

**REPORT ON LEGISLATION BY THE
COMMERCIAL LAW AND UNIFORM STATE LAWS COMMITTEE**

**A.9564
S.6179-A**

**M. of A. Dinowitz
Sen. Bonacic**

AN ACT to amend the uniform commercial code, the civil practice law and rules, the lien law, the general obligations law, the banking law, the general business law, the arts and cultural affairs law and the personal property law, in relation to making technical corrections to conform with revisions to the uniform commercial code.

THIS BILL IS APPROVED

BACKGROUND

Legislation was enacted in December 2014 (Chapter 505) which modernized Articles 1, 7 and 9 of the Uniform Commercial Code (UCC) (the “2014 Amendments”). The legislation was supported by the New York City Bar Association.¹ A.9564/S.6179-A (“the Bill”) would make some important, necessary technical amendments in several sections of New York state law and fix incorrect cross-references in such laws that were inadvertently introduced by the adoption of the 2014 Amendments.

SUMMARY OF SPECIFIC PROVISIONS

Sections 1 through 14 of the Bill make important technical corrections to several state laws and fix incorrect cross-references in such laws. While all such corrections should be made, one in particular is worth highlighting here. Previously, § 5-1401 of the New York General Obligations Law permitted parties to a transaction covering in the aggregate of no less than \$250,000 to agree that New York law may govern that transaction, even if the transaction had no reasonable relation to the state of New York. This provision expressly preempted the “reasonable relation test” set forth in former UCC § 1-105. This provision provided clarity to counterparties, lawyers and judges that parties could choose New York law even if the transaction had no reasonable relationship to New York. When the 2014 Amendments were enacted, certain provisions that were formerly in UCC § 1-105 were moved to UCC § 1-301, but the cross-references in a number of laws were not updated. As a result, among other implications, a transaction governed by the New York UCC would seemingly now be required to have a reasonable relationship to New York for New York law to govern. While it is clear that this was not the legislative intent, it is important that the cross-references be updated to provide

¹ See <http://www2.nycbar.org/pdf/report/uploads/20072753-ModernizingUCCArticles17and9t.pdf>.

clarity to counterparties, lawyers and judges that parties can choose New York law even if the transaction has no reasonable relation to New York and help ensure that New York is one of the leading jurisdictions for commercial law.

CONCLUSION

We support this Bill, as it makes necessary technical corrections to other New York Laws to conform to the 2104 Amendments and restore clarity in such New York Laws. In addition, the Bill will help maintain the State's economic profile. New York is under increasing competition to maintain its rank as a leading commercial jurisdiction. Today, significant commercial transactions may be domiciled in a U.S. jurisdiction that has modernized its law, or in a foreign locale that has a mature legal system. While sophisticated and complex commercial transactions are not themselves taxed, they generate both jobs and income for New Yorkers, particularly in the financial services sector. It has been estimated that for each professional job that is lost, at least one to two additional nonprofessional jobs are lost as well. Restoring clarity in New York's commercial law to help keep it as modern as any in the nation will help maintain its status as a preeminent commercial jurisdiction.

Commercial & Uniform State Laws Committee
Victor Y. Chiu, Chair

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