

## Chair's Column

### *Upcoming Programming*

The UCC Committee is pleased to be offering three CLE programs at the upcoming annual meeting in New York, each of which is co-sponsored by the Committee on Commercial Finance:

Getting Blood from a Stone: Commercially Reasonable Foreclosure on Collateral and the Availability of a Market  
Saturday, August 9, 2008 at 8:00–10:00am

Do Worlds Collide? When Operational Systems Meet the Law  
Sunday, August 10, 2008 at 8:00–10:00am

Bluebloods and Newbloods – Financing Wealthy Individuals  
Sunday, August 10, 2008 at 2:30–4:30pm

A complete schedule of the Committee's activities, including the meetings of all its subcommittees and task forces, is attached to this newsletter. In addition, the UCC is co-sponsoring the following CLE programming offered by other committees:

It's a Small World After All – Commercial Finance in Global Markets  
(offered by the Committee on Commercial Finance)  
Saturday, August 9, 2008 at 10:30–12:30

Topsy Turvy Markets? When Lenders and Credit Providers are in Financial Trouble  
(offered by the Committee on Commercial Finance)  
Saturday, August 9, 2008 at 2:30–4:30pm

It's a Wrap! The Model Deposit Account Control Agreements Final Report  
(offered by the Committee on Commercial Finance)  
Sunday, August 10, 2008 at 10:30–12:30pm

Monetizing Intellectual Property Assets  
(offered by the Committee on Intellectual Property Transactions)  
Sunday, August 10, 2008 at 10:30–12:30pm

Back to the Future – Revisiting the Basics of Securitization and Looking at What Lies Ahead  
(offered by the Securitization and Structured Finance Committee)  
Sunday, August 10, 2008 at 10:30–12:30pm

It's All About the Cash – Cash Management and Control Arrangements in Securitization Transactions (offered by the Securitization and Structured Finance Committee)  
Sunday, August 10, 2008 at 4:00–5:30pm

## ***Legislative Developments***

Revised Article 1 has now been enacted in the following 33 states and territories:

Alabama	Hawaii	Montana	Pennsylvania
Arizona	Idaho	Nebraska	Rhode Island
Arkansas	Indiana	Nevada	South Dakota
California	Iowa	New Hampshire	Texas
Colorado	Kansas	New Mexico	Utah
Connecticut	Kentucky	North Carolina	Vermont
Delaware	Louisiana	North Dakota	Virginia
Florida	Minnesota	Oklahoma	West Virginia
			Virgin Islands

All of these jurisdictions except the Virgin Islands omitted the most controversial change: the new choice-of-law rules in § 1-301. In response to that, this summer the ALI agreed to replace revised § 1-301 with the choice-of-law rules in pre-revision § 1-105. NCCUSL had previously approved the change. Thus, with the exception of the Virgin Islands, all jurisdictions – whether or not they have enacted revised Article 1 – now have the same choice-of-law rules and these rules are reflected in the official text.

The other big legislative news deals with Article 9. The Code's sponsors – the ALI and NCCUSL – have established an Article 9 Review Committee and charged it with issuing a report to the Permanent Editorial Board outlining any problems that have developed and recommending whether a new drafting Committee should be appointed. The Review Committee consists of the people listed below and is expected to complete its work by the end of the summer. So, stay tuned folks, we could be working on amendments to revised Article 9 in the very near future.

### *NCCUSL Representatives*

William Henning  
 John McGarvey  
 Edwin Smith (chair)

### *ALI Representatives*

E. Carolan Berkley  
 Steven Harris  
 Ronald Mann

ABA Business Law Section Advisor: Steven Weise

While on the subject of Article 9, several states have recently enacted non-uniform amendments to deal with the uncertainty attendant to the correct name of an individual. Texas made the name on the debtor's driver's license a safe harbor. Thus, while filing against one or more other variations of the debtor's name may be effective, filing against the name as indicated on the debtor's license will suffice. 2007 Tex. Sess. Law Ch. 565. Tennessee did initially something similar, but created multiple alternative safe harbors: (i) a state-issued driver's license or identification card; (ii) birth certificate; (iii) passport; (iv) social security card; or (v) military identification card. 2008 Tenn. Pub. Ch. No. 648. However, due to concerns about the burden this would place on the searcher, the new law was amended a few weeks later to track the Texas legislation, so that only the debtor's driver's license is a safe harbor. Nebraska took a different approach. It amended its version

of § 9-506(c) to provide that an error in the debtor's name is not seriously misleading if a search under the debtor's correct last name reveals the filing. [2008 Neb. Laws Leg. Bill. 851, § 28](#). However, subsequent legislation delayed the effective date of this new rule to give the Code's sponsoring organizations more time to craft a uniform solution to the problems surrounding uncertainty about an individual debtor's name. [2008 Neb. Laws Leg. Bill 308A](#).

In response to the legislation in Texas, Tennessee and Nebraska, the Joint Task Force on Filing Office Operations and Search Logic has passed a resolution asking the Business Law Section to request that state legislatures refrain from making any more non-uniform amendments regarding the debtor's name until the new Article 9 Review Committee, or a successor drafting committee, has a chance to propose a uniform solution to the problem that these states were attempting to solve. The UCC Committee and the Commercial Finance Committee are in the process of seeking the necessary ABA authorization to issue such a statement.

### ***Committee Developments***

Pursuant to ABA policy, almost all leadership positions are subject to a three-year term limit. Because of that, Keith Rowley, Larry Safran, Barry Graynor, Leianne Crittenden, and Maria Milano will be stepping down as chairs of their respective subcommittees at the conclusion of the ABA annual meeting in August. I thank each of them for their three years of service and their sage advice. Although it is doubtful that any of them can be replaced, I am excited to have found successors for them. [Professor Candace Zierdt](#) will take over Keith's position as co-chair of the Sales Subcommittee. [Kate A. Sawyer](#) will follow Larry as chair of the International Law Subcommittee. Teresa Davidson will assume Barry's position as chair of the Leasing Subcommittee. [Pauline Stevens](#) will succeed Leianne as chair of the Secured Transactions Subcommittee. And [Carol Nulty](#) will take over as editor of this newsletter.

Other recent additions to the leadership ranks include [Ruthanne C. Hammett](#), who has agreed to serve both as vice-chair of the Leasing Subcommittee and as Regional Coordinator for the South Central Region, and [Professor Thomas E. Plank](#), who has agreed to become vice-chair of the Secured Transactions Subcommittee. Also, Professor Keith Rowley is becoming the Committee's first Developments Reporter. His duties in that new position will consist of: (i) authoring a column for the newsletter on non-uniform amendments; (ii) reporting on all state amendments to and adoptions of the UCC; and (iii) preparing a substantive index for the entire Uniform Commercial Code.

Two leadership positions remain available. The Committee needs a liaison to the Diversity Committee and a Regional Coordinator for the Northeast Region. Please contact me if you are interested in either of these positions or wish to suggest who might be interested.

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