

SENATE APPROPRIATIONS COMMITTEE

FISCAL NOTE

BILL NO. Senate Bill 1084

PRINTER NO. 1440

AMOUNT

No Fiscal Impact

FUND

General Fund

DATE INTRODUCED

March 22, 2024

PRIME SPONSOR

Senator Rothman

DESCRIPTION

Senate Bill 1084 amends Title 13 (Commercial Code) and Title 20 (Decedents, Estates and Fiduciaries) to update and revise the Uniform Commercial Code (UCC) to accommodate new technologies and electronic currencies.

This legislation makes comprehensive updates to the UCC to govern transactions involving controllable electronic records (CER), including virtual currencies, non-fungible tokens and electronic accounts and payment obligations.

The bill amends Division 3 (Negotiable Instruments) to remove the requirement that drafts or bills be exchanged in physical form with a signature. A payee may receive payment from a drawer by the transmission of an image, and the requirement for signature is repealed.

Senate Bill 1084 amends Division 5 (Letters of Credit) to be consistent with the newly established Division 12 (Controllable Electronic Records) in relation to documents of title. Division 7 (Warehouse Receipts, Bills of Lading and Other Documents of Title) is also amended to clarify control of an electronic document of title.

Division 9 (Secured Transactions) is amended to clarify that a third party may control a deposit account on behalf of a debtor if they acknowledge control or efforts to obtain control of the deposit account on behalf of the debtor. The bill also adds language to establish an electronic equivalent of a negotiable instrument. Division 9 (Secured Transactions) is further amended to clarify how a security interest is perfected when there is only an authoritative electronic copy of a chattel paper or if there is both an electronic copy and a tangible copy of a chattel paper.

The legislation creates a new division, Division 12 (Controllable Electronic Records). A CER is defined as a record stored in an electronic medium that can be subjected to control under the legislation. The term does not include a controllable account, a controllable payment intangible, a deposit account, an electronic copy of a record evidencing chattel paper, an electronic document of title, investment property, a transferable record or an electronic record that is currently authorized or adopted by a domestic or foreign government and is not a medium of exchange that was recorded and transferable in a system that existed and operated for the medium of exchange before authorized or adopted by a government. The definition of a CER includes various cryptocurrencies.

SENATE APPROPRIATIONS COMMITTEE

FISCAL NOTE

Division 12 (Controllable Electronic Records) outlines how an individual or a third party has control of a CER. The new division also establishes a take-free provision for qualified purchasers who acquire a CER without notice of a competing interest in the CER. A financial statement for this purpose does not count as a notice of a security or interest in a CER.

A person may pay debt on a controllable account or payment intangible under the legislation by paying the person who controls, or formerly controlled, the CER. The account debtor may not discharge an obligation to another party that formerly controlled the CER unless properly notified. Proof of a transferred CER may be requested by an account debtor.

The bill provides that a security interest that is perfected prior to the effective date of the changes to the UCC and is enforceable, remains perfected. For unperfected security interests which are enforceable, the interest remains enforceable but becomes perfected immediately upon the effective date if the interest meets the new requirements under the legislation. If the interest does not meet the new requirements, the interest may only become perfected once they are met.

Senate Bill 1084 makes necessary technical changes to Title 20 (Decedents, Estates and Fiduciaries) in relation to the content of an electronic communication.

The legislation establishes a formal adjustment date of July 1, 2025, or one year after the effective date, whichever is later. This act shall take effect in 60 days.

FISCAL IMPACT:

Senate Bill 1084 will have no impact on Commonwealth funds.