

committee, however, is recommending that section 4-403 be amended to include several desirable features of said section 28-1011 of the District of Columbia Code. Section 4-407 extends but follows the basic theory of section 28-1011(e) of the District of Columbia Code in allowing subrogation to a drawee bank which has improperly paid a check after a stop-payment order.

Section 4-404 reduces to 6 months the stale check period now 1 year under section 28-1004 of the District of Columbia Code.

Section 4-405 permits a bank to pay checks or other items until it has knowledge of the fact of the death or adjudication of incompetency of its customer. It further permits a bank, with knowledge of a customer's death, to pay for 10 days after date of death checks drawn prior to death unless ordered to stop payment by a person claiming an interest in the account.

Section 4-406, covering the customer's duty to discover and report forgeries and alterations, would take the place of section 28-1008 of the District of Columbia Code. Section 4-406 precludes a customer from recovering, after 1 year from the time the statement and checks become available, on alterations and his unauthorized signature. However, section 4-406, unlike section 28-1008 which does not cover forged endorsements, precludes a customer from recovering 3 years after such time on an unauthorized endorsement.

Article 5

This article puts in statutory form the basic legal principles relating to letters of credit, and should prove of great assistance to any attorney who becomes involved in a letter of credit situation.

This committee's recommended amendment of section 5-102 (1), which is taken from the New York Uniform Commercial Code, is designed to make absolutely clear that issuers of letters of credit are entitled, if they so desire, to operate under the Uniform Customs and Practice for Commercial Documentary Credits, instead of under the UCC. The current uniform customs and practice is a comprehensive set of rules for commercial documentary credits which was revised and adopted at the 13th Congress of the International Chamber of Commerce in Lisbon in 1951. Banks in the United States engaging in the international banking business fully understood these rules and usually incorporate in each of their commercial documentary credits a statement that it is subject to the uniform customs and practice. A number of banks throughout the free world also adhere to the uniform customs. The uniform customs and practice is not a stagnant set of rules, but is one that is revised from time to time to meet changing conditions in letter of credit practices. This committee is of the opinion that, in view of the substantial national and international acceptance of the uniform customs and practice, the right to continue under the uniform customs should be expressly preserved by way of said recommended amendment.

Article 6

This article relates to bulk sales, and would replace chapter 17 of title 28 of the District of Columbia Code.

Article 6 continues the basic policy of protecting creditors of a merchant who sells in bulk by permitting such creditors to treat the sale as ineffective. Article 6, however, is more detailed and less ambiguous than the existing District of Columbia law enacted in 1904.

Under article 6, a bulk transfer is any transfer in bulk and not in the ordinary course of transferor's business of a major part of the materials, supplies, merchandise or other inventory of an enterprise subject to article 6; a transfer of a substantial part of equipment is a bulk transfer only if made in connection with a bulk transfer of inventory; excluded from bulk transfers are, among others, transfers for security, or in settlement of a security interest, general assignments for benefit of creditors, and transfers to a person maintaining a known place of business in the District who becomes bound to pay the debts of the transferor in full and give public notice of that fact, and who is solvent after becoming so bound; enterprises subject to article 6 are all those whose principal business is the sale of merchandise from stock, including those who manufacture what they sell; the notice to creditors must be given at least 10 days before a transferee takes possession or pays for the goods; all creditors of a transferor who become such prior to the bulk transfer are protected, but only those creditors on the list furnished by transferor or known to transferee are entitled to notice; auctioneers who know that the auction is a bulk transfer are liable to transferor's creditors up to the net proceeds of the auction; and actions by creditors must be brought within 6 months after the transfer or, if transfer has been concealed, within 6 months after discovery.