

**ONE HUNDRED THIRD LEGISLATURE - FIRST SESSION - 2013**  
**COMMITTEE STATEMENT**  
**LB146**

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**Hearing Date:** Tuesday January 22, 2013  
**Committee On:** Banking, Commerce and Insurance  
**Introducer:** Gloor  
**One Liner:** Change provisions relating to funds transfers under the Uniform Commercial Code

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File

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**Vote Results:**

**Aye:** 8 Senators Campbell, Carlson, Christensen, Crawford, Gloor, Howard, Pirsch, Schumacher

**Nay:**

**Absent:**

**Present Not Voting:**

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**Proponents:**

Senator Mike Gloor  
Steve Willborn  
Catherine Wilson  
Bob Hallstrom

**Representing:**

Introducer  
Uniform Law Commission  
Self  
NE Bankers Assn.

**Opponents:**

**Representing:**

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

LB146 (Gloor) would amend Uniform Commercial Code (UCC) Section 4A-108 to close an unintended gap in the coverage of UCC Article 4A (Funds Transfers) created by an amendment Congress made in the federal Electronic Funds Transfer Act (EFTA) as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act. There exists legal uncertainty for a class of transactions currently governed by UCC Article 4A unless UCC Section 4A-108 is amended as proposed by this bill.

The Permanent Editorial Board for the Uniform Commercial Code has recommended amendment of UCC Section 4A-108. Both the American Law Institute and the Uniform Law Commission have approved the amendment.

UCC Article 4A was originally drafted to govern transfers between commercial parties. At that time the EFTA governed only consumer wire transfers. UCC Section 4A-108 was drafted with that in mind. It provided that UCC Article 4A does not apply to a funds transfer any part of which is governed by the EFTA.

When the Dodd-Frank amendment to the EFTA goes into effect in 2013, the EFTA will govern "remittance transfers" (the electronic transfer of funds requested by a consumer to a person located in a foreign country that is initiated by a person or financial institution that provides remittance transfers for consumers in the normal course of its business), whether or not those remittance transfers are also "electronic fund transfers" as defined in the EFTA. Thus, when the Dodd-Frank amendment and its implementing regulation go into effect, the result of UCC Section 4A-108 in its present form will be that a fund transfer initiated by a remittance transfer will be entirely outside the coverage of Article 4A, even if the

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remittance transfer is not an electronic fund transfer (not a consumer remittance transfer). Thus a number of important issues in those remittance transfers will be governed neither by UCC Article 4A or the EFTA.

The amendment would revise UCC Section 4A-108 to provide that UCC Article 4A does apply to a remittance transfer that is not an electronic funds transfer under the EFTA. The amendment then restates the rule of the supremacy clause that the federal statute will control in the case of any conflict between UCC Article 4A and the EFTA.

The bill carries the emergency clause.

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Mike Gloor, Chairperson