

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 546*

Short Title: UCC/Art. 4A.

(Public)

Sponsors: Representative Kennedy.

Referred to: Courts and Justice.

March 25, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT ARTICLE 4A OF THE UNIFORM COMMERCIAL CODE AS
3 RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 25 of the General Statutes is amended by adding the
6 following new Article to read:

7 **"ARTICLE 4A.**

8 **"FUNDS TRANSFERS.**

9 **"PART 1. SUBJECT MATTER AND DEFINITIONS.**

10 **"§ 25-4A-101. Short title.**

11 This Article may be cited as Uniform Commercial Code–Funds Transfers.

12 **"§ 25-4A-102. Subject matter.**

13 Except as otherwise provided in G.S. 25-4A-108, this Article applies to funds
14 transfers defined in G.S. 25-4A-104.

15 **"§ 25-4A-103. Payment order - definitions.**

16 (a) In this Article:

17 (1) 'Payment order' means an instruction of a sender to a receiving bank,
18 transmitted orally, electronically, or in writing, to pay, or to cause
19 another bank to pay, a fixed or determinable amount of money to a
20 beneficiary if:

21 (i) The instruction does not state a condition of payment to the
22 beneficiary other than time of payment,

23 (ii) The receiving bank is to be reimbursed by debiting an account
24 of, or otherwise receiving payment from, the sender, and

1 (iii) The instruction is transmitted by the sender directly to
2 the receiving bank or to an agent, funds-transfer
3 system, or communication system for transmittal to the
4 receiving bank.

5 (2) 'Beneficiary' means the person to be paid by the beneficiary's bank.

6 (3) 'Beneficiary's bank' means the bank identified in a payment order in
7 which an account of the beneficiary is to be credited pursuant to the
8 order or which otherwise is to make payment to the beneficiary if the
9 order does not provide for payment to an account.

10 (4) 'Receiving bank' means the bank to which the sender's instruction is
11 addressed.

12 (5) 'Sender' means the person giving the instruction to the receiving bank.

13 (b) If an instruction complying with subsection (a)(1) is to make more than one
14 payment to a beneficiary, the instruction is a separate payment order with respect to
15 each payment.

16 (c) A payment order is issued when it is sent to the receiving bank.

17 **"§ 25-4A-104. Funds transfer - definitions.**

18 In this Article:

19 (a) 'Funds transfer' means the series of transactions, beginning with the
20 originator's payment order, made for the purpose of making payment to the beneficiary
21 of the order. The term includes any payment order issued by the originator's bank or an
22 intermediary bank intended to carry out the originator's payment order. A funds transfer
23 is completed by acceptance by the beneficiary's bank of a payment order for the benefit
24 of the beneficiary of the originator's payment order.

25 (b) 'Intermediary bank' means a receiving bank other than the originator's bank or
26 the beneficiary's bank.

27 (c) 'Originator' means the sender of the first payment order in a funds transfer.

28 (d) 'Originator's bank' means (i) the receiving bank to which the payment order of
29 the originator is issued if the originator is not a bank, or (ii) the originator if the
30 originator is a bank.

31 **"§ 25-4A-105. Other definitions.**

32 (a) In this Article:

33 (1) 'Authorized account' means a deposit account of a customer in a bank
34 designated by the customer as a source of payment of payment orders
35 issued by the customer to the bank. If a customer does not so
36 designate an account, any account of the customer is an authorized
37 account if payment of a payment order from that account is not
38 inconsistent with a restriction on the use of that account.

39 (2) 'Bank' means a person engaged in the business of banking and includes
40 a savings bank, savings and loan association, credit union, and trust
41 company. A branch or separate office of a bank is a separate bank for
42 purposes of this Article.

43 (3) 'Customer' means a person, including a bank, having an account with a
44 bank or from whom a bank has agreed to receive payment orders.

- 1 (4) 'Funds-transfer business day' of a receiving bank means the part of a
 2 day during which the receiving bank is open for the receipt,
 3 processing, and transmittal of payment orders and cancellations and
 4 amendments of payment orders.
- 5 (5) 'Funds-transfer system' means a wire transfer network, automated
 6 clearinghouse, or other communication system of a clearinghouse or
 7 other association of banks through which a payment order by a bank
 8 may be transmitted to the bank to which the order is addressed.
- 9 (6) 'Good faith' means honesty in fact and the observance of reasonable
 10 commercial standards of fair dealing.
- 11 (7) 'Prove' with respect to a fact means to meet the burden of establishing
 12 the fact (G.S. 25-1-201(8)).

13 (b) Other definitions applying to this Article and the sections in which they
 14 appear are:

15	<u>'Acceptance'</u>	<u>G.S. 25-4A-209</u>	
16	<u>'Beneficiary'</u>	<u>G.S. 25-4A-103</u>	
17	<u>'Beneficiary's bank'</u>	<u>G.S. 25-4A-103</u>	
18	<u>'Executed'</u>	<u>G.S. 25-4A-301</u>	
19	<u>'Execution date'</u>	<u>G.S. 25-4A-301</u>	
20	<u>'Funds transfer'</u>	<u>G.S. 25-4A-104</u>	
21	<u>'Funds-transfer system rule'</u>	<u>G.S. 25-4A-501</u>	
22	<u>'Intermediary bank'</u>	<u>G.S. 25-4A-104</u>	
23	<u>'Originator'</u>	<u>G.S. 25-4A-104</u>	
24	<u>'Originator's bank'</u>	<u>G.S. 25-4A-104</u>	
25	<u>'Payment by beneficiary's bank to beneficiary'</u>		<u>G.S.</u>
26			<u>25-</u>
27			<u>4A-</u>
28			<u>405</u>
29	<u>'Payment by originator to beneficiary'</u>	<u>G.S. 25-4A-406</u>	
30	<u>'Payment by sender to receiving bank'</u>	<u>G.S. 25-4A-403</u>	
31	<u>'Payment date'</u>	<u>G.S. 25-4A-401</u>	
32	<u>'Payment order'</u>	<u>G.S. 25-4A-103</u>	
33	<u>'Receiving bank'</u>	<u>G.S. 25-4A-103</u>	
34	<u>'Security procedure'</u>	<u>G.S. 25-4A-201</u>	
35	<u>'Sender'</u>	<u>G.S. 25-4A-103.</u>	

36 (c) The following definitions in Article 4 apply to this Article:

37	<u>'Clearing house'</u>	<u>G.S. 25-4-104</u>
38	<u>'Item'</u>	<u>G.S. 25-4-104</u>
39	<u>'Suspends payments'</u>	<u>G.S. 25-4-104.</u>

40 (d) In addition, Article 1 of this Chapter contains general definitions and
 41 principles of construction and interpretation applicable throughout this Article.

42 **"§ 25-4A-106. Time payment order is received.**

43 (a) The time of receipt of a payment order or communication cancelling or
 44 amending a payment order is determined by the rules applicable to receipt of a notice

1 stated in G.S. 25-1-201(27). A receiving bank may fix a cutoff time or times on a
2 funds-transfer business day for the receipt and processing of payment orders and
3 communications cancelling or amending payment orders. Different cutoff times may
4 apply to payment orders, cancellations, or amendments, or to different categories of
5 payment orders, cancellations, or amendments. A cutoff time may apply to senders
6 generally or different cutoff times may apply to different senders or categories of
7 payment orders. If a payment order or communication cancelling or amending a
8 payment order is received after the close of a funds-transfer business day or after the
9 appropriate cutoff time on a funds-transfer business day, the receiving bank may treat
10 the payment order or communication as received at the opening of the next funds-
11 transfer business day.

12 (b) If this Article refers to an execution date or payment date or states a day on
13 which a receiving bank is required to take action, and the date or day does not fall on a
14 funds-transfer business day, the next day that is a funds-transfer business day is treated
15 as the date or day stated, unless the contrary is stated in this Article.

16 **"§ 25-4A-107. Federal reserve regulations and operating circulars.**

17 Regulations of the Board of Governors of the Federal Reserve System and operating
18 circulars of the Federal Reserve Banks supersede any inconsistent provision of this
19 Article to the extent of the inconsistency.

20 **"§ 25-4A-108. Exclusion of consumer transactions governed by federal law.**

21 This Article does not apply to a funds transfer any part of which is governed by the
22 Electronic Fund Transfer Act of 1978 (Title XX, Public Law 95-630, 92 Stat. 3728, 15
23 U.S.C. § 1693 et seq.) as amended from time to time.

24 **"PART 2. ISSUE AND ACCEPTANCE OF PAYMENT ORDER.**

25 **"§ 25-4A-201. Security procedure.**

26 'Security procedure' means a procedure established by agreement of a customer and
27 a receiving bank for the purpose of (i) verifying that a payment order or
28 communication amending or cancelling a payment order is that of the customer, or (ii)
29 detecting error in the transmission or the content of the payment order or
30 communication. A security procedure may require the use of algorithms or other codes,
31 identifying words or numbers, encryption, call-back procedures, or similar security
32 devices. Comparison of a signature on a payment order or communication with an
33 authorized specimen signature of the customer is not by itself a security procedure.

34 **"§ 25-4A-202. Authorized and verified payment orders.**

35 (a) A payment order received by the receiving bank is the authorized order of the
36 person identified as sender if that person authorized the order or is otherwise bound by
37 it under the law of agency.

38 (b) If a bank and its customer have agreed that the authenticity of payment orders
39 issued to the bank in the name of the customer as sender will be verified pursuant to a
40 security procedure, a payment order received by the receiving bank is effective as the
41 order of the customer, whether or not authorized, if (i) the security procedure is a
42 commercially reasonable method of providing security against unauthorized payment
43 orders, and (ii) the bank proves that it accepted the payment order in good faith and in
44 compliance with the security procedure and any written agreement or instruction of the

1 customer restricting acceptance of payment orders issued in the name of the customer.
2 The bank is not required to follow an instruction that violates a written agreement with
3 the customer or notice of which is not received at a time and in a manner affording the
4 bank a reasonable opportunity to act on it before the payment order is accepted.

5 (c) Commercial reasonableness of a security procedure is a question of law to be
6 determined by considering the wishes of the customer expressed to the bank, the
7 circumstances of the customer known to the bank, including the size, type, and
8 frequency of payment orders normally issued by the customer to the bank, alternative
9 security procedures offered to the customer, and security procedures in general use by
10 customers and receiving banks similarly situated. A security procedure is deemed to be
11 commercially reasonable if (i) the security procedure was chosen by the customer after
12 the bank offered, and the customer refused, a security procedure that was commercially
13 reasonable for that customer, and (ii) the customer expressly agreed in writing to be
14 bound by any payment order, whether or not authorized, issued in its name and accepted
15 by the bank in compliance with the security procedure chosen by the customer.

16 (d) The term 'sender' in this Article includes the customer in whose name a
17 payment order is issued if the order is the authorized order of the customer under
18 subsection (a), or it is effective as the order of the customer under subsection (b).

19 (e) This section applies to amendments and cancellations of payment orders to
20 the same extent it applies to payment orders.

21 (f) Except as provided in this section and in G.S. 25-4A-203(a)(1), rights and
22 obligations arising under this section or G.S. 25-4A-203 may not be varied by
23 agreement.

24 **"§ 25-4A-203. Unenforceability of certain verified payment orders.**

25 (a) If an accepted payment order is not, under G.S. 25-4A-202(a), an authorized
26 order of a customer
27 identified as sender, but is effective as an order of the customer pursuant to G.S. 25-4A-
28 202(b), the following rules apply:

29 (1) By express written agreement, the receiving bank may limit the extent
30 to which it is entitled to enforce or retain payment of the payment
31 order.

32 (2) The receiving bank is not entitled to enforce or retain payment of the
33 payment order if the customer proves that the order was not caused,
34 directly or indirectly, by a person (i) entrusted at any time with duties
35 to act for the customer with respect to payment orders or the security
36 procedure, or (ii) who obtained access to transmitting facilities of the
37 customer or who obtained, from a source controlled by the customer
38 and without authority of the receiving bank, information facilitating
39 breach of the security procedure, regardless of how the information
40 was obtained or whether the customer was at fault. Information
41 includes any access device, computer software, or the like.

42 (b) This section applies to amendments of payment orders to the same extent it
43 applies to payment orders.

1 **"§ 25-4A-204. Refund of payment and duty of customer to report with respect to**
2 **unauthorized payment order.**

3 (a) If a receiving bank accepts a payment order issued in the name of its
4 customer as sender which is (i) not authorized and not effective as the order of the
5 customer under G.S. 25-4A-202, or (ii) not enforceable, in whole or in part, against the
6 customer under G.S. 25-4A-203, the bank shall refund any payment of the payment
7 order received from the customer to the extent the bank is not entitled to enforce
8 payment and shall pay interest on the refundable amount calculated from the date the
9 bank received payment to the date of the refund. However, the customer is not entitled
10 to interest from the bank on the amount to be refunded if the customer fails to exercise
11 ordinary care to determine that the order was not authorized by the customer and to
12 notify the bank of the relevant facts within a reasonable time not exceeding 90 days
13 after the date the customer received notification from the bank that the order was
14 accepted or that the customer's account was debited with respect to the order. The bank
15 is not entitled to any recovery from the customer on account of a failure by the customer
16 to give notification as stated in this section.

17 (b) Reasonable time under subsection (a) may be fixed by agreement as stated in
18 G.S. 25-1-204(1), but the obligation of a receiving bank to refund payment as stated in
19 subsection (a) may not otherwise be varied by agreement.

20 **"§ 25-4A-205. Erroneous payment orders.**

21 (a) If an accepted payment order was transmitted pursuant to a security
22 procedure for the detection of error and the payment order (i) erroneously instructed
23 payment to a beneficiary not intended by the sender, (ii) erroneously instructed payment
24 in an amount greater than the amount intended by the sender, or (iii) was an erroneously
25 transmitted duplicate of a payment order previously sent by the sender, the following
26 rules apply:

27 (1) If the sender proves that the sender or a person acting on behalf of the
28 sender pursuant to G.S. 25-4A-206 complied with the security
29 procedure and that the error would have been detected if the receiving
30 bank had also complied, the sender is not obliged to pay the order to
31 the extent stated in paragraphs (2) and (3).

32 (2) If the funds transfer is completed on the basis of an erroneous payment
33 order described in clause (i) or (iii) of subsection (a), the sender is not
34 obliged to pay the order and the receiving bank is entitled to recover
35 from the beneficiary any amount paid to the beneficiary to the extent
36 allowed by the law governing mistake and restitution.

37 (3) If the funds transfer is completed on the basis of a payment order
38 described in clause (ii) of subsection (a), the sender is not obliged to
39 pay the order to the extent the amount received by the beneficiary is
40 greater than the amount intended by the sender. In that case, the
41 receiving bank is entitled to recover from the beneficiary the excess
42 amount received to the extent allowed by the law governing mistake
43 and restitution.

1 (b) If (i) the sender of an erroneous payment order described in subsection (a) is
2 not obliged to pay all or part of the order, and (ii) the sender receives notification from
3 the receiving bank that the order was accepted by the bank or that the sender's account
4 was debited with respect to the order, the sender has a duty to exercise ordinary care, on
5 the basis of information available to the sender, to discover the error with respect to the
6 order and to advise the bank of the relevant facts within a reasonable time, not
7 exceeding 90 days, after the bank's notification was received by the sender. If the bank
8 proves that the sender failed to perform that duty, the sender is liable to the bank for the
9 loss the bank proves it incurred as a result of the failure, but the liability of the sender
10 may not exceed the amount of the sender's order.

11 (c) This section applies to amendments to payment orders to the same extent it
12 applies to payment orders.

13 **§ 25-4A-206. Transmission of payment order through funds-transfer or other**
14 **communication system.**

15 (a) If a payment order addressed to a receiving bank is transmitted to a funds-
16 transfer system or other third-party communication system for transmittal to the bank,
17 the system is deemed to be an agent of the sender for the purpose of transmitting the
18 payment order to the bank. If there is a discrepancy between the terms of the payment
19 order transmitted to the system and the terms of the payment order transmitted by the
20 system to the bank, the terms of the payment order of the sender are those transmitted
21 by the system. This section does not apply to a funds-transfer system of the Federal
22 Reserve Banks.

23 (b) This section applies to cancellations and amendments of payment orders to
24 the same extent it applies to payment orders.

25 **§ 25-4A-207. Misdescription of beneficiary.**

26 (a) Subject to subsection (b), if, in a payment order received by the beneficiary's
27 bank, the name, bank account number, or other identification of the beneficiary refers to
28 a nonexistent or unidentifiable person or account, no person has rights as a beneficiary
29 of the order and acceptance of the order cannot occur.

30 (b) If a payment order received by the beneficiary's bank identifies the
31 beneficiary both by name and by an identifying or bank account number and the name
32 and number identify different persons, the following rules apply:

33 (1) Except as otherwise provided in subsection (c), if the beneficiary's
34 bank does not know that the name and number refer to different
35 persons, it may rely on the number as the proper identification of the
36 beneficiary of the order. The beneficiary's bank need not determine
37 whether the name and number refer to the same person.

38 (2) If the beneficiary's bank pays the person identified by name or knows
39 that the name and number identify different persons, no person has
40 rights as beneficiary except the person paid by the beneficiary's bank if
41 that person was entitled to receive payment from the originator of the
42 funds transfer. If no person has rights as beneficiary, acceptance of the
43 order cannot occur.

1 (c) If (i) a payment order described in subsection (b) is accepted, (ii) the
2 originator's payment order described the beneficiary inconsistently by name and
3 number, and (iii) the beneficiary's bank pays the person identified by number as
4 permitted by subsection (b)(1), the following rules apply:

5 (1) If the originator is a bank, the originator is obliged to pay its order.

6 (2) If the originator is not a bank and proves that the person identified by
7 number was not entitled to receive payment from the originator, the
8 originator is not obliged to pay its order unless the originator's bank
9 proves that the originator, before acceptance of the originator's order,
10 had notice that payment of a payment order issued by the originator
11 might be made by the beneficiary's bank on the basis of an identifying
12 or bank account number even if it identifies a person different from the
13 named beneficiary. Proof of notice may be made by any admissible
14 evidence. The originator's bank satisfies the burden of proof if it
15 proves that the originator, before the payment order was accepted,
16 signed a writing stating the information to which the notice relates.

17 (d) In a case governed by subsection (b)(1), if the beneficiary's bank rightfully
18 pays the person identified by number and that person was not entitled to receive
19 payment from the originator, the amount paid may be recovered from that person to the
20 extent allowed by the law governing mistake and restitution as follows:

21 (1) If the originator is obliged to pay its payment order as stated in
22 subsection (c), the originator has the right to recover.

23 (2) If the originator is not a bank and is not obliged to pay its payment
24 order, the originator's bank has the right to recover.

25 **"§ 25-4A-208. Misdescription of intermediary bank or beneficiary's bank.**

26 (a) This subsection applies to a payment order identifying an intermediary bank
27 or the beneficiary's bank only by an identifying number.

28 (1) The receiving bank may rely on the number as the proper identification
29 of the intermediary or beneficiary's bank and need not determine
30 whether the number identifies a bank.

31 (2) The sender is obliged to compensate the receiving bank for any loss
32 and expenses incurred by the receiving bank as a result of its reliance
33 on the number in executing or attempting to execute the order.

34 (b) This subsection applies to a payment order identifying an intermediary bank
35 or the beneficiary's bank both by name and an identifying number if the name and
36 number identify different persons.

37 (1) If the sender is a bank, the receiving bank may rely on the number as
38 the proper identification of the intermediary or beneficiary's bank if the
39 receiving bank, when it executes the sender's order, does not know that
40 the name and number identify different persons. The receiving bank
41 need not determine whether the name and number refer to the same
42 person or whether the number refers to a bank. The sender is obliged
43 to compensate the receiving bank for any loss and expenses incurred

1 by the receiving bank as a result of its reliance on the number in
2 executing or attempting to execute the order.

3 (2) If the sender is not a bank and the receiving bank proves that the
4 sender, before the payment order was accepted, had notice that the
5 receiving bank might rely on the number as the proper identification of
6 the intermediary or beneficiary's bank even if it identifies a person
7 different from the bank identified by name, the rights and obligations
8 of the sender and the receiving bank are governed by subsection (b)(1),
9 as though the sender were a bank. Proof of notice may be made by
10 any admissible evidence. The receiving bank satisfies the burden of
11 proof if it proves that the sender, before the payment order was
12 accepted, signed a writing stating the information to which the notice
13 relates.

14 (3) Regardless of whether the sender is a bank, the receiving bank may
15 rely on the name as the proper identification of the intermediary or
16 beneficiary's bank if the receiving bank, at the time it executes the
17 sender's order, does not know that the name and number identify
18 different persons. The receiving bank need not determine whether the
19 name and number refer to the same person.

20 (4) If the receiving bank knows that the name and number identify
21 different persons, reliance on either the name or the number in
22 executing the sender's payment order is a breach of the obligation
23 stated in G.S. 25-4A-302(a)(1).

24 **"§ 25-4A-209. Acceptance of payment order.**

25 (a) Subject to subsection (d), a receiving bank other than the beneficiary's bank
26 accepts a payment order when it executes the order.

27 (b) Subject to subsections (c) and (d), a beneficiary's bank accepts a payment
28 order at the earliest of the following times:

29 (1) When the bank (i) pays the beneficiary as stated in G.S. 25-4A-405(a)
30 or G.S. 25-4A-405(b), or (ii) notifies the beneficiary of receipt of the
31 order or that the account of the beneficiary has been credited with
32 respect to the order unless the notice indicates that the bank is rejecting
33 the order or that funds with respect to the order may not be withdrawn
34 or used until receipt of payment from the sender of the order;

35 (2) When the bank receives payment of the entire amount of the sender's
36 order pursuant to G.S. 25-4A-403(a)(1) or G.S. 25-4A-403(a)(2); or

37 (3) The opening of the next funds-transfer business day of the bank
38 following the payment date of the order if, at that time, the amount of
39 the sender's order is fully covered by a withdrawable credit balance in
40 an authorized account of the sender or the bank has otherwise received
41 full payment from the sender, unless the order was rejected before that
42 time or is rejected within (i) one hour after that time, or (ii) one hour
43 after the opening of the next business day of the sender following the
44 payment date if that time is later. If notice of rejection is received by

1 the sender after the payment date and the authorized account of the
2 sender does not bear interest, the bank is obliged to pay interest to the
3 sender on the amount of the order for the number of days elapsing after
4 the payment date to the day the sender receives notice or learns that the
5 order was not accepted, counting that day as an elapsed day. If the
6 withdrawable credit balance during that period falls below the amount
7 of the order, the amount of interest payable is reduced accordingly.

8 (c) Acceptance of a payment order cannot occur before the order is received by
9 the receiving bank. Acceptance does not occur under subsection (b)(2) or (b)(3) if the
10 beneficiary of the payment order does not have an account with the receiving bank, the
11 account has been closed, or the receiving bank is not permitted by law to receive credits
12 for the beneficiary's account.

13 (d) A payment order issued to the originator's bank cannot be accepted until the
14 payment date if the bank is the beneficiary's bank, or the execution date if the bank is
15 not the beneficiary's bank. If the originator's bank executes the originator's payment
16 order before the execution date or pays the beneficiary of the originator's payment order
17 before the payment date and the payment order is subsequently cancelled pursuant to
18 G.S. 25-4A-211(b), the bank may recover from the beneficiary any payment received to
19 the extent allowed by the law governing mistake and restitution.

20 **"§ 25-4A-210. Rejection of payment order.**

21 (a) A payment order is rejected by the receiving bank by a notice of rejection
22 transmitted to the sender orally, electronically, or in writing. A notice of rejection need
23 not use any particular words and is sufficient if it indicates that the receiving bank is
24 rejecting the order or will not execute or pay the order. Rejection is effective when the
25 notice is given if transmission is by a means that is reasonable in the circumstances. If
26 notice of rejection is given by a means that is not reasonable, rejection is effective when
27 the notice is received. If an agreement of the sender and receiving bank establishes the
28 means to be used to reject a payment order, (i) any means complying with the
29 agreement is reasonable and (ii) any means not complying is not reasonable unless no
30 significant delay in receipt of the notice resulted from the use of the noncomplying
31 means.

32 (b) This subsection applies if a receiving bank other than the beneficiary's bank
33 fails to execute a payment order despite the existence on the execution date of a
34 withdrawable credit balance in an authorized account of the sender sufficient to cover
35 the order. If the sender does not receive notice of rejection of the order on the execution
36 date and the authorized account of the sender does not bear interest, the bank is obliged
37 to pay interest to the sender on the amount of the order for the number of days elapsing
38 after the execution date to the earlier of the day the order is cancelled pursuant to G.S.
39 25-4A-211(d) or the day the sender receives notice or learns that the order was not
40 executed, counting the final day of the period as an elapsed day. If the withdrawable
41 credit balance during that period falls below the amount of the order, the amount of
42 interest is reduced accordingly.

43 (c) If a receiving bank suspends payments, all unaccepted payment orders issued
44 to it are deemed rejected at the time the bank suspends payments.

1 (d) Acceptance of a payment order precludes a later rejection of the order.
2 Rejection of a payment order precludes a later acceptance of the order.

3 **"§ 25-4A-211. Cancellation and amendment of payment order.**

4 (a) A communication of the sender of a payment order cancelling or amending
5 the order may be transmitted to the receiving bank orally, electronically, or in writing.
6 If a security procedure is in effect between the sender and the receiving bank, the
7 communication is not effective to cancel or amend the order unless the communication
8 is verified pursuant to the security procedure or the bank agrees to the cancellation or
9 amendment.

10 (b) Subject to subsection (a), a communication by the sender cancelling or
11 amending a payment order is effective to cancel or amend the order if notice of the
12 communication is received at a time and in a manner affording the receiving bank a
13 reasonable opportunity to act on the communication before the bank accepts the
14 payment order.

15 (c) After a payment order has been accepted, cancellation or amendment of the
16 order is not effective unless the receiving bank agrees or a funds-transfer system rule
17 allows cancellation or amendment without agreement of the bank.

18 (1) With respect to a payment order accepted by a receiving bank other
19 than the beneficiary's bank, cancellation or amendment is not effective
20 unless a conforming cancellation or amendment of the payment order
21 issued by the receiving bank is also made.

22 (2) With respect to a payment order accepted by the beneficiary's bank,
23 cancellation or amendment is not effective unless the order was issued
24 in execution of an unauthorized payment order, or because of a
25 mistake by a sender in the funds transfer which resulted in the issuance
26 of a payment order (i) that is a duplicate of a payment order previously
27 issued by the sender, (ii) that orders payment to a beneficiary not
28 entitled to receive payment from the originator, or (iii) that orders
29 payment in an amount greater than the amount the beneficiary was
30 entitled to receive from the originator. If the payment order is
31 cancelled or amended, the beneficiary's bank is entitled to recover
32 from the beneficiary any amount paid to the beneficiary to the extent
33 allowed by the law governing mistake and restitution.

34 (d) An unaccepted payment order is cancelled by operation of law at the close of
35 the fifth funds-transfer business day of the receiving bank after the execution date or
36 payment date of the order.

37 (e) A cancelled payment order cannot be accepted. If an accepted payment order
38 is cancelled, the acceptance is nullified and no person has any right or obligation based
39 on the acceptance. Amendment of a payment order is deemed to be cancellation of the
40 original order at the time of amendment and issue of a new payment order in the
41 amended form at the same time.

42 (f) Unless otherwise provided in an agreement of the parties or in a funds-
43 transfer system rule, if the receiving bank, after accepting a payment order, agrees to
44 cancellation or amendment of the order by the sender or is bound by a funds-transfer

1 system rule allowing cancellation or amendment without the bank's agreement, the
2 sender, whether or not cancellation or amendment is effective, is liable to the bank for
3 any loss and expenses, including reasonable attorneys' fees, incurred by the bank as a
4 result of the cancellation or amendment or attempted cancellation or amendment.

5 (g) A payment order is not revoked by the death or legal incapacity of the sender
6 unless the receiving bank knows of the death or of an adjudication of incapacity by a
7 court of competent jurisdiction and has reasonable opportunity to act before acceptance
8 of the order.

9 (h) A funds-transfer system rule is not effective to the extent it conflicts with
10 subsection (c)(2).

11 **"§ 25-4A-212. Liability and duty of receiving bank regarding unaccepted payment**
12 **order.**

13 If a receiving bank fails to accept a payment order that it is obliged by express
14 agreement to accept, the bank is liable for breach of the agreement to the extent
15 provided in the agreement or in this Article, but does not otherwise have any duty to
16 accept a payment order or, before acceptance, to take any action, or refrain from taking
17 action, with respect to the order except as provided in this Article or by express
18 agreement. Liability based on acceptance arises only when acceptance occurs as stated
19 in G.S. 25-4A-209, and liability is limited to that provided in this Article. A receiving
20 bank is not the agent of the sender or beneficiary of the payment order it accepts, or of
21 any other party to the funds transfer, and the bank owes no duty to any party to the
22 funds transfer except as provided in this Article or by express agreement.

23 **"PART 3. EXECUTION OF SENDER'S PAYMENT ORDER BY RECEIVING**
24 **BANK.**

25 **"§ 25-4A-301. Execution and execution date.**

26 (a) A payment order is 'executed' by the receiving bank when it issues a payment
27 order intended to carry out the payment order received by the bank. A payment order
28 received by the beneficiary's bank can be accepted but cannot be executed.

29 (b) 'Execution date' of a payment order means the day on which the receiving
30 bank may properly issue a payment order in execution of the sender's order. The
31 execution date may be determined by instruction of the sender but cannot be earlier than
32 the day the order is received and, unless otherwise determined, is the day the order is
33 received. If the sender's instruction states a payment date, the execution date is the
34 payment date or an earlier date on which execution is reasonably necessary to allow
35 payment to the beneficiary on the payment date.

36 **"§ 25-4A-302. Obligations of receiving bank in execution of payment order.**

37 (a) Except as provided in subsections (b) through (d), if the receiving bank
38 accepts a payment order
39 pursuant to G.S. 25-4A-209 (a), the bank has the following obligations in executing the
40 order:

- 41 (1) The receiving bank is obliged to issue, on the execution date, a
42 payment order complying with the sender's order and to follow the
43 sender's instructions concerning (i) any intermediary bank or funds-
44 transfer system to be used in carrying out the funds transfer, or (ii) the

1 means by which payment orders are to be transmitted in the funds
2 transfer. If the originator's bank issues a payment order to an
3 intermediary bank, the originator's bank is obliged to instruct the
4 intermediary bank according to the instruction of the originator. An
5 intermediary bank in the funds transfer is similarly bound by an
6 instruction given to it by the sender of the payment order it accepts.

7 (2) If the sender's instruction states that the funds transfer is to be carried
8 out telephonically or by wire transfer or otherwise indicates that the
9 funds transfer is to be carried out by the most expeditious means, the
10 receiving bank is obliged to transmit its payment order by the most
11 expeditious available means, and to instruct any intermediary bank
12 accordingly. If a sender's instruction states a payment date, the
13 receiving bank is obliged to transmit its payment order at a time and by
14 means reasonably necessary to allow payment to the beneficiary on the
15 payment date or as soon thereafter as is feasible.

16 (b) Unless otherwise instructed, a receiving bank executing a payment order may
17 (i) use any funds-transfer system if use of that system is reasonable in the
18 circumstances, and (ii) issue a payment order to the beneficiary's bank or to an
19 intermediary bank through which a payment order conforming to the sender's order can
20 expeditiously be issued to the beneficiary's bank if the receiving bank exercises ordinary
21 care in the selection of the intermediary bank. A receiving bank is not required to
22 follow an instruction of the sender designating a funds-transfer system to be used in
23 carrying out the funds transfer if the receiving bank, in good faith, determines that it is
24 not feasible to follow the instruction or that following the instruction would unduly
25 delay completion of the funds transfer.

26 (c) Unless subsection (a)(2) applies or the receiving bank is otherwise instructed,
27 the bank may execute a payment order by transmitting its payment order by first class
28 mail or by any means reasonable in the circumstances. If the receiving bank is
29 instructed to execute the sender's order by transmitting its payment order by a particular
30 means, the receiving bank may issue its payment order by the means stated or by any
31 means as expeditious as the means stated.

32 (d) Unless instructed by the sender, (i) the receiving bank may not obtain
33 payment of its charges for services and expenses in connection with the execution of the
34 sender's order by issuing a payment order in an amount equal to the amount of the
35 sender's order less the amount of the charges, and (ii) may not instruct a subsequent
36 receiving bank to obtain payment of its charges in the same manner.

37 **"§ 25-4A-303. Erroneous execution of payment order.**

38 (a) A receiving bank that (i) executes the payment order of the sender by issuing
39 a payment order in an amount greater than the amount of the sender's order, or (ii)
40 issues a payment order in execution of the sender's order and then issues a duplicate
41 order, is entitled to payment of the amount of the sender's order under G.S. 25-4A-
42 402(c) if that subsection is otherwise satisfied. The bank is entitled to recover from the
43 beneficiary of the erroneous order the excess payment received to the extent allowed by
44 the law governing mistake and restitution.

1 (b) A receiving bank that executes the payment order of the sender by issuing a
2 payment order in an amount less than the amount of the sender's order is entitled to
3 payment of the amount of the sender's order under G.S. 25-4A-402(c) if (i) that
4 subsection is otherwise satisfied and (ii) the bank corrects its mistake by issuing an
5 additional payment order for the benefit of the beneficiary of the sender's order. If the
6 error is not corrected, the issuer of the erroneous order is entitled to receive or retain
7 payment from the sender of the order it accepted only to the extent of the amount of the
8 erroneous order. This subsection does not apply if the receiving bank executes the
9 sender's payment order by issuing a payment order in an amount less than the amount of
10 the sender's order for the purpose of obtaining payment of its charges for services and
11 expenses pursuant to instruction of the sender.

12 (c) If a receiving bank executes the payment order of the sender by issuing a
13 payment order to a beneficiary different from the beneficiary of the sender's order and
14 the funds transfer is completed on the basis of that error, the sender of the payment
15 order that was erroneously executed and all previous senders in the funds transfer are
16 not obliged to pay the payment orders they issued. The issuer of the erroneous order is
17 entitled to recover from the beneficiary of the order the payment received to the extent
18 allowed by the law governing mistake and restitution.

19 **"§ 25-4A-304. Duty of sender to report erroneously executed payment order.**

20 If the sender of a payment order that is erroneously executed as stated in G.S. 25-
21 4A-303 receives notification from the receiving bank that the order was executed or that
22 the sender's account was debited with respect to the order, the sender has a duty to
23 exercise ordinary care to determine, on the basis of information available to the sender,
24 that the order was erroneously executed and to notify the bank of the relevant facts
25 within a reasonable time not exceeding 90 days after the notification from the bank was
26 received by the sender. If the sender fails to perform that duty, the bank is not obliged to
27 pay interest on any amount refundable to the sender under G.S. 25-4A-402(d) for
28 the period before the bank learns of the execution error. The bank is not entitled to any
29 recovery from the sender on account of a failure by the sender to perform the duty stated
30 in this section.

31 **"§ 25-4A-305. Liability for late or improper execution or failure to execute**
32 **payment order.**

33 (a) If a funds transfer is completed but execution of a payment order by the
34 receiving bank in breach of G.S. 25-4A-302 results in delay in payment to the
35 beneficiary, the bank is obliged to pay interest to either the originator or the beneficiary
36 of the funds transfer for the period of delay caused by the improper execution. Except
37 as provided in subsection (c), additional damages are not recoverable.

38 (b) If execution of a payment order by a receiving bank in breach of G.S. 25-4A-
39 302 results in (i) noncompletion of the funds transfer, (ii) failure to use an intermediary
40 bank designated by the originator, or (iii) issuance of a payment order that does not
41 comply with the terms of the payment order of the originator, the bank is liable to the
42 originator for its expenses in the funds transfer and for incidental expenses and interest
43 losses, to the extent not covered by subsection (a), resulting from the improper

1 execution. Except as provided in subsection (c), additional damages are not
2 recoverable.

3 (c) In addition to the amounts payable under subsections (a) and (b), damages,
4 including consequential damages, are recoverable to the extent provided in an express
5 written agreement of the receiving bank.

6 (d) If a receiving bank fails to execute a payment order it was obliged by express
7 agreement to execute, the receiving bank is liable to the sender for its expenses in the
8 transaction and for incidental expenses and interest losses resulting from the failure to
9 execute. Additional damages, including consequential damages, are recoverable to the
10 extent provided in an express written agreement of the receiving bank, but are not
11 otherwise recoverable.

12 (e) Reasonable attorneys' fees are recoverable if demand for compensation under
13 subsection (a) or (b) is made and refused before an action is brought on the claim. If a
14 claim is made for breach of an agreement under subsection (d) and the agreement does
15 not provide for damages, reasonable attorneys' fees are recoverable if demand for
16 compensation under subsection (d) is made and refused before an action is brought on
17 the claim.

18 (f) Except as stated in this section, the liability of a receiving bank under
19 subsections (a) and (b) may not be varied by agreement.

20 **"PART 4. PAYMENT.**

21 **"§ 25-4A-401. Payment date.**

22 'Payment date' of a payment order means the day on which the amount of the order
23 is payable to the beneficiary by the beneficiary's bank. The payment date may be
24 determined by instruction of the sender but cannot be earlier than the day the order is
25 received by the beneficiary's bank and, unless otherwise determined, is the day the order
26 is received by the beneficiary's bank.

27 **"§ 25-4A-402. Obligation of sender to pay receiving bank.**

28 (a) This section is subject to G.S. 25-4A-205 and G.S. 25-4A-207.

29 (b) With respect to a payment order issued to the beneficiary's bank, acceptance
30 of the order by the bank obliges the sender to pay the bank the amount of the order, but
31 payment is not due until the payment date of the order.

32 (c) This subsection is subject to subsection (e) and to G.S. 25-4A-303. With
33 respect to a payment order issued to a receiving bank other than the beneficiary's bank,
34 acceptance of the order by the receiving bank obliges the sender to pay the bank the
35 amount of the sender's order. Payment by the sender is not due until the execution date
36 of the sender's order. The obligation of that sender to pay its payment order is excused
37 if the funds transfer is not completed by acceptance by the beneficiary's bank of a
38 payment order instructing payment to the beneficiary of that sender's payment order.

39 (d) If the sender of a payment order pays the order and was not obliged to pay all
40 or part of the amount paid, the bank receiving payment is obliged to refund payment to
41 the extent the sender was not obliged to pay. Except as provided in G.S. 25-4A-204 and
42 G.S. 25-4A-304, interest is payable on the refundable amount from the date of payment.

43 (e) If a funds transfer is not completed as stated in subsection (c) and an
44 intermediary bank is obliged to refund payment as stated in subsection (d) but is unable

1 to do so because not permitted by applicable law or because the bank suspends
2 payments, a sender in the funds transfer that executed a payment order in compliance
3 with an instruction, as stated in G.S. 25-4A-302(a)(1), to route the funds transfer
4 through that intermediary bank is entitled to receive or retain payment from the sender
5 of the payment order that it accepted. The first sender in the funds transfer that issued
6 an instruction requiring routing through that intermediary bank is subrogated to the right
7 of the bank that paid the intermediary bank to refund as stated in subsection (d).

8 (f) The right of the sender of a payment order to be excused from the obligation
9 to pay the order as stated in subsection (c) or to receive refund under subsection (d) may
10 not be varied by agreement.

11 **"§ 25-4A-403. Payment by sender to receiving bank.**

12 (a) Payment of the sender's obligation under G.S. 25-4A-402 to pay the receiving
13 bank occurs as follows:

14 (1) If the sender is a bank, payment occurs when the receiving bank
15 receives final settlement of the obligation through a Federal Reserve
16 Bank or through a funds-transfer system.

17 (2) If the sender is a bank and the sender (i) credited an account of the
18 receiving bank with the sender, or (ii) caused an account of the
19 receiving bank in another bank to be credited, payment occurs when
20 the credit is withdrawn or, if not withdrawn, at midnight of the day on
21 which the credit is withdrawable and the receiving bank learns of that
22 fact.

23 (3) If the receiving bank debits an account of the sender with the receiving
24 bank, payment occurs when the debit is made to the extent the debit is
25 covered by a withdrawable credit balance in the account.

26 (b) If the sender and receiving bank are members of a funds-transfer system that
27 nets obligations multilaterally among participants, the receiving bank receives final
28 settlement when settlement is complete in accordance with the rules of the system. The
29 obligation of the sender to pay the amount of a payment order transmitted through the
30 funds-transfer system may be satisfied, to the extent permitted by the rules of the
31 system, by setting off and applying against the sender's obligation the right of the sender
32 to receive payment from the receiving bank of the amount of any other payment order
33 transmitted to the sender by the receiving bank through the funds-transfer system. The
34 aggregate balance of obligations owed by each sender to each receiving bank in the
35 funds-transfer system may be satisfied, to the extent permitted by the rules of the
36 system, by setting off and applying against that balance the aggregate balance of
37 obligations owed to the sender by other members of the system. The aggregate balance
38 is determined after the right of setoff stated in the second sentence of this subsection has
39 been exercised.

40 (c) If two banks transmit payment orders to each other under an agreement that
41 settlement of the obligations of each bank to the other under G.S. 25-4A-402 will be
42 made at the end of the day or other period, the total amount owed with respect to all
43 orders transmitted by one bank shall be set off against the total amount owed with

1 respect to all orders transmitted by the other bank. To the extent of the setoff, each
2 bank has made payment to the other.

3 (d) In a case not covered by subsection (a), the time when payment of the
4 sender's obligation under G.S. 25-4A-402(b) or G.S. 25-4A-402(c) occurs is governed
5 by applicable principles of law that determine when an obligation is satisfied.

6 **"§ 25-4A-404. Obligation of beneficiary's bank to pay and give notice to**
7 **beneficiary.**

8 (a) Subject to G.S. 25-4A-211(e), 25-4A-405(d), and 25-4A-405(e), if a
9 beneficiary's bank accepts a payment order, the bank is obliged to pay the amount of the
10 order to the beneficiary of the order. Payment is due on the payment date of the order,
11 but if acceptance occurs on the payment date after the close of the funds- transfer
12 business day of the bank, payment is due on the next funds-transfer business day. If the
13 bank refuses to pay after demand by the beneficiary and receipt of notice of particular
14 circumstances that will give rise to consequential damages as a result of nonpayment,
15 the beneficiary may recover damages resulting from the refusal to pay to the extent the
16 bank had notice of the damages, unless the bank proves that it did not pay because of a
17 reasonable doubt concerning the right of the beneficiary to payment.

18 (b) If a payment order accepted by the beneficiary's bank instructs payment to an
19 account of the beneficiary, the bank is obliged to notify the beneficiary of receipt of the
20 order before midnight of the next funds-transfer business day following the payment
21 date. If the payment order does not instruct payment to an account of the beneficiary,
22 the bank is required to notify the beneficiary only if notice is required by the order.
23 Notice may be given by first-class mail or any other means reasonable in the
24 circumstances. If the bank fails to give the required notice, the bank is obliged to pay
25 interest to the beneficiary on the amount of the payment order from the day notice
26 should have been given until the day the beneficiary learned of receipt of the payment
27 order by the bank. No other damages are recoverable. Reasonable attorneys' fees are
28 also recoverable if demand for interest is made and refused before an action is brought
29 on the claim.

30 (c) The right of a beneficiary to receive payment and damages as stated in
31 subsection (a) may not be varied by agreement or a funds-transfer system rule. The right
32 of a beneficiary to be notified as stated in subsection (b) may be varied by agreement of
33 the beneficiary or by a funds-transfer system rule if the beneficiary is notified of the rule
34 before initiation of the funds transfer.

35 **"§ 25-4A-405. Payment by beneficiary's bank to beneficiary.**

36 (a) If the beneficiary's bank credits an account of the beneficiary of a payment
37 order, payment of the bank's obligation under G.S. 25-4A-404(a) occurs when and to
38 the extent (i) the beneficiary is notified of the right to withdraw the credit, (ii) the bank
39 lawfully applies the credit to a debt of the beneficiary, or (iii) funds with respect to the
40 order are otherwise made available to the beneficiary by the bank.

41 (b) If the beneficiary's bank does not credit an account of the beneficiary of a
42 payment order, the time when payment of the bank's obligation under G.S. 25-4A-
43 404(a) occurs is governed by principles of law that determine when an obligation is
44 satisfied.

1 (c) Except as stated in subsections (d) and (e), if the beneficiary's bank pays the
2 beneficiary of a payment order under a condition to payment or agreement of the
3 beneficiary giving the bank the right to recover payment from the beneficiary if the
4 bank does not receive payment of the order, the condition to payment or agreement is
5 not enforceable.

6 (d) A funds-transfer system rule may provide that payments made to
7 beneficiaries of funds transfers made through the system are provisional until receipt of
8 payment by the beneficiary's bank of the payment order it accepted. A beneficiary's
9 bank that makes a payment that is provisional under the rule is entitled to refund from
10 the beneficiary if (i) the rule requires that both the beneficiary and the originator be
11 given notice of the provisional nature of the payment before the funds transfer is
12 initiated, (ii) the beneficiary, the beneficiary's bank, and the originator's bank agreed to
13 be bound by the rule, and (iii) the beneficiary's bank did not receive payment of the
14 payment order that it accepted. If the beneficiary is obliged to refund payment to the
15 beneficiary's bank, acceptance of the payment order by the beneficiary's bank is
16 nullified and no payment by the originator of the funds transfer to the beneficiary occurs
17 under G.S. 25-4A-406.

18 (e) This subsection applies to a funds transfer that includes a payment order
19 transmitted over a funds-transfer system that (i) nets obligations multilaterally among
20 participants, and (ii) has in effect a loss-sharing agreement among participants for the
21 purpose of providing funds necessary to complete settlement of the obligations of one or
22 more participants that do not meet their settlement obligations. If the beneficiary's bank
23 in the funds transfer accepts a payment order and the system fails to complete settlement
24 pursuant to its rules with respect to any payment order in the funds transfer, (i) the
25 acceptance by the beneficiary's bank is nullified and no person has any right or
26 obligation based on the acceptance, (ii) the beneficiary's bank is entitled to recover
27 payment from the beneficiary, (iii) no payment by the originator to the beneficiary
28 occurs under G.S. 25-4A-406, and (iv) subject to G.S. 25-4A-402(e), each sender in the
29 funds transfer is excused from its obligation to pay its payment order under G.S. 25-4A-
30 402(c) because the funds transfer has not been completed.

31 **"§ 25-4A-406. Payment by originator to beneficiary; discharge of underlying**
32 **obligation.**

33 (a) Subject to G.S. 25-4A-211(e), 25-4A-405(d), and 25-4A-405(e), the
34 originator of a funds transfer pays the beneficiary of the originator's payment order (i) at
35 the time a payment order for the benefit of the beneficiary is accepted by the
36 beneficiary's bank in the funds transfer and (ii) in an amount equal to the amount of the
37 order accepted by the beneficiary's bank, but not more than the amount of the
38 originator's order.

39 (b) If payment under subsection (a) is made to satisfy an obligation, the
40 obligation is discharged to the same extent discharge would result from payment to the
41 beneficiary of the same amount in money, unless (i) the payment under subsection (a)
42 was made by a means prohibited by the contract of the beneficiary with respect to the
43 obligation, (ii) the beneficiary, within a reasonable time after receiving notice of receipt
44 of the order by the beneficiary's bank, notified the originator of the beneficiary's refusal

1 of the payment, (iii) funds with respect to the order were not withdrawn by the
2 beneficiary or applied to a debt of the beneficiary, and (iv) the beneficiary would suffer
3 a loss that could reasonably have been avoided if payment had been made by a means
4 complying with the contract. If payment by the originator does not result in discharge
5 under this section, the originator is subrogated to the rights of the beneficiary to receive
6 payment from the beneficiary's bank under G.S. 25-4A-404(a).

7 (c) For the purpose of determining whether discharge of an obligation occurs
8 under subsection (b), if the beneficiary's bank accepts a payment order in an amount
9 equal to the amount of the originator's payment order less charges of one or more
10 receiving banks in the funds transfer, payment to the beneficiary is deemed to be in the
11 amount of the originator's order unless upon demand by the beneficiary the originator
12 does not pay the beneficiary the amount of the deducted charges.

13 (d) Rights of the originator or of the beneficiary of a funds transfer under this
14 section may be varied only by agreement of the originator and the beneficiary.

15 **"PART 5. MISCELLANEOUS PROVISIONS.**

16 **"§ 25-4A-501. Variation by agreement and effect of funds-transfer system rule.**

17 (a) Except as otherwise provided in this Article, the rights and obligations of a
18 party to a funds transfer may be varied by agreement of the affected party.

19 (b) 'Funds-transfer system rule' means a rule of an association of banks (i)
20 governing transmission of payment orders by means of a funds-transfer system of the
21 association or rights and obligations with respect to those orders, or (ii) to the extent the
22 rule governs rights and obligations between banks that are parties to a funds transfer in
23 which a Federal Reserve Bank, acting as an intermediary bank, sends a payment order
24 to the beneficiary's bank. Except as otherwise provided in this Article, a funds-transfer
25 system rule governing rights and obligations between participating banks using the
26 system may be effective even if the rule conflicts with this Article and indirectly affects
27 another party to the funds transfer who does not consent to the rule. A funds-transfer
28 system rule may also govern rights and obligations of parties other than participating
29 banks using the system to the extent stated in G.S. 25-4A-404(c), 25-4A-405(d), and 25-
30 4A-507(c).

31 **"§ 25-4A-502. Creditor process served on receiving bank; setoff by beneficiary's 32 bank.**

33 (a) As used in this section, 'creditor process' means levy, attachment,
34 garnishment, notice of lien, sequestration, or similar process issued by or on behalf of a
35 creditor or other claimant with respect to an account.

36 (b) This subsection applies to creditor process with respect to an authorized
37 account of the sender of a payment order if the creditor process is served on the
38 receiving bank. For the purpose of determining rights with respect to the creditor
39 process, if the receiving bank accepts the payment order the balance in the authorized
40 account is deemed to be reduced by the amount of the payment order to the extent the
41 bank did not otherwise receive payment of the order, unless the creditor process is
42 served at a time and in a manner affording the bank a reasonable opportunity to act on it
43 before the bank accepts the payment order.

1 (c) If a beneficiary's bank has received a payment order for payment to the
2 beneficiary's account in the bank, the following rules apply:

3 (1) The bank may credit the beneficiary's account. The amount credited
4 may be set off against an obligation owed by the beneficiary to the
5 bank or may be applied to satisfy creditor process served on the bank
6 with respect to the account.

7 (2) The bank may credit the beneficiary's account and allow withdrawal of
8 the amount credited unless creditor process with respect to the account
9 is served at a time and in a manner affording the bank a reasonable
10 opportunity to act to prevent withdrawal.

11 (3) If creditor process with respect to the beneficiary's account has been
12 served and the bank has had a reasonable opportunity to act on it, the
13 bank may not reject the payment order except for a reason unrelated to
14 the service of process.

15 (d) Creditor process with respect to a payment by the originator to the beneficiary
16 pursuant to a funds transfer may be served only on the beneficiary's bank with respect to
17 the debt owed by that bank to the beneficiary. Any other bank served with the creditor
18 process is not obliged to act with respect to the process.

19 **"§ 25-4A-503. Injunction or restraining order with respect to funds transfer.**

20 For proper cause and in compliance with applicable law, a court may restrain (i)
21 a person from issuing a payment order to initiate a funds transfer, (ii) an
22 originator's bank from executing the payment order of the originator, or (iii) the
23 beneficiary's bank from releasing funds to the beneficiary or the beneficiary from
24 withdrawing the funds. A court may not otherwise restrain a person from issuing a
25 payment order, paying or receiving payment of a payment order, or otherwise acting
26 with respect to a funds transfer.

27 **"§ 25-4A-504. Order in which items and payment orders may be charged to**
28 **account; order of withdrawals from account.**

29 (a) If a receiving bank has received more than one payment order of the sender or
30 one or more payment
31 orders and other items that are payable from the sender's account, the bank may charge
32 the sender's account with respect to the various orders and items in any sequence.

33 (b) In determining whether a credit to an account has been withdrawn by the
34 holder of the account or applied to a debt of the holder of the account, credits first made
35 to the account are first withdrawn or applied.

36 **"§ 25-4A-505. Preclusion of objection to debit of customer's account.**

37 If a receiving bank has received payment from its customer with respect to a
38 payment order issued in the name of the customer as sender and accepted by the bank,
39 and the customer received notification reasonably identifying the order, the customer is
40 precluded from asserting that the bank is not entitled to retain the payment unless the
41 customer notifies the bank of the customer's objection to the payment within one year
42 after the notification was received by the customer.

43 **"§ 25-4A-506. Rate of interest.**

1 (a) If, under this Article, a receiving bank is obliged to pay interest with respect
2 to a payment order issued to the bank, the amount payable may be determined (i) by
3 agreement of the sender and receiving bank, or (ii) by a funds-transfer system rule if the
4 payment order is transmitted through a funds-transfer system.

5 (b) If the amount of interest is not determined by an agreement or rule as stated
6 in subsection (a), the amount is calculated by multiplying the applicable federal funds
7 rate by the amount on which interest is payable, and then multiplying the product by the
8 number of days for which interest is payable. The applicable federal funds rate is the
9 average of the federal funds rates published by the Federal Reserve Bank of New York
10 for each of the days for which interest is payable divided by 360. The federal funds rate
11 for any day on which a published rate is not available is the same as the published rate
12 for the next preceding day for which there is a published rate. If a receiving bank that
13 accepted a payment order is required to refund payment to the sender of the order
14 because the funds transfer was not completed, but the failure to complete was not due to
15 any fault by the bank, the interest payable is reduced by a percentage equal to the
16 reserve requirement on deposits of the receiving bank.

17 **"§ 25-4A-507. Choice of law.**

18 (a) The following rules apply unless the affected parties otherwise agree or
19 subsection (c) applies:

20 (1) The rights and obligations between the sender of a payment order and
21 the receiving bank are governed by the law of the jurisdiction in which
22 the receiving bank is located.

23 (2) The rights and obligations between the beneficiary's bank and the
24 beneficiary are governed by the law of the jurisdiction in which the
25 beneficiary's bank is located.

26 (3) The issue of when payment is made pursuant to a funds transfer by the
27 originator to the beneficiary is governed by the law of the jurisdiction
28 in which the beneficiary's bank is located.

29 (b) If the parties described in each paragraph of subsection (a) have made an
30 agreement selecting the law of a particular jurisdiction to govern rights and obligations
31 between each other, the law of that jurisdiction governs those rights and obligations,
32 whether or not the payment order or the funds transfer bears a reasonable relation to that
33 jurisdiction.

34 (c) A funds-transfer system rule may select the law of a particular jurisdiction to
35 govern (i) rights and obligations between participating banks with respect to payment
36 orders transmitted or processed through the system, or (ii) the rights and obligations of
37 some or all parties to a funds transfer any part of which is carried out by means of the
38 system. A choice of law made pursuant to clause (i) is binding on participating banks.
39 A choice of law made pursuant to clause (ii) is binding on the originator, other sender,
40 or a receiving bank having notice that the funds-transfer system might be used in the
41 funds transfer and of the choice of law by the system when the originator, other sender,
42 or receiving bank issued or accepted a payment order. The beneficiary of a funds
43 transfer is bound by the choice of law if, when the funds transfer is initiated, the
44 beneficiary has notice that the funds-transfer system might be used in the funds transfer

1 and of the choice of law by the system. The law of a jurisdiction selected pursuant to
2 this subsection may govern, whether or not that law bears a reasonable relation to the
3 matter in issue.

4 (d) In the event of inconsistency between an agreement under subsection (b) and
5 a choice-of-law rule under subsection (c), the agreement under subsection (b) prevails.

6 (e) If a funds transfer is made by use of more than one funds-transfer system and
7 there is inconsistency between choice-of-law rules of the systems, the matter in issue is
8 governed by the law of the selected jurisdiction that has the most significant relationship
9 to the matter in issue."

10 Sec. 2. G.S. 25-1-105 reads as rewritten:

11 "**§ 25-1-105. Territorial application of the act; parties' power to choose applicable**
12 **law.**

13 (1) Except as provided hereafter in this section, when a transaction bears a
14 reasonable relation to this State and also to another state or nation the parties may agree
15 that the law either of this State or of such other state or nation shall govern their rights
16 and duties. Failing such agreement this chapter applies to transactions bearing an
17 appropriate relation to this State.

18 (2) Where one of the following provisions of this Chapter specifies the applicable
19 law, that provision governs and a contrary agreement is effective only to the extent
20 permitted by the law (including the conflict of laws rules) so specified:

21 Rights of creditors against sold goods. (G.S. 25-2-402).

22 Applicability of the article on bank deposits and collections. (G.S. 25-4-102).

23 Bulk transfers subject to the article on bulk transfers. (G.S. 25-6-102).

24 Applicability of the article on investment securities. (G.S. 25-8-106).

25 Perfection provisions of the article on secured transactions. (G.S. 25-9-103).

26 Governing law in the article on Funds Transfers. (G.S. 25-4A-507)."

27 Sec. 3. The Revisor of Statutes shall cause to be printed along with this act all
28 relevant portions of the official comments to the Uniform Commercial Code, Article
29 4A, as the Revisor deems appropriate.

30 Sec. 4. This act becomes effective October 1, 1993.