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Ronald B. Brown

Nova Southeastern University - Shepard Broad Law Center, brownron@nova.edu

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Commentary and Correspondence

Article 1 of The Uniform Land Transactions Act: Is Inconsistency with the UCC an Unnecessary Obstacle?

Ronald Benton Brown*

I. INTRODUCTION

The Uniform Land Transactions Act¹ is now being recommended for enactment in every state.² Because one of the purposes of ULTA is to assimilate the law of real estate to that of personal property where no reason for a difference exists,³ ULTA strongly resembles the Uniform Commercial Code. Article Two of ULTA, dealing with the sale of real estate,⁴ parallels Article Two of the UCC which deals with the sale of

* Professor of Law, Nova University Law Center, Fort Lauderdale, Florida. B.S.M.E., 1970, Northeastern University; J.D., 1973, University of Connecticut; L.L.M., 1976, Temple University.

1. The Uniform Land Transactions Act will hereinafter be cited as ULTA. Those familiar with the Act generally refer to it as "ulta," pronouncing it as if it were one word. For a brief overview of the Act, see *Summary of the Uniform Land Transactions Act*, 13 REAL PROP., PROB. & TR. J. 672 (1978).

2. ULTA in its present amended form was approved by the National Conference of Commissioner's of Uniform State Laws at its meeting July 29-August 5, 1977. It was approved by the American Bar Association on February 14, 1978. For a more complete history see Bruce, *An Overview of the Uniform Land Transactions Act and the Uniform Simplification of Land Transfers Act*, 10 STETSON L. REV. 1 (1980); Balbach, *The Uniform Land Transactions Act: Articles 1 and 2*, 11 REAL PROP., PROB. & TR. J. 1 (1978).

3. ULTA prefatory note:

The structure of all three articles [of ULTA] follows that of Uniform Commercial Code in Articles 1, 2, and 9. A person familiar with the Commercial Code, as he examined this Act, will immediately recognize the great debt owed to it. However, while one of the purposes of this Act is to assimilate the law of real estate to that of personal property where there is no reason for a difference, the National Conference did not feel bound to follow the language or result of the Uniform Commercial Code, even in cases where it was believed that the rule should be identical in real and personal property transactions. In some cases, Commercial Code language was changed with the expectation that some time in the next few decades the Commercial Code itself would be revised and in that revision the language used in the Uniform Land Transactions Act would be considered and perhaps adopted.

The Uniform Commercial Code will hereinafter be cited as the UCC.

4. ULTA § 2-102 provides: "This Article applies to contracts to convey real estate other

goods.⁵ Similarly, ULTA Article Three, dealing with security interests in land,⁶ parallels UCC Article Nine which governs security interests in goods.⁷

Article One of each act provides the "General Provisions" which apply throughout the acts. These provisions include general principles, definitions and rules of interpretation.⁸ The similarities between ULTA Article One and UCC Article One are striking. ULTA Article One contains some substantive departures from UCC Article One, but there are also numerous minor inconsistencies which may become a source of confusion when interpreting or applying ULTA because the drafters have unnecessarily obscured the precedential value of UCC cases.⁹

The purpose of this paper is to examine the extent to which Article One of ULTA is consistent with the UCC, the implications of that consistency or inconsistency, and the possible effect those implications might have upon ULTA being adopted. Two simple solutions will then be proposed.

II. COMPARISON OF ULTA ARTICLE ONE WITH THE UNIFORM COMMERCIAL CODE

A. *Similarities*

The acts contain many of the same rules of interpretation. For instance, ULTA specifies the same liberal construction as called for by

than conveyances of security interests (Article 3)." A "contract to convey" includes a conveyance as well as an option or contract to convey real estate at a future time. ULTA § 2-103(3).

5. Article 2 of the UCC is entitled "Sales" in UCC § 2-101, but UCC § 2-102 provides that "[u]nless the context otherwise requires, this Article applies to transactions in goods." "Goods means all things . . . which are movable at the time of identification to the contract for sale . . ." UCC § 2-105(1).

6. ULTA § 3-102 provides that Article 3 "applies to any transaction, regardless of its form, intended to create a security interest in real estate." "'Security interest' means an interest in real estate which secures payment or performance of an obligation." ULTA § 3-103(7).

7. UCC § 9-102(1) provides that Article 9 is applicable "to any transaction (regardless of its form) which is intended to create a security interest in personal property or fixtures." UCC Article 9 also governs the sale of accounts or chattel paper and is, therefore, broader in its scope than ULTA Article 3. UCC § 9-102(1)(b).

8. Article 1 of ULTA, entitled "General Provisions" consists of three parts: Part 1, which deals with the construction, application and subject matter of the act; Part 2, which sets forth general definitions; and Part 3, which consists of general principles. Article 1 of the UCC is similarly encaptioned and consists of two parts. Part 1 deals with the same matters as Part 1 of Article 1 of ULTA. Part 2 of Article 1 of the UCC covers both general definitions and general principles.

Certain provisions contained in Article 1 of ULTA are found in Articles 2 or 9 of the UCC rather than in Article 1. See text accompanying notes 29-34, *infra*.

9. ULTA § 1-102 comment.

the UCC.¹⁰ ULTA also shares the UCC purposes of simplifying, clarifying and modernizing the existing law¹¹ and of making the law uniform nationwide.¹² Subsequent legislation is not to be interpreted as impliedly repealing any part of either act.¹³ In addition, many of the definitions contained in ULTA are taken from the UCC,¹⁴ as are the ULTA provisions concerning notice and knowledge.¹⁵

Many of the general principles of law set forth in the UCC are also contained in ULTA. Both the UCC and ULTA impose a duty of good faith.¹⁶ The provisions explaining "reasonable time" and "seasonably" are in both acts,¹⁷ as are, with a substantive change,¹⁸ usage,¹⁹ course of dealing between parties,²⁰ and reservation of rights by a party who seeks to perform or accept performance.²¹

ULTA, however, was drafted without any effort to mirror UCC sections even where a particular part of ULTA was to have the same meaning as a particular part of the UCC.²² Some sections appear at first glance to be the same as UCC. The comment in one section even indicates²³ that the ULTA section is identical to the UCC, but surprisingly, ULTA Section 1-302 is not identical²⁴ to its UCC counterpart,²⁵ despite that claim.

That section explains what is meant by the terms "reasonable time" and "seasonably". The ULTA version differs in that the quota-

10. ULTA § 1-102; UCC § 1-102(1).

11. ULTA § 1-102(1); UCC § 1-102(2)(a).

12. ULTA § 1-102(4); UCC § 1-102(2)(c).

13. ULTA § 1-105; UCC § 1-104. In addition, both acts provide that supplementary general principles of law are applicable. ULTA § 1-104; UCC § 1-103. Each act provides that the remedies provided thereunder are to be liberally administered. ULTA § 1-106; UCC § 1-106. Both acts contain similar provisions on severability. ULTA § 1-107; UCC § 1-108.

14. ULTA § 1-201; UCC § 1-201.

15. ULTA § 1-202; UCC §§ 1-201(25), 1-201(27), 1-201(38).

16. ULTA § 1-301; UCC § 1-203.

17. ULTA § 1-302; UCC § 1-204. See notes 23-25 and accompanying text *infra*.

18. ULTA eliminated the UCC requirement that a party intending to introduce trade usage into evidence must notify the opposition. UCC § 1-205(6). The drafters state that this matter is dealt with by the rules of procedure. ULTA § 1-303 comment 10. In addition, ULTA speaks of "usage" rather than "usage of trade." The drafters believed that the term "trade usage" was not suitable to commercial real estate dealings. ULTA § 1-303 comment 3. Note, however, that in comment 2 to ULTA § 1-306, the term "usage of trade" was inadvertently used when "usage" would have been appropriate.

19. ULTA § 1-303; UCC § 1-205.

20. ULTA § 1-303; UCC § 1-205.

21. ULTA § 1-304; UCC § 1-207.

22. ULTA prefatory note. See note 3, *supra*.

23. "This section is identical with UCC, Section 1-204." ULTA § 1-302 comment.

24. "identical- . . . 1. The very same. 2. Exactly alike or equal." Webster's New World Dictionary.

25. UCC § 1-204.

tion marks around seasonably in the title have been removed. The word "that" is substituted for "which" in subsection (a). In ULTA 1-302(b), a comma has been added and the word "any" deleted from UCC 1-204(2). ULTA Section 1-302(c) appears to be UCC Section 1-204(3) but dressed up with a pair of commas and the substitution of "if" for "when." The net result appears to be the same, but they are not identical.

Comment Two to ULTA Section 1-304 is more nearly accurate. It states that the ULTA section "is identical with UCC, Section 1-207, except for minor style variations." The variations amount to the substitution of a comma for the word "or," the addition of a comma after the word "party" to separate two clauses, and the substitution of "the terms" for "such."

In fact, while many sections closely resemble Article One of the UCC, no sections are truly identical.²⁶ All those which could have been adopted exactly as they appear in the UCC have been subjected to the same type of "minor style variations"²⁷ found in ULTA Section 1-304 and Section 1-302. In addition, each UCC section consists not only of the text of the section, but also includes the caption.²⁸ There is no similar provision in ULTA. Consequently, in ULTA the section captions are in brackets.

Certain provisions of ULTA Article One have been borrowed from Articles Two or Nine of the UCC. For example, the ULTA rules on parol and extrinsic evidence, found in ULTA Section 1-306, are derived from UCC Section 2-202.²⁹ That this UCC provision applies only to the sales article is the logical conclusion from its location in Article Two rather than in Article One. This is reinforced by the selective incorporation into UCC Article Nine of certain parts of Article Two,³⁰ not including Section 2-202, and the statement that "Article 1, [and not Article 2] contains general principles of construction and interpretation applicable throughout this Article."³¹ Yet, it is inconceivable that these rules have no application to secured transactions, especially considering that the sale and the secured transaction often arise from essentially one transaction. ULTA's drafters have responded by moving this provision into Article One, making it expressly applicable to both articles.

Unconscionability is a concept which does not appear in Article

26. See Appendix for a complete comparison.

27. ULTA § 1-304 comment 2.

28. UCC § 1-109.

29. Comment 4 to ULTA § 1-306 acknowledges this relationship only by the sentence: "Compare UCC, Section 2-202."

30. UCC § 9-105(3).

31. UCC § 9-105(4) (Insert is added for emphasis.).

One of the UCC but does appear in Article One of ULTA.³² With insubstantial changes, the ULTA provision is the same as that contained in the sales article of the UCC.³³ The UCC provision on unconscionability is directly applicable only to sales of goods but the ULTA provision, due to its location in Article One, applies to the entire act. Although it is improbable that the drafters of the UCC intended to imply that unconscionable sales contracts are prohibited while unconscionable security agreements are permissible, the drafters of ULTA have foreclosed that possibility. ULTA Section 1-311 clearly prohibits both. This is of great importance at a time when the vicissitudes of the real estate and consumer credit markets may produce ample opportunity for courts to declare provisions of a real estate security agreement unconscionable.³⁴

B. *Differences*

ULTA includes two "underlying purposes and policies" which are not found explicitly in the UCC. These are "to promote the interstate flow of funds for real estate transactions"³⁵ and "to protect consumer buyers, borrowers, and sellers against practices which may cause unreasonable risk and loss to them."³⁶ As ULTA, like the UCC, calls for courts to construe and apply the Act so as to promote its purposes,³⁷ these additions could result in varied interpretations of apparently similar UCC and ULTA provisions.

Both ULTA and the UCC claim that freedom of contract is an underlying principle,³⁸ but in neither Act is that freedom absolute. ULTA Section 1-103(a), however, introduces a new phrase, "notwith-

32. ULTA § 1-311.

33. The comments acknowledge the similarity. ULTA § 1-311 comment 5.

ULTA § 1-311 differs from the UCC provision in that it specifically lists four factors on which evidence as to unconscionability may be introduced. ULTA § 1-311(b). However, application of the rule under both acts should be the same as the Commissioners' comments to ULTA provide that the listing is illustrative only and that any other relevant evidence is to be considered. ULTA § 1-311 comment 3.

34. *See, e.g., Lenders May Face Legal Obstacles in Shared Appreciation Mortgages*, Nat'l L.J., Feb. 15, 1982, at 18, col. 1, suggesting that shared appreciation mortgages may be subject to a claim of unconscionability. *See also The Credit War Moves to the Home Front*, Miami Herald, Feb. 16, 1982, at 1C, col. 1, announcing the arrival of "Equity Line," a credit card secured by a mortgage on the card holder's house. Failure to pay the credit card bill when due could, therefore, result in foreclosure on the house. It seems highly likely that any attempt to foreclose would be opposed on unconscionability grounds.

35. ULTA § 1-102(2).

36. ULTA § 1-102(3).

37. ULTA § 1-102; UCC § 1-102(1).

38. The comment to ULTA § 1-103 states: "Freedom of contract is a principle of this Act." UCC § 1-102 comment 2 states: "Subsection (3) states affirmatively at the outset that freedom of contract is a principle of the Code: 'the effect' of its provisions may be varied by 'agreement.'"

standing agreement to the contrary," to indicate which sections may not be varied by agreement. This phrase, combined with the limitations found in ULTA Section 1-103(b), clearly delineates the extent to which ULTA allows parties to control the transaction.³⁹ It eliminates the ambiguities which resulted from the UCC phrase "unless otherwise agreed."⁴⁰

UCC Section 1-105, which governs the choice of law rules, has no counterpart in ULTA. At first glance it would appear to have no ULTA application as the law controlling real property has always been the law of its location.⁴¹ However, in light of ULTA's purpose, the promotion of interstate movement of funds for real estate transactions,⁴² that is, perhaps, too hasty a conclusion. There is nothing, however, in UCC Section 1-105 which would upset the traditional rule applied to real property if that section were adopted into ULTA. Any possibility of doubt would be eliminated if the traditional rule were specified, rather than risk that a judge, in obedience to the purpose of stimulating the interstate flow of funds, might apply some other rule.

ULTA introduces a new species, the "protected party."⁴³ This is a consumer protection device. A protected party is defined by reference to the additional terms of "residential real estate"⁴⁴ and "person related to."⁴⁵ Basically, a protected party is an individual acquiring or giving a security interest in his own home.⁴⁶

A protected party is entitled to a special warning in any notice

39. Under subsection (b), freedom of contract does not extend so far as to permit parties to disclaim the obligation of good faith imposed by this Act, though they may fix standards for the performance of that obligation so long as the standards are not "manifestly unreasonable." ULTA § 1-103 commissioners' comment.

40. UCC § 1-102(4).

41. See generally H. GOODRICH & E. SCOLES, HANDBOOK OF THE CONFLICT OF LAWS ch. 12 (4th ed. 1964); R. WEINTRAUB, COMMENTARY ON THE CONFLICT OF LAWS ch. 8 (2d ed 1980).

42. ULTA § 1-102(2).

43. ULTA § 1-203(a).

44. ULTA § 1-203(b).

45. ULTA § 1-204.

46. The comment to ULTA § 1-102 defines a "protected party" as:

(1) an individual who contracts to give a real estate security interest in, or to buy or to have improved, residential real estate all or a part of which he occupies or intends to occupy as a residence;

(2) a person obligated primarily or secondarily on a contract to buy or to have improved residential real estate or on an obligation secured by residential real estate if, at the time he becomes obligated, that person is related to an individual who occupies or intends to occupy all or part of the real estate as a residence; or

(3) with respect to a security agreement, an individual who acquires residential real estate and assumes or takes subject to the obligation of a prior protected party under the real estate security agreement.

ULTA § 1-102.

protection of the secondary mortgage market which is the vehicle for the interstate flow of money for real estate transactions.

III. IMPLICATIONS

The comparison of Article One of ULTA with the UCC revealed many sections which would be identical but for minor style variations. The question remains whether these differences will pose a problem in interpreting and applying this Act. How much precedential value should be given to cases arising under the UCC? The drafters' comments state: "Where the language of this act is *identical* with that of the Uniform Commercial Code, the strong presumption should be that it is to be interpreted in the same way in both acts."⁵⁵

The drafters of ULTA were willing only to go so far as to suggest a presumption that the interpretation should be the same for identical language. By requiring the sections to be identical, the drafters have in effect foreclosed any application of this presumption to ULTA Article One because none of its sections are identical to the UCC. That does not necessarily lead to the conclusion that these similar sections should be interpreted differently, unless nonidentical wording should be regarded as indicating a legislative intent to interpret ULTA inconsistently from UCC precedents.⁵⁶ The changes, however, seem far too subtle to consistently evidence that intent. In order to accomplish the stated purpose of simplifying and clarifying the law,⁵⁷ a clear, unambiguous break from the UCC is necessary if the drafters intend for ULTA to be interpreted independently. On the other hand, if ULTA is to be interpreted by cross reference to the UCC and in accord with case law interpreting the UCC, that should be clearly and unambiguously expressed. The ambiguity in ULTA concerning its interpretation interferes with the above stated purpose and, therefore, should be an obstacle to the Act's adoption by the states.

Secondly, lawyers are far more likely to be receptive to ULTA if they feel it is merely an extension of something with which they are familiar, such as the UCC. However, if the Act has sufficient similarity to the UCC so that their earlier knowledge might only deceive or confuse them, then that too would strengthen their resistance to its adoption.⁵⁸

unknown defenses might substantially dampen the salability of those mortgages." Comment to ULTA § 1-313.

55. ULTA § 1-102 comment (emphasis added).

56. See ULTA § 3-103 comment 1, which states that the terms in ULTA Article 3 were intentionally chosen to indicate a break with the existing mortgage law.

57. ULTA § 1-102(1).

58. See Bruce, *Mortgage Law Reform Under the Uniform Land Transactions Act*, 64 GEO.

required by the Act.⁴⁷ Furthermore, a protected party is protected primarily from himself in that his freedom to contract away or waive particular protections of the Act⁴⁸ is limited. ULTA Section 1-316 requires that protected parties be given a copy of any writing incorporated by reference into a security agreement. It has no equivalent in UCC Articles One, Two or Nine.

It is arguable, but hardly convincing, that the requirement of good faith⁴⁹ and the availability of the doctrines of mistake or misrepresentation⁵⁰ might make these sections unnecessary. It is also curious that Section 1-316 which deals only with security agreements is found in ULTA Article One rather than in Article Three. It is also curious that the drafters found it necessary to provide protection from incorporation by reference into a security agreement but not from incorporation by reference into a contract of sale, a deed, or a lease.

ULTA contains an additional important departure from the UCC which illustrates the effect of the two new purposes of protection for consumers and promotion of the interstate flow of funds.⁵¹ An assignee of a contract, even if a holder in due course from a person in the business of selling real estate, is subject to any defenses of a protected party which he would have against the original seller.⁵² Likewise an assignee of a security interest, which is not the first mortgage, even if a holder in due course, is still subject to all defenses which a protected party would have against the original mortgagee.⁵³ This additional protection for a limited class has no UCC equivalent. However, it does not extend to first mortgages in order not to interfere with the conflicting policy⁵⁴ of

47. All notes to protected parties must state: "This is a notice regarding your rights in real estate. Get it translated immediately." ULTA § 1-202(f).

48. ULTA § 1-203 comment 1 provides: This section sets forth the basis of the distinction made throughout this Act as to the circumstances in which a person is protected against clauses in the contract which waive or relax one or more of the stated rules in this Act. For example, but not as an exhaustive list as to a protected party, there are restrictions on his freedom of contract as to (1) the seller's representations as to the lawfulness of the existing use (Section 2-309(c)); (2) modification or waiver of warranties of quality (Section 2-311(c)); (3) modification of remedies (Section 2-517(d)); (4) after-acquired-property clauses in a security interest (Section 3-205); (5) maximum or "usurious" finance charge (Section 3-403(b)); (6) creditor's right to take possession after default (Section 3-502); (7) exercise of power of sale after default of performance of a secured obligation (Section 3-505); (8) notice of intention to foreclose (Section 3-506); and (9) anti-deficiency judgment provision (Section 3-510).

49. UCC § 1-203.

50. UCC § 1-103.

51. ULTA §§ 1-102(2), 1-202(3).

52. ULTA § 1-313(a).

53. ULTA § 3-313(b).

54. "One of the major purposes of this Act is to develop and encourage a secondary mortgage market for home financing mortgages, and subjecting purchasers of first mortgages to possible

IV. SUGGESTED SOLUTIONS

The easiest route for the drafters would be, of course, to simply dismiss the above as yet another example of the academic insanity which may be produced by an overexposure to law school. That, however, will not eliminate the problem.

A second possibility is simply to revise ULTA so as to eliminate those inconsistencies which reflect only a preference of style rather than an intended change in substance. This might even include parallel numbering of equivalent sections wherever possible⁵⁹ so as to make it easier for lawyers to become familiar with ULTA based on their knowledge of the UCC. For example, the obligation of good faith would be found in Section 1-203 of both acts and the ULTA version would be *identical* to the UCC version.

A third alternative would be the modification of ULTA Section 1-102, or at least its comments,⁶⁰ to read as follows:

Where the language is *similar* to that of the Uniform Commercial Code, it should be interpreted the same way in both acts to the extent that is possible consistent with the Purposes and Rules of Construction articulated in ULTA Section 1-102.

An additional comment could be:

Minor differences in the syntax, order, or punctuation from UCC sections are not intended to indicate that the meaning of the ULTA is different from the UCC section. On the contrary, absent a clear indication that the ULTA differs from the UCC, the two acts are to be interpreted consistently.

The third alternative provides the simplest and quickest solution. It eliminates any ambiguity over the value of the UCC cases as precedent. It also eliminates any need to compare the UCC and ULTA sections for any minor change which might indicate an intent to distinguish the two. Additionally, the possibility that knowledge of the UCC could be misleading is removed.

L.J. 1245 (1976), where Professor Bruce wrote that any reliance upon the UCC in drafting ULTA might weaken, rather than increase, the chances for the Act's adoption due to the dissimilarity between real and personal property. Professor Bruce's comments are directed primarily at Article 3—Secured Transactions, rather than at Article 1—General Provisions.

59. Balbach, *supra* note 2, at 2, where the author states that he finds the system needlessly complicated and lacking in cross references to the UCC. He believed the latter deficiency was to be remedied by a revision in the official comments. The present cross references, as we have seen, are still not satisfactory to eliminate all confusion.

60. See text accompanying note 55, *supra*. This language could be added to § 1-102 itself rather than to the comment. This would eliminate any confusion caused by the varying persuasive value given to the comments in different jurisdictions. See generally J. WHITE & R. SUMMERS, UNIFORM COMMERCIAL CODE 12-14 (2d ed. 1980); R. NORDSTROM, HANDBOOK OF THE LAW OF SALES § 6 (1970).

V. CONCLUSION

ULTA reflects a change in policy from the UCC⁶¹ and also a greater awareness that the sales transaction and secured transaction frequently arise out of the same event. However, the purposes of ULTA can only be effectuated if it is widely adopted. Every effort should be made to produce an act which will be palatable to lawyers and legislators by making it easy for the UCC-trained lawyer to adapt to ULTA and feel confident of its interpretation. This can be accomplished by minimal redrafting of ULTA to eliminate unnecessary discrepancies between the acts where no substantive differences are intended, or by redrafting just one section, Section 1-102, or at least its comments, to clarify the intended effect of stylistic changes.

61. ULTA § 1-102.

Appendix

ULTA Provision	ULTA Section	UCC Equivalent	Differences
Short title	1-101	1-101	
Purposes and rules of construction	1-102	1-102(1)	Addition of two new purposes and policies, promotion of interstate flow of funds and protection of consumers
Variation by agreement	1-103	1-102(3) & (4)	Specification of sections which may be varied by agreement through introduction of the phrase "notwithstanding agreement to the contrary"
Applicability of supplementary principles of law	1-104	1-103	Minor word changes
Construction against implied repeal	1-105	1-104	Minor word changes
Administration of remedies	1-106	1-106	Minor word changes
Severability	1-107	1-108	Minor word changes
General definitions	1-201	1-201	Minor word changes Additional terms defined: "Deed," "Judicial proceeding," "Law," "Pursuant to a commitment," "Real estate" and "To record"
Notice and knowledge	1-202	1-201(25), (26) and (27)	Minor word changes Addition of requirement of a special warning in notices to protected parties
Protected party	1-203	None	
Related persons	1-204	None	
Good faith	1-301	1-203	Minor word changes
Reasonable Time	1-302	1-204	Minor word and punctuation changes

Appendix - continued

ULTA Provision	ULTA Section	UCC Equivalent	Differences
Course of dealing and usage	1-303	1-205	Minor word and punctuation changes Substitution of "usage" for "trade usage"
Performance or acceptance under reservation of rights	1-304	1-207	Minor word and punctuation changes
Waiver or renunciation of claim or right after breach	1-305(a) 1-305(b)	2-107 None (except to the extent Section 2-302 applies to waivers of sales contracts)	Minor word and punctuation changes Section 1-305(a) is subject to subsection (b)
Parol evidence	1-306	1-202	Minor word and punctuation changes
Seals	1-307	2-203	Minor word and punctuation changes
Course of performance	1-308	2-208	Minor word changes
Effect of acceptance of deed	1-309	None	
Modification, rescission and waiver	1-301	2-209	Minor word changes Deletion of reference to transactions "between merchants"
Unconscionability	1-311	2-302	Addition of specific factors about which the parties may produce evidence
Sufficiency of description	1-312	9-110	Minor word changes
Defenses against assignees	1-313	None	

Appendix - continued

ULTA Provision	ULTA Section	UCC Equivalent	Differences
Waiver of defenses against assignees	1-314	9-206	Minor word changes
Delegation of performance and assignment of rights	1-315(a) to (d)	2-210	Numerous word changes
	1-315(e)	9-318	Addition of new right to assigning party

