

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1038

S.P. 352

In Senate, March 14, 2013

**An Act To Make the State's Uniform Commercial Code Compatible
with the Federal Electronic Fund Transfer Act**

(EMERGENCY)

Reference to the Committee on Judiciary suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator VALENTINO of York.
Cosponsored by Representatives: CROCKETT of Bethel, GUERIN of Glenburn,
MONAGHAN-DERRIG of Cape Elizabeth, PRIEST of Brunswick.

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** the State's Uniform Commercial Code, Article 4-A currently applies only
4 to transfers of funds between commercial parties; and

5 **Whereas,** the federal Electronic Fund Transfer Act currently applies only to
6 consumer wire transfers; and

7 **Whereas,** amendments to the federal Electronic Fund Transfer Act that govern
8 remittance transfers and remittance transfers that are also electronic fund transfers as
9 defined in the federal Electronic Fund Transfer Act become effective in February 2013;
10 and

11 **Whereas,** as a result of the amendments to the federal Electronic Fund Transfer Act,
12 a fund transfer initiated by a remittance transfer is entirely outside the coverage of the
13 Uniform Commercial Code, Article 4-A and the federal Electronic Fund Transfer Act;
14 and

15 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
16 the meaning of the Constitution of Maine and require the following legislation as
17 immediately necessary for the preservation of the public peace, health and safety; now,
18 therefore,

19 **Be it enacted by the People of the State of Maine as follows:**

20 **Sec. 1. 11 MRSA §4-1102,** as enacted by PL 1991, c. 812, §2, is amended to read:

21 **§4-1102. Subject matter**

22 Except as otherwise provided in section ~~4-1108~~ 4-1109, this Article applies to funds
23 transfers defined in section 4-1104.

24 **Sec. 2. 11 MRSA §4-1108,** as enacted by PL 1991, c. 812, §2, is repealed.

25 **Sec. 3. 11 MRSA §4-1109** is enacted to read:

26 **§4-1109. Relationship to federal Electronic Fund Transfer Act**

27 (1). Except as provided in subsection (2), this Article does not apply to a funds
28 transfer any part of which is governed by the Electronic Fund Transfer Act of 1978, Title
29 XX, Public Law 95-630, 92 Stat. 3728, 15 United States Code, Section 1693 et seq., as
30 amended.

31 (2). This Article applies to a funds transfer that is a remittance transfer as defined in
32 the Electronic Fund Transfer Act of 1978, Title XX, Public Law 95-630, 92 Stat. 3728,
33 15 United States Code, Section 1693 et seq., as amended, unless the remittance transfer is
34 an electronic fund transfer as defined in the Electronic Fund Transfer Act of 1978, Title

1 XX, Public Law 95-630, 92 Stat. 3728, 15 United States Code, Section 1693 et seq., as
2 amended.

3 (3). In a funds transfer to which this Article applies, in the event of an inconsistency
4 between an applicable provision of this Article and an applicable provision of the
5 Electronic Fund Transfer Act of 1978, Title XX, Public Law 95-630, 92 Stat. 3728, 15
6 United States Code, Section 1693 et seq., as amended, the provision of the Electronic
7 Fund Transfer Act governs to the extent of the inconsistency.

8 **Emergency clause.** In view of the emergency cited in the preamble, this
9 legislation takes effect when approved.

10 **SUMMARY**

11 In anticipation of the effective date of the amendments to federal law governing
12 electronic fund transfers, this bill replaces the existing exemption in the State's Uniform
13 Commercial Code governing fund transfers by making the Uniform Commercial Code
14 applicable to the remittance transfers that are not electronic funds transfers under the
15 federal Electronic Fund Transfer Act. The bill also specifically acknowledges that the
16 federal statute will control in the case of any conflict between the Uniform Commercial
17 Code and the federal Electronic Fund Transfer Act.