

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

House Bill 888 (Delegate McHale)
Economic Matters

Finance

Commercial Law - Uniform Commercial Code - Secured Transactions - Scope

This bill exempts from the payment rights that must be assignable under Title 9 of the Maryland Uniform Commercial Code (UCC): (1) claims or rights to receive compensation for injuries or sickness under: (a) a workers' compensation claim; or (b) damages received because of physical injuries or sickness, whether by suit or agreement or whether as lump sums or periodic payments; and (2) income from a special needs trust for disabled individuals where all or, under specified circumstances, part of the trust is paid to the State upon the death of the individual.

Fiscal Summary

State Effect: Any change in State activities would not materially affect State finances.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Maryland's UCC Title 9 applies to transactions that create security interests in personal property or fixtures, including: (1) goods; (2) sales of accounts, chattel paper, or promissory notes; (3) specified rights in intangibles; and (4) agricultural liens. Maryland's UCC Title 9 exclusions include: (1) security interests governed by federal statutes; (2) statutory liens or other liens arising by operation of law; (3) most real property liens; (4) landlords' liens; (5) transfers by a government; (6) sales or assignments of accounts or chattel paper as part of the sale of the business out of which

they arose; (7) assignments in bank accounts; (8) assignment of tort rights, other than commercial tort claims; and (9) most transfers or assignments under insurance policies.

With limited exceptions, a contract provision is ineffective to the extent that it: (1) prohibits or otherwise restricts the assignment or sale of a payment intangible; or (2) provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under a payment intangible. A rule of law, statute, or regulation that restricts the assignment of, or the creation of a security interest in, a payment intangible is ineffective.

With limited exceptions, a contract provision is ineffective to the extent that it: (1) prohibits or otherwise restricts the assignment or sale of a promissory note, health-care-insurance receivable, or general intangible; or (2) provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under a promissory note, health-care-insurance receivable, or general intangible. A rule of law, statute, or regulation that restricts the assignment of, or the creation of a security interest in a promissory note, health-care-insurance receivable, or general intangible is ineffective.

Background: Chapter 282 of 1999 significantly revised Title 9 of Maryland’s UCC to follow the revisions to Article 9 of the UCC as adopted by the National Conference of Commissioners on Uniform State Laws (NCCUSL) in 1998. One of NCCUSL’s revisions to Article 9 of the UCC, adopted by Maryland in Chapter 282, broadened the definition of a “payment intangible” to include most obligations to pay money that do not fall into one of the specifically excluded categories of collateral. This includes rights to receive workers’ compensation benefits, structured settlement benefits received for physical injuries or sickness, and trust benefits. Assignment of these benefits could be restricted under the prior version of UCC Article 9 and Title 9 of the Maryland UCC.

Additional Information

Prior Introductions: A substantially similar bill, HB 1009, passed third reading in the House of Delegates during the 2001 session but received an unfavorable report from the Senate Finance Committee.

Cross File: SB 631 (Senator Della) – Finance.

Information Source(s): Office of the Attorney General, Department of Assessments and Taxation, Department of Legislative Services

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