



March 11, 2015

To: Senate Committee on Judiciary

From: Kathleen A. Taylor, Kansas Bankers Association

Re: HB 2124: Uniform Law Commissioners' Suggested Amendments to UCC Article 4A

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today in support of **HB 2124**, which is a recommendation for change made by the National Conference of Commissioners on Uniform State Laws (NCCUSL) in 2012. Kansas is now only one of six states that has not enacted these suggested changes to K.S.A. 84-4a-108.

This change is necessary as it will maintain the coverage of UCC Article 4a for commercial wire transfers, while allowing consumer remittance transfers to be continued to be covered by the federal rules found under the Electronic Funds Transfer Act (EFTA). A remittance transfer as defined in 15 USC Sec. 1693o-1, is a transfer of funds through electronic means by consumers to recipients in another country through entities or financial institutions that provide such transfer in the normal course of their business.

As we understand the need for this amendment, without it, neither the EFTA rules nor Article 4a will apply to some commercial remittance transfers that are typically in large dollar amounts. Should a problem occur with these transfers that fall into this "gap", there would be no law – federal or state – to determine who bears the burden of any loss or damages caused by the transfer.

As background information, UCC Article 4a was originally drafted to govern transfers between commercial parties. At the time of drafting, the EFTA governed *consumer* wire transfers. KSA 84-41-108 in its current form reads that if any part of a funds transfer is subject to the EFTA, it would not be subject to Article 4a. However, a provision in the Dodd-Frank Wall Street Reform and Consumer Protection Act amended the EFTA, and provides that the EFTA will govern "remittance transfers", whether or not those remittance transfers are also "electronic fund transfers" as defined by the EFTA. Thus, if not amended, KSA 84-41-108 will effectively provide that a fund transfer initiated by a remittance transfer will be entirely outside the coverage of Article 4a, even if the remittance transfer is not an electronic fund transfer – resulting in a number of important issues in those remittance transfers being governed by neither state law found in Article 4a or federal law found in the EFTA.

In conclusion, this technical amendment is useful to provide clear governing law for a certain class of remittance transfers that otherwise could fall into a gap in coverage of federal or state law. We would respectfully request that the Committee act favorably on **HB 2124**.