

Code Meets Code: How New York’s Revised UCC Will Handle Digital Assets

Introduction

New York State has enacted the 2022 Amendments (the “Amendments”) to the Uniform Commercial Code (the “UCC”), a landmark piece of legislation that modernizes the rules for interests in electronic property under commercial law to accommodate emerging technology, such as artificial intelligence, virtual currency and distributed ledger technology.¹

New York’s revisions were adopted via Senate Bill S1840-A and signed into law by Governor Kathy Hochul on December 5, 2025 (the “Revised UCC”).²

Article 12 – “Controllable Electronic Records”

The centerpiece of the Amendments is a new Article 12 that introduces a new class of electronic property – “controllable electronic records” (“CERs”), which can be created with “tethered” rights as controllable accounts and controllable payment intangibles (“CPIs” and together with CERs and controllable accounts, “Digital Assets”).

The Revised UCC intentionally defines CERs in a broad and technologically neutral manner that plausibly extends to cryptocurrencies like Bitcoin and Ether, GENIUS Act payment stablecoins, DeFi receipt tokens (e.g., vault share tokens, liquid staking tokens, LP tokens), non-fungible tokens, tokenized real-world assets and tokenized off-chain loan obligations. Additionally, assets such as e-Notes and e-HELOCs can be represented by CERs and classified as CPIs, and while investment property is carved out from the definition, CERs representing tokenized assets such as security entitlements and shares of equity can be opted into treatment as Article 8 financial assets.

Article 12 “Control”

Under Section 12-105 of the Revised UCC, a person has “control” of a Digital Asset (“Article 12 Control”), if the CER or a system where it is recorded (1) gives the person power to avail itself of substantially all the benefit from the electronic record and the *exclusive* power to (i) prevent others from availing themselves of substantially all the benefit

¹ Uniform Commercial Code Amendments (2022), Prefatory Note to Article 12. The Uniform Law Institute’s Final Act with Official Comments is available at <https://www.uniformlaws.org/viewdocument/final-act-164?CommunityKey=1457c422-ddb7-40b0-8c76-39a1991651ac&tab=librarydocuments> (last visited April 14, 2026).

² The Revised UCC is available at the following link: <https://legislation.nysenate.gov/pdf/bills/2025/S1840A> (last visited April 14, 2026).

from the CER and (ii) transfer control of the CER to another person or cause another person to obtain control of another CER as a result of transfer of the CER, and (2) enables the person readily to identify itself as having the powers specified in this section.³

As concerns control architecture, the Revised UCC is similarly technology-neutral, meaning that Article 12 Control can likely be established through existing storage solutions for electronic collateral, such as electronic vaults and custodial accounts, as well as newer blockchain-based solutions like digital wallets.

For example, Article 12 Control might be obtained through:

- Electronic vaults and mortgage e-registries, such as the MERS® eRegistry system where the system ensures unique authoritative-copy governance, clear controller identifiability, and exclusive change and transfer rights.⁴
- A centralized custodian or system operator who holds the requisite exclusive powers over a non-blockchain-based authoritative copy of electronic chattel paper, such as an e-Note, and acknowledges it holds control for a purchaser or secured party.⁵
- Digital wallet infrastructure, including multisig arrangements, since cryptographic credentials (e.g., private and public keys) can confer identifiability, exclusive authority, or both.⁶

Shared Article 12 Control Does Not Defeat Exclusivity

Importantly, exclusivity is not defeated if power is shared with another person even if an individual party can act unilaterally – so long as the person seeking to establish control is not dependent on the other person’s concurrent exercise of power to act. Thus, “multisig” arrangements can satisfy the requirements for Article 12 Control.⁷ Exclusivity will also not be defeated if the CER is limited by a “protocol programmed to cause a change, including a transfer or loss of control.”⁸ This means that Article 12 Control is preserved even if the CER is subject to automated transfer, for example, liquidation according to the smart contracts of a decentralized lending protocol.⁹

³ N.Y. U.C.C. Law § 12-105(a) (McKinney 2026).

⁴ See Uniform Commercial Code Amendments (2022) § 7-106 cmt. 3 (noting that registry systems may satisfy the requirements for identifying the person in control of an electronic document of title). Registry systems such as electronic vaults and mortgage e-registries reflect the kind of flexible architecture contemplated by the UCC’s framework for electronic chattel paper. See Uniform Commercial Code Amendments (2022) § 9-105 cmt. 3 (describing a framework utilizing a single authoritative copy that is unique, identifiable, and unalterable, that identifies the purchaser as assignee with the power to participate in and direct changes, and contemplating systems that “may or may not involve a third-party custodian”). Under Article 12, a control-through-another-person framework arguably provides the doctrinal foundation for electronic vault operators and e-registry custodians to maintain control on behalf of other persons. See Uniform Commercial Code Amendments (2022) § 12-105 cmt. 8 (discussing control through another person’s acknowledgment and noting that a person in control may permit a system administrator or the system itself to transfer control under specified conditions).

⁵ Uniform Commercial Code Amendments (2022) § 12-105 cmt. 8.

⁶ See Uniform Commercial Code Amendments (2022) § 12-105 cmt. 2 (explaining that a purchaser holding the private key required to access the benefit of the CER but lacking the requisite hardware would still possess exclusive powers); see also cmt. 4 (noting that the exclusive power to decrypt an encrypted record is sufficient to establish the exclusive power to prevent others from availing themselves of substantially all the benefit from such CER).

⁷ Uniform Commercial Code Amendments (2022) § 12-105(b)(2), cmt. 5 (illustrating how a multi-sig arrangement does not impair the exclusivity requirement).

⁸ N.Y. U.C.C. Law § 12-105(b)(1) (McKinney 2026).

⁹ Uniform Commercial Code Amendments (2022) § 12-105 cmt. 5 (“For example, a transfer of control resulting from a program that is a part of a system’s protocol is inherent in the controllable electronic record and does not impair the exclusivity of the power of the person in control of the record.”).

Indirect Article 12 Control

In addition to contemplating shared yet exclusive control, the Amendments allow for a party to obtain Article 12 Control of a CER through another person. Under Section 12-105(e) of the Revised UCC, a person may have control of a CER if another person, other than the transferor of an interest in the CER, obtains control of the CER and acknowledges that they control it on behalf of such person.¹⁰ Practically speaking, this enables custodial arrangements and perfection for secured parties through a third party, such as a collateral agent, who controls CER pledged as collateral.

“Take-Free” Rules for Purchasers

A central innovation of Article 12 is that it confers attributes of negotiability to, and establishes a framework governing property rights in, CERs. The “take-free” rules of Article 12 give holder-in-due-course-style protection to qualifying purchasers of Digital Assets.¹¹ A “qualifying purchaser” is defined as a purchaser of a CER or an interest in a CER that obtains control of the CER “for value, in good faith, and without notice of a claim of a property right” in the CER.¹² Consistent with the rules applicable to the protection of purchasers of negotiable instruments, the Revised UCC adds an additional protection stating that if a CER would be a “draft” or “note” if it were a signed writing, then Section 3-304(7) of the Revised UCC applies to determining whether a purchaser has “notice of a claim of a property right”, which states that in order to constitute a notice of a claim, the purchaser must have knowledge of the claim or defense.¹³ Notably, the Revised UCC expands the “filing is not notice” rule to make clear that the filing of a financing statement does not, by itself, constitute notice of a claim or defense to qualifying purchasers of CERs.¹⁴

Importantly, the Article 12 take-free rules are not unlimited. The Revised UCC states that a qualifying purchaser of a CER evidencing an interest in underlying assets will take the CER subject to existing property claims on such assets.¹⁵ However, for CERs with controllable payment rights, the Article 12 take-free protections will extend to those rights.¹⁶ Additionally, for CERs without any tethered interests, such as Bitcoin, the Article 12 take-free rules will apply.¹⁷

Existing Perfection Methods Continue to be Valid, but Article 12 Controls

A security interest in a Digital Asset can still be perfected by a UCC filing. Critically, however, security interests in Digital Assets perfected under Article 9 by establishing Article 12 Control will take priority over a security interest in the same asset perfected by another method, even if perfection by the other method pre-dated another secured party

¹⁰ N.Y. U.C.C. Law § 12-105(e) (McKinney 2026).

¹¹ N.Y. U.C.C. Law § 12-104(e), (g)-(h) (McKinney 2026); see also Uniform Commercial Code Amendments (2022), Prefatory Note no.3 to Article 12.

¹² N.Y. U.C.C. Law § 12-102(a)(2).

¹³ N.Y. U.C.C. Law § 12-102(a)(2).

¹⁴ N.Y. U.C.C. Law § 9-331(c).

¹⁵ N.Y. U.C.C. Law § 12-104(f).

¹⁶ *Id.*; see also Uniform Commercial Code Amendments (2022), Official Comment 9 to Section 12-104.

¹⁷ Uniform Commercial Code Amendments (2022), Prefatory Note to Article 12, Comment 3 (applying the qualifying purchaser standard to a hypothetical transaction involving Bitcoin).

obtaining Article 12 Control over the same Digital Assets.¹⁸ While parties may choose to perfect by filing, such interests will be junior to those perfected by Article 12 Control.¹⁹

Article 8 Endures

The Revised UCC preserves much of the pre-2022 Amendments version of Article 8 of the Revised UCC, including its indirect holding system for securities. While CERs are expressly excluded from the definition of “investment property,” parties may elect to treat CERs as Article 8 “financial assets.”²⁰ Once a CER that is treated as a financial asset is credited by the relevant securities intermediary to a securities account, a security entitlement arises in favor of the entitlement holder which can be perfected by control through a securities account control agreement.²¹ This familiar route can be effective for both perfection and obtaining priority without requiring Article 12 Control provisions, though a securities intermediary may choose to use a blockchain for operational recordkeeping.²²

Electronic Money

The Amendments also introduced a new category of collateral – electronic money, which means money (a medium of exchange authorized or adopted by a domestic or foreign government) in an electronic form.

The Revised UCC provides for perfection by control rules for electronic money that are similar to rules applicable to CERs, but the main difference is that a security interest in electronic money cannot be perfected by filing a financing statement (unless electronic money constitutes identifiable cash proceeds of other collateral subject to a perfected security interest) and instead must be perfected by control.

State of Enactment and Choice-of-Law

As of April 2026, thirty-four jurisdictions have enacted the Amendments which, with the exception of New York, have taken full effect.²³ Another seven jurisdictions – Alaska, Maryland, Massachusetts, Mississippi, Ohio, South Carolina and Tennessee – have introduced legislation to adopt the Amendments.²⁴

With New York's enactment, parties to New York-law transactions can expressly designate New York as the controllable electronic record's jurisdiction under Section 12-107(c), ensuring that Article 12 and the conforming Article 9 rules govern perfection, priority, and the rights of purchasers, reducing the need to work through the Amendment's choice-of-law decisional waterfall.²⁵ This provides transactional certainty for parties structuring CER-based transactions under New York law.

¹⁸ N.Y. U.C.C. Law § 9-326A (McKinney 2026).

¹⁹ Uniform Commercial Code Amendments (2022) § 9-326A cmt. 2 (noting that when more than one secured party has control, the first-to-file-or-perfect rule of Section 9-322(a)(1) determines priority).

²⁰ N.Y. U.C.C. Law Section 8-102(a)(9)(iii) (McKinney 2026).

²¹ N.Y. U.C.C. Law Section 8-106(d) (McKinney 2026).

²² See 8 Del. C. § 224 (authorizing corporations to maintain stock ledgers on “one or more distributed electronic networks or databases,” including blockchain, provided the records satisfy the requirements of the Delaware General Corporation Law and Article 8 of the UCC).

²³ Uniform Law Commission, UCC, 2022 Amendments to, <https://www.uniformlaws.org/committees/community-home?CommunityKey=1457c422-ddb7-40b0-8c76-39a1991651ac> (last visited April 10, 2026).

²⁴ *Id.*

²⁵ N.Y. U.C.C. Law § 12-107 (detailing the choice-of-law waterfall for determining the CER's jurisdiction, with the District of Columbia as the residual default) (McKinney 2026); see also *id.* § 9-306B (providing that the CER's

Choice-of-law questions, however, still persist. A forum that has not adopted the 2022 Amendments may apply its own choice-of-law rules and conclude that no jurisdiction's version of Article 12 governs the transaction, in which case the court may treat the CER as a mere general intangible, without the benefit of the Amendment's take-free rules, control-based perfection, or super-priority.

To manage this risk, parties should designate an enacting state as the CER's jurisdiction, choose an enacting state's law as the governing law, and consider forum selection clauses that keep disputes in jurisdictions that have adopted the Amendments. Until the Amendments have been uniformly adopted, however, this risk cannot be completely eliminated as choice-of-law and forum elections are subject to a forum court's willingness to honor them. Accordingly, a court in a non-Article 12 jurisdiction may determine questions of perfection and priority according to its own pre-Amendment rules.

Considerations for Leveraged Financings of Companies Outside the Crypto Space

- Financing sources that currently rely on "all-assets" UCC financing statements for perfection will continue to be perfected in CERs through such financing statements, subject to the risk of losing priority to another secured creditor that obtains Article 12 Control of such CERs
- Financing sources that currently rely on control arrangements for bank accounts should consider whether to expand existing control agreement requirements to apply to any CERs that a company may hold.
- Financing sources may alternatively continue to obtain control through a securities account control agreement that elects to designate CERs held in a securities account as "financial assets" subject to such security account control agreement.

Effective Date

The Revised UCC will take effect on June 3, 2026. After taking effect, the Revised UCC provides a grace period that runs to June 3, 2027, during which secured parties will have time to update perfection methods without losing their priority position.

Conclusion

Overall, New York's adoption of the Amendments is a major step forward in modernizing commercial law and accommodates the continued growth of the use of electronic assets in financing transactions. By elevating Article 12 Control for perfection and priority purposes, and by providing clear transfer and take-free rules, the Amendments provide market participants with an opportunity to create practical and market-ready solutions for electronic assets. Parties should promptly evaluate their asset inventories, update control arrangements and documentation, gauge the appropriateness of blockchain-based custody architectures and leverage the grace period to position themselves for favorable priority outcomes.

While the Amendments represent a significant step, we expect further market structure developments to build on its foundations as collateral tokenization, transfer rails and custodial technologies continue to evolve.

jurisdiction governs perfection and priority generally, but that the debtor's location governs perfection by filing) (McKinney 2026).



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If you have any questions about the issues addressed in this alert, or if you would like a copy of any of the materials referenced in it, please do not hesitate to contact Lewis Rinaudo Cohen (Partner) at 212-701-3758 or lrcohen@cahill.com, Anastasia Efimova (Partner) at 212-701-3586 or aefimova@cahill.com, Sean Rosenthal (Counsel) at 212-701-3442 or srosenthal@cahill.com or Edward Leaf (Associate) at 202-862-8990 or eleaf@cahill.com.