

UNIFORM COMMERCIAL CODE (EXCERPT)
Act 174 of 1962
Part 1
GENERAL PROVISIONS AND DEFINITIONS

440.3101 Short title; article.

Sec. 3101.

This article shall be known and may be cited as "uniform commercial code" "negotiable instruments".

History: 1962, Act 174, Eff. Jan. 1, 1964 ;-- Am. 1993, Act 130, Eff. Sept. 30, 1993

440.3102 Scope; limitations; conflict of laws.

Sec. 3102.

(1) This article applies to negotiable instruments. It does not apply to money, to payment orders governed by article 4a, or to securities governed by article 8.

(2) If there is conflict between this article and article 4 or 9, articles 4 and 9 govern.

(3) Regulations of the board of governors of the federal reserve system and operating circulars of the federal reserve banks supersede any inconsistent provision of this article to the extent of the inconsistency.

History: 1962, Act 174, Eff. Jan. 1, 1964 ;-- Am. 1993, Act 130, Eff. Sept. 30, 1993

440.3103 Definitions; principles of construction.

Sec. 3103.

(1) As used in this article:

(a) "Acceptor" means a drawee who has accepted a draft.

(b) "Consumer account" means an account established by an individual primarily for personal, family, or household purposes.

(c) "Consumer transaction" means a transaction in which an individual incurs an obligation primarily for personal, family, or household purposes.

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

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

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

(g) "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 1 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.

(h) "Ordinary care" in the case of a person engaged in business means observance of reasonable commercial standards, prevailing in the area in which the person is located, with respect to the business in which the person 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 the bank's prescribed procedures and the bank's procedures do not vary unreasonably from general banking usage not disapproved by this article or article 4.

(i) "Party" means a party to an instrument.

(j) "Principal obligor", with respect to an instrument, means the accommodated party or any other party to the instrument against whom a secondary obligor has recourse under this article.

(k) "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.

(l) "Prove" with respect to a fact means to meet the burden of establishing the fact under section 1201(2)(h).

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

(n) "Remotely created consumer item" means an item drawn on a consumer account, which is not created by the payor bank and does not bear a handwritten signature purporting to be the signature of the drawer.

(o) "Secondary obligor", with respect to an instrument, means any of the following:

(i) An indorser or an accommodation party.

(ii) A drawer that has the obligation described in section 3414(4).

(iii) Any other party to the instrument that has recourse against another party to the instrument under section 3116(2).

(2) Other definitions applying to this article and the sections in which they appear are as follows:

"Acceptance" section 3409.

"Accommodated party" section 3419.

"Accommodation party" section 3419.

"Account" section 4104.

"Alteration" section 3407.

"Anomalous endorsement" section 3205.

"Blank endorsement" section 3205.

"Cashier's check" section 3104.

"Certificate of deposit" section 3104.

"Certified check" section 3409.

"Check" section 3104.

"Consideration" section 3303.

"Draft" section 3104.

"Endorsement" section 3204.

"Endorser" section 3204.

"Holder in due course" section 3304.

"Incomplete instrument" section 3115.

"Instrument" section 3104.

"Issue" section 3105.

"Issuer" section 3105.

"Negotiable instrument" section 3104.

"Negotiation" section 3201.

"Note" section 3104.

"Payable at a definite time" section 3108.

"Payable on demand" section 3108.

"Payable to bearer" section 3109.

"Payable to order" section 3109.

"Payment" section 3602.

"Person entitled to enforce" section 3301.

"Presentment" section 3501.

"Reacquisition" section 3207.

"Special endorsement" section 3205.

"Teller's check" section 3104.

"Transfer of instrument" section 3203.

"Traveler's check" section 3104.

"Value" section 3303.

(3) The following definitions in other articles apply to this article:

"Banking day" section 4104.

"Clearing-house" section 4104.

"Collecting bank" section 4105.

"Depository bank" section 4105.
"Documentary draft" section 4104.
"Intermediary bank" section 4105.
"Item" section 4104.
"Payor bank" section 4105.
"Suspends payments" section 4104.

(4) In addition, article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

History: 1962, Act 174, Eff. Jan. 1, 1964 ;-- Am. 1993, Act 130, Eff. Sept. 30, 1993 ;-- Am. 2012, Act 86, Eff. July 1, 2013 ;-- Am. 2014, Act 101, Imd. Eff. Apr. 10, 2014

Compiler's Notes: In subsection (1)(g), "alterative" evidently should read "alternative."

440.3104 Additional definitions.

Sec. 3104.

(1) Except as provided in subsections (3) and (4), "negotiable instrument" means an unconditional promise or order to pay a fixed amount of money, with or without interest or other charges described in the promise or order, if all of the following apply:

(a) It is payable to bearer or to order at the time it is issued or first comes into possession of a holder.

(b) It is payable on demand or at a definite time.

(c) It does not state any other undertaking or instruction by the person promising or ordering payment to do any act in addition to the payment of money, but the promise or order may contain an undertaking or power to give, maintain, or protect collateral to secure payment, an authorization or power to the holder to confess judgment or realize on or dispose of collateral, or a waiver of the benefit of any law intended for the advantage or protection of an obligor.

(2) "Instrument" means a negotiable instrument.

(3) An order that meets all of the requirements of subsection (1), except subdivision (a), and otherwise falls within the definition of "check" in subsection (6) is a negotiable instrument and a check.

(4) A promise or order other than a check is not an instrument if, at the time it is issued or first comes into possession of a holder, it contains a conspicuous statement, however expressed, to the effect that the promise or order is not negotiable or is not an instrument governed by this article.

(5) An instrument is a "note" if it is a promise and is a "draft" if it is an order. If an instrument falls within the definition of both "note" and "draft", a person entitled to enforce the instrument may treat it as either.

(6) "Check" means a draft, other than a documentary draft, payable on demand and drawn on a bank or a cashier's check or teller's check. An instrument may be a check even though it is described on its face by another term, such as "money order".

(7) "Cashier's check" means a draft with respect to which the drawer and drawee are the same bank or branches of the same bank.

(8) "Teller's check" means a draft drawn by a bank on another bank, or payable at or through a bank.

(9) "Traveler's check" means an instrument that is payable on demand, is drawn on or payable at or through a bank, is designated by the term "traveler's check" or by a substantially similar term, and requires, as a condition to payment, a countersignature by a person whose specimen signature appears on the instrument.

(10) "Certificate of deposit" means an instrument containing an acknowledgment by a bank that a sum of money has been received by the bank and a promise by the bank to repay the sum of money. A certificate of deposit is a note of the bank.

History: 1962, Act 174, Eff. Jan. 1, 1964 ;-- Am. 1993, Act 130, Eff. Sept. 30, 1993

440.3105 "Issue" and "issuer" defined; effect of unissued or conditionally issued instrument.

Sec. 3105.

(1) "Issue" means the first delivery of an instrument by the maker or drawer, whether to a holder or nonholder, for the purpose of giving rights on the instrument to any person.

(2) An unissued instrument, or an unissued incomplete instrument that is completed, is binding on the maker or drawer, but nonissuance is a defense. An instrument that is conditionally issued or is issued for a special purpose is binding on the maker or drawer, but failure of the condition or special purpose to be fulfilled is a defense.

(3) "Issuer" applies to issued and unissued instruments and means a maker or drawer of an instrument.

History: 1962, Act 174, Eff. Jan. 1, 1964 ;-- Am. 1964, Act 250, Eff. Aug. 28, 1964 ;-- Am. 1993, Act 130, Eff. Sept. 30, 1993

440.3106 Unconditional status of promise or order.

Sec. 3106.

(1) Except as provided in this section, for the purposes of section 3104(1), a promise or order is unconditional unless it states 1 of the following:

(a) An express condition to payment.

(b) That the promise or order is subject to or governed by another record.

(c) That rights or obligations with respect to the promise or order are stated in another record. A reference to another record does not of itself make the promise or order conditional.

(2) A promise or order is not made conditional by or because of either of the following:

(a) By a reference to another record for a statement of rights with respect to collateral, prepayment, or acceleration.

(b) Because payment is limited to resort to a particular fund or source.

(3) If a promise or order requires, as a condition to payment, a countersignature by a person whose specimen signature appears on the promise or order, the condition does not make the promise or order conditional for the purposes of section 3104(1). If the person whose specimen signature appears on an instrument fails to countersign the instrument, the failure to countersign is a defense to the obligation of the issuer, but the failure does not prevent a transferee of the instrument from becoming a holder of the instrument.

(4) If a promise or order at the time it is issued or first comes into possession of a holder contains a statement, required by applicable statutory or administrative law, to the effect that the rights of a holder or transferee are subject to claims or defenses that the issuer could assert against the original payee, the promise or order is not thereby made conditional for the purposes of section 3104(1); but if the promise or order is an instrument, there cannot be a holder in due course of the instrument.

History: 1962, Act 174, Eff. Jan. 1, 1964 ;-- Am. 1993, Act 130, Eff. Sept. 30, 1993 ;-- Am. 2014, Act 101, Imd. Eff. Apr. 10, 2014

440.3107 Payment in foreign money.

Sec. 3107.

Unless the instrument otherwise provides, an instrument that states the amount payable in foreign money may be paid in the foreign money or in an equivalent amount in dollars calculated by using the current bank-offered spot rate at the place of payment for the purchase of dollars on the day on which the instrument is paid.

History: 1962, Act 174, Eff. Jan. 1, 1964 ;-- Am. 1993, Act 130, Eff. Sept. 30, 1993

440.3108 Instrument payable on demand, at definite time, or at fixed date.

Sec. 3108.

- (1) A promise or order is "payable on demand" if it:
 - (a) States that it is payable on demand or at sight, or otherwise indicates that it is payable at the will of the holder.
 - (b) Does not state any time of payment.
- (2) A promise or order is "payable at a definite time" if it is payable on elapse of a definite period of time after sight or acceptance or at a fixed date or dates or at a time or times readily ascertainable at the time the promise or order is issued, subject to rights of:
 - (a) Prepayment.
 - (b) Acceleration.
 - (c) Extension at the option of the holder.
 - (d) Extension to a further definite time at the option of the maker or acceptor or automatically upon or after a specified act or event.
- (3) If an instrument, payable at a fixed date, is also payable upon demand made before the fixed date, the instrument is payable on demand until the fixed date and, if demand for payment is not made before that date, becomes payable at a definite time on the fixed date.

History: 1962, Act 174, Eff. Jan. 1, 1964 ;-- Am. 1993, Act 130, Eff. Sept. 30, 1993

440.3109 Promise or order; payable on demand; payable at definite time; instrument payable at fixed date.

Sec. 3109.

- (1) A promise or order is payable to the bearer if it does any of the following:
 - (a) States that it is payable to bearer or to the order of bearer or otherwise indicates that the person in possession of the promise or order is entitled to payment.
 - (b) Does not state a payee.
 - (c) States that it is payable to or to the order of cash or otherwise indicates that it is not payable to an identified person.
- (2) A promise or order that is not payable to bearer is payable to order if it is payable:
 - (a) To the order of an identified person.
 - (b) To an identified person or order. A promise or order that is payable to order is payable to the identified person.
- (3) An instrument payable to bearer may become payable to an identified person if it is specially endorsed pursuant to section 3205(1). An instrument payable to an identified person may become payable to bearer if it is endorsed in blank pursuant to section 3205(2).

History: 1962, Act 174, Eff. Jan. 1, 1964 ;-- Am. 1993, Act 130, Eff. Sept. 30, 1993

440.3110 Determination of person payable; intent; signature by automated means; determining holder; instrument payable to 2 or more persons.

Sec. 3110.

- (1) The person to whom an instrument is initially payable is determined by the intent of the person, whether or not authorized, signing as, or in the name or behalf of, the issuer of the instrument. The instrument is payable to the person intended by the signer even if that person is identified in the instrument by a name or other identification that is not that of the intended person. If more than 1 person signs in the name or behalf of the issuer of an instrument and all the signers do not intend the same person as payee, the instrument is payable to any person intended by 1 or more of the signers.
- (2) If the signature of the issuer of an instrument is made by automated means, such as a check-writing machine, the payee of the instrument is determined by the intent of the person who supplied the name or identification of the payee, whether or not authorized to do so.

(3) A person to whom an instrument is payable may be identified in any way, including by name, identifying number, office, or account number. For the purpose of determining the holder of an instrument, the following rules apply:

(a) If an instrument is payable to an account and the account is identified only by number, the instrument is payable to the person to whom the account is payable. If an instrument is payable to an account identified by number and by the name of a person, the instrument is payable to the named person, whether or not that person is the owner of the account identified by number.

(b) If an instrument is payable to any of the following:

(i) A trust, an estate, or a person described as trustee or representative of a trust or estate, the instrument is payable to the trustee, the representative, or a successor of either, whether or not the beneficiary or estate is also named.

(ii) A person described as agent or similar representative of a named or identified person, the instrument is payable to the represented person, the representative, or a successor of the representative.

(iii) A fund or organization that is not a legal entity, the instrument is payable to a representative of the members of the fund or organization.

(iv) An office or to a person described as holding an office, the instrument is payable to the named person, the incumbent of the office, or a successor to the incumbent.

(4) If an instrument is payable to 2 or more persons alternatively, it is payable to any of them and may be negotiated, discharged, or enforced by any or all of them in possession of the instrument. If an instrument is payable to 2 or more persons not alternatively, it is payable to all of them and may be negotiated, discharged, or enforced only by all of them. If an instrument payable to 2 or more persons is ambiguous as to whether it is payable to the persons alternatively, the instrument is payable to the persons alternatively.

History: 1962, Act 174, Eff. Jan. 1, 1964 ;-- Am. 1993, Act 130, Eff. Sept. 30, 1993

440.3111 Place of payment.

Sec. 3111.

Except as otherwise provided for items in article 4, an instrument is payable at the place of payment stated in the instrument. If no place of payment is stated, an instrument is payable at the address of the drawee or maker stated in the instrument. If no address is stated, the place of payment is the place of business of the drawee or maker. If a drawee or maker has more than 1 place of business, the place of payment is any place of business of the drawee or maker chosen by the person entitled to enforce the instrument. If the drawee or maker has no place of business, the place of payment is the residence of the drawee or maker.

History: 1962, Act 174, Eff. Jan. 1, 1964 ;-- Am. 1993, Act 130, Eff. Sept. 30, 1993

440.3112 Interest.

Sec. 3112.

(1) Unless otherwise provided in the instrument:

(a) An instrument is not payable with interest.

(b) Interest on an interest-bearing instrument is payable from the date of the instrument.

(2) Interest may be stated in an instrument as a fixed or variable amount of money or it may be expressed as a fixed or variable rate or rates. The amount or rate of interest may be stated or described in the instrument in any manner and may require reference to information not contained in the instrument. If an instrument provides for interest, but the amount of interest payable cannot be ascertained from the description, interest is payable at the judgment rate in effect at the place of payment of the instrument and at the time interest first accrues.

History: 1962, Act 174, Eff. Jan. 1, 1964 ;-- Am. 1964, Act 250, Eff. Aug. 28, 1964 ;-- Am. 1993, Act 130, Eff. Sept. 30, 1993

440.3113 Instrument antedated, postdated, or undated.

Sec. 3113.

(1) An instrument may be antedated or postdated. The date stated determines the time of payment if the instrument is payable at a fixed period after date. Except as provided in section 4401(3), an instrument payable on demand is not payable before the date of the instrument.

(2) If an instrument is undated, its date is the date of its issue or, in the case of an unissued instrument, the date it first comes into possession of a holder.

History: 1962, Act 174, Eff. Jan. 1, 1964 ;-- Am. 1993, Act 130, Eff. Sept. 30, 1993

440.3114 Instrument; contradictory terms.

Sec. 3114.

If an instrument contains contradictory terms, typewritten terms prevail over printed terms, handwritten terms prevail over both, and words prevail over numbers.

History: 1962, Act 174, Eff. Jan. 1, 1964 ;-- Am. 1993, Act 130, Eff. Sept. 30, 1993

440.3115 Incomplete instrument; definition; enforcement; alteration; burden.

Sec. 3115.

(1) "Incomplete instrument" means a signed writing, whether or not issued by the signer, the contents of which show at the time of signing that it is incomplete but that the signer intended it to be completed by the addition of words or numbers.

(2) Subject to subsection (3), if an incomplete instrument is an instrument under section 3104, it may be enforced according to its terms if it is not completed, or according to its terms as augmented by completion. If an incomplete instrument is not an instrument under section 3104, but, after completion, the requirements of section 3104 are met, the instrument may be enforced according to its terms as augmented by completion.

(3) If words or numbers are added to an incomplete instrument without authority of the signer, there is an alteration of the incomplete instrument under section 3407.

(4) The burden of establishing that words or numbers were added to an incomplete instrument without authority of the signer is on the person asserting the lack of authority.

History: 1962, Act 174, Eff. Jan. 1, 1964 ;-- Am. 1993, Act 130, Eff. Sept. 30, 1993

440.3116 Joint and several liability.

Sec. 3116.

(1) Except as otherwise provided in the instrument, 2 or more persons who have the same liability on an instrument as makers, drawers, acceptors, endorsers who endorse as joint payees, or anomalous endorsers are jointly and severally liable in the capacity in which they sign.

(2) Except as provided in section 3419(6) or by agreement of the affected parties, a party having joint and

several liability who pay the instrument is entitled to receive from any party having the same joint and several liability contribution in accordance with applicable law.

History: 1962, Act 174, Eff. Jan. 1, 1964 ;-- Am. 1993, Act 130, Eff. Sept. 30, 1993 ;-- Am. 2014, Act 101, Imd. Eff. Apr. 10, 2014
Compiler's Notes: In subsection (2), "payâ€ evidently should read "pays."

440.3117 Obligation modified, supplemented, or nullified by separate agreement.

Sec. 3117.

Subject to applicable law regarding exclusion of proof of contemporaneous or previous agreements, the obligation of a party to an instrument to pay the instrument may be modified, supplemented, or nullified by a separate agreement of the obligor and a person entitled to enforce the instrument, if the instrument is issued or the obligation is incurred in reliance on the agreement or as part of the same transaction giving rise to the agreement. To the extent an obligation is modified, supplemented, or nullified by an agreement under this section, the agreement is a defense to the obligation.

History: 1962, Act 174, Eff. Jan. 1, 1964 ;-- Am. 1993, Act 130, Eff. Sept. 30, 1993

440.3118 Action to enforce obligation; commencement; time period; other actions.

Sec. 3118.

(1) Except as provided in subsection (5), an action to enforce the obligation of a party to pay a note payable at a definite time must be commenced within 6 years after the due date or dates stated in the note or, if a due date is accelerated, within 6 years after the accelerated due date.

(2) Except as provided in subsection (4) or (5), if demand for payment is made to the maker of a note payable on demand, an action to enforce the obligation of a party to pay the note must be commenced within 6 years after the demand. If no demand for payment is made to the maker, an action to enforce the note is barred if neither principal nor interest on the note has been paid for a continuous period of 10 years.

(3) Except as provided in subsection (4), an action to enforce the obligation of a party to an unaccepted draft to pay the draft must be commenced within 3 years after dishonor of the draft or 10 years after the date of the draft, whichever period expires first.

(4) An action to enforce the obligation of the acceptor of a certified check or the issuer of a teller's check, cashier's check, or traveler's check must be commenced within 3 years after demand for payment is made to the acceptor or issuer.

(5) An action to enforce the obligation of a party to a certificate of deposit to pay the instrument must be commenced within 6 years after demand for payment is made to the maker, but if the instrument states a due date and the maker is not required to pay before that date, the 6-year period begins when a demand for payment is in effect and the due date has passed.

(6) An action to enforce the obligation of a party to pay an accepted draft, other than a certified check, must be commenced (i) within 6 years after the due date or dates stated in the draft or acceptance if the obligation of the acceptor is payable at a definite time, or (ii) within 6 years after the date of the acceptance if the obligation of the acceptor is payable on demand.

(7) Unless governed by other law regarding claims for indemnity or contribution, an action (i) for conversion of an instrument, for money had and received, or like action based on conversion, (ii) for breach of warranty, or (iii) to enforce an obligation, duty, or right arising under this article and not governed by this section must be commenced within 3 years after the cause of action accrues.

History: 1962, Act 174, Eff. Jan. 1, 1964 ;-- Am. 1993, Act 130, Eff. Sept. 30, 1993

440.3119 Notice of litigation to answerable third party.

Sec. 3119.

In an action for breach of an obligation for which a third person is answerable over pursuant to this article or article 4, the defendant may give the third person notice of the litigation in a record, and the person notified may then give similar notice to any other person who is answerable over. If the notice states (i) that the person notified may come in and defend and (ii) that failure to do so will bind the person notified in an action later brought by the person giving the notice as to any determination of fact common to the 2 litigations, the person notified is so bound unless after seasonable receipt of the notice the person notified does come in and defend.

History: 1962, Act 174, Eff. Jan. 1, 1964 ;-- Am. 1993, Act 130, Eff. Sept. 30, 1993 ;-- Am. 2014, Act 101, Imd. Eff. Apr. 10, 2014

440.3120-440.3122 Repealed. 1993, Act 130, Eff. Sept. 30, 1993.

Compiler's Notes: The repealed sections pertained to instruments payable through or at a bank, accrual of cause of action, and interest.