

AGEC 3713 Agricultural Law - Property Law

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October 2016



Personal property

- ▶ All property that is not real property
- ▶ Tangible property
 - ▶ furniture, livestock, tractors
- ▶ Intangible property
 - ▶ stocks, bonds, notes payable, patents, copyrights, IP, and court judgements

Finance

- ▶ property as security for loans
- ▶ real property seizure involves judicial intervention
- ▶ personal property may be seized without judicial intervention

Money

- ▶ personal property whose use is sanctioned by government
- ▶ Taxes do not apply to money
- ▶ Taxes do apply to personal property

Titled vs Untitled Personal Property

- ▶ Titled
 - ▶ Motor vehicle
- ▶ Untitled
 - ▶ Farm vehicles, e.g. Tractors, Harvesters

Uniform Commercial Code

► Article 2 Sale of goods

Unless the context otherwise requires, this Article applies to transactions in goods; it does not apply to any transaction which although in the form of an unconditional contract to sell or present sale is intended to operate only as a security transaction nor does this Article impair or repeal any statute regulating sales to consumers, farmers or other specified classes of buyers.

UCC Article 2A

This Article applies to any transaction, regardless of form, that creates a lease.

UCC Article 3

1. This Article applies to negotiable instruments. It does not apply to money, to payment orders governed by Article 4A, or to securities governed by Article 8.
2. If there is conflict between this Article and Article 4 or 9, Articles 4 and 9 govern.
3. Regulations of the Board of Governors of the Federal Reserve System and operating circulars of the Federal Reserve Banks supersede any inconsistent provision of this Article to the extent of the inconsistency.

UCC Article 4

1. To the extent that items within this Article are also within Articles 3 and 8, they are subject to those Articles. If there is conflict, this Article governs Article 3, but Article 8 governs this Article.
2. The liability of a bank for action or non-action with respect to an item handled by it for purposes of presentment, payment, or collection is governed by the law of the place where the bank is located. In the case of action or non-action by or at a branch or separate office of a bank, its liability is governed by the law of the place where the branch or separate office is located.

UCC Article 5

1. This article applies to letters of credit and to certain rights and obligations arising out of transactions involving letters of credit.
2. The statement of a rule in this article does not by itself require, imply, or negate application of the same or a different rule to a situation not provided for, or to a person not specified, in this article.

UCC Article 5 continued

3. With the exception of this subsection, subsections (a) and (d), Sections 5-102(a)(9) and (10), 5-106(d), and 5-114(d), and except to the extent prohibited in Sections 1-302 and 5-117(d), the effect of this article may be varied by agreement or by a provision stated or incorporated by reference in an undertaking. A term in an agreement or undertaking generally excusing liability or generally limiting remedies for failure to perform obligations is not sufficient to vary obligations prescribed by this article.
4. Rights and obligations of an issuer to a beneficiary or a nominated person under a letter of credit are independent of the existence, performance, or nonperformance of a contract or arrangement out of which the letter of credit arises or which underlies it, including contracts or arrangements between the issuer and the applicant and between the applicant and the beneficiary.

UCC Article 6

1. Except as otherwise provided in subsection (3), this Article applies to a bulk sale if:
 1. the seller's principal business is the sale of inventory from stock; and
 2. on the date of the bulk-sale agreement the seller is located in this state or, if the seller is located in a jurisdiction that is not a part of the United States, the seller's major executive office in the United States is in this state.

UCC Article 7

- ▶ Warehouse receipts
- ▶ Bills of lading

Replaces common law of bailment (bailor or bailor (no title transfer)) See also duty of care

UCC Article 8

8-103:

1. A share or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security.
2. An “investment company security” is a security. “Investment company security” means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered, or a face-amount certificate issued by a face-amount certificate company that is so registered. Investment company security does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

3. An interest in a partnership or limited liability company is not a security unless it is dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that it is a security governed by this Article, or it is an investment company security. However, an interest in a partnership or limited liability company is a financial asset if it is held in a securities account.
4. A writing that is a security certificate is governed by this Article and not by Article 3, even though it also meets the requirements of that Article. However, a negotiable instrument governed by Article 3 is a financial asset if it is held in a securities account.

5. An option or similar obligation issued by a clearing corporation to its participants is not a security, but is a financial asset.
6. A commodity contract, as defined in Section 9-102(a)(15), is not a security or a financial asset.
7. A document of title is not a financial asset unless Section 8-102(a)(9)(iii) applies.

UCC Article 9

- ▶ Secured transactions
- ▶ When is a security interest attached to a piece of property?
- ▶ Perfection (perfection established priority of creditors)
- ▶ Perfection involves filing a record with government as to the interest.

Intellectual property

- ▶ Utility patents
- ▶ Plant patents
- ▶ Design patents
- ▶ Plant variety protection
- ▶ Trade secret
- ▶ Trademark
- ▶ Copyright

Utility patents

- ▶ intangible personal property
- ▶ novel and non-obvious
- ▶ You can patent:
 - ▶ processes, machines, articles of manufacture, compositions of matter and improvements
- ▶ laws of nature, physical phenomena, abstract ideas, works of literature, drama, music, or art and things that are not useful or immoral cannot be patented.

Example: Genetic Engineering

Bt (*Bacillus thurengiensis*) is a bacteria found in soil that produces a toxin that kills insects. the Bt-gene can be inserted into crops to give them protection against insects.

This can be subject to a utility patent. Unlicensed use of crops containing the Bt-gene is a patent infringement.

Plant patent

- ▶ available since 1932
- ▶ clone
- ▶ reproduced via asexual reproduction
- ▶ Not available for tuber crops (e.g. potatoes)
- ▶ Why not?

Design patents

- ▶ protects what something looks like
- ▶ 14 years

Plant variety protection

- ▶ Protects sexually reproduced or tuber-propagated plants
- ▶ PVPO, Ag Marketing service, USDA.
- ▶ Example:
- ▶ Joe grows corn protected by certificate from PVPA and also a utility patent. Joe saves the seed, thinking this is legal. Seed company (plant breeder) asks him to destroy his crop as a infringes their utility patent.

Trade secret

Example: Coca-cola recipe
State law

Trademark

- ▶ name under which product or service is sold
- ▶ company names are not automatically trademarked
- ▶ You need to trademark these separately
- ▶ Federal and State trademarks
- ▶ Word, picture or logo

Copyright

- ▶ words, music, art, drama
- ▶ Not necessary to register to have copyright protection
- ▶ don't plagiarize
- ▶ 70 years after lifetime of individual

Derivative interest in subsurface real property

- ▶ mineral rights
- ▶ derivatives of real property
- ▶ intangible personal property
- ▶ mineral lease is an example (e.g. oil and gas)
- ▶ use rights less tangible than a lease