

ULC Testimony in Support of MD SB 154 - with amend

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Statement of the Uniform Law Commission, Represented by Maryland Commissioner Steven Leitess and ULC Chief Counsel Benjamin Orzeske to the Maryland House Economic Matters Committee in Support of SB 154, with amendments

March 24, 2026

Chair Valderrama, Vice-Chair Charkoudian, and Members of the Committee –

The Uniform Commercial Code (UCC) governs sales and leases of goods, bank collections, drafts, and deposits, funds transfers, letters of credit, investment securities, and secured transactions in which personal property (as opposed to real property) is collateral. When you buy products on Amazon or eBay, you don't have to worry about what state the seller is in because the governing law – the UCC – is the same. This uniformity, achieved by enactment in all US jurisdictions without material deviations—is why Americans have confidence to do business with strangers, and has allowed our commercial markets to develop and thrive.

The 2022 Amendments bring the UCC fully into the 21st Century. In 2019 the Uniform Law Commission and the other UCC sponsor, the American Law Institute, appointed a new committee to consider any needed modifications to the UCC as a result of emerging technologies. After nearly 3 years, 18 2- or 3-day meetings of the full committee, and many meetings of smaller working groups and interested constituencies, the UCC's sponsors approved the final version of the 2022 Amendments, which have so far been adopted in 32 states and the District of Columbia. Bills are under consideration in several other states in addition to Maryland.

The 2022 Amendments revise nearly every Article of the UCC, but the “crown jewel” of the Amendments is a new Article 12 on “controllable electronic records” or CERs. The new Article 12 provides a uniform system of property law for CERs that may have many important uses in the financial and securities markets. CERs include virtual or “crypto” currencies like bitcoin, but also digital assets that may be linked to other assets, such as rights to electronic payments, and rights to access certain artwork embedded in so-called NFTs or “non-fungible tokens.”

A CER is a type of digital asset—an electronic record of data—that can be subjected to “control.” You can think of “control” as the equivalent of “possession” of a tangible asset. Article 12 does two important things to facilitate the use of these assets in commerce. First, it establishes clear rules for proving control of a CER. This is important because individuals and businesses are already entering into transactions involving these assets without a legal regime for control, causing unnecessary litigation. The second important innovation of Article 12 is that it creates negotiability for these assets. This means that a person who

takes control of a CER in good faith, for value, and without knowledge of a property claim in a CER takes free of any such property claim. The UCC already has similar rules for negotiable instruments and money; if someone gives you money to pay for goods or services that you provide, you do not have to check the public records for competing claims to that money. This second innovation, the “take free” rule, is important to the use of CERs in commerce.

Currently CERs are typically based on a distributed ledger involving blockchain technology and public-private key cryptography. But Article 12 is drafted functionally. It will also apply to CERs based on future technologies that build on or replace blockchain. Article 12 provides fundamental rules of property law – a necessary predicate to support much needed future regulations of CERs.

The bill before you would enact new Article 12, but the sponsors have requested amendments to also add the other modernizing UCC amendments approved in 2022. Revisions to UCC Article 9 will accommodate the use of CERs as collateral for loans and other obligations. Control will be the preferred method of perfecting a security interest in a CER under Article 9.

An important amendment to Article 1 of the UCC, which contains its general provisions, is to the definition of money. Money is defined as a medium of exchange that is currently authorized or adopted by a domestic or foreign government. El Salvador’s adoption of Bitcoin as legal tender threatened to wreak havoc on existing UCC rules regarding money, which were enacted with the intention that they apply to cash. The amendments clarify that if the electronic money adopted by a government was recorded and transferable in a system that existed before the government adopted the money, it is not “money” for the purpose of the UCC. This amendment ensures that Bitcoin is not treated as money and instead users of Bitcoin will benefit from the new UCC rules for CERs. Amendments to Article 9 recognize the difference between electronic money and tangible money and provide that a security interest in electronic money can be perfected only by control.

Amendments to Articles 3 and 4, which govern negotiable instruments and bank collections keep the rights and protections granted by the state law of payment systems current with federal regulations allowing the deposit of checks by sending a photograph to your bank. And many provisions throughout the UCC are amended to modernize the language regarding electronic documents and signatures, language that had been developed and codified in inconsistent ways in the past 25 years.

Article 2 of the UCC governs sales of goods. Amendments to Article 2 codify sometimes inconsistent case law governing transactions in goods that also involve services and software, transactions that are typical of many of the goods that we buy today.

We hope this brief introduction to the 2022 UCC Amendments is helpful. We ask for your support of SB 154, assuming it is amended per the sponsors’ request. Enacting this bill in its current form would make Maryland an outlier and risk causing litigation over interstate transactions, which defeats the purpose of the Uniform Commercial Code. Again, thank you for this opportunity and we are happy to answer any questions.