



## SENATE BILL 72: Amend UCC Article 4A Funds Transfers

2013-2014 General Assembly

**Committee:** Senate Judiciary I  
**Introduced by:** Sen. Hartsell  
**Analysis of:** First Edition

**Date:** February 18, 2013  
**Prepared by:** Bill Patterson  
Committee Counsel

**SUMMARY:** *Senate Bill 72 amends Article 4A of the Uniform Commercial Code so that it will continue to apply to "remittance transfers" that are not also "electronic fund transfers," as those terms are defined by the Electronic Fund Transfer Act.*

[As introduced, this bill was identical to H78, as introduced by Rep. Blust, which is currently in House Judiciary Subcommittee A.]

**CURRENT LAW:** Article 4A of the Uniform Commercial Code allocates rights and responsibilities among financial institutions participating in "funds transfers" as defined under the UCC.<sup>1</sup> However, G.S. 25-4A-108 exempts a funds transfer from Article 4A if any part of it is governed under federal law by the Electronic Fund Transfer Act of 1978 (EFTA).<sup>2</sup>

A "remittance transfer," as defined in EFTA, is a transfer of funds by a consumer in any state to a person located in a foreign country. Until 2010, EFTA did not govern remittance transfers that were not "electronic fund transfers," as defined in EFTA,<sup>3</sup> and so Article 4A applied to these transfers.<sup>4</sup>

As a result of 2010 amendments to EFTA,<sup>5</sup> EFTA will govern all remittance transfers, including those that are not electronic fund transfers. When the federal regulations implementing the 2010 amendments take effect in 2013, the rights and responsibilities of financial institutions participating in remittance transfers that are not electronic fund transfers will no longer be allocated pursuant to Article 4A.

**BILL ANALYSIS:** Senate Bill 72 implements a General Statutes Commission recommendation to amend G.S. 25A-4A-108 to provide that Article 4A applies to a remittance transfer that is not an electronic fund transfer, as an exception to the general rule exempting from Article 4A funds transfers that are governed by EFTA. In addition, the bill provides that if a funds transfer is subject to both Article 4A and EFTA, the applicable EFTA provision will govern to the extent of any inconsistency between it and the applicable Article 4A provision.

The bill also authorizes the Revisor of Statutes to print the official comments to this amendment as annotations to the General Statutes.

**EFFECTIVE DATE:** This act is effective when it becomes law.

<sup>1</sup> The UCC defines a funds transfer as "a series of transactions, beginning with the originator's payment order, made for the purpose of making payment to the beneficiary of the order." G.S. 25-4A-104(a).

<sup>2</sup> 15 U.S.C. 1693 *et seq.*

<sup>3</sup> EFTA defines an electronic fund transfer as "any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account." 15 U.S.C.A. § 1693a.

<sup>4</sup> Examples of remittance transfers that are not electronic fund transfers include cash-based remittance transfers sent through money transmitters like Western Union, as well as consumer wire transfers and international ACH (automated clearing house) transactions. 77 FR 6194-01, at p. 6207 (February 7, 2012).

<sup>5</sup> Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 1376, s.1073 (2010).

