less the amount of the charges, and (ii)  
3 may not instruct a subsequent receiving bank to obtain payment of its charges  
4 in the same manner.

5

6 § 4-4A-303. Erroneous execution of payment order.

7 (a) A receiving bank that (i) executes the payment order of the sender  
8 by issuing a payment order in an amount greater than the amount of the  
9 sender's order, or (ii) issues a payment order in execution of the sender's  
10 order and then issues a duplicate order, is entitled to payment of the amount  
11 of the sender's order under § 4-4A-402(c) if that subsection is otherwise  
12 satisfied. The bank is entitled to recover from the beneficiary of the  
13 erroneous order the excess payment received to the extent allowed by the law  
14 governing mistake and restitution.

15 (b) A receiving bank that executes the payment order of the sender by  
16 issuing a payment order in an amount less than the amount of the sender's  
17 order is entitled to payment of the amount of the sender's order under § 4-  
18 4A-402(c) if (i) that subsection is otherwise satisfied and (ii) the bank  
19 corrects its mistake by issuing an additional payment order for the benefit of  
20 the beneficiary of the sender's order. If the error is not corrected, the  
21 issuer of the erroneous order is entitled to receive or retain payment from  
22 the sender of the order it accepted only to the extent of the amount of the  
23 erroneous order. This subsection does not apply if the receiving bank  
24 executes the sender's payment order by issuing a payment order in an amount  
25 less than the amount of the sender's order for the purpose of obtaining  
26 payment of its charges for services and expenses pursuant to instruction of  
27 the sender.

28 (c) If a receiving bank executes the payment order of the sender by  
29 issuing a payment order to a beneficiary different from the beneficiary of the  
30 sender's order and the funds transfer is completed on the basis of that error,  
31 the sender of the payment order that was erroneously executed and all previous  
32 senders in the funds transfer are not obliged to pay the payment orders they  
33 issued. The issuer of the erroneous order is entitled to recover from the  
34 beneficiary of the order the payment received to the extent allowed by the law  
35 governing mistake and restitution.

1

2 § 4-4A-304. Duty of sender to report erroneously executed payment  
3 order.

4 If the sender of a payment order that is erroneously executed as stated  
5 in § 4-4A-303 receives notification from the receiving bank that the order was  
6 executed or that the sender's account was debited with respect to the order,  
7 the sender has a duty to exercise ordinary care to determine, on the basis of  
8 information available to the sender, that the order was erroneously executed  
9 and to notify the bank of the relevant facts within a reasonable time not  
10 exceeding ninety (90) days after the notification from the bank was received  
11 by the sender. If the sender fails to perform that duty, the bank is not  
12 obliged to pay interest on any amount refundable to the sender under § 4-  
13 4A-402(d) for the period before the bank learns of the execution error. The  
14 bank is not entitled to any recovery from the sender on account of a failure  
15 by the sender to perform the duty stated in this section.

16

17 § 4-4A-305. Liability for late or improper execution or failure to  
18 execute payment order.

19 (a) If a funds transfer is completed but execution of a payment order  
20 by the receiving bank in breach of § 4-4A-302 results in delay in payment to  
21 the beneficiary, the bank is obliged to pay interest to either the originator  
22 or the beneficiary of the funds transfer for the period of delay caused by the  
23 improper execution. Except as provided in subsection (c), additional damages  
24 are not recoverable.

25 (b) If execution of a payment order by a receiving bank in breach of §  
26 4-4A-302 results in (i) noncompletion of the funds transfer, (ii) failure to  
27 use an intermediary bank designated by the originator, or (iii) issuance of a  
28 payment order that does not comply with the terms of the payment order of the  
29 originator, the bank is liable to the originator for its expenses in the funds  
30 transfer and for incidental expenses and interest losses, to the extent not  
31 covered by subsection (a), resulting from the improper execution. Except as  
32 provided in subsection (c), additional damages are not recoverable.

33 (c) In addition to the amounts payable under subsections (a) and (b),  
34 damages, including consequential damages, are recoverable to the extent  
35 provided in an express written agreement of the receiving bank.

1 (d) If a receiving bank fails to execute a payment order it was obliged  
2 by express agreement to execute, the receiving bank is liable to the sender  
3 for its expenses in the transaction and for incidental expenses and interest  
4 losses resulting from the failure to execute. Additional damages, including  
5 consequential damages, are recoverable to the extent provided in an express  
6 written agreement of the receiving bank, but are not otherwise recoverable.

7 (e) Reasonable attorney's fees are recoverable if demand for  
8 compensation under subsection (a) or (b) is made and refused before an action  
9 is brought on the claim. If a claim is made for breach of an agreement under  
10 subsection (d) and the agreement does not provide for damages, reasonable  
11 attorney's fees are recoverable if demand for compensation under subsection  
12 (d) is made and refused before an action is brought on the claim.

13 (f) Except as stated in this section, the liability of a receiving bank  
14 under subsections (a) and (b) may not be varied by agreement.

15

16

PART 4--PAYMENT

17

18 § 4-4A-401. Payment date.

19 'Payment date' of a payment order means the day on which the amount of  
20 the order is payable to the beneficiary by the beneficiary's bank. The  
21 payment date may be determined by instruction of the sender but cannot be  
22 earlier than the day the order is received by the beneficiary's bank and,  
23 unless otherwise determined, is the day the order is received by the  
24 beneficiary's bank.

25

26 § 4-4A-402. Obligation of sender to pay receiving bank.

27 (a) This section is subject to §§ 4-4A-205 and 4-4A-207.

28 (b) With respect to a payment order issued to the beneficiary's bank,  
29 acceptance of the order by the bank obliges the sender to pay the bank the  
30 amount of the order, but payment is not due until the payment date of the  
31 order.

32 (c) This subsection is subject to subsection (e) and to § 4-4A-303.  
33 With respect to a payment order issued to a receiving bank other than the  
34 beneficiary's bank, acceptance of the order by the receiving bank obliges the  
35 sender to pay the bank the amount of the sender's order. Payment by the

1 sender is not due until the execution date of the sender's order. The  
2 obligation of that sender to pay its payment order is excused if the funds  
3 transfer is not completed by acceptance by the beneficiary's bank of a payment  
4 order instructing payment to the beneficiary of that sender's payment order.

5 (d) If the sender of a payment order pays the order and was not obliged  
6 to pay all or part of the amount paid, the bank receiving payment is obliged  
7 to refund payment to the extent the sender was not obliged to pay. Except as  
8 provided in §§ 4-4A-204 and 4-4A-304, interest is payable on the refundable  
9 amount from the date of payment.

10 (e) If a funds transfer is not completed as stated in subsection (c)  
11 and an intermediary bank is obliged to refund payment as stated in subsection  
12 (d) but is unable to do so because not permitted by applicable law or because  
13 the bank suspends payments, a sender in the funds transfer that executed a  
14 payment order in compliance with an instruction, as stated in § 4-  
15 4A-302(a)(1), to route the funds transfer through that intermediary bank is  
16 entitled to receive or retain payment from the sender of the payment order  
17 that it accepted. The first sender in the funds transfer that issued an  
18 instruction requiring routing through that intermediary bank is subrogated to  
19 the right of the bank that paid the intermediary bank to refund as stated in  
20 subsection (d).

21 (f) The right of the sender of a payment order to be excused from the  
22 obligation to pay the order as stated in subsection (c) or to receive refund  
23 under subsection (d) may not be varied by agreement.

24

25 § 4-4A-403. Payment by sender to receiving bank.

26 (a) Payment of the sender's obligation under § 4-4A-402 to pay the  
27 receiving bank occurs as follows:

28 (1) If the sender is a bank, payment occurs when the receiving  
29 bank receives final settlement of the obligation through a Federal Reserve  
30 Bank or through a funds-transfer system.

31 (2) If the sender is a bank and the sender (i) credited an  
32 account of the receiving bank with the sender, or (ii) caused an account of  
33 the receiving bank in another bank to be credited, payment occurs when the  
34 credit is withdrawn or, if not withdrawn, at midnight of the day on which the  
35 credit is withdrawable and the receiving bank learns of that fact.

1           (3) If the receiving bank debits an account of the sender with  
2 the receiving bank, payment occurs when the debit is made to the extent the  
3 debit is covered by a withdrawable credit balance in the account.

4           (b) If the sender and receiving bank are members of a funds-transfer  
5 system that nets obligations multilaterally among participants, the receiving  
6 bank receives final settlement when settlement is complete in accordance with  
7 the rules of the system. The obligation of the sender to pay the amount of a  
8 payment order transmitted through the funds-transfer system may be satisfied,  
9 to the extent permitted by the rules of the system, by setting off and  
10 applying against the sender's obligation the right of the sender to receive  
11 payment from the receiving bank of the amount of any other payment order  
12 transmitted to the sender by the receiving bank through the funds-transfer  
13 system. The aggregate balance of obligations owed by each sender to each  
14 receiving bank in the funds-transfer system may be satisfied, to the extent  
15 permitted by the rules of the system, by setting off and applying against that  
16 balance the aggregate balance of obligations owed to the sender by other  
17 members of the system. The aggregate balance is determined after the right of  
18 setoff stated in the second sentence of this subsection has been exercised.

19           (c) If two (2) banks transmit payment orders to each other under an  
20 agreement that settlement of the obligations of each bank to the other under §  
21 4-4A-402 will be made at the end of the day or other period, the total amount  
22 owed with respect to all orders transmitted by one (1) bank shall be set off  
23 against the total amount owed with respect to all orders transmitted by the  
24 other bank. To the extent of the setoff, each bank has made payment to the  
25 other.

26           (d) In a case not covered by subsection (a), the time when payment of  
27 the sender's obligation under § 4-4A-402(b) or § 4-4A-402(c) occurs is  
28 governed by applicable principles of law that determine when an obligation is  
29 satisfied.

30

31           § 4-4A-404. Obligation of beneficiary's bank to pay and give notice to  
32 beneficiary.

33           (a) Subject to §§ 4-4A-211(e), 4-4A-405(d), and 4-4A-405(e), if a  
34 beneficiary's bank accepts a payment order, the bank is obliged to pay the  
35 amount of the order to the beneficiary of the order. Payment is due on the

1 payment date of the order, but if acceptance occurs on the payment date after  
2 the close of the funds-transfer business day of the bank, payment is due on  
3 the next funds-transfer business day. If the bank refuses to pay after demand  
4 by the beneficiary and receipt of notice of particular circumstances that will  
5 give rise to consequential damages as a result of nonpayment, the beneficiary  
6 may recover damages resulting from the refusal to pay to the extent the bank  
7 had notice of the damages, unless the bank proves that it did not pay because  
8 of a reasonable doubt concerning the right of the beneficiary to payment.

9 (b) If a payment order accepted by the beneficiary's bank instructs  
10 payment to an account of the beneficiary, the bank is obliged to notify the  
11 beneficiary of receipt of the order before midnight of the next funds-transfer  
12 business day following the payment date. If the payment order does not  
13 instruct payment to an account of the beneficiary, the bank is required to  
14 notify the beneficiary only if notice is required by the order. Notice may be  
15 given by first class mail or any other means reasonable in the circumstances.  
16 If the bank fails to give the required notice, the bank is obliged to pay  
17 interest to the beneficiary on the amount of the payment order from the day  
18 notice should have been given until the day the beneficiary learned of receipt  
19 of the payment order by the bank. No other damages are recoverable.  
20 Reasonable attorney's fees are also recoverable if demand for interest is made  
21 and refused before an action is brought on the claim.

22 (c) The right of a beneficiary to receive payment and damages as stated  
23 in subsection (a) may not be varied by agreement or a funds-transfer system  
24 rule. The right of a beneficiary to be notified as stated in subsection (b)  
25 may be varied by agreement of the beneficiary or by a funds-transfer system  
26 rule if the beneficiary is notified of the rule before initiation of the funds  
27 transfer.

28

29 § 4-4A-405. Payment by beneficiary's bank to beneficiary.

30 (a) If the beneficiary's bank credits an account of the beneficiary of  
31 a payment order, payment of the bank's obligation under § 4-4A-404(a) occurs  
32 when and to the extent (i) the beneficiary is notified of the right to  
33 withdraw the credit, (ii) the bank lawfully applies the credit to a debt of  
34 the beneficiary, or (iii) funds with respect to the order are otherwise made  
35 available to the beneficiary by the bank.

1 (b) If the beneficiary's bank does not credit an account of the  
2 beneficiary of a payment order, the time when payment of the bank's obligation  
3 under § 4-4A-404(a) occurs is governed by principles of law that determine  
4 when an obligation is satisfied.

5 (c) Except as stated in subsections (d) and (e), if the beneficiary's  
6 bank pays the beneficiary of a payment order under a condition to payment or  
7 agreement of the beneficiary giving the bank the right to recover payment from  
8 the beneficiary if the bank does not receive payment of the order, the  
9 condition to payment or agreement is not enforceable.

10 (d) A funds-transfer system rule may provide that payments made to  
11 beneficiaries of funds transfers made through the system are provisional until  
12 receipt of payment by the beneficiary's bank of the payment order it accepted.  
13 A beneficiary's bank that makes a payment that is provisional under the rule  
14 is entitled to refund from the beneficiary if (i) the rule requires that both  
15 the beneficiary and the originator be given notice of the provisional nature  
16 of the payment before the funds transfer is initiated, (ii) the beneficiary,  
17 the beneficiary's bank and the originator's bank agreed to be bound by the  
18 rule, and (iii) the beneficiary's bank did not receive payment of the payment  
19 order that it accepted. If the beneficiary is obliged to refund payment to  
20 the beneficiary's bank, acceptance of the payment order by the beneficiary's  
21 bank is nullified and no payment by the originator of the funds transfer to  
22 the beneficiary occurs under § 4-4A-406.

23 (e) This subsection applies to a funds transfer that includes a payment  
24 order transmitted over a funds-transfer system that (i) nets obligations  
25 multilaterally among participants, and (ii) has in effect a loss-sharing  
26 agreement among participants for the purpose of providing funds necessary to  
27 complete settlement of the obligations of one (1) or more participants that do  
28 not meet their settlement obligations. If the beneficiary's bank in the funds  
29 transfer accepts a payment order and the system fails to complete settlement  
30 pursuant to its rules with respect to any payment order in the funds transfer,  
31 (i) the acceptance by the beneficiary's bank is nullified and no person has  
32 any right or obligation based on the acceptance, (ii) the beneficiary's bank  
33 is entitled to recover payment from the beneficiary, (iii) no payment by the  
34 originator to the beneficiary occurs under § 4-4A-406, and (iv) subject to §  
35 4-4A-402(e), each sender in the funds transfer is excused from its obligation



1 to pay its payment order under § 4-4A-402(c) because the funds transfer has  
2 not been completed.

3

4 § 4-4A-406. Payment by originator to beneficiary; discharge of  
5 underlying obligation.

6 (a) Subject to §§ 4-4A-211(e), 4-4A-405(d), and 4-4A-405(e), the  
7 originator of a funds transfer pays the beneficiary of the originator's  
8 payment order (i) at the time a payment order for the benefit of the  
9 beneficiary is accepted by the beneficiary's bank in the funds transfer and  
10 (ii) in an amount equal to the amount of the order accepted by the  
11 beneficiary's bank, but not more than the amount of the originator's order.

12 (b) If payment under subsection (a) is made to satisfy an obligation,  
13 the obligation is discharged to the same extent discharge would result from  
14 payment to the beneficiary of the same amount in money, unless (i) the payment  
15 under subsection (a) was made by a means prohibited by the contract of the  
16 beneficiary with respect to the obligation, (ii) the beneficiary, within a  
17 reasonable time after receiving notice of receipt of the order by the  
18 beneficiary's bank, notified the originator of the beneficiary's refusal of  
19 the payment, (iii) funds with respect to the order were not withdrawn by the  
20 beneficiary or applied to a debt of the beneficiary, and (iv) the beneficiary  
21 would suffer a loss that could reasonably have been avoided if payment had  
22 been made by a means complying with the contract. If payment by the  
23 originator does not result in discharge under this section, the originator is  
24 subrogated to the rights of the beneficiary to receive payment from the  
25 beneficiary's bank under § 4-4A-404(a).

26 (c) For the purpose of determining whether discharge of an obligation  
27 occurs under subsection (b), if the beneficiary's bank accepts a payment order  
28 in an amount equal to the amount of the originator's payment order less  
29 charges of one (1) or more receiving banks in the funds transfer, payment to  
30 the beneficiary is deemed to be in the amount of the originator's order unless  
31 upon demand by the beneficiary the originator does not pay the beneficiary the  
32 amount of the deducted charges.

33 (d) Rights of the originator or of the beneficiary of a funds transfer  
34 under this section may be varied only by agreement of the originator and the  
35 beneficiary.

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PART 5--MISCELLANEOUS PROVISIONS

§ 4-4A-501. Variation by agreement and effect of funds-transfer system rule.

(a) Except as otherwise provided in this Chapter, the rights and obligations of a party to a funds transfer may be varied by agreement of the affected party.

(b) 'Funds-transfer system rule' means a rule of an association of banks (i) governing transmission of payment orders by means of a funds-transfer system of the association or rights and obligations with respect to those orders, or (ii) to the extent the rule governs rights and obligations between banks that are parties to a funds transfer in which a Federal Reserve bank, acting as an intermediary bank, sends a payment order to the beneficiary's bank. Except as otherwise provided in this Chapter, a funds-transfer system rule governing rights and obligations between participating banks using the system may be effective even if the rule conflicts with this Chapter and indirectly affects another party to the funds transfer who does not consent to the rule. A funds-transfer system rule may also govern rights and obligations of parties other than participating banks using the system to the extent stated in §§ 4-4A-404(c), 4-4A-405(d), and 4-4A-507(c).

§ 4-4A-502. Creditor process served on receiving bank; Setoff by beneficiary's bank.

(a) As used in this section, 'creditor process' means levy, attachment, garnishment, notice of lien, sequestration, or similar process issued by or on behalf of a creditor or other claimant with respect to an account.

(b) This subsection applies to creditor process with respect to an authorized account of the sender of a payment order if the creditor process is served on the receiving bank. For the purpose of determining rights with respect to the creditor process, if the receiving bank accepts the payment order the balance in the authorized account is deemed to be reduced by the amount of the payment order to the extent the bank did not otherwise receive payment of the order, unless the creditor process is served at a time and in a

1 manner affording the bank a reasonable opportunity to act on it before the  
2 bank accepts the payment order.

3 (c) If a beneficiary's bank has received a payment order for payment to  
4 the beneficiary's account in the bank, the following rules apply:

5 (1) The bank may credit the beneficiary's account. The amount  
6 credited may be set off against an obligation owed by the beneficiary to the  
7 bank or may be applied to satisfy creditor process served on the bank with  
8 respect to the account.

9 (2) The bank may credit the beneficiary's account and allow  
10 withdrawal of the amount credited unless creditor process with respect to the  
11 account is served at a time and in a manner affording the bank a reasonable  
12 opportunity to act to prevent withdrawal.

13 (3) If creditor process with respect to the beneficiary's account  
14 has been served and the bank has had a reasonable opportunity to act on it,  
15 the bank may not reject the payment order except for a reason unrelated to the  
16 service of process.

17 (d) Creditor process with respect to a payment by the originator to the  
18 beneficiary pursuant to a funds transfer may be served only on the  
19 beneficiary's bank with respect to the debt owed by that bank to the  
20 beneficiary. Any other bank served with the creditor process is not obliged  
21 to act with respect to the process.

22

23 § 4-4A-503. Injunction or restraining order with respect to funds  
24 transfer.

25 For proper cause and in compliance with applicable law, a court may  
26 restrain (i) a person from issuing a payment order to initiate a funds  
27 transfer, (ii) an originator's bank from executing the payment order of the  
28 originator, or (iii) the beneficiary's bank from releasing funds to the  
29 beneficiary or the beneficiary from withdrawing the funds. A court may not  
30 otherwise restrain a person from issuing a payment order, paying or receiving  
31 payment of a payment order, or otherwise acting with respect to a funds  
32 transfer.

33

34 § 4-4A-504. Order in which items and payment orders may be charged to  
35 account; Order of withdrawals from account.

1 (a) If a receiving bank has received more than one (1) payment order of  
2 the sender or one (1) or more payment orders and other items that are payable  
3 from the sender's account, the bank may charge the sender's account with  
4 respect to the various orders and items in any sequence.

5 (b) In determining whether a credit to an account has been withdrawn by  
6 the holder of the account or applied to a debt of the holder of the account,  
7 credits first made to the account are first withdrawn or applied.

8

9 § 4-4A-505. Preclusion of objection to debit of customer's account.

10 If a receiving bank has received payment from its customer with respect  
11 to a payment order issued in the name of the customer as sender and accepted  
12 by the bank, and the customer received notification reasonably identifying the  
13 order, the customer is precluded from asserting that the bank is not entitled  
14 to retain the payment unless the customer notifies the bank of the customer's  
15 objection to the payment within one (1) year after the notification was  
16 received by the customer.

17

18 § 4-4A-506. Rate of interest.

19 (a) If, under this Chapter, a receiving bank is obliged to pay interest  
20 with respect to a payment order issued to the bank, the amount payable may be  
21 determined (i) by agreement of the sender and receiving bank, or (ii) by a  
22 funds-transfer system rule if the payment order is transmitted through a  
23 funds-transfer system.

24 (b) If the amount of interest is not determined by an agreement or rule  
25 as stated in subsection (a), the amount is calculated by multiplying the  
26 applicable Federal Funds rate by the amount on which interest is payable, and  
27 then multiplying the product by the number of days for which interest is  
28 payable. The applicable Federal Funds rate is the average of the Federal  
29 Funds rates published by the Federal Reserve Bank of New York for each of the  
30 days for which interest is payable divided by three hundred sixty (360). The  
31 Federal Funds rate for any day on which a published rate is not available is  
32 the same as the published rate for the next-preceding day for which there is a  
33 published rate. If a receiving bank that accepted a payment order is required  
34 to refund payment to the sender of the order because the funds transfer was  
35 not completed, but the failure to complete was not due to any fault by the

1 bank, the interest payable is reduced by a percentage equal to the reserve  
2 requirement on deposits of the receiving bank.

3

4 § 4-4A-507. Choice of law.

5 (a) The following rules apply unless the affected parties otherwise  
6 agree or subsection (c) applies:

7 (1) The rights and obligations between the sender of a payment  
8 order and the receiving bank are governed by the law of the jurisdiction in  
9 which the receiving bank is located.

10 (2) The rights and obligations between the beneficiary's bank and  
11 the beneficiary are governed by the law of the jurisdiction in which the  
12 beneficiary's bank is located.

13 (3) The issue of when payment is made pursuant to a funds  
14 transfer by the originator to the beneficiary is governed by the law of the  
15 jurisdiction in which the beneficiary's bank is located.

16 (b) If the parties described in each paragraph of subsection (a) have  
17 made an agreement selecting the law of a particular jurisdiction to govern  
18 rights and obligations between each other, the law of that jurisdiction  
19 governs those rights and obligations, whether or not the payment order or the  
20 funds transfer bears a reasonable relation to that jurisdiction.

21 (c) A funds-transfer system rule may select the law of a particular  
22 jurisdiction to govern (i) rights and obligations between participating banks  
23 with respect to payment orders transmitted or processed through the system, or  
24 (ii) the rights and obligations of some or all parties to a funds transfer any  
25 part of which is carried out by means of the system. A choice of law made  
26 pursuant to clause (i) is binding on participating banks. A choice of law  
27 made pursuant to clause (ii) is binding on the originator, other sender, or a  
28 receiving bank having notice that the funds-transfer system might be used in  
29 the funds transfer and of the choice of law by the system when the originator,  
30 other sender, or receiving bank issued or accepted a payment order. The  
31 beneficiary of a funds transfer is bound by the choice of law if, when the  
32 funds transfer is initiated, the beneficiary has notice that the funds-  
33 transfer system might be used in the funds transfer and of the choice of law  
34 by the system. The law of a jurisdiction selected pursuant to this subsection  
35 may govern, whether or not that law bears a reasonable relation to the matter

1 in issue.

2 (d) In the event of inconsistency between an agreement under subsection  
3 (b) and a choice-of-law rule under subsection (c), the agreement under  
4 subsection (b) prevails.

5 (e) If a funds transfer is made by use of more than one (1) funds-  
6 transfer system and there is inconsistency between choice-of-law rules of the  
7 systems, the matter in issue is governed by the law of the selected  
8 jurisdiction that has the most significant relationship to the matter in  
9 issue."

10

11 SECTION 2. Arkansas Code 4-1-105 is hereby amended to read as follows:

12 "4-1-105. Territorial application of the subtitle - Parties' power to  
13 choose applicable law.

14 (1) Except as provided hereafter in this section, when a transaction  
15 bears a reasonable relation to this state and also to another state or nation,  
16 the parties may agree that the law either of this state or of such other state  
17 or nation shall govern their rights and duties. Failing such agreement, this  
18 subtitle applies to transactions bearing an appropriate relation to this  
19 state.

20 (2) Where one (1) of the following provisions of this subtitle  
21 specifies the applicable law, that provision governs and a contrary agreement  
22 is effective only to the extent permitted by the law (including the conflict  
23 of laws rules) so specified:

24 Rights of creditors against sold goods, § 4-2-402;

25 Applicability of the chapter on bank deposits and collections,  
26 § 4-4-102;

27 Bulk transfers subject to the chapter on bulk transfers, § 4-6-102;

28 Applicability of the chapter on investment securities, § 4-8-106;

29 Perfection provisions of the chapter on secured transactions, §  
30 4-9-103;

31 Governing law in the Article on Funds Transfers, § 4-4A-507."

32

33 SECTION 3. All provisions of this act of a general and permanent nature  
34 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
35 Revision Commission shall incorporate the same in the Code.

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SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 5. All laws and parts of laws in conflict with this act are hereby repealed.

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