

Legislative developments since the last update on 4/2/2021:

Article 9 and Lien-Related Legislation

New Mexico: The governor signed HB 66 on 4/6/2021 to add definitions for “good faith” and “public-finance transaction” to the state’s UCC § 9-102. The bill also contains a provision that would exclude public-finance transactions from the scope of Article 9 in § 9-109. The new law takes effect 90 days after the legislature adjourns.

New York: The governor signed AB 164 on 4/6/2021 to address the discontinuance of LIBOR. The bill originally added new UCC Article 12 with respect to LIBOR but was later amended to move the LIBOR provisions to new Section 18-C of the general obligations law. The new law took effect immediately.

Virginia: The governor signed HB 2099 on 3/31/2021 to address limitations for bringing an action to enforce a judgment. The new law will reduce the period for enforcement of certain judgment liens. Portions of the new law take effect on 7/1/2021 with the remainder taking effect on 1/1/2022.

Washington: SB 5355, which would establish a wage lien for unpaid wages due an employee, passed the House on 4/6/2021 and is awaiting transmittal to the governor. The bill provides that wage liens against real property are perfected by recording a Claim of Wage Lien form with the applicable county and such liens against personal property are perfected by filing a UCC financing statement with the Department of Licensing. The bill also provides a Claim of Wage Lien form.

Other Uniform Laws Legislation

No developments to report this week.

Emerging Technology Legislation (Blockchain, DLT, Cryptocurrency, etc.)

Arkansas: House Bill 1888 was introduced on 4/7/2021 to define “virtual currency” and clarify what constitutes control of virtual currency for purposes of the UCC. The bill was assigned to the House Insurance and Commerce Committee.

Louisiana: House Bill 482 was pre-filed on 4/2/2021 to create a financial technology regulatory sandbox program for innovative financial products and services. The term “innovative” is defined to include use of emerging technology, such as blockchain. The bill was assigned to the House Commerce Committee.

Louisiana: Senate Bill 231 was pre-filed on 4/2/2021 to create an insurance regulatory sandbox program for innovative insurance products and services. The term “innovative” is defined to

include use of emerging technology, such as blockchain. The bill was assigned to the Senate Insurance Committee.

Wyoming: The governor signed HB 43 on 4/8/2021 to amend state law regarding digital assets. The new law (i) amends the definition of "digital assets"; (ii) amends provisions for perfection of a security interest in digital assets; and (iii) establishes what constitutes possession of a digital asset. The new law takes effect on 7/1/2021.

Wyoming: SB 38, which would amend business entity laws to provide for the formation and management of LLCs as decentralized autonomous organizations using blockchain and smart contracts, passed the House as amended on 4/2/2021. The Senate refused to concur in the amendments so the bill went to conference committee. Both chambers approved the conference committee results on 4/7/2021 and the bill is now awaiting consideration by the governor.

Business Organization Legislation

Colorado: HB 1124, which is intended to facilitate electronic business activity, passed the Senate on 4/6/2021 and is awaiting transmission to the governor. The bill includes numerous changes to the business organization laws for electronic meetings of the board of directors and shareholders. In addition, the bill would amend existing laws to authorize delivery of notices by electronic means.

Indiana: The House concurred with Senate amendments to HB 1464 on 4/8/2021. This bill would prohibit the use of an entity name or assumed name that suggests the entity is affiliated with any state or federal government agency. The bill would also amend provisions related to emergency by-laws and authorize a corporation to hold annual meeting of members by remote communications. The bill is now awaiting transmittal to the governor.

Kansas: The House concurred in conference committee with Senate amendments to HB 2391 on 4/8/2021. This bill would provide that business entities shall file a written business information report biennially. The bill is now awaiting transmittal to the governor.

North Carolina: Senate Bill 540 was introduced on 4/6/2021 to make various amendments to the Non-profit Corporations Act. The amendments would" (i) require annual reports that will be submitted to the secretary of state electronically; (ii) provide for domestication of a non-profit corporation; and (iii) authorize a corporation to conduct business by electronic means. Committee assignment is pending.

Virginia: the governor signed HB 2121 on 3/31/2021 to amend business organization laws so certain provisions related to entity conversions, resignation of registered agent, name restrictions, cancellations, etc. are made consistent for various kinds of entities. The new law takes effect on and applies to actions taken after 7/1/2021.

Notary Legislation

Florida: HB 121, which would regulate notaries, passed the Senate on 4/8/2021 as a substitute for a nearly identical bill, SB 228. This bill would allow employers to require use of certain technology, clarify online witnessing standards and require online notary providers to retain copies of AV recordings for certain period of time. The bill was returned to the House for further action.

Kansas: Both chambers approved the conference committee report on SB 106, which would adopt the Revised Uniform Law on Notarial Acts, on 4/8/2021. The bill includes remote notary provisions. The bill is now pending transmittal to the governor.

Maine: House Bill 1033a was pre-filed on 4/5/2021 to authorize remote online notarization based upon model legislation created by the Mortgage Bankers Association and American Land Title Association. The bill was assigned to the Joint Judiciary Committee.

Maryland: SB 132, which would provide that the custodian of a public record is only allowed to disclose the home address and phone number of a notary if the notary has not provided a business address and phone number, passed the House on 4/7/2021 and is pending consideration by the governor.

Maryland: SB 212, which would change content requirements for notarial stamps, passed the House on 4/7/2021 and is awaiting consideration by the governor. If enacted, the stamp must include the notary's county of residence, if the notary resides in the state. If the notary does not reside in the state, the stamp must include the county in which the notary was qualified.

New Mexico: The governor signed SB 12 on 4/5/2021 to adopt the Revised Uniform Law on Notarial Acts, including the remote notary provisions. The new law takes effect on 1/1/2022.

New York: SB 2508, which includes provisions to authorize and set the requirements for remote notarization, passed the Senate and then passed the Assembly, both on 4/6/2021. The bill appears to permit both remote online notarization and remote ink notarization. The bill is pending consideration by the governor.

North Carolina: Senate Bill 680 was introduced on 4/8/2021 to adopt the Remote Notarization Act. The bill would authorize and regulate remote online notarization and provide for the duties and qualifications of remote notaries. Committee assignment is pending.

Oregon: SB 220, which would prescribe formalities for remote attestation of a writing, passed the Senate on 4/5/2021. Committee assignment in the House is pending.

Real-Estate-Recording-Related Legislation

Arkansas: HB 1824, which would clarify when a county recorder may charge additional fees for multiple references to previously recorded documents, passed the House on 4/6/2021 and is now assigned to the Senate, City, County and Local Affairs Committee.

Iowa: HB 527, which would grant counties the authority to amend their agreements with the Iowa County Recorders Association to provide for the ongoing implementation of the county land record information system, passed the House on 4/6/2021 and is now pending committee assignment in the Senate.

Other Items/Legislation of Interest

Kentucky: The governor signed SB 162 on 4/5/2021 to reorganize the secretary of state office. The new law will divide the SOS into three offices, rather than the current two divisions, each with an executive director appointed by the secretary. These include: the Office of Administration, the Office of Elections and the Office of Business Services. The Office of Business Services would be responsible for all functions related to business filings, including business entity filings and filings under the Uniform Commercial Code, business records, trademarks and service mark registration, notary appointments, and apostilles. The new law takes effect 90 days after the general assembly adjourns.

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Note that this update provides only a short summary of the listed bills, which are often lengthy and complex. It is not intended to include all potentially relevant provisions of each bill. For full details, please review the bill on the applicable state legislative web site.