

UNIFORM
LAWS
ANNOTATED

UNIFORM
COMMERCIAL
CODE

MASTER EDITION

UNIFORM LAWS ANNOTATED

Uniform Commercial Code

§§ 1-101 to 2-315

With
Annotations From State and Federal Courts

ST. PAUL, MINN.

WEST PUBLISHING CO.



WEST PUBLISHING COMPANY

UNIFORM LAWS ANNOTATED

Master Edition

POCKET PARTS FOR USE IN 1982 SHELVING INSTRUCTIONS

Enclosed are pocket parts for use in 1982 to supplement and update the volumes in your U.L.A.—Master Edition set. These new supplementary materials contain current annotative material, and include the following new uniform acts and model acts approved by the National Conference of Commissioners on Uniform State Laws at its Annual Conference on July 31–August 7, 1981. They are:

- Model Real Estate Cooperative Act (Volume 7A)
- Uniform Unclaimed Property Act (Volume 8)
- Uniform Conservation Easement Act (Volume 12)
- Model State Administrative Procedure Act (1981) (Volume 14)

POCKET PARTS FOR USE IN 1982

Pocket parts are enclosed for all volumes (1 and 1A; 2 and 2A; 3 to 6; 7 and 7A; 8; 9 and 9A; and 11 to 14) of your U.L.A.—Master Edition set, except for Volume 10, the pocket part of which is current. Remove the pocket part for use in 1981 from the back of each volume, and insert in the pocket part slot of the corresponding appropriate volume the enclosed new pocket part for use in 1982.

NOTE: Attach the enclosed gummed label to the front of the pocket part for use in 1981 for Volume 10 as a reminder that the present pocket part is current.

Directory of Acts, 1982 Pamphlet

This new 1982 Pamphlet includes an alphabetical directory of uniform acts and model codes contained in Volumes 1 through 14, Uniform Laws Annotated, showing volume and page where each code or act begins; tables of adopting jurisdictions and of acts withdrawn; and a cross reference index to uniform acts; as well as a listing of Commissioners and Associate and Advisory Members of the National Conference of Commissioners on Uniform State Laws. It ~~replaces~~ the 1981 Pamphlet of the same name.

EXPLANATION

Volumes 1 and 1A contain the text of Articles 1 and 2 of the Uniform Commercial Code prepared under the joint sponsorship of the American Law Institute and the National Conference of Commissioners on Uniform State Laws. They replace the original volume published in 1968.

The increasing growth of litigation under the Code and the concomitant increase in judicial interpretations and constructions over the past eight years have necessitated the publication of these new volumes for convenient access to this ever growing body of law in order to facilitate reference and research.

The Code, which replaces the former Uniform Laws relating to sales, negotiable instruments, warehouse receipts, bills of lading, stock transfers, conditional sales and trust receipts, was originally approved by its sponsors and the American Bar Association in 1952, and was revised in 1958 to incorporate a number of changes that had been recommended by the New York Law Revision Commission and other interested agencies. Subsequent amendments that were deemed desirable in the light of experience under the Code were approved by the Permanent Editorial Board in 1962 and 1966, and most recently, in 1972 with the adoption of Revised Article 9.

All of the fifty states (Louisiana has adopted only Articles 1, 3, 4 and 5), together with the District of Columbia and the Virgin Islands, have adopted the Code.

OFFICIAL COMMENTS

One of the indispensable features of these volumes consists of the Official Comments prepared under the auspices of the National Conference of Commissioners on Uniform State Laws and The American Law Institute, which appear under each section. These Comments explain the purpose and intent of the sections and the changes in the prior law that were effected by the Code.

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AMENDMENTS OF OFFICIAL TEXT

Various sections of the Code were amended by the Editorial Board in 1962 and 1966. Several sections were amended in 1972 to conform to the changes made by Revised Article 9. The changes effected by such amendments are explained in notes which follow the sections affected.

ACTION IN ADOPTING JURISDICTIONS

Another invaluable feature of this edition will be found in the alphabetical listing of jurisdictions under those sections wherein variations occur between the Official Text and the corresponding text of the adopting jurisdiction. Such notes also indicate the optional or alternative provisions in the text that have been enacted by the jurisdictions and the wording of provisions indicated by blanks in the Official Text.

In many jurisdictions, additional provisions that are not contained in the Official Text have been enacted. The text of such provisions is included under the subheading "Variations from Official Text", or, in the case of additional sections, will be found following the last section in the Code Article, or following the last section in a Part of an Article.

ANNOTATIONS OR NOTES OF DECISIONS

The annotations or constructions of the Uniform Commercial Code by the courts of the adopting jurisdictions are complete and up-to-date. The annotations cover all decisions of courts of record in the adopting jurisdictions, as well as those of the Supreme Court of the United States and other Federal courts, construing and applying the Code in the following:

<i>Reports</i>	<i>Abbreviations</i>
Atlantic Reporter	A.
Atlantic Reporter, Second Series	A.2d
New York Supplement	N.Y.S.
New York Supplement, Second Series	N.Y.S.2d
North Eastern Reporter	N.E.
North Eastern Reporter, Second Series	N.E.2d
North Western Reporter	N.W.
North Western Reporter, Second Series	N.W.2d
Pacific Reporter	P.
Pacific Reporter, Second Series	P.2d
South Eastern Reporter	S.E.
South Eastern Reporter, Second Series	S.E.2d
South Western Reporter	S.W.

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<i>Reports</i>	<i>Abbreviations</i>
South Western Reporter, Second Series	S.W.2d
Southern Reporter	So.
Southern Reporter, Second Series	So.2d
Federal Reporter	F.
Federal Reporter, Second Series	F.2d
Federal Supplement	F.Supp.
Federal Rules Decisions	F.R.D.
Supreme Court Reporter	S.Ct.
United States Reports	U.S.
Lawyers' Edition	L.Ed.
Lawyers' Edition, Second Series	L.Ed.2d
Other Standard Reports	

The annotations appear under numbered notes so that the user, by referring to the same numbered note in the Pocket Part, can readily locate late decisions on the same point.

An alphabetical index to the annotations or constructions of the Code by the courts will be found preceding the annotations under each section.

CROSS REFERENCES

Exhaustive references to other sections of the Code direct attention to related or qualifying provisions which should be consulted.

FORMS

References to various legal forms that are appropriate for use in transactions and proceedings related to the Uniform Commercial Code are carried under this heading and refer to forms contained in Uniform Laws Annotated—Uniform Commercial Code Forms.

LAW REVIEW COMMENTARIES

Copious references to informative articles and discussions in Law Reviews and other legal periodicals, relating to various aspects of the Uniform Commercial Code, appear at the beginning of each Article, and under sections to which they are pertinent.

LIBRARY REFERENCES

Another helpful feature of this edition consists of the references keyed to topics in West's General Digest, wherein cases from all jurisdictions on related material are annotated, and to sections of Corpus Juris Secundum which discuss the prevailing authority on related subject matter.

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FOREWORD

An interesting and informative discussion on the origin and development of the Code and its adoption by the states is contained in a Foreword by the late William A. Schnader, Esq., who proposed the preparation of the Code in 1940.

TABLES

The Table of Adopting Jurisdictions at page one of the text lists the jurisdictions in which the Uniform Commercial Code has been adopted, the effective date and the statutory form of citation. The Disposition Table at page XXXVII of the prefatory material shows where sections of the prior Uniform Acts that have been replaced by the Code may be found in these volumes.

INDEX TO CODE

An alphabetical descriptive-word index to the text of the Uniform Commercial Code will be found at the back of the end volume of the Code.

THE PUBLISHER

August, 1976

FOREWORD

It gives me unusual pleasure to have the privilege of writing the foreword to this excellent edition of the Uniform Commercial Code as a part of UNIFORM LAWS ANNOTATED. My special pleasure derives from the fact that it was I who in the fall of 1940, proposed that the National Conference of Commissioners on Uniform State Laws undertake the preparation of a uniform commercial code to replace the several uniform acts which had been prepared by the Conference in years gone by, and which had been widely adopted but were in need of drastic revision.

The Conference accepted my challenge but found that the undertaking was too much for it alone. It had only approximately 150 members and its budget was very slender because contributions to it are not tax exempt; the primary object of the Conference is to promote the passage of legislation. Therefore, it invited The American Law Institute (which prepares, but does not attempt to promote the passage of, legislation) to join it in the preparation of the Code. After investigation, The American Law Institute agreed to participate in the project, appointed a committee on ways and means to raise the money necessary to finance it, and jointly with the Conference, devoted most of its time for a number of years to the preparation and consideration of various drafts of the Code.

The necessary funds were quickly raised. The Maurice and Laura Falk Foundation of Pittsburgh made the largest contribution,—in excess of a quarter of a million dollars. One hundred business concerns, law firms and banks contributed an additional sum of more than one hundred thousand dollars. The overall cost of the preparation of this monumental statute was approximately four hundred thousand dollars.

Let me pause here to say a word in memory of the Code's architect, whose official title was "Chief Reporter,"—Karl N.

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Llewellyn, of the University of Chicago Law School. It was Karl who made the tentative plan for the drafting of the Code. He indicated what subjects it should cover, and in what order. And as the drafting of the Code progressed, it was his fertile brain that contributed many, if not most, of the ideas that developed into Article 9, which is probably the Code's most significant contribution to American statutory law.

Karl died in February, 1962, much too soon; but before his death he had the pleasure of seeing the Code enacted by fourteen states, not the least of which was his own State of Illinois.

I shall not go into detail as to the manner in which the Code was prepared, except to say that it was considered and debated by more than 1,200 of the ablest lawyers in the United States over a period of approximately seven years. It was also examined by a number of financial and trade groups, all of whose criticisms and suggestions were carefully considered. As someone accurately said: "The Code has probably had a wider review by the informed public than any other piece of legislation which has been proposed in the United States."

The Code's preparation was in charge of an Editorial Board, of which Judge Herbert F. Goodrich of the United States Court of Appeals for the Third Circuit was Chairman, and which consisted of a number of experts in commercial law and in the drafting of legislation.

The Code was adopted by The American Law Institute and the National Conference of Commissioners on Uniform State Laws and endorsed by the American Bar Association in 1952.

Early in 1953 the Code was introduced into the Pennsylvania Legislature, and was promptly enacted by a unanimous vote. It was signed by the Governor on April 3, 1953, to become effective on July 1, 1954.

The Code which Pennsylvania adopted did not have a single amendment which had not been approved by the Code's Editorial Board; and during the period from July 1, 1954, when the Code became effective, to January 1, 1960, when it was superseded by

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the revised Code,* not a single amendment to the Code's provisions was made by the Pennsylvania Legislature.

The New York Legislature, instead of enacting the Code as prepared by the Editorial Board, referred it to the New York Law Revision Commission and gave that Commission a very substantial appropriation for the purpose of making a line-by-line study of the Code's provisions. The New York study was concluded in February, 1956. The Law Revision Commission found that the inclusion in a single code of the important facets of commercial law was entirely feasible, but took the view that the Code as it stood at that time was not yet ready for enactment by New York.

The Code's Editorial Board had anticipated this report because the staffs of the New York Commission and the Code's Editorial Board were in close contact with each other and exchanged views while the New York study was being made. Accordingly, when the New York report came out, it did not take the Editorial Board long to promulgate a revised edition of the Code in which the great majority of the New York Law Revision Commission's suggestions were adopted.

The revised version of the Code was promulgated in time to permit its introduction into the Massachusetts Legislature in 1957, and in September of that year, the Massachusetts Legislature enacted it, effective October 1, 1958. Other enactments followed,—slowly at first,—but at an accelerated pace as more states came into line. Kentucky enacted the Code in 1958, Connecticut and New Hampshire in 1959, Rhode Island in 1960, Wyoming, Arkansas, New Mexico, Ohio, Oregon, Oklahoma, Illinois and New Jersey in 1961, and Georgia, Alaska, New York and Michigan in 1962.

Unfortunately, none of the other states followed the example of Pennsylvania in enacting the Code. None of them enacted the Code exactly as promulgated by the Code's Editorial Board. All of the remaining states made some amendments. Some states, for example Illinois and Georgia, made only a few amendments, while others made many more than should have been made.

The Code project was undertaken by the National Conference of Commissioners on Uniform State Laws and The American

* The same Code which has been enacted by Massachusetts and other states.

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Law Institute, to achieve UNIFORMITY in State laws regulating commercial transactions. It was not undertaken as a project merely to improve the law; the Act was promulgated not as a *model* act, but as a *uniform* act.

In an effort to achieve uniformity notwithstanding the great number of amendments which have been made in the acts which have thus far been passed, the National Conference and The American Law Institute applied to the Maurice and Laura Falk Foundation for an endowment fund, the income of which would finance the work of a "Permanent Editorial Board for the Commercial Code." The fund was generously provided.

The new Board will re-examine the Code not less often than once in five years and recommend what amendments, if any, should be made to the Code. It will also suggest that undesirable variations from the Code's official text should be repealed in states in which they have already been made.

The membership of this Editorial Board has been completed and the Board had its first meeting in May, 1962. Its initial members are Judge Herbert F. Goodrich of Philadelphia, Chairman, and Messrs. Joe C. Barrett of Arkansas, Francis M. Bird of Atlanta, Willoughby A. Colby of Concord, New Hampshire, Albert E. Jenner, Jr. of Chicago, Walder D. Malcolm of Boston, Ross D. Malone of New Mexico, John W. McDonald, Chairman of the New York Law Revision Commission, Professor Maurice H. Merrill of the University of Oklahoma Law School, George R. Richter of Los Angeles and the writer.

The Board will function under an agreement between The American Law Institute and the National Conference of Commissioners on Uniform State Laws dated August 5, 1961. Paragraph SEVENTH of that Agreement is:

"It shall be the policy of the Board to assist in attaining and maintaining uniformity in state statutes governing commercial transactions and to this end to approve a minimum number of amendments to the Code. Amendments shall be approved and promulgated when—

"(a) It has been shown by experience under the Code that a particular provision is unworkable or for any other reason obviously requires amendment; or

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“(b) Court decisions have rendered the correct interpretation of a provision of the Code doubtful and an amendment can clear up the doubt; or

“(c) New commercial practices shall have rendered any provisions of the Code obsolete or have rendered new provisions desirable.”

It is very gratifying to learn that all of the recommendations of the Permanent Editorial Board, as well as any amendments made by any state which has enacted the Code, will be furnished in pocket parts to the subscribers for these volumes.

In conclusion, one does not have to be much of a prophet to predict that the Uniform Commercial Code will be on the statute books of more than one-half the states by the end of 1963.

WILLIAM A. SCHNADER

Philadelphia, Pennsylvania
June 1, 1962.

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GENERAL COMMENT
of
NATIONAL CONFERENCE OF COMMISSIONERS ON
UNIFORM STATE LAWS AND THE
AMERICAN LAW INSTITUTE

This Comment covers the development of the Code prior to 1962. Its subsequent history leading to the 1962 and 1966 Official Text amendments is contained in Reports 1-3 of the Permanent Editorial Board for the Uniform Commercial Code, which follow this Comment.

Uniformity throughout American jurisdictions is one of the main objectives of this Code; and that objective cannot be obtained without substantial uniformity of construction. To aid in uniform construction this Comment and those which follow the text of each section set forth the purpose of various provisions of this Act to promote uniformity, to aid in viewing the Act as an integrated whole, and to safeguard against misconstruction.

This Act is a revision of the original Uniform Commercial Code promulgated in 1951 and enacted in Pennsylvania in 1953, effective July 1, 1954; and these Comments are a revision of the original comments, which were before the Pennsylvania legislature at the time of its adoption of the Code. Changes from the text enacted in Pennsylvania in 1953 are clearly legitimate

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legislative history, but without explanation such changes may be misleading, since frequently matters have been omitted as being implicit without statement and language has been changed or added solely for clarity. Accordingly, the changes from the original text were published, under the title "1956 Recommendations of the Editorial Board for the Uniform Commercial Code," early in 1957, with reasons, and revised Comments were then prepared to restate the statutory purpose in the light of the revision of text.

The subsequent history leading to the 1962 Official Text with Comments is set out in detail in Report No. 1 of the Permanent Editorial Board for the Uniform Commercial Code. That Report follows the Foreword to this Edition.

Hitherto most commercial transactions have been regulated by a number of Uniform Laws prepared and promulgated by the National Conference of Commissioners on Uniform State Laws. These acts, with the dates of their promulgation by the Conference, are:

Uniform Negotiable Instruments Law	1896
Uniform Warehouse Receipts Act	1906
Uniform Sales Act	1906
Uniform Bills of Lading Act	1909
Uniform Stock Transfer Act	1909
Uniform Conditional Sales Act	1918
Uniform Trust Receipts Act	1933

Two of these acts were adopted in every American State and the remaining acts have had wide acceptance. Each of them has become a segment of the statutory law relating to commercial transactions. It has been recognized for some years that these acts needed substantial revision to keep them in step with modern commercial practices and to integrate each of them with the others.

The concept of the present Act is that "commercial transactions" is a single subject of the law, notwithstanding its many facets.

A single transaction may very well involve a contract for sale, followed by a sale, the giving of a check or draft for a part of the purchase price, and the acceptance of some form of security for the balance.

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The check or draft may be negotiated and will ultimately pass through one or more banks for collection.

If the goods are shipped or stored the subject matter of the sale may be covered by a bill of lading or warehouse receipt or both.

Or it may be that the entire transaction was made pursuant to a letter of credit either domestic or foreign.

Obviously, every phase of commerce involved is but a part of one transaction, namely, the sale of and payment for goods.

If, instead of goods in the ordinary sense, the transaction involved stocks or bonds, some of the phases of the transaction would obviously be different. Others would be the same. In addition, there are certain additional formalities incident to the transfer of stocks and bonds from one owner to another.

This Act purports to deal with all the phases which may ordinarily arise in the handling of a commercial transaction, from start to finish.

Because of the close relationship of each phase of a complete transaction to every other phase, it is believed that each Article of this Act is cognate to the single broad subject "Commercial Transactions", and that this Act is valid under any constitutional provision requiring an act to deal with only one subject. See, for excellent discussions of the meaning of "single subject": *House v. Creveling*, 147 Tenn. 589, 250 S.W. 357 (1923) and *Commonwealth v. Snyder*, 279 Pa. 234, 123 A. 792 (1924).

The preparation of the Act (which Section 1—101 denominates the "Uniform Commercial Code") was begun as a joint project of The American Law Institute and the National Conference of Commissioners on Uniform State Laws in 1942. Various drafts were considered by joint committees of both bodies and debated by the full membership of each organization at annual meetings.

In the main, the project was made possible, financially, through a large grant by The Maurice and Laura Falk Foundation of Pittsburgh, Pennsylvania, supplemented by contributions from the Beaumont Foundation of Cleveland, Ohio, and from 98 business and financial concerns and law firms. Additional funds for

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final revisions and study were received from the Falk Foundation and others.

The original drafting and editorial work which led to the 1952 edition of the Code was in charge of an Editorial Board of which United States Circuit Judge Herbert F. Goodrich of Philadelphia was Chairman. The other members at various times were Professor Karl N. Llewellyn of the University of Chicago Law School, Walter D. Malcolm, Esquire, of Boston, John C. Pryor, Esquire, of Burlington, Iowa, Wm. A. Schnader, Esquire, of Philadelphia, and Harrison Tweed, Esquire, of New York City. In the final stages of work on the Code, certain questions of policy were submitted for consideration to an Enlarged Editorial Board consisting at various times of the foregoing members and Howard L. Barkdull, Esquire, of Cleveland, Joe C. Barrett, Esquire, of Jonesboro, Arkansas, Robert K. Bell, Esquire, of Ocean City, N. J., Robert P. Goldman, Esquire, of Cincinnati, Dean Albert J. Harno of the University of Illinois Law School, Ben W. Heine-man, Esquire, of Chicago, Carlos Israels, Esquire, of New York City, Albert E. Jenner, Esquire, of Chicago, Arthur Littleton, Esquire, of Philadelphia, Willard B. Luther, Esquire, of Boston, Kurt F. Pantzer, Esquire, of Indianapolis, Indiana, George Richter, Jr., Esquire, of Los Angeles, R. Jasper Smith, Esquire, of Springfield, Missouri, United States Circuit Judge Sterry Waterman of St. Johnsbury, Vermont, and Charles H. Willard, Esquire, of New York City.

The Chief Reporter of the Code was Professor Llewellyn, and the Associate Chief Reporter was Professor Soia Mentschikoff. Final editorial preparation of the 1952 edition was in the hands of Professor Charles Bunn of the University of Wisconsin Law School. The Coordinators for the revisions leading to this 1962 edition were Professors Robert Braucher and A. E. Sutherland of the Law School of Harvard University, Professor Braucher doing the final editorial preparation for this edition.

The actual drafting was done in some cases by practicing lawyers and in others by teachers of various law schools. The customary procedure required that before a draft was submitted for discussion to the general memberships of The American Law Institute and of the National Conference of Commissioners, it was successively approved by three groups.

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The first group were the so-called “advisers”, consisting of specially selected judges, practicing lawyers and law teachers. The advisers met with the draftsmen on frequent occasions to debate and iron out, not only the substance but the form and phraseology of the proposed draft.

After the draft was cleared by the advisers, it was meticulously examined by the next two groups—the Council of The American Law Institute and either the Commercial Acts Section or the Property Acts Section of the Conference of Commissioners.

When these bodies had given their approval to the draft, it came before the general membership both of the Institute and of the Conference for consideration.

In addition in the final stages leading to this 1962 edition each article was reviewed and discussed by a special Subcommittee for that article. Recommendations of the Subcommittee were reviewed and acted upon by the Enlarged Editorial Board, pursuant to authority from the sponsoring bodies.

The judges, practicing lawyers and law teachers who originally acted either as advisers or as draftsmen were:

Judges: John T. Loughran, of the New York Court of Appeals; Thomas W. Swan, United States Circuit Judge for the Second Circuit; and the late John D. Wickhem, of the Supreme Court of Wisconsin.

Practicing lawyers: Dana C. Backus, of New York, N. Y.; Howard L. Barkdull, of Cleveland, Ohio; Lawrence G. Bennett, of New York, N. Y.; Harold F. Birnbaum, of Los Angeles, California; William L. Eagleton, of Washington, D. C.; H. Vernon Eney, of Baltimore, Maryland; Fairfax Leary, Jr., of Philadelphia, Pennsylvania; Willard B. Luther, of Boston, Massachusetts; Walter D. Malcolm, of Boston, Massachusetts; Frederic M. Miller, of Des Moines, Iowa; Hiram Thomas, of New York, N. Y.; Sterry R. Waterman, of St. Johnsbury, Vermont; and Cornelius W. Wickersham, of New York, N. Y.

The law teachers were: Ralph J. Baker, of the Harvard Law School; William E. Britton, of the University of Illinois Law School; Charles Bunn, of the University of Wisconsin Law School; Arthur L. Corbin, of Yale University Law School; Allison Dunham, of Columbia University Law School; Grant Gil-