

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Make the State's Uniform Commercial Code Compatible with the Federal Electronic Fund Transfer Act

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the State's Uniform Commercial Code, Article 4-A currently applies only to transfers of funds between commercial parties; and

Whereas, the federal Electronic Fund Transfer Act currently applies only to consumer wire transfers; and

Whereas, amendments to the federal Electronic Fund Transfer Act that govern remittance transfers and remittance transfers that are also electronic fund transfers as defined in the federal Electronic Fund Transfer Act become effective in February 2013; and

Whereas, as a result of the amendments to the federal Electronic Fund Transfer Act, a fund transfer initiated by a remittance transfer is entirely outside the coverage of the Uniform Commercial Code, Article 4-A and the federal Electronic Fund Transfer Act; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 11 MRSA §4-1102, as enacted by PL 1991, c. 812, §2, is amended to read:

§ 4-1102. Subject matter

Except as otherwise provided in section ~~4-1108~~4-1109, this Article applies to funds transfers defined in section 4-1104.

Sec. 2. 11 MRSA §4-1108, as enacted by PL 1991, c. 812, §2, is repealed.

Sec. 3. 11 MRSA §4-1109 is enacted to read:

§ 4-1109. Relationship to federal Electronic Fund Transfer Act

(1). Except as provided in subsection (2), this Article does not apply to a funds transfer any part of which is governed by the Electronic Fund Transfer Act of 1978, Title XX, Public Law 95-630, 92 Stat. 3728, 15 United States Code, Section 1693 et seq., as amended.

(2). This Article applies to a funds transfer that is a remittance transfer as defined in the Electronic Fund Transfer Act of 1978, Title XX, Public Law 95-630, 92 Stat. 3728, 15 United States Code, Section 1693 et seq., as amended, unless the remittance transfer is an electronic fund transfer as defined in the Electronic Fund Transfer Act of 1978, Title XX, Public Law 95-630, 92 Stat. 3728, 15 United States Code, Section 1693 et seq., as amended.

(3). In a funds transfer to which this Article applies, in the event of an inconsistency between an applicable provision of this Article and an applicable provision of the Electronic Fund Transfer Act of 1978, Title XX, Public Law 95-630, 92 Stat. 3728, 15 United States Code, Section 1693 et seq., as amended, the provision of the Electronic Fund Transfer Act governs to the extent of the inconsistency.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

In anticipation of the effective date of the amendments to federal law governing electronic fund transfers, this bill replaces the existing exemption in the State's Uniform Commercial Code governing fund transfers by making the Uniform Commercial Code applicable to the remittance transfers that are not electronic funds transfers under the federal Electronic Fund Transfer Act. The bill also specifically acknowledges that the federal statute will control in the case of any conflict between the Uniform Commercial Code and the federal Electronic Fund Transfer Act.