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BILL ANALYSIS

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House Bill 5081 (Substitute H-1 as reported without amendment)

House Bill 5082 (Substitute H-1 as reported without amendment)

House Bill 5083 (Substitute S-1 as reported)

Sponsor: Representative Matt Huuki (H.B. 5081)

Representative Kevin Cotter (H.B. 5082)

Representative Ellen Cogen Lipton (H.B. 5083)

House Committee: Banking and Financial Services

Senate Committee: Banking and Financial Institutions

CONTENT

House Bill 5081 (H-1) would amend Article 1 (General Provisions) and other articles of the Uniform Commercial Code (UCC) to do the following:

- State that Article 1 would apply to a transaction to the extent that it was governed by another article of the UCC.
- Delete a requirement that a contract for the sale of personal property over \$5,000 be in writing, in order to be enforceable.
- Allow a course of performance between the parties, in addition to a course of dealing and usage of the trade, to be used to interpret an agreement.
- Add a new Part 3 to Article 1, "Territorial Applicability and General Rules", containing default choice of law rules.

House Bill 5082 (H-1) would amend Article 7 (Documents of Title) and other articles of the UCC to do the following:

- Recognize electronic documents of title, defining "electronic document of title" and modifying the definitions of other terms to treat electronic records and signatures as the equivalent of tangible documents.
- Adopt the concept of "control" as an alternative to the system of transferring tangible documents.
- Specify rules that would apply to a negotiable electronic document of title.
- Refer to electronic documents and control in various provisions of Article 9 (Secured Transactions).
- State that the UCC would modify, limit, and supersede the Electronic Signatures in the Global and National Commerce Act, subject to certain exceptions.
- Define "good faith" in Article 1 as honesty in fact and the observance of reasonable commercial standards of fair dealing, except as otherwise provided in Article 5 (Letters of Credit).

House Bill 5083 (S-1) would amend Article 9 (Secured Transactions) of the UCC to:

- Add specificity regarding the name of the debtor to be included in a financing statement, depending on whether the debtor was an individual or a registered organization, whether the collateral was held in a trust that was or was not a registered organization, or whether the collateral was being administered by the personal representative of a decedent.

- Prescribe rules that would govern the perfection of a security interest in collateral acquired after the debtor moved into another jurisdiction, giving the person filing a financing statement perfection for four months in such collateral.
- Allow a person to file an "information statement" rather than a "correction statement" when the person believes that a filed record is inaccurate or was wrongfully filed.
- Allow a secured party to file an information statement if the secured party believed that an amendment to its financing statement was filed by a person who was not entitled to do so.

MCL 440.1101 et al. (H.B. 5081)
440.1201 et al. (H.B. 5082)
440.9105 et al. (H.B. 5083)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

Date Completed: 3-13-12

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.