



General Assembly

Substitute Bill No. 373

February Session, 2014



AN ACT CONCERNING THE UNIFORM COMMERCIAL CODE, THE ELECTRONIC FUND TRANSFER ACT AND THE ISSUANCE OF SUBPOENAS ON A NONPARTY WITNESS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 42a-4A-108 of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2014*):

3 [This] (a) Except as provided in subsection (b) of this section, this
4 article does not apply to a funds transfer any part of which is governed
5 by the Electronic Fund Transfer Act, [of 1978 (Title XX, Public Law 95-
6 630, 92 Stat. 3728, 15 USC Section 1693 et seq.)] 15 USC 1693, et seq., as
7 amended from time to time.

8 (b) This article applies to a funds transfer that is a remittance
9 transfer, as defined in the Electronic Fund Transfer Act, 15 USC 1693o-
10 1, as amended from time to time, unless the remittance is an electronic
11 fund transfer, as defined in the Electronic Fund Transfer Act, 15 USC
12 1693a, as amended from time to time.

13 (c) In the event of an inconsistency between an applicable provision
14 of this article and an applicable provision of the Electronic Fund
15 Transfer Act in a funds transfer to which this article applies, the
16 provision of the Electronic Fund Transfer Act shall govern to the extent
17 of the inconsistency.

18 Sec. 2. (NEW) (*Effective October 1, 2014*) (a) Any nonparty witness in
19 a civil action or probate proceeding to whom a subpoena commanding
20 the production of books, papers, documents or tangible things has
21 been directed may, not later than fifteen days after the service of such
22 subpoena or on or before the time specified in the subpoena for
23 compliance, if such time is less than fifteen days after service, serve
24 upon the party who requested issuance of the subpoena a written
25 objection to production, inspection or copying of any or all of such
26 books, papers, documents or tangible things. Such written objection
27 may include a specific objection that the subpoena will cause undue
28 burden and expense to a person who is not a party to the civil action or
29 probate proceeding, provided such written objection shall be
30 accompanied by an affidavit setting forth the estimated or actual costs
31 of compliance with such subpoena. If a nonparty witness makes such a
32 specific objection, the party who requested issuance of the subpoena
33 (1) shall not be entitled to inspect or copy the books, papers,
34 documents or tangible things, or inspect any premises where such
35 materials may be kept, except pursuant to an order of the court in
36 which the civil action or probate proceeding is pending, and (2) may,
37 upon notice to the objecting nonparty witness, file a motion with the
38 court for an order to compel production in accordance with the terms
39 of such subpoena. Any order to compel production with a subpoena
40 pursuant to this section shall protect a nonparty witness from
41 significant expense resulting from compliance with such subpoena and
42 may include, but not be limited to, the reimbursement of the nonparty
43 witness' reasonable attorney's fees and costs related to electronic
44 discovery.

45 (b) The court in which the civil action or probate proceeding is
46 pending, upon motion of the nonparty witness made promptly and in
47 any event at or before the time for compliance specified in the
48 subpoena, may (1) quash or modify the subpoena if it is unreasonable
49 and oppressive or if it seeks the production of books, papers,
50 documents or tangible things that are not material to the civil action or
51 probate proceeding, or (2) condition denial of the motion upon the

52 advancement by the party who requested issuance of the subpoena of
53 the reasonable cost of producing the books, papers, documents or
54 tangible things that such party is seeking.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	42a-4A-108
Sec. 2	<i>October 1, 2014</i>	New section

BA *Joint Favorable Subst.*

JUD *Joint Favorable*