

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
First Reader

Senate Bill 154
Finance

(Senator Watson)

Commercial Law - Uniform Commercial Code - Controllable Electronic Records

This bill establishes a new Title within the Maryland Uniform Commercial Code (“Maryland Uniform Commercial Code – Controllable Electronic Records”) to broadly establish provisions governing private commercial transactions related to controllable electronic records (CER), controllable accounts, and controllable payment intangibles (CPI).

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances.

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: Meaningful.

Analysis

Bill Summary: If there is a conflict between the bill’s provisions and Title 9 of the Commercial Law Article, Title 9 of the Commercial Law Article governs. A transaction subject to the bill’s provisions is also subject to any other applicable State law.

Definitions

“Account debtor” means a person obligated on an account, a chattel paper, or a general intangible, and does not include a person obligated to pay a negotiable instrument, even if the negotiable instrument evidences chattel paper.

“Controllable electronic record” means a record stored in an electronic medium that can be subjected to control as specified under the bill; it does not include a controllable account, a CPI, a deposit account, an electronic copy of a record evidencing chattel paper, an electronic document of title, electronic money, investment property, or a transferable record.

“Controllable account” means an account evidenced by a CER that provides that the account debtor undertakes to pay the person that has control of the CER as specified under the bill.

“Controllable payment intangible” means a payment intangible evidenced by a CER that provides that the account debtor undertakes to pay the person that has control of the CER as specified under the bill.

“Qualifying Purchaser” means a purchaser of a CER or an interest in a CER that obtains control of the CER for value, in good faith, and without notice of a claim of property right in the CER.

Control of a Controllable Electronic Record

The bill sets forth how a person obtains control of a CER (*e.g.*, bitcoin, non-fungible tokens, etc.).

Generally, a person has control of a CER if the CER, a record attached to or logically associated with the CER, or a system in which the CER is recorded, meets the following requirements:

- *Substantially All the Benefit* – The CER gives the person the authority to make use of substantially all the benefit from the CER;
- *Exclusive Power* – Subject to certain exceptions, the CER gives the person exclusive power (1) to prevent others from making use of substantially all of the benefit from the CER and (2) to transfer control of the CER to another person or cause another person to obtain control of another CER as a result of the transfer (these powers are presumptively exclusive under the bill); and
- *Identification of the Person* – The CER enables the person readily to identify the person in any way, including by name, identifying number, cryptographic key, office, or account number as having the powers specified immediately above.

The bill specifies circumstances under which power remains exclusive, including if the power is shared with another person; the bill also specifies circumstances under which power is not considered to be shared or exclusive.

Control May be Exercised by Another

A person has control of a CER if another person (other than a transferor, as specified) has or obtains control of the CER on behalf of the person. Other provisions specify requirements related to acknowledgment by the person who has, or will obtain, control on behalf of another person.

Rights of a Qualifying Purchaser

The bill sets forth various guidelines regarding the acquisition of rights. For instance, the determination of whether a purchaser of a controllable account or CPI is a qualifying purchaser is based on if the purchaser obtains control of the CER that evidences the account or CPI. Except as otherwise provided, a determination about whether a person acquires a right in a CER and the type of right the person acquires can be made using applicable State or federal law.

A qualifying purchaser acquires rights in the CER free of a claim of a property right in the CER. Except as otherwise provided with respect to a controllable account and a CPI, a qualifying purchaser takes a right to payment, right to performance, or other interest in property demonstrated by the CER subject to a claim of a property right in the right to payment, performance, or other interest.

Filing of a financing statement under Title 9 of the Commercial Law Article is not notice of a claim of a property right in a CER.

Discharge of Account Debtor

The following provisions (as well as others included within the applicable section) are subject to any other law that establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

An account debtor on a controllable account or CPI may discharge the account debtor's obligation by paying the person having control of the CER associated with the controllable account or CPI. The obligation may also be discharged by paying a person that formerly had control of the CER; however, an account debtor may not discharge its obligation in this way if the account debtor receives a notification that:

- is signed by a person that formerly had control or the person to whom control was transferred;
- reasonably identifies the controllable account or CPI;

- notifies the account debtor that control of the CER that evidences the controllable account or CPI was transferred;
- identifies the transferee in any reasonable way, as specified; and
- provides a commercially reasonable method for the account debtor to pay the transferee.

After receipt of a notification, as specified above, the account debtor (1) may discharge the account debtor's obligation by paying according to instructions in the notification and (2) may not discharge the obligation by paying a person that formerly had control.

However, the bill also specifies conditions that render the notification ineffective.

The bill also sets forth requirements regarding the provision of reasonable proof that control of the CER has been transferred, as well as a prohibition on the waiver of modification of an account debtor's rights.

Choice of Law

Subject to limited exception, as specified, the local law of the CER's jurisdiction governs a matter covered under the bill's provisions; additional rules regarding CER jurisdiction are specified in the bill.

Current Law: Title 9 of the Commercial Law Article governs secured transactions, including those involving electronic chattel paper – chattel paper evidenced by a record or records consisting of information stored in an electronic medium. Section 9-105 of the Commercial Law Article specifies that a secured party has control of electronic chattel paper if the record or records comprising the chattel paper are created, stored, and assigned in a specified manner.

Small Business Effect: The bill may have a meaningful impact on small businesses that use CERs by providing legal certainty for commercial activity, and reducing the costs of credit and transactions.

Additional Comments: The drafters of Article 12 of the Uniform Commercial Code (UCC) establishing a CER, controllable account, and CPI generally applied the provisions of Article 9 of the UCC related to secured transactions of traditional personal property (goods, chattel paper).

The bill is a modified version of portions of the [Uniform Commercial Code Amendments \(2022\)](#) drafted by the National Conference of Commissioners on Uniform State Laws and the American Law Institute.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 1353 of 2025.

Designated Cross File: None.

Information Source(s): Office of the Attorney General; Comptroller's Office; Judiciary (Administrative Office of the Courts); Maryland Department of Labor; Department of Legislative Services

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sj/jkb

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