Amendment No. 287

Senate Amendment to Senate Bill No. 198	(BDR 8-542)
Proposed by: Committee on Judiciary	
Amendment Box:	
Resolves Conflicts with: N/A	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No	Digest: Yes

ASSEMBLY ACTION	**Initial and Date**	**SENATE ACTION**	**Initial and Date**
Adopted ☐ Lost ☐	____________________	Adopted ☐ Lost ☐	____________________
Concurred In ☐ Not ☐	____________________	Concurred In ☐ Not ☐	____________________
Receded ☐ Not ☐	____________________	Receded ☐ Not ☐	____________________

Amend section 1, pages 2 and 3, by deleting lines 5 through 37 on page 1 and lines 1 through 25 on page 3, and inserting:

"(b) "Drawee" means a person ordered in a draft to make payment.

(c) "Drawer" means a person who signs or is identified in a draft as a person ordering payment.

(d) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(e) "Maker" means a person who signs or is identified in a note as a person undertaking to pay.

(f) "Order" means a written instruction to pay money signed by the person giving the instruction. The instruction may be addressed to any person, including the person giving the instruction, or to one or more persons jointly or in the alternative but not in succession. An authorization to pay is not an order unless the person authorized to pay is also instructed to pay.

BAW Date: 4/15/2005

S.B. No. 198—Revises provisions of Articles 3 and 4 of Uniform Commercial Code.

(g) “Ordinary care” in the case of a person engaged in business means observance of reasonable commercial standards, prevailing in the area in which he is located, with respect to the business in which he is engaged. In the case of a bank that takes an instrument for processing for collection or payment by automated means, reasonable commercial standards do not require the bank to examine the instrument if the failure to examine does not violate its prescribed procedures and its procedures do not vary unreasonably from general banking usage not disapproved by this Article or Article 4.

(h) “Party” means a party to an instrument.

(i) “Promise” means a written undertaking to pay money signed by the person undertaking to pay. An acknowledgment of an obligation by the obligor is not a promise unless the obligor also undertakes to pay the obligation.

(j) “Prove” with respect to a fact means to meet the burden of establishing the fact (subsection 8 of NRS 104.1201).

(k) ***“Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.***

(l) “Remitter” means a person who purchases an instrument from its issuer if the instrument is payable to an identified person other than the purchaser.

(m) “Remotely-created item” means an item drawn on an account, which is not created by the payor bank and does not bear a signature purporting to be the signature of the drawer.”.

Amend sec. 3, page 5, lines 39 through 42, by deleting the brackets and strike-through.

Amend sec. 5, page 7, by deleting lines 12 through 26.

Amend sec. 8, page 10, line 1, by deleting “***consumer***”.

Amend sec. 8, page 10, between lines 17 and 18, by inserting:

"***5. No claim for breach of warranty in paragraph (f) of subsection 1 is available against a person to which an item was transferred to the extent that under applicable law, including the applicable choice-of-law principles, the person that transferred the item did not make the warranty in paragraph (f) of subsection 1.***".

Amend sec. 9, page 10, line 32, by deleting "***consumer***".

Amend sec. 9, page 11, between lines 30 and 31, by inserting:

"***7. No claim for breach of warranty in paragraph (d) of subsection 1 is available against a person to which an item was transferred to the extent that under applicable law, including the applicable choice-of-law principles, the person that transferred the item did not make the warranty in paragraph (d) of subsection 1.***".

Amend the bill as a whole by deleting sec. 13 and inserting:

"**Sec. 13.** (Deleted by amendment.)".

Amend sec. 14, page 20, line 21, by deleting "***consumer***".

Amend sec. 15, page 20, line 41, by deleting "***consumer***".

Amend sec. 15, page 21, between lines 22 and 23, by inserting:

"***6. No claim for breach of warranty in paragraph (f) of subsection 1 is available against a person to which an item was transferred to the extent that under applicable law, including the applicable choice-of-law principles, the person that transferred the item did not make the warranty in paragraph (f) of subsection 1.***".

Amend sec. 16, page 21, line 37, by deleting "***consumer***".

Amend sec. 16, page 22, between lines 33 and 34, by inserting:

“***7. No claim for breach of warranty in paragraph (d) of subsection 1 is available against a person to which an item was transferred to the extent that under applicable law, including the applicable choice-of-law principles, the person that transferred the item did not make the warranty in paragraph (d) of subsection 1.***”.

If this amendment is adopted, the Legislative

Counsel's Digest will be changed to read as follows:

Legislative Counsel's Digest:

The Uniform Commercial Code is a set of uniform laws governing commercial transactions, which was originally adopted by the National Conference of Commissioners on Uniform State Laws in 1951. Under existing law, negotiable instruments such as drafts, checks and certificates of deposit are regulated by Article 3 of the Uniform Commercial Code. (NRS 104.3101-104.3605) Bank deposits and collections are regulated by Article 4 of the Uniform Commercial Code. (NRS 104.4101-104.4504) The Uniform Law Commissioners have adopted certain revisions to Articles 3 and 4 of the Uniform Commercial Code and recommend that states incorporate these revisions into their statutes.

This bill incorporates many of the revisions recommended by the Uniform Law Commissioners to Articles 3 and 4 of the Uniform Commercial Code into the Nevada Revised Statutes. The substance of those revisions included in this bill govern: (1) the transfer and enforcement of a lost, destroyed or stolen negotiable instrument to clarify that the party seeking to enforce such an instrument does not have to be in possession of the instrument at the time that it was lost; (2) the payments by a person on a negotiable instrument after the instrument has been transferred when the person has not received notice of the transfer, and the requirements for providing such notice; and (3) the responsibilities of banks with respect to telephonically generated checks. This bill also makes various changes to accommodate and address electronic transactions for purposes of Articles 3 and 4 of the Uniform Commercial Code and makes various technical changes.