

State of Arkansas
93rd General Assembly
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A Bill

HOUSE BILL 1926

By: Representative S. Meeks

For An Act To Be Entitled

AN ACT CONCERNING THE UNIFORM COMMERCIAL CODE; TO
CLARIFY CONTROL OF VIRTUAL CURRENCY UNDER THE UNIFORM
COMMERCIAL CODE; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING THE UNIFORM COMMERCIAL CODE;
AND TO CLARIFY CONTROL OF VIRTUAL
CURRENCY UNDER THE UNIFORM COMMERCIAL
CODE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 4-9-102(b), concerning definitions used in secured transactions under the Uniform Commercial Code, is amended to read as follows:

(b) "Control" as provided in § 4-7-106 and the following definitions in other chapters apply to this chapter:

"Applicant". Section 4-5-102.

"Beneficiary". Section 4-5-102.

"Broker". Section 4-8-102.

"Certificated security". Section 4-8-102.

"Check". Section 4-3-104.

"Clearing corporation". Section 4-8-102.

"Contract for sale". Section 4-2-106.

"Customer". Section 4-4-104.

"Entitlement holder". Section 4-8-102.

"Financial asset". Section 4-8-102.



“Holder in due course”. Section 4-3-302.

“Issuer” (with respect to a letter of credit or letter-of-credit right). Section 4-5-102.

“Issuer” (with respect to a security). Section 4-8-201.

“Issuer” (with respect to documents of title). Section 4-7-102.

“Lease”. Section 4-2A-103.

“Lease agreement”. Section 4-2A-103.

“Lease contract”. Section 4-2A-103.

“Leasehold interest”. Section 4-2A-103.

“Lessee”. Section 4-2A-103.

“Lessee in ordinary course of business”. Section 4-2A-103.

“Lessor”. Section 4-2A-103.

“Lessor’s residual interest”. Section 4-2A-103.

“Letter of credit”. Section 4-5-102.

“Merchant”. Section 4-2-104.

“Negotiable instrument”. Section 4-3-104.

“Nominated person”. Section 4-5-102.

“Note”. Section 4-3-104.

“Proceeds of a letter of credit”. Section 4-5-114.

“Prove”. Section 4-3-103.

“Sale”. Section 4-2-106.

“Securities account”. Section 4-8-501.

“Securities intermediary”. Section 4-8-102.

“Security”. Section 4-8-102.

“Security certificate”. Section 4-8-102.

“Security entitlement”. Section 4-8-102.

“Uncertificated security”. Section 4-8-102.

“Virtual currency”. Section 4-11-102.

SECTION 2. Arkansas Code § 4-9-107 is amended to read as follows:

4-9-107. Control of letter-of-credit right – Control of virtual currency.

(a) A secured party has control of a letter-of-credit right to the extent of any right to payment or performance by the issuer or any nominated person if the issuer or nominated person has consented to an assignment of proceeds of the letter of credit under § 4-5-114(c) or otherwise applicable

law or practice.

(b) A secured party has control of a virtual currency as provided in § 4-11-105.

SECTION 3. Arkansas Code § 4-9-310(b), concerning the perfection of a security interest, is amended to read as follows:

(b) The filing of a financing statement is not necessary to perfect a security interest:

- (1) that is perfected under § 4-9-308(d), (e), (f), or (g);
- (2) that is perfected under § 4-9-309 when it attaches;
- (3) in property subject to a statute, regulation, or treaty described in § 4-9-311(a);
- (4) in goods in possession of a bailee which is perfected under § 4-9-312(d)(1) or (2);
- (5) in certificated securities, documents, goods, or instruments which is perfected without filing or possession under § 4-9-312(e), (f), or (g);
- (6) in collateral in the secured party's possession under § 4-9-313;
- (7) in a certificated security which is perfected by delivery of the security certificate to the secured party under § 4-9-313;
- (8) in deposit accounts, electronic chattel paper, electronic documents, investment property, virtual currencies, or letter-of-credit rights which is perfected by control under § 4-9-314;
- (9) in proceeds which is perfected under § 4-9-315; or
- (10) that is perfected under § 4-9-316.

SECTION 4. Arkansas Code § 4-9-312(a), concerning the perfection of a security interest by filing, is amended to read as follows:

(a) A security interest in chattel paper, negotiable documents, instruments, ~~or~~ investment property, and virtual currencies may be perfected by filing.

SECTION 5. Arkansas Code § 4-9-314(a) and (b), concerning the perfection of control of a security interest, are amended to read as follows:

(a) A security interest in investment property, deposit accounts,

letter-of-credit rights, virtual currencies, electronic chattel paper, or electronic documents may be perfected by control of the collateral under § 4-7-106, § 4-9-104, § 4-9-105, § 4-9-106, or § 4-9-107.

(b) A security interest in deposit accounts, electronic chattel paper, virtual currencies, letter-of-credit rights, or electronic documents is perfected by control under § 4-7-106, § 4-9-104, § 4-9-105, § 4-9-106, or § 4-9-107 when the secured party obtains control and remains perfected by control only while the secured party retains control.

SECTION 6. Arkansas Code § 4-9-331 is amended to read as follows:

4-9-331. Priority of rights of purchasers of instruments, documents, ~~and securities,~~ and virtual currencies under other chapters – Priority of interests in financial assets and security entitlements under Chapter 8 and virtual currencies under Chapter 11.

(a) This chapter does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, ~~or~~ a protected purchaser of a security, or a qualifying purchaser of virtual currency. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in Chapter 3, Chapter 7, ~~and~~ Chapter 8, and Chapter 11.

(b) This chapter does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of a claim under Chapter 8 or Chapter 11.

(c) Filing under this chapter does not constitute notice of a claim or defense to the holders, or purchasers, or persons described in subsections (a) and (b).

SECTION 7. Arkansas Code Title 4 is amended to add an additional chapter to read as follows:

CHAPTER 11

VIRTUAL CURRENCY

4-11-101. Short title.

This chapter may be cited as the Uniform Commercial Code–Virtual Currency of Arkansas.

4-11-102. Definitions.In this chapter, "virtual currency":(1) means a digital representation of value that:(A) is used as a medium of exchange, unit of account, or store of value; and(B) is not legal tender, whether or not denominated in legal tender; and(2) does not include:(A) a transaction in which a merchant grants, as part of an affinity or rewards program, value that cannot be taken from or exchanged with the merchant for legal tender, bank credit, or virtual currency; or(B) a digital representation of value issued by or on behalf of a publisher and used solely within an online game, game platform, or family of games sold by the same publisher or offered on the same game platform.4-11-103. Scope.This chapter applies to virtual currency.4-11-104. Rights in virtual currency.(a) In this section:(1) "Adverse claim" means a claim that a claimant has a property interest in a virtual currency and that it is a violation of the rights of the claimant for another person to hold, transfer, or deal with the virtual currency.(2) "Qualifying purchaser" means a purchaser that obtains control of a virtual currency for value and without notice of any adverse claim.(b) Subject to subsections (c) through (h), law other than this section determines whether a person acquires rights in a virtual currency and the rights that the person acquires.(c) A purchaser of a virtual currency acquires all rights in the virtual currency that the transferor had or had power to transfer.(d) A purchaser of a limited interest in a virtual currency acquires rights only to the extent of the interest purchased.(e) In addition to acquiring the rights of a purchaser, a qualifying

purchaser acquires its rights in a virtual currency free of any adverse claim.

(f) An action based on an adverse claim to a virtual currency, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against a qualifying purchaser that acquires its interest in, and obtains control of, the virtual currency for value and without notice of the adverse claim.

(g) A person has notice of an adverse claim if:

(1) the person knows of the adverse claim; or

(2) the person is aware of facts sufficient to indicate that there is a significant probability that the adverse claim exists and deliberately avoids information that would establish the existence of the adverse claim.

(h) Filing of a financing statement under Article 9 is not notice of an adverse claim to a virtual currency.

4-11-105. Control of virtual currency.

(a) A person has control of a virtual currency if the following conditions are met:

(1) the virtual currency or the system in which it is recorded, if any, gives the person:

(A) the power to derive substantially all the benefit from the virtual currency;

(B) subject to subsection (b), the exclusive power to prevent others from deriving substantially all the benefit from the virtual currency; and

(C) subject to subsection (b), the exclusive power to transfer control of the virtual currency to another person or cause another person to obtain control of a virtual currency that derives from the virtual currency; and

(2) the virtual currency, a record attached to or logically associated with the virtual currency, or the system in which the virtual currency is recorded, if any, enables the person to readily identify itself as having the powers specified in subparagraph (A).

(b) A power specified in subparagraph (a)(1)(A)(ii) or (a)(1)(A)(iii) can be exclusive, even if:

(1) the virtual currency or the system in which it is recorded, if any, limits the use to which the virtual currency may be put or has protocols that are programmed to result in a transfer of control; and

(2) the person has agreed to share the power with another person.

(c) For the purposes of subparagraph (a)(1)(B), a person may be identified in any way, including by name, identifying number, cryptographic key, office, or account number.

4-11-106. Savings clause.

This chapter does not affect an action, case, or proceeding commenced before this chapter takes effect.

APPROVED: 4/30/21