

HB408 INTRODUCED



1 AAC67Q-1
2 By Representative Harrison
3 RFD: Financial Services
4 First Read: 02-May-23
5
6 2023 Regular Session



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SYNOPSIS:

Under existing law, the Uniform Commercial Code defines "money" as a medium of exchange currently authorized or adopted by a domestic or foreign government. The term includes a monetary unit of account established by an intergovernmental organization or agreement between two or more countries.

This bill would provide that the term "money" does not include a central bank digital currency, as defined therein.

A BILL
TO BE ENTITLED
AN ACT

Relating to the Uniform Commercial Code; to amend Section 7-1-201, to provide a definition for "central bank digital currency;" and to specify that the definition of "money" does not include central bank digital currency.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 7-1-201, Code of Alabama 1975, is amended to read as follows:

"§7-1-201



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29 (a) [Reserved].

30 (b) Subject to additional definitions contained in the
31 subsequent articles of this title which are applicable to
32 specific articles or parts thereof, and unless the context
33 otherwise requires, in this title:

34 (1) "Action," in the sense of a judicial proceeding,
35 includes recoupment, counterclaim, set-off, suit in equity,
36 and any other proceeding in which rights are determined.

37 (2) "Aggrieved party" means a party entitled to pursue
38 a remedy.

39 (3) "Agreement," as distinguished from "contract,"
40 means the bargain of the parties in fact, as found in their
41 language or inferred from other circumstances, including
42 course of performance, course of dealing, or usage of trade as
43 provided in Section 7-1-303.

44 (4) "Bank" means a person engaged in the business of
45 banking and includes a savings bank, savings and loan
46 association, credit union, and trust company.

47 (5) "Bearer" means a person in possession of a
48 negotiable instrument, document of title, or certificated
49 security that is payable to bearer or indorsed in blank.

50 (6) "Bill of lading" means a document evidencing the
51 receipt of goods for shipment issued by a person engaged in
52 the business of transporting or forwarding goods.

53 (7) "Branch" includes a separately incorporated foreign
54 branch of a bank.

55 (8) "Burden of establishing" a fact means the burden of
56 persuading the trier of fact that the existence of the fact is



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57 more probable than its nonexistence.

58 (9) "Buyer in ordinary course of business" means a
59 person that buys goods in good faith, without knowledge that
60 the sale violates the rights of another person in the goods,
61 and in the ordinary course from a person, other than a
62 pawnbroker, in the business of selling goods of that kind. A
63 person buys goods in the ordinary course if the sale to the
64 person comports with the usual or customary practices in the
65 kind of business in which the seller is engaged or with the
66 seller's own usual or customary practices. A person that sells
67 oil, gas, or other minerals at the wellhead or mine is a
68 person in the business of selling goods of that kind. A buyer
69 in ordinary course of business may buy for cash, by exchange
70 of other property, or on secured or unsecured credit, and may
71 acquire goods or documents of title under a preexisting
72 contract for sale. Only a buyer that takes possession of the
73 goods or has a right to recover the goods from the seller
74 under Article 2 may be a buyer in ordinary course of business.
75 "Buyer in ordinary course of business" does not include a
76 person that acquires goods in a transfer in bulk or as
77 security for or in total or partial satisfaction of a money
78 debt.

79 (9A) "Central bank digital currency" means a digital
80 currency, a digital medium of exchange, or a digital monetary
81 unit of account issued by the United States Federal Reserve
82 System, a federal agency, a foreign government, a foreign
83 central bank, or a foreign reserve system, which is made
84 directly available to a consumer by such entities, or which is



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85 processed or validated directly by such entities.

86 (10) "Conspicuous," with reference to a term, means so
87 written, displayed, or presented that a reasonable person
88 against which it is to operate ought to have noticed it.
89 Whether a term is "conspicuous" or not is a decision for the
90 court. Conspicuous terms include the following:

91 (A) A heading in capitals equal to or greater in size
92 than the surrounding text, or in contrasting type, font, or
93 color to the surrounding text of the same or lesser size; and

94 (B) Language in the body of a record or display in
95 larger type than the surrounding text, or in contrasting type,
96 font, or color to the surrounding text of the same size, or
97 set off from surrounding text of the same size by symbols or
98 other marks that call attention to the language.

99 (11) "Consumer" means an individual who enters into a
100 transaction primarily for personal, family, or household
101 purposes.

102 (12) "Contract," as distinguished from "agreement,"
103 means the total legal obligation that results from the
104 parties' agreement as determined by this title as supplemented
105 by any other applicable laws.

106 (13) "Creditor" includes a general creditor, a secured
107 creditor, a lien creditor, and any representative of
108 creditors, including an assignee for the benefit of creditors,
109 a trustee in bankruptcy, a receiver in equity, and an executor
110 or administrator of an insolvent debtor's or assignor's
111 estate.

112 (14) "Defendant" includes a person in the position of



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113 defendant in a counterclaim, cross-claim, or third-party
114 claim.

115 (15) "Delivery," with respect to an instrument,
116 document of title, or chattel paper, means voluntary transfer
117 of possession.

118 (16) "Document of title" includes bill of lading, dock
119 warrant, dock receipt, warehouse receipt or order for the
120 delivery of goods, and also any other document which in the
121 regular course of business or financing is treated as
122 adequately evidencing that the person in possession of it is
123 entitled to receive, hold, and dispose of the document and the
124 goods it covers. To be a document of title, a document must
125 purport to be issued by or addressed to a bailee and purport
126 to cover goods in the bailee's possession which are either
127 identified or are fungible portions of an identified mass.

128 (17) "Fault" means a default, breach, or wrongful act
129 or omission.

130 (18) "Fungible goods" means:

131 (A) Goods of which any unit, by nature or usage of
132 trade, is the equivalent of any other like unit; or

133 (B) Goods that by agreement are treated as equivalent.

134 (19) "Genuine" means free of forgery or counterfeiting.

135 (20) "Good faith" means honesty in fact in the conduct
136 or transaction concerned.

137 (21) "Holder" means:

138 (A) The person in possession of a negotiable instrument
139 that is payable either to bearer or to an identified person
140 that is the person in possession; or



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141 (B) The person in possession of a document of title if
142 the goods are deliverable either to bearer or to the order of
143 the person in possession.

144 (22) "Insolvency proceeding" includes an assignment for
145 the benefit of creditors or other proceeding intended to
146 liquidate or rehabilitate the estate of the person involved.

147 (23) "Insolvent" means:

148 (A) Having generally ceased to pay debts in the
149 ordinary course of business other than as a result of bona
150 fide dispute;

151 (B) Being unable to pay debts as they become due; or

152 (C) Being insolvent within the meaning of federal
153 bankruptcy law.

154 (24) "Money" means a medium of exchange currently
155 authorized or adopted by a domestic or foreign government. The
156 term includes a monetary unit of account established by an
157 intergovernmental organization or by agreement between two or
158 more countries. The term does not include a central bank
159 digital currency.

160 (25) "Organization" means a person other than an
161 individual.

162 (26) "Party," as distinguished from "third party,"
163 means a person that has engaged in a transaction or made an
164 agreement subject to this title.

165 (27) "Person" means an individual, corporation,
166 business trust, estate, trust, partnership, limited liability
167 company, association, joint venture, public corporation,
168 government, governmental subdivision, agency, or



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169 instrumentality, or any other legal or commercial entity.

170 (28) "Present value" means the amount as of a date
171 certain of one or more sums payable in the future, discounted
172 to the date certain by use of either an interest rate
173 specified by the parties if that rate is not manifestly
174 unreasonable at the time the transaction is entered into or,
175 if an interest rate is not so specified, a commercially
176 reasonable rate that takes into account the facts and
177 circumstances at the time the transaction is entered into.

178 (29) "Purchase" means taking by sale, lease, discount,
179 negotiation, mortgage, pledge, lien, security interest, issue
180 or reissue, gift, or any other voluntary transaction creating
181 an interest in property.

182 (30) "Purchaser" means a person that takes by purchase.

183 (31) "Record" means information that is inscribed on a
184 tangible medium or that is stored in an electronic or other
185 medium and is retrievable in perceivable form.

186 (32) "Remedy" means any remedial right to which an
187 aggrieved party is entitled with or without resort to a
188 tribunal.

189 (33) "Representative" means a person empowered to act
190 for another, including an agent, an officer of a corporation
191 or association, and a trustee, executor, or administrator of
192 an estate.

193 (34) "Right" includes remedy.

194 (35) "Security interest" means an interest in personal
195 property or fixtures which secures payment or performance of
196 an obligation. "Security interest" includes any interest of a



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197 consignor and a buyer of accounts, chattel paper, a payment
198 intangible, or a promissory note in a transaction that is
199 subject to Article 9A. "Security interest" does not include
200 the special property interest of a buyer of goods on
201 identification of those goods to a contract for sale under
202 Section 7-2-401, but a buyer may also acquire a "security
203 interest" by complying with Article 9A. Except as otherwise
204 provided in Section 7-2-505, the right of a seller or lessor
205 of goods under Article 2 or 2A to retain or acquire possession
206 of the goods is not a "security interest," but a seller or
207 lessor may also acquire a "security interest" by complying
208 with Article 9A. The retention or reservation of title by a
209 seller of goods notwithstanding shipment or delivery to the
210 buyer under Section 7-2-401 is limited in effect to a
211 reservation of a "security interest." Whether a transaction in
212 the form of a lease creates a "security interest" is
213 determined pursuant to Section 7-1-203.

214 (36) "Send" in connection with a writing, record, or
215 notice means:

216 (A) To deposit in the mail or deliver for transmission
217 by any other usual means of communication with postage or cost
218 of transmission provided for and properly addressed and, in
219 the case of an instrument, to an address specified thereon or
220 otherwise agreed, or if there be none to any address
221 reasonable under the circumstances; or

222 (B) In any other way to cause to be received any record
223 or notice within the time it would have arrived if properly
224 sent.



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225 (37) "Signed" includes using any symbol executed or
226 adopted with present intention to adopt or accept a writing.

227 (38) "State" means a State of the United States, the
228 District of Columbia, Puerto Rico, the United States Virgin
229 Islands, or any territory or insular possession subject to the
230 jurisdiction of the United States.

231 (39) "Surety" includes a guarantor or other secondary
232 obligor.

233 (40) "Term" means a portion of an agreement that
234 relates to a particular matter.

235 (41) "Unauthorized signature" means a signature made
236 without actual, implied, or apparent authority. The term
237 includes a forgery.

238 (42) "Warehouse receipt" means a receipt issued by a
239 person engaged in the business of storing goods for hire.

240 (43) "Writing" includes printing, typewriting, or any
241 other intentional reduction to tangible form. "Written" has a
242 corresponding meaning."

243 Section 2. This act shall become effective on the first
244 day of the third month following its passage and approval by
245 the Governor, or its otherwise becoming law.