

HB348 ENROLLED



1 9JHIMB-3
2 By Representative Faulkner
3 RFD: Judiciary
4 First Read: 20-Apr-23
5 2023 Regular Session



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1 Enrolled, An Act,

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SYNOPSIS: A BILL

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TO BE ENACTED

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AN ACT

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Relating to the Uniform Commercial Code; to add

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Article 12 to the Uniform Commercial Code to govern the

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property rights of certain intangible digital assets

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(controllable electronic records), including electronic rights

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to payment, to provide for a manner to establish the transfer

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and control of those assets, to provide a mechanism for

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evidencing certain rights of payment, and to adopt special

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rules with regard to the payment obligations and conditions of

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discharge of account debtors on controllable accounts and

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controllable payment intangibles; to amend Sections 7-1-201,

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7-1-204, 7-1-301, 7-1-306, 7-2-102, 7-2-106, 7-2-201, 7-2-202,

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7-2-203, 7-2-205, 7-2-209, 7-2A-102, 7-2A-103, 7-2A-107,

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7-2A-201, 7-2A-202, 7-2A-203, 7-2A-205, 7-2A-208, 7-3-104,

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7-3-105, 7-3-401, 7-3-604, 7-4A-103, 7-4A-201, 7-4A-202,

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7-4A-203, 7-4A-207, 7-4A-208, 7-4A-210, 7-4A-211, 7-4A-305,

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7-5-104, 7-5-116, 7-7-102, 7-7-106, 7-8-102, 7-8-103, 7-8-106,

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7-8-110, 7-8-303, 7-9A-102, 7-9A-104, 7-9A-105, 7-9A-203,

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7-9A-204, 7-9A-207, 7-9A-208, 7-9A-209, 7-9A-210, 7-9A-301,

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7-9A-304, 7-9A-305, 7-9A-310, 7-9A-312, 7-9A-313, 7-9A-314,

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7-9A-316, 7-9A-317, 7-9A-323, 7-9A-324, 7-9A-330, 7-9A-331,

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7-9A-332, 7-9A-334, 7-9A-341, 7-9A-404, 7-9A-406, 7-9A-408,



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29 7-9A-509, 7-9A-513, 7-9A-601, 7-9A-605, 7-9A-608, 7-9A-611,
30 7-9A-613, 7-9A-614, 7-9A-615, 7-9A-616, 7-9A-619, 7-9A-620,
31 7-9A-621, 7-9A-624, and 7-9A-628, Code of Alabama 1975, and to
32 add Sections 7-9A-107A, 7-9A-107B, 7-9A-306A, 7-9A-306B,
33 7-9A-314A, and 7-9A-326A to the Code of Alabama 1975, to
34 provide a substantial revision to the Uniform Commercial Code
35 in conformity with a substantial portion of the Uniform
36 Commercial Code Amendments (2022), to clarify the meaning of
37 the term chattel paper and other definitions, to define and
38 provide for hybrid transactions, and to provide extensive
39 amendments to the Uniform Commercial Code providing for the
40 perfection of security interests in controllable electronic
41 records, documents of title, chattel paper, and other assets;
42 and to add Article 12A to the Uniform Commercial Code to
43 provide transitional provisions for the Uniform Commercial
44 Code Amendments (2022).

45 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

46 Section 1. Sections 7-1-201, 7-1-204, 7-1-301,
47 7-1-306, 7-2-102, 7-2-106, 7-2-201, 7-2-202, 7-2-203, 7-2-205,
48 7-2-209, 7-2A-102, 7-2A-103, 7-2A-107, 7-2A-201, 7-2A-202,
49 7-2A-203, 7-2A-205, 7-2A-208, 7-3-104, 7-3-105, 7-3-401,
50 7-3-604, 7-4A-103, 7-4A-201, 7-4A-202, 7-4A-203, 7-4A-207,
51 7-4A-208, 7-4A-210, 7-4A-211, 7-4A-305, 7-5-104, 7-5-116,
52 7-7-102, 7-7-106, 7-8-102, 7-8-103, 7-8-106, 7-8-110, 7-8-303,
53 7-9A-102, 7-9A-104, 7-9A-105, 7-9A-203, 7-9A-204, 7-9A-207,
54 7-9A-208, 7-9A-209, 7-9A-210, 7-9A-301, 7-9A-304, 7-9A-305,
55 7-9A-310, 7-9A-312, 7-9A-313, 7-9A-314, 7-9A-316, 7-9A-317,
56 7-9A-323, 7-9A-324, 7-9A-330, 7-9A-331, 7-9A-332, 7-9A-334,



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57 7-9A-341, 7-9A-404, 7-9A-406, 7-9A-408, 7-9A-509, 7-9A-513,
58 7-9A-601, 7-9A-605, 7-9A-608, 7-9A-611, 7-9A-613, 7-9A-614,
59 7-9A-615, 7-9A-616, 7-9A-619, 7-9A-620, 7-9A-621, 7-9A-624,
60 and 7-9A-628, Code of Alabama 1975, are amended to read as
61 follows:

62 "§7-1-201.General definitions.

63 (a) [Reserved].

64 (b) Subject to ~~additional~~ definitions contained in ~~the~~
65 ~~subsequent other~~ articles of ~~this title~~ the Uniform Commercial
66 Code which are applicable that apply to ~~specifie~~ particular
67 articles or parts thereof, ~~and unless the context otherwise~~
68 ~~requires, in this title~~:

69 (1) "Action," in the sense of a judicial proceeding,
70 includes recoupment, counterclaim, set-off, suit in equity,
71 and any other proceeding in which rights are determined.

72 (2) "Aggrieved party" means a party entitled to pursue
73 a remedy.

74 (3) "Agreement," as distinguished from "contract,"
75 means the bargain of the parties in fact, as found in their
76 language or inferred from other circumstances, including
77 course of performance, course of dealing, or usage of trade as
78 provided in Section 7-1-303.

79 (4) "Bank" means a person engaged in the business of
80 banking and includes a savings bank, savings and loan
81 association, credit union, and trust company.

82 (5) "Bearer" means a person in control of a negotiable
83 electronic document of title or a person in possession of a
84 negotiable instrument, negotiable tangible document of title,



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85 or certificated security that is payable to bearer or indorsed
86 in blank.

87 (6) "Bill of lading" means a document of title
88 evidencing the receipt of goods for shipment issued by a
89 person engaged in the business of transporting or forwarding
90 goods. The term does not include a warehouse receipt.

91 (7) "Branch" includes a separately incorporated foreign
92 branch of a bank.

93 (8) "Burden of establishing" a fact means the burden of
94 persuading the trier of fact that the existence of the fact is
95 more probable than its nonexistence.

96 (9) "Buyer in ordinary course of business" means a
97 person that buys goods in good faith, without knowledge that
98 the sale violates the rights of another person in the goods,
99 and in the ordinary course from a person, other than a
100 pawnbroker, in the business of selling goods of that kind. A
101 person buys goods in the ordinary course if the sale to the
102 person comports with the usual or customary practices in the
103 kind of business in which the seller is engaged or with the
104 seller's own usual or customary practices. A person that sells
105 oil, gas, or other minerals at the wellhead or mine is a
106 person in the business of selling goods of that kind. A buyer
107 in ordinary course of business may buy for cash, by exchange
108 of other property, or on secured or unsecured credit, and may
109 acquire goods or documents of title under a preexisting
110 contract for sale. Only a buyer that takes possession of the
111 goods or has a right to recover the goods from the seller
112 under Article 2 may be a buyer in ordinary course of business.



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113 "Buyer in ordinary course of business" does not include a
114 person that acquires goods in a transfer in bulk or as
115 security for or in total or partial satisfaction of a money
116 debt.

117 (10) "Conspicuous," with reference to a term, means so
118 written, displayed, or presented that, based on the totality
119 of the circumstances, a reasonable person against which it is
120 to operate ought to have noticed it. Whether a term is
121 "conspicuous" or not is a decision for the court as a matter
122 of law. ~~Conspicuous terms include the following:~~

123 ~~(A) A heading in capitals equal to or greater in size~~
124 ~~than the surrounding text, or in contrasting type, font, or~~
125 ~~color to the surrounding text of the same or lesser size; and~~

126 ~~(B) Language in the body of a record or display in~~
127 ~~larger type than the surrounding text, or in contrasting type,~~
128 ~~font, or color to the surrounding text of the same size, or~~
129 ~~set off from surrounding text of the same size by symbols or~~
130 ~~other marks that call attention to the language.~~

131 (11) "Consumer" means an individual who enters into a
132 transaction primarily for personal, family, or household
133 purposes.

134 (12) "Contract," as distinguished from "agreement,"
135 means the total legal obligation that results from the
136 parties' agreement as determined by this title as supplemented
137 by any other applicable laws.

138 (13) "Creditor" includes a general creditor, a secured
139 creditor, a lien creditor, and any representative of
140 creditors, including an assignee for the benefit of creditors,



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141 a trustee in bankruptcy, a receiver in equity, and an executor
142 or administrator of an insolvent debtor's or assignor's
143 estate.

144 (14) "Defendant" includes a person in the position of
145 defendant in a counterclaim, cross-claim, or third-party
146 claim.

147 (15) "Delivery," with respect to an ~~instrument,~~
148 electronic document of title, ~~or chattel paper,~~ means
149 voluntary transfer of ~~possession~~ control and, with respect to
150 an instrument, a tangible document of title, or an
151 authoritative tangible copy of record evidencing chattel
152 paper, means voluntary transfer of possession.

153 (16) "Document of title" means a record (i) that in the
154 regular course of business or financing is treated as
155 adequately evidencing that the person in possession or control
156 of the record is entitled to receive, control, hold, and
157 dispose of the record and the goods the record covers and (ii)
158 that purports to be issued by or addressed to a bailee and to
159 cover goods in the bailee's possession which are either
160 identified or are fungible portions of an identifiable mass.
161 The term includes bill of lading, transport documents, dock
162 warrant, dock receipt, warehouse receipt ~~or,~~ and order for the
163 delivery of goods ~~., and also any other document which in the~~
164 ~~regular course of business or financing is treated as~~
165 ~~adequately evidencing that the person in possession of it is~~
166 ~~entitled to receive, hold, and dispose of the document and the~~
167 ~~goods it covers. To be a document of title, a document must~~
168 ~~purport to be issued by or addressed to a bailee and purport~~



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169 ~~to cover goods in the bailee's possession which are either~~
170 ~~identified or are fungible portions of an identified mass.~~ An
171 electronic document of title means a document of title
172 evidenced by a record consisting of information stored in an
173 electronic medium. A tangible document of title means a
174 document of title evidenced by a record consisting of
175 information that is inscribed on a tangible medium.

176 (16A) "Electronic" means relating to technology having
177 electrical, digital, magnetic, wireless, optical,
178 electromagnetic, or similar capabilities.

179 (17) "Fault" means a default, breach, or wrongful act
180 or omission.

181 (18) "Fungible goods" means:

182 (A) Goods of which any unit, by nature or usage of
183 trade, is the equivalent of any other like unit; or

184 (B) Goods that by agreement are treated as equivalent.

185 (19) "Genuine" means free of forgery or counterfeiting.

186 (20) "Good faith" means honesty in fact in the conduct
187 or transaction concerned.

188 (21) "Holder" means:

189 (A) ~~The~~the person in possession of a negotiable
190 instrument that is payable either to bearer or to an
191 identified person that is the person in possession; or

192 (B) ~~The~~the person in possession of a negotiable
193 tangible document of title if the goods are deliverable either
194 to bearer or to the order of the person in possession-; or

195 (C) the person in control, other than pursuant to
196 Section 7-7-106(g), of a negotiable electronic document of



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197 [title.](#)

198 (22) "Insolvency proceeding" includes an assignment for
199 the benefit of creditors or other proceeding intended to
200 liquidate or rehabilitate the estate of the person involved.

201 (23) "Insolvent" means:

202 (A) Having generally ceased to pay debts in the
203 ordinary course of business other than as a result of bona
204 fide dispute;

205 (B) Being unable to pay debts as they become due; or

206 (C) Being insolvent within the meaning of federal
207 bankruptcy law.

208 (24) "Money" means a medium of exchange [that is](#)
209 currently authorized or adopted by a domestic or foreign
210 government [and is not in an electronic form](#). The term includes
211 a monetary unit of account established by an intergovernmental
212 organization or ~~by~~ [pursuant to an](#) agreement between two or
213 more countries.

214 (25) "Organization" means a person other than an
215 individual.

216 (26) "Party," as distinguished from "third party,"
217 means a person that has engaged in a transaction or made an
218 agreement subject to this title.

219 (27) "Person" means an individual, corporation,
220 business trust, estate, trust, partnership, limited liability
221 company, association, joint venture, ~~public corporation,~~
222 government, governmental subdivision, agency, or
223 instrumentality, or any other legal or commercial entity. [The](#)
224 [term includes a series or a protected series, however](#)



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225 denominated, of any entity if the series or protected series
226 is established under law other than the Uniform Commercial
227 Code that limits, or limits if conditions specified under the
228 law are satisfied, the ability of a creditor of the entity or
229 of any other series or protected series of the entity to
230 satisfy a claim from assets of the series or protected series.

231 (28) "Present value" means the amount as of a date
232 certain of one or more sums payable in the future, discounted
233 to the date certain by use of either an interest rate
234 specified by the parties if that rate is not manifestly
235 unreasonable at the time the transaction is entered into or,
236 if an interest rate is not so specified, a commercially
237 reasonable rate that takes into account the facts and
238 circumstances at the time the transaction is entered into.

239 (29) "Purchase" means taking by sale, lease, discount,
240 negotiation, mortgage, pledge, lien, security interest, issue
241 or reissue, gift, or any other voluntary transaction creating
242 an interest in property.

243 (30) "Purchaser" means a person that takes by purchase.

244 (31) "Record" means information that is inscribed on a
245 tangible medium or that is stored in an electronic or other
246 medium and is retrievable in perceivable form.

247 (32) "Remedy" means any remedial right to which an
248 aggrieved party is entitled with or without resort to a
249 tribunal.

250 (33) "Representative" means a person empowered to act
251 for another, including an agent, an officer of a corporation
252 or association, and a trustee, executor, or administrator of



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253 an estate.

254 (34) "Right" includes remedy.

255 (35) "Security interest" means an interest in personal
256 property or fixtures which secures payment or performance of
257 an obligation. "Security interest" includes any interest of a
258 consignor and a buyer of accounts, chattel paper, a payment
259 intangible, or a promissory note in a transaction that is
260 subject to Article 9A. "Security interest" does not include
261 the special property interest of a buyer of goods on
262 identification of those goods to a contract for sale under
263 Section 7-2-401, but a buyer may also acquire a "security
264 interest" by complying with Article 9A. Except as otherwise
265 provided in Section 7-2-505, the right of a seller or lessor
266 of goods under Article 2 or 2A to retain or acquire possession
267 of the goods is not a "security interest," but a seller or
268 lessor may also acquire a "security interest" by complying
269 with Article 9A. The retention or reservation of title by a
270 seller of goods notwithstanding shipment or delivery to the
271 buyer under Section 7-2-401 is limited in effect to a
272 reservation of a "security interest." Whether a transaction in
273 the form of a lease creates a "security interest" is
274 determined pursuant to Section 7-1-203.

275 (36) "Send," in connection with a ~~writing,~~ record, or
276 ~~notice-notification,~~ means:

277 (A) ~~To~~ to deposit in the mail, or deliver for
278 transmission, or transmit by any other usual means of
279 communication, with postage or cost of transmission provided
280 for, ~~and properly addressed and, in the case of an instrument,~~



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281 ~~to an address specified thereon or otherwise agreed, or if~~
282 ~~there be none~~ addressed to any address reasonable under the
283 circumstances; or

284 (B) ~~In any other way to cause to be received any record~~
285 ~~or notice within the time it would have arrived if properly~~
286 ~~sent.~~ to cause the record or notification to be received
287 within the time it would have been received if properly sent
288 under subparagraph (A).

289 (37) ~~"Signed" includes using any symbol executed or~~
290 ~~adopted with present intention to adopt or accept a writing.~~
291 "Sign" means, with present intent to authenticate or adopt a
292 record, to:

293 (A) execute or adopt a tangible symbol; or

294 (B) attach to or logically associate with the record an
295 electronic symbol, sound, or process.

296 "Signed," "signing," and "signature" have corresponding
297 meanings.

298 (38) "State" means a State of the United States, the
299 District of Columbia, Puerto Rico, the United States Virgin
300 Islands, or any territory or insular possession subject to the
301 jurisdiction of the United States.

302 (39) "Surety" includes a guarantor or other secondary
303 obligor.

304 (40) "Term" means a portion of an agreement that
305 relates to a particular matter.

306 (41) "Unauthorized signature" means a signature made
307 without actual, implied, or apparent authority. The term
308 includes a forgery.



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309 (42) "Warehouse receipt" means a receipt issued by a
310 person engaged in the business of storing goods for hire.

311 (43) "Writing" includes printing, typewriting, or any
312 other intentional reduction to tangible form. "Written" has a
313 corresponding meaning."

314 "§7-1-204. Value.

315 Except as otherwise provided in Articles 3, 4, ~~and~~ 5,
316 and 12, a person gives value for rights if the person acquires
317 them:

318 (1) In return for a binding commitment to extend credit
319 or for the extension of immediately available credit, whether
320 or not drawn upon and whether or not a charge-back is provided
321 for in the event of difficulties in collection;

322 (2) As security for, or in total or partial
323 satisfaction of, a preexisting claim;

324 (3) By accepting delivery under a preexisting contract
325 for purchase; or

326 (4) In return for any consideration sufficient to
327 support a simple contract."

328 "§7-1-301. Territorial applicability; parties' power to
329 choose applicable law.

330 (a) Except as otherwise provided in this section, when
331 a transaction bears a reasonable relation to this state and
332 also to another state or nation, the parties may agree that
333 the law either of this state or of such other state or nation
334 shall govern their rights and duties.

335 (b) In the absence of an agreement effective under
336 subsection (a), and except as provided in subsection (c), ~~this~~



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337 ~~title~~ the Uniform Commercial Code applies to transactions
338 bearing an appropriate relation to this state.

339 (c) If one of the following provisions of ~~this title~~
340 the Uniform Commercial Code specifies the applicable law, that
341 provision governs and a contrary agreement is effective only
342 to the extent permitted by the law so specified:

343 (1) Section 7-2-402;

344 (2) Sections 7-2A-105 and 7-2A-106;

345 (3) Section 7-4-102;

346 (4) Section 7-4A-507;

347 (5) Section 7-5-116;

348 (6) [Reserved.]

349 ~~(6)~~ (7) Section 7-8-110;

350 ~~(7)~~ (8) Sections 7-9A-301 through 7-9A-307;

351 (9) Section 7-12-107.

352 "§7-1-306. Waiver or renunciation of claim or right
353 after breach.

354 A claim or right arising out of an alleged breach may
355 be discharged in whole or in part without consideration by
356 agreement of the aggrieved party in ~~an authenticated~~ a signed
357 record.

358 "§7-2-102. Scope; certain security and other
359 transactions excluded from this article.

360 ~~Unless the context otherwise requires, this article~~
361 ~~applies to transactions in goods; it does not apply to any~~
362 ~~transaction which although in the form of an unconditional~~
363 ~~contract to sell or present sale is intended to operate only~~
364 ~~as a security transaction nor does this article impair or~~



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365 ~~repeal any statute regulating sales to consumers, farmers or~~
366 ~~other specified classes of buyers.~~

367 (1) Unless the context otherwise requires, and except
368 as provided in subsection (3), this article applies to
369 transactions in goods and, in the case of a hybrid
370 transaction, it applies to the extent provided in subsection
371 (2).

372 (2) In a hybrid transaction:

373 (a) If the sale-of-goods aspects do not predominate,
374 only the provisions of this article which relate primarily to
375 the sale-of-goods aspects of the transaction apply, and the
376 provisions that relate primarily to the transaction as a whole
377 do not apply.

378 (b) If the sale-of-goods aspects predominate, this
379 article applies to the transaction but does not preclude
380 application in appropriate circumstances of other law to
381 aspects of the transaction which do not relate to the sale of
382 goods.

383 (3) This article does not:

384 (a) apply to a transaction that, even though in the
385 form of an unconditional contract to sell or present sale,
386 operates only to create a security interest; or

387 (b) impair or repeal any statute regulating sales to
388 consumers, farmers, or other specified classes of buyers.

389 "§7-2-106. Definitions: "Contract"; "agreement";
390 "contract for sale"; "sale"; "present sale"; "conforming" to
391 contract; "termination"; "cancellation"; "hybrid
392 transaction"."



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393 (1) In this article unless the context otherwise
394 requires "contract" and "agreement" are limited to those
395 relating to the present or future sale of goods. "Contract for
396 sale" includes both a present sale of goods and a contract to
397 sell goods at a future time. A "sale" consists in the passing
398 of title from the seller to the buyer for a price (Section
399 7-2-401). A "present sale" means a sale which is accomplished
400 by the making of the contract.

401 (2) Goods or conduct including any part of a
402 performance are "conforming" or "conform to the contract" when
403 they are in accordance with the obligations under the
404 contract.

405 (3) "Termination" occurs when either party pursuant to
406 a power created by agreement or law puts an end to the
407 contract otherwise than for its breach. On "termination" all
408 obligations which are still executory on both sides are
409 discharged but any right based on prior breach of performance
410 survives.

411 (4) "Cancellation" occurs when either party puts an end
412 to the contract for breach by the other, and its effect is the
413 same as that of "termination" except that the cancelling party
414 also retains any remedy for breach of the whole contract or
415 any unperformed balance.

416 (5) "Hybrid transaction" means a single transaction
417 involving a sale of goods and:

- 418 (a) the provision of services;
- 419 (b) a lease of other goods; or
- 420 (c) a sale, lease, or license of property other than



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421 goods.

422
423 (5) "Hybrid transaction" means a single transaction
424 involving a sale of goods and:

425 (a) the provision of services;

426 (b) a lease of other goods; or

427 (c) a sale, lease, or license of property other than
428 goods.

429 "§7-2-201. Formal requirements; statute of frauds.

430 (1) Except as otherwise provided in this section, a
431 contract for the sale of goods for the price of ~~\$500~~ five
432 hundred dollars (\$500) or more is not enforceable by way of
433 action or defense unless there is ~~some writing~~ a record
434 sufficient to indicate that a contract for sale has been made
435 between the parties and signed by the party against whom
436 enforcement is sought or by ~~his~~ the party's authorized agent
437 or broker. A ~~writing~~ record is not insufficient because it
438 omits or incorrectly states a term agreed upon, but the
439 contract is not enforceable under this ~~paragraph~~ subsection
440 beyond the quantity of goods shown in ~~such writing~~ the record.

441 (2) Between merchants if within a reasonable time a
442 ~~writing~~ record in confirmation of the contract and sufficient
443 against the sender is received and the party receiving it has
444 reason to know its contents, it satisfies the requirements of
445 subsection (1) against ~~such~~ the party unless notice in a
446 record ~~written notice~~ of objection to its contents is given
447 within 10 days after it is received.

448 (3) A contract which does not satisfy the requirements



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449 of subsection (1) but which is valid in other respects is
450 enforceable:

451 (a) If the goods are to be specially manufactured for
452 the buyer and are not suitable for sale to others in the
453 ordinary course of the seller's business and the seller,
454 before notice of repudiation is received and under
455 circumstances which reasonably indicate that the goods are for
456 the buyer, has made either a substantial beginning of their
457 manufacture or commitments for their procurement; or

458 (b) If the party against whom enforcement is sought
459 admits in ~~his~~the party's pleading, testimony, or otherwise in
460 court that a contract for sale was made, but the contract is
461 not enforceable under this provision beyond the quantity of
462 goods admitted; or

463 (c) With respect to goods for which payment has been
464 made and accepted or which have been received and accepted
465 (Section 7-2-606)."

466 "§7-2-202. Final ~~written~~-expression: Parol or extrinsic
467 evidence.

468 Terms with respect to which the confirmatory memoranda
469 of the parties agree or which are otherwise set forth in a
470 ~~writing~~record intended by the parties as a final expression
471 of their agreement with respect to such terms as are included
472 therein may not be contradicted by evidence of any prior
473 agreement or of a contemporaneous oral agreement but may be
474 explained or supplemented:

475 (a) ~~By~~by course of performance, course of dealing, or
476 usage of trade (Section 7-1-303); and



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477 (b) By evidence of consistent additional terms unless
478 the court finds the ~~writing~~ record to have been intended also
479 as a complete and exclusive statement of the terms of the
480 agreement."

481 "§7-2-203. Seals inoperative.

482 The affixing of a seal to a ~~writing~~ record evidencing a
483 contract for sale or an offer to buy or sell goods does not
484 constitute the ~~writing~~ record a sealed instrument, and the law
485 with respect to sealed instruments does not apply to such a
486 contract or offer."

487 "§7-2-205. Firm offers.

488 An offer by a merchant to buy or sell goods in a signed
489 ~~writing~~ record which by its terms gives assurance that it will
490 be held open is not revocable, for lack of consideration,
491 during the time stated or if no time is stated for a
492 reasonable time, but in no event may such period of
493 irrevocability exceed three months; but any such term of
494 assurance on a form supplied by the offeree must be separately
495 signed by the offeror."

496 "§7-2-209. Modification, rescission and waiver.

497 (1) An agreement modifying a contract within this
498 article needs no consideration to be binding.

499 (2) A signed agreement which excludes modification or
500 rescission except by a signed writing or other signed record
501 cannot be otherwise modified or rescinded, but except as
502 between merchants such a requirement on a form supplied by the
503 merchant must be separately signed by the other party.

504 (3) The requirements of the statute of frauds section



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505 of this article (Section 7-2-201) must be satisfied if the
506 contract as modified is within its provisions.

507 (4) Although an attempt at modification or rescission
508 does not satisfy the requirements of subsection (2) or (3) it
509 can operate as a waiver.

510 (5) A party who has made a waiver affecting an
511 executory portion of the contract may retract the waiver by
512 reasonable n

513 otification received by the other party that strict
514 performance will be required of any term waived, unless the
515 retraction would be unjust in view of a material change of
516 position in reliance on the waiver.

517 "§7-2A-102. Scope.

518 ~~This article applies to any transaction, regardless of~~
519 ~~form, that creates a lease, as defined in Section~~
520 ~~7-2A-103(1)(j).~~

521 (1) This article applies to any transaction, regardless
522 of form, that creates a lease and, in the case of a hybrid
523 lease, it applies to the extent provided in subsection (2).

524 (2) In a hybrid lease:

525 (a) if the lease-of-goods aspects do not predominate:

526 (i) only the provisions of this article which relate
527 primarily to the lease-of-goods aspect of the transaction
528 apply, and the provisions that relate primarily to the
529 transaction as a whole do not apply;

530 (ii) Section 7-2A-209 applies if the lease is a finance
531 lease; and

532 (iii) Section 7-2A-407 applies to the promise of the



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533 lessee in a finance lease to the extent the promises are
534 consideration for the right to possession and use of the
535 leased goods; and

536 (b) if the lease-of-goods aspects predominate, this
537 article applies to the transaction, but does not preclude
538 application in appropriate circumstances of other law to
539 aspects of the lease which do not relate to the lease of
540 goods.

541 "§7-2A-103. Definitions and index of definitions.

542 (1) In this article unless the context otherwise
543 requires:

544 (a) "Buyer in ordinary course of business" means a
545 person who in good faith and without knowledge that the sale
546 to him or her is in violation of the ownership rights or
547 security interest or leasehold interest of a third party in
548 the goods, buys in ordinary course from a person in the
549 business of selling goods of that kind but does not include a
550 pawnbroker. "Buying" may be for cash or by exchange of other
551 property or on secured or unsecured credit and includes
552 receiving goods or documents of title under a pre-existing
553 contract for sale but does not include a transfer in bulk or
554 as security for or in total or partial satisfaction of a money
555 debt.

556 (b) "Cancellation" occurs when either party puts an end
557 to the lease contract for default by the other party.

558 (c) "Commercial unit" means such a unit of goods as by
559 commercial usage is a single whole for purposes of lease and
560 division of which materially impairs its character or value on



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561 the market or in use. A commercial unit may be a single
562 article, as a machine, or a set of articles, as a suite of
563 furniture or a line of machinery, or a quantity, as a gross or
564 carload, or any other unit treated in use or in the relevant
565 market as a single whole.

566 (d) "Conforming" goods or performance under a lease
567 contract means goods or performance that are in accordance
568 with the obligations under the lease contract.

569 (e) "Consumer lease" means a lease that a lessor
570 regularly engaged in the business of leasing or selling makes
571 to a lessee who is an individual and who takes under the lease
572 primarily for a personal, family, or household purpose, if the
573 total payments to be made under the lease contract, excluding
574 payments for options to renew or buy, do not exceed
575 ~~\$100,000~~ one hundred thousand dollars (\$100,000).

576 (f) "Fault" means wrongful act, omission, breach, or
577 default.

578 (g) "Finance lease" means a lease with respect to
579 which:

580 (i) the lessor does not select, manufacture, or supply
581 the goods;

582 (ii) the lessor acquires the goods or the right to
583 possession and use of the goods in connection with the lease;
584 and

585 (iii) one of the following occurs:

586 (A) the lessee receives a copy of the contract by which
587 the lessor acquired the goods or the right to possession and
588 use of the goods before signing the lease contract;



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589 (B) the lessee's approval of the contract by which the
590 lessor acquired the goods or the right to possession and use
591 of the goods is a condition to effectiveness of the lease
592 contract;

593 (C) the lease contract or a separate accurate and
594 complete statement delivered to the lessee discloses in
595 writing (a) all express warranties and other rights provided
596 to the lessee by the lessor and the supplier in connection
597 with the lease contract (b) that there are no other express
598 warranties or rights provided to the lessee by the lessor or
599 the supplier in connection with the lease contract, and (c) in
600 a consumer lease, any waiver, disclaimer, or other negation of
601 express or implied warranties and any limitation or
602 modification of remedy or liquidation of damages for breach of
603 those warranties or other rights of the lessee in a manner as
604 provided in this article or in Article 2, as applicable; or

605 (D) the lessor, before the lessee signs the lease
606 contract, informs the lessee in writing (a) of the identity of
607 the supplier, unless the lessee has selected the supplier and
608 directed the lessor to purchase the goods from the supplier,
609 (b) that the lessee is entitled under this article to all
610 warranties and other rights provided to the lessee by the
611 supplier in connection with the lease contract, and (c) to
612 contact the supplier to receive an accurate and complete
613 statement from the supplier of any such express warranties and
614 other rights and any disclaimers or limitations of them or of
615 remedies.

616 (h) "Goods" means all things that are movable at the



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617 time of identification to the lease contract, or are fixtures
618 (Section 7-2A-309), but the term does not include money,
619 documents, instruments, accounts, chattel paper, general
620 intangibles, or minerals or the like, including oil and gas,
621 before extraction. The term also includes the unborn young of
622 animals.

623 (h.1) "Hybrid lease" means a single transaction
624 involving a lease of goods and:

625 (i) the provision of services;

626 (ii) a sale of other goods; or

627 (iii) a sale, lease, or license of property other than
628 goods.

629 (i) "Installment lease contract" means a lease contract
630 that authorizes or requires the delivery of goods in separate
631 lots to be separately accepted, even though the lease contract
632 contains a clause "each delivery is a separate lease" or its
633 equivalent.

634 (j) "Lease" means a transfer of the right to possession
635 and use of goods for a term in return for consideration, but a
636 sale, including a sale on approval or a sale or return, or
637 retention or creation of a security interest is not a lease.
638 Unless the context clearly indicates otherwise, the term
639 includes a sublease.

640 (k) "Lease agreement" means the bargain, with respect
641 to the lease, of the lessor and the lessee in fact as found in
642 their language or by implication from other circumstances
643 including course of dealing or usage of trade or course of
644 performance as provided in this article. Unless the context



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645 clearly indicates otherwise, the term includes a sublease
646 agreement.

647 (l) "Lease contract" means the total legal obligation
648 that results from the lease agreement as affected by this
649 article and any other applicable rules of law. Unless the
650 context clearly indicates otherwise, the term includes a
651 sublease contract.

652 (m) "Leasehold interest" means the interest of the
653 lessor or the lessee under a lease contract.

654 (n) "Lessee" means a person who acquires the right to
655 possession and use of goods under a lease. Unless the context
656 clearly indicates otherwise, the term includes a sublessee.

657 (o) "Lessee in ordinary course of business" means a
658 person who in good faith and without knowledge that the lease
659 to him or her is in violation of the ownership rights or
660 security interest or leasehold interest of a third party in
661 the goods leases in ordinary course from a person in the
662 business of selling or leasing goods of that kind but does not
663 include a pawnbroker. "Leasing" may be for cash or by exchange
664 of other property or on secured or unsecured credit and
665 includes acquiring goods or documents of title under a
666 preexisting lease contract but does not include a transfer in
667 bulk or as security for or in total or partial satisfaction of
668 a money debt.

669 (p) "Lessor" means a person who transfers the right to
670 possession and use of goods under a lease. Unless the context
671 clearly indicates otherwise, the term includes a sublessor.

672 (q) "Lessor's residual interest" means the lessor's



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673 interest in the goods after expiration, termination, or
674 cancellation of the lease contract.

675 (r) "Lien" means a charge against or interest in goods
676 to secure payment of a debt or performance of an obligation,
677 but the term does not include a security interest.

678 (s) "Lot" means a parcel or a single article that is
679 the subject matter of a separate lease or delivery, whether or
680 not it is sufficient to perform the lease contract.

681 (t) "Merchant lessee" means a lessee that is a merchant
682 with respect to goods of the kind subject to the lease.

683 (u) "Present value" means the amount as of a date
684 certain of one or more sums payable in the future, discounted
685 to the date certain. The discount is determined by the
686 interest rate specified by the parties if the rate was not
687 manifestly unreasonable at the time the transaction was
688 entered into; otherwise, the discount is determined by the
689 court as a matter of law as a commercially reasonable rate
690 that takes into account the facts and circumstances of each
691 case at the time the transaction was entered into.

692 (v) "Purchase" includes taking by sale, lease,
693 mortgage, security interest, pledge, gift, or any other
694 voluntary transaction creating an interest in goods.

695 (w) "Sublease" means a lease of goods the right to
696 possession and use of which was acquired by the lessor as a
697 lessee under an existing lease.

698 (x) "Supplier" means a person from whom a lessor buys
699 or leases goods to be leased under a finance lease.

700 (y) "Supply contract" means a contract under which a



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701 lessor buys or leases goods to be leased.

702 (z) "Termination" occurs when either party pursuant to
703 a power created by agreement or law puts an end to the lease
704 contract otherwise than for default.

705 (2) Other definitions applying to this article and the
706 sections in which they appear are:

707 "Accessions." Section 7-2A-310(1).

708 "Construction mortgage." Section 7-2A-309(1)(d).

709 "Encumbrance." Section 7-2A-309(1)(e).

710 "Fixtures." Section 7-2A-309(1)(a).

711 "Fixture filing." Section 7-2A-309(1)(b).

712 "Purchase money lease." Section 7-2A-309(1)(c).

713 (3) The following definitions in sections of the Code
714 of Alabama 1975, apply to this article:

715 "Account." Section 7-9A-102(a)(2).

716 "Between merchants." Section 7-2-104(3).

717 "Buyer." Section 7-2-103(1)(a).

718 "Chattel paper." Section 7-9A-102(a)(11).

719 "Consumer goods." Section 7-9A-102(a)(23).

720 "Document." Section 7-9A-102(a)(30).

721 "Entrusting." Section 7-2-403(3).

722 "General intangible." Section 7-9A-102(a)(42).

723 "Good faith." Section 7-2-103(1)(b).

724 "Instrument." Section 7-9A-102(a)(47).

725 "Merchant." Section 7-2-104(1).

726 "Mortgage." Section 7-9A-102(a)(55).

727 "Pursuant to commitment." Section 7-9A-102(a)(68).

728 "Receipt." Section 7-2-103(1)(c).



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729 "Sale." Section 7-2-106(1).

730 "Sale on approval." Section 7-2-326.

731 "Sale or return." Section 7-2-326.

732 "Seller." Section 7-2-103(1)(d).

733 (4) In addition, Section 7-1-201 contains general
734 definitions and principles of construction and interpretation
735 applicable throughout this article."

736 "§7-2A-107. Waiver or renunciation of claim or right
737 after default.

738 Any claim or right arising out of an alleged default or
739 breach of warranty may be discharged in whole or in part
740 without consideration by a ~~written~~ waiver or renunciation in a
741 signed ~~and~~ record delivered by the aggrieved party."

742 "§7-2A-201. Statute of frauds.

743 (1) A lease contract is not enforceable by way of
744 action or defense unless:

745 (a) the total payments to be made under the lease
746 contract, excluding payments for options to renew or buy, are
747 less than one thousand dollars (\$1,000); or

748 (b) there is a ~~writing~~ record, signed by the party
749 against whom enforcement is sought or by that party's
750 authorized agent, sufficient to indicate that a lease contract
751 has been made between the parties and to describe the goods
752 leased and the lease term.

753 (2) Any description of leased goods or of the lease
754 term is sufficient and satisfies subsection (1)(b), whether or
755 not it is specific, if it reasonably identifies what is
756 described.



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757 (3) A ~~writing~~ record is not insufficient because it
758 omits or incorrectly states a term agreed upon, but the lease
759 contract is not enforceable under subsection (1)(b) beyond the
760 lease term and the quantity of goods shown in the ~~writing~~
761 record.

762 (4) A lease contract that does not satisfy the
763 requirements of subsection (1), but which is valid in other
764 respects, is enforceable:

765 (a) if the goods are to be specially manufactured or
766 obtained for the lessee and are not suitable for lease or sale
767 to others in the ordinary course of the lessor's business, and
768 the lessor, before notice of repudiation is received and under
769 circumstances that reasonably indicate that the goods are for
770 the lessee, has made either a substantial beginning of their
771 manufacture or commitments for their procurement;

772 (b) if the party against whom enforcement is sought
773 admits in that party's pleading, testimony, or otherwise in
774 court that a lease contract was made, but the lease contract
775 is not enforceable under this provision beyond the quantity of
776 goods admitted; or

777 (c) with respect to goods that have been received and
778 accepted by the lessee.

779 (5) The lease term under a lease contract referred to
780 in subsection (4) is:

781 (a) if there is a ~~writing~~ record signed by the party
782 against whom enforcement is sought or by that party's
783 authorized agent specifying the lease term, the term so
784 specified;



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785 (b) if the party against whom enforcement is sought
786 admits in that party's pleading, testimony, or otherwise in
787 court a lease term, the term so admitted; or

788 (c) a reasonable lease term."

789 "§7-2A-202. Final ~~written~~ expression: Parol or
790 extrinsic evidence.

791 Terms with respect to which the confirmatory memoranda
792 of the parties agree or which are otherwise set forth in a
793 ~~writing~~ record intended by the parties as a final expression
794 of their agreement with respect to such terms as are included
795 therein may not be contradicted by evidence of any prior
796 agreement or of a contemporaneous oral agreement but may be
797 explained or supplemented:

798 (a) by course of dealing or usage of trade or by course
799 of performance; and

800 (b) by evidence of consistent additional terms unless
801 the court finds the ~~writing~~record to have been intended also
802 as a complete and exclusive statement of the terms of the
803 agreement."

804 "§7-2A-203. Seals inoperative.

805 The affixing of a seal to a ~~writing~~ record evidencing a
806 lease contract or an offer to enter into a lease contract does
807 not render the ~~writing~~ record a sealed instrument and the law
808 with respect to sealed instruments does not apply to the lease
809 contract or offer."

810 "§7-2A-205. Firm offers.

811 An offer by a merchant to lease goods to or from
812 another person in a signed ~~writing~~ record that by its terms



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813 gives assurance it will be held open is not revocable, for
814 lack of consideration, during the time stated or, if no time
815 is stated, for a reasonable time, but in no event may the
816 period of irrevocability exceed~~3~~ three months. Any such term
817 of assurance on a form supplied by the offeree must be
818 separately signed by the offeror."

819 "§7-2A-208. Modification, rescission and waiver.

820 (1) An agreement modifying a lease contract needs no
821 consideration to be binding.

822 (2) A signed lease agreement that excludes modification
823 or rescission except by a signed~~writing~~ record may not be
824 otherwise modified or rescinded, but, except as between
825 merchants, such a requirement on a form supplied by a merchant
826 must be separately signed by the other party.

827 (3) The requirements of the statute of frauds section
828 of this article (Section 7-2A-201) must be satisfied if the
829 contract as modified is within its provisions.

830 (4) Although an attempt at modification or rescission
831 does not satisfy the requirements of subsection (2), it may
832 operate as a waiver.

833 (5) A party who has made a waiver affecting an
834 executory portion of a lease contract may retract the waiver
835 by reasonable notification received by the other party that
836 strict performance will be required of any term waived, unless
837 the retraction would be unjust in view of a material change of
838 position in reliance on the waiver.

839 "§7-3-104. Negotiable instrument.

840 (a) Except as provided in subsections (c) and (d),



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841 "negotiable instrument" means an unconditional promise or
842 order to pay a fixed amount of money, with or without interest
843 or other charges described in the promise or order, if it:

844 (1) ~~Is~~is payable to bearer or to order at the time it
845 is issued or first comes into possession of a holder;

846 (2) ~~Is~~is payable on demand or at a definite time; and

847 (3) ~~Does~~does not state any other undertaking or
848 instruction by the person promising or ordering payment to do
849 any act in addition to the payment of money, but the promise
850 or order may contain (i) an undertaking or power to give,
851 maintain, or protect collateral to secure payment, (ii) an
852 authorization or power to the holder to confess judgment or
853 realize on or dispose of collateral, ~~or~~ (iii) a waiver of the
854 benefit of any law intended for the advantage or protection of
855 an obligor, (iv) a term that specifies the law that governs
856 the promise or order, or (v) an undertaking to resolve in a
857 specified forum a dispute concerning the promise or order.

858 (b) "Instrument" means a negotiable instrument.

859 (c) An order that meets all of the requirements of
860 subsection (a), except subdivision (1), and otherwise falls
861 within the definition of "check" in subsection (f) is a
862 negotiable instrument and a check.

863 (d) A promise or order other than a check is not an
864 instrument if, at the time it is issued or first comes into
865 possession of a holder, it contains a conspicuous statement,
866 however expressed, to the effect that the promise or order is
867 not negotiable or is not an instrument governed by this
868 article.



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869 (e) An instrument is a "note" if it is a promise and is
870 a "draft" if it is an order. If an instrument falls within the
871 definition of both "note" and "draft," a person entitled to
872 enforce the instrument may treat it as either.

873 (f) "Check" means (i) a draft, other than a documentary
874 draft, payable on demand and drawn on a bank or (ii) a
875 cashier's check or teller's check. An instrument may be a
876 check even though it is described on its face by another term,
877 such as "money order."

878 (g) "Cashier's check" means a draft with respect to
879 which the drawer and drawee are the same bank or branches of
880 the same bank.

881 (h) "Teller's check" means a draft drawn by a bank (i)
882 on another bank, or (ii) payable at or through a bank.

883 (i) "Traveler's check" means an instrument that (i) is
884 payable on demand, (ii) is drawn on or payable at or through a
885 bank, (iii) is designated by the term "traveler's check" or by
886 a substantially similar term, and (iv) requires, as a
887 condition to payment, a countersignature by a person whose
888 specimen signature appears on the instrument.

889 (j) "Certificate of deposit" means an instrument
890 containing an acknowledgment by a:

891 (1) bank that a sum of money has been received by the
892 bank and a promise by the bank to repay the sum of money. A
893 certificate of deposit is a note of the bank."

894 "§7-3-105. Issue of instrument.

895 (a) "Issue" means:

896 (1) the first delivery of an instrument by the maker or



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897 drawer, whether to a holder or nonholder, for the purpose of
898 giving rights on the instrument to any person-; or

899 (2) if agreed by the payee, the first transmission by
900 the drawer to the payee of an image of an item and information
901 derived from the item that enables the depository bank to
902 collect the item by transferring or presenting under federal
903 law an electronic check.

904 (b) An unissued instrument, or an unissued incomplete
905 instrument that is completed, is binding on the maker or
906 drawer, but nonissuance is a defense. An instrument that is
907 conditionally issued or is issued for a special purpose is
908 binding on the maker or drawer, but failure of the condition
909 or special purpose to be fulfilled is a defense.

910 (c) "Issuer" applies to issued and unissued instruments
911 and means a maker or drawer of an instrument."

912 "§7-3-401. Signature necessary for liability on
913 instrument.

914 ~~(a)~~ A person is not liable on an instrument unless (i)
915 the person signed the instrument, or (ii) the person is
916 represented by an agent or representative who signed the
917 instrument and the signature is binding on the represented
918 person under Section 7-3-402.

919 ~~(b) A signature may be made (i) manually or by means of~~
920 ~~a device or machine, and (ii) by the use of any name,~~
921 ~~including a trade or assumed name, or by a word, mark, or~~
922 ~~symbol executed or adopted by a person with present intention~~
923 ~~to authenticate a writing."~~

924 "§7-3-604. Discharge by cancellation or renunciation.



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925 (a) A person entitled to enforce an instrument, with or
926 without consideration, may discharge the obligation of a party
927 to pay the instrument (i) by an intentional voluntary act,
928 such as surrender of the instrument to the party, destruction,
929 mutilation, or cancellation of the instrument, cancellation or
930 striking out of the party's signature, or the addition of
931 words to the instrument indicating discharge, or (ii) by
932 agreeing not to sue or otherwise renouncing rights against the
933 party by a signed ~~writing~~ record. The obligation of a party to
934 pay a check is not discharged solely by destruction of the
935 check in connection with a process in which information is
936 extracted from the check and an image of the check is made
937 and, subsequently, the information and image are transmitted
938 for payment.

939 (b) Cancellation or striking out of an indorsement
940 pursuant to subsection (a) does not affect the status and
941 rights of a party derived from the indorsement."

942 "§7-4A-103. Payment order - Definitions.

943 (a) In this article:

944 (1) "Payment order" means an instruction of a sender to
945 a receiving bank, transmitted orally, ~~electronically, or in~~
946 ~~writing~~ or in a record, to pay, or to cause another bank to
947 pay, a fixed or determinable amount of money to a beneficiary
948 if:

949 (i) the instruction does not state a condition to
950 payment to the beneficiary other than time of payment,

951 (ii) the receiving bank is to be reimbursed by debiting
952 an account of, or otherwise receiving payment from, the



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953 sender, and

954 (iii) the instruction is transmitted by the sender
955 directly to the receiving bank or to an agent, funds-transfer
956 system, or communication system for transmittal to the
957 receiving bank.

958 (2) "Beneficiary" means the person to be paid by the
959 beneficiary's bank.

960 (3) "Beneficiary's bank" means the bank identified in a
961 payment order in which an account of the beneficiary is to be
962 credited pursuant to the order or which otherwise is to make
963 payment to the beneficiary if the order does not provide for
964 payment to an account.

965 (4) "Receiving bank" means the bank to which the
966 sender's instruction is addressed.

967 (5) "Sender" means the person giving the instruction to
968 the receiving bank.

969 (b) If an instruction complying with subsection (a)(1)
970 is to make more than one payment to a beneficiary, the
971 instruction is a separate payment order with respect to each
972 payment.

973 (c) A payment order is issued when it is sent to the
974 receiving bank."

975 "§7-4A-201. Security procedure.

976 "Security procedure" means a procedure established by
977 agreement of a customer and a receiving bank for the purpose
978 of (i) verifying that a payment order or communication
979 amending or cancelling a payment order is that of the
980 customer, or (ii) detecting error in the transmission or the



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981 content of the payment order or communication. A security
982 procedure may impose an obligation on the receiving bank or
983 the customer and may require the use of algorithms or other
984 codes, identifying words, ~~or~~ numbers, symbols, sounds,
985 biometrics, encryption, callback procedures, or similar
986 security devices. Comparison of a signature on a payment order
987 or communication with an authorized specimen signature of the
988 customer or requiring a payment order to be sent from a known
989 email address, IP address, or telephone number is not by
990 itself a security procedure."

991 "§7-4A-202. Authorized and verified payment orders.

992 (a) A payment order received by the receiving bank is
993 the authorized order of the person identified as sender if
994 that person authorized the order or is otherwise bound by it
995 under the law of agency.

996 (b) If a bank and its customer have agreed that the
997 authenticity of payment orders issued to the bank in the name
998 of the customer as sender will be verified pursuant to a
999 security procedure, a payment order received by the receiving
1000 bank is effective as the order of the customer, whether or not
1001 authorized, if (i) the security procedure is a commercially
1002 reasonable method of providing security against unauthorized
1003 payment orders, and (ii) the bank proves that it accepted the
1004 payment order in good faith and in compliance with the bank's
1005 obligations under the security procedure and any ~~written~~
1006 agreement or instruction of the customer, evidenced by a
1007 record, restricting acceptance of payment orders issued in the
1008 name of the customer. The bank is not required to follow an



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1009 instruction that violates ~~a written~~ an agreement with the
1010 customer, evidenced by a record, ~~with the customer~~ or notice
1011 of which is not received at a time and in a manner affording
1012 the bank a reasonable opportunity to act on it before the
1013 payment order is accepted.

1014 (c) Commercial reasonableness of a security procedure
1015 is a question of law to be determined by considering the
1016 wishes of the customer expressed to the bank, the
1017 circumstances of the customer known to the bank, including the
1018 size, type, and frequency of payment orders normally issued by
1019 the customer to the bank, alternative security procedures
1020 offered to the customer, and security procedures in general
1021 use by customers and receiving banks similarly situated. A
1022 security procedure is deemed to be commercially reasonable if
1023 (i) the security procedure was chosen by the customer after
1024 the bank offered, and the customer refused, a security
1025 procedure that was commercially reasonable for that customer,
1026 and (ii) the customer expressly agreed in ~~writing~~ a record to
1027 be bound by any payment order, whether or not authorized,
1028 issued in its name, and accepted by the bank in compliance
1029 with the bank's obligations under the security procedure
1030 chosen by the customer.

1031 (d) The term "sender" in this article includes the
1032 customer in whose name a payment order is issued if the order
1033 is the authorized order of the customer under subsection (a),
1034 or it is effective as the order of the customer under
1035 subsection (b).

1036 (e) This section applies to amendments and



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1037 cancellations of payment orders to the same extent it applies
1038 to payment orders.

1039 (f) Except as provided in this section and in Section
1040 7-4A-203(a)(1), rights and obligations arising under this
1041 section or Section 7-4A-203 may not be varied by agreement."

1042 "§7-4A-203. Unenforceability of certain verified
1043 payment orders.

1044 (a) If an accepted payment order is not, under Section
1045 7-4A-202(a), an authorized order of a customer identified as
1046 sender, but is effective as an order of the customer pursuant
1047 to Section 7-4A-202(b), the following rules apply:

1048 (1) By express ~~written~~ agreement evidenced by a record,
1049 the receiving bank may limit the extent to which it is
1050 entitled to enforce or retain payment of the payment order.

1051 (2) The receiving bank is not entitled to enforce or
1052 retain payment of the payment order if the customer proves
1053 that the order was not caused, directly or indirectly, by a
1054 person (i) entrusted at any time with duties to act for the
1055 customer with respect to payment orders or the security
1056 procedure, or (ii) who obtained access to transmitting
1057 facilities of the customer or who obtained, from a source
1058 controlled by the customer and without authority of the
1059 receiving bank, information facilitating breach of the
1060 security procedure, regardless of how the information was
1061 obtained or whether the customer was at fault. Information
1062 includes any access device, computer software, or the like.

1063 (b) This section applies to amendments of payment
1064 orders to the same extent it applies to payment orders."



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1065 "§7-4A-207. Misdescription of beneficiary.

1066 (a) Subject to subsection (b), if, in a payment order
1067 received by the beneficiary's bank, the name, bank account
1068 number, or other identification of the beneficiary refers to a
1069 nonexistent or unidentifiable person or account, no person has
1070 rights as a beneficiary of the order and acceptance of the
1071 order cannot occur.

1072 (b) If a payment order received by the beneficiary's
1073 bank identifies the beneficiary both by name and by an
1074 identifying or bank account number and the name and number
1075 identify different persons, the following rules apply:

1076 (1) Except as otherwise provided in subsection (c), if
1077 the beneficiary's bank does not know that the name and number
1078 refer to different persons, it may rely on the number as the
1079 proper identification of the beneficiary of the order. The
1080 beneficiary's bank need not determine whether the name and
1081 number refer to the same person.

1082 (2) If the beneficiary's bank pays the person
1083 identified by name or knows that the name and number identify
1084 different persons, no person has rights as beneficiary except
1085 the person paid by the beneficiary's bank if that person was
1086 entitled to receive payment from the originator of the funds
1087 transfer. If no person has rights as beneficiary, acceptance
1088 of the order cannot occur.

1089 (c) If (i) a payment order described in subsection (b)
1090 is accepted, (ii) the originator's payment order described the
1091 beneficiary inconsistently by name and number, and (iii) the
1092 beneficiary's bank pays the person identified by number as



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1093 permitted by subsection (b)(1), the following rules apply:

1094 (1) If the originator is a bank, the originator is
1095 obliged to pay its order.

1096 (2) If the originator is not a bank and proves that the
1097 person identified by number was not entitled to receive
1098 payment from the originator, the originator is not obliged to
1099 pay its order unless the originator's bank proves that the
1100 originator, before acceptance of the originator's order, had
1101 notice that payment of a payment order issued by the
1102 originator might be made by the beneficiary's bank on the
1103 basis of an identifying or bank account number even if it
1104 identifies a person different from the named beneficiary.
1105 Proof of notice may be made by any admissible evidence. The
1106 originator's bank satisfies the burden of proof if it proves
1107 that the originator, before the payment order was accepted,
1108 signed a ~~writing~~ record stating the information to which the
1109 notice relates.

1110 (d) In a case governed by subsection (b)(1), if the
1111 beneficiary's bank rightfully pays the person identified by
1112 number and that person was not entitled to receive payment
1113 from the originator, the amount paid may be recovered from
1114 that person to the extent allowed by the law governing mistake
1115 and restitution as follows:

1116 (1) If the originator is obliged to pay its payment
1117 order as stated in subsection (c), the originator has the
1118 right to recover.

1119 (2) If the originator is not a bank and is not obliged
1120 to pay its payment order, the originator's bank has the right



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1121 to recover."

1122 "§7-4A-208. Misdescription of intermediary bank or
1123 beneficiary's bank.

1124 (a) This subsection applies to a payment order
1125 identifying an intermediary bank or the beneficiary's bank
1126 only by an identifying number.

1127 (1) The receiving bank may rely on the number as the
1128 proper identification of the intermediary or beneficiary's
1129 bank and need not determine whether the number identifies a
1130 bank.

1131 (2) The sender is obliged to compensate the receiving
1132 bank for any loss and expenses incurred by the receiving bank
1133 as a result of its reliance on the number in executing or
1134 attempting to execute the order.

1135 (b) This subsection applies to a payment order
1136 identifying an intermediary bank or the beneficiary's bank
1137 both by name and an identifying number if the name and number
1138 identify different persons.

1139 (1) If the sender is a bank, the receiving bank may
1140 rely on the number as the proper identification of the
1141 intermediary or beneficiary's bank if the receiving bank, when
1142 it executes the sender's order, does not know that the name
1143 and number identify different persons. The receiving bank need
1144 not determine whether the name and number refer to the same
1145 person or whether the number refers to a bank. The sender is
1146 obliged to compensate the receiving bank for any loss and
1147 expenses incurred by the receiving bank as a result of its
1148 reliance on the number in executing or attempting to execute



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1149 the order.

1150 (2) If the sender is not a bank and the receiving bank
1151 proves that the sender, before the payment order was accepted,
1152 had notice that the receiving bank might rely on the number as
1153 the proper identification of the intermediary or beneficiary's
1154 bank even if it identifies a person different from the bank
1155 identified by name, the rights and obligations of the sender
1156 and the receiving bank are governed by subsection (b) (1), as
1157 though the sender were a bank. Proof of notice may be made by
1158 any admissible evidence. The receiving bank satisfies the
1159 burden of proof if it proves that the sender, before the
1160 payment order was accepted, signed a ~~writing~~ record stating
1161 the information to which the notice relates.

1162 (3) Regardless of whether the sender is a bank, the
1163 receiving bank may rely on the name as the proper
1164 identification of the intermediary or beneficiary's bank if
1165 the receiving bank, at the time it executes the sender's
1166 order, does not know that the name and number identify
1167 different persons. The receiving bank need not determine
1168 whether the name and number refer to the same person.

1169 (4) If the receiving bank knows that the name and
1170 number identify different persons, reliance on either the name
1171 or the number in executing the sender's payment order is a
1172 breach of the obligation stated in Section 7-4A-302(a) (1)."

1173 "§7-4A-210. Rejection of payment order.

1174 (a) A payment order is rejected by the receiving bank
1175 by a notice of rejection transmitted to the sender orally~~r~~
1176 ~~electronically,~~ or in ~~writing~~ a record. A notice of rejection



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1177 need not use any particular words and is sufficient if it
1178 indicates that the receiving bank is rejecting the order or
1179 will not execute or pay the order. Rejection is effective when
1180 the notice is given if transmission is by a means that is
1181 reasonable in the circumstances. If notice of rejection is
1182 given by a means that is not reasonable, rejection is
1183 effective when the notice is received. If an agreement of the
1184 sender and receiving bank establishes the means to be used to
1185 reject a payment order, (i) any means complying with the
1186 agreement is reasonable, and (ii) any means not complying is
1187 not reasonable unless no significant delay in receipt of the
1188 notice resulted from the use of the noncomplying means.

1189 (b) This subsection applies if a receiving bank other
1190 than the beneficiary's bank fails to execute a payment order
1191 despite the existence on the execution date of a withdrawable
1192 credit balance in an authorized account of the sender
1193 sufficient to cover the order. If the sender does not receive
1194 notice of rejection of the order on the execution date and the
1195 authorized account of the sender does not bear interest, the
1196 bank is obliged to pay interest to the sender on the amount of
1197 the order for the number of days elapsing after the execution
1198 date to the earlier of the day the order is canceled pursuant
1199 to Section 7-4A-211(d) or the day the sender receives notice
1200 or learns that the order was not executed, counting the final
1201 day of the period as an elapsed day. If the withdrawable
1202 credit balance during that period falls below the amount of
1203 the order, the amount of interest is reduced accordingly.

1204 (c) If a receiving bank suspends payments, all



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1205 unaccepted payment orders issued to it are deemed rejected at
1206 the time the bank suspends payments.

1207 (d) Acceptance of a payment order precludes a later
1208 rejection of the order. Rejection of a payment order precludes
1209 a later acceptance of the order."

1210 "§7-4A-211. Cancellation and amendment of payment
1211 order.

1212 (a) A communication of the sender of a payment order
1213 cancelling or amending the order may be transmitted to the
1214 receiving bank orally, ~~electronically~~, or in ~~writing~~ a record.
1215 If a security procedure is in effect between the sender and
1216 the receiving bank, the communication is not effective to
1217 cancel or amend the order unless the communication is verified
1218 pursuant to the security procedure or the bank agrees to the
1219 cancellation or amendment.

1220 (b) Subject to subsection (a), a communication by the
1221 sender cancelling or amending a payment order is effective to
1222 cancel or amend the order if notice of the communication is
1223 received at a time and in a manner affording the receiving
1224 bank a reasonable opportunity to act on the communication
1225 before the bank accepts the payment order.

1226 (c) After a payment order has been accepted,
1227 cancellation or amendment of the order is not effective unless
1228 the receiving bank agrees or a funds-transfer system rule
1229 allows cancellation or amendment without agreement of the
1230 bank.

1231 (1) With respect to a payment order accepted by a
1232 receiving bank other than the beneficiary's bank, cancellation



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1233 or amendment is not effective unless a conforming cancellation
1234 or amendment of the payment order issued by the receiving bank
1235 is also made.

1236 (2) With respect to a payment order accepted by the
1237 beneficiary's bank, cancellation or amendment is not effective
1238 unless the order was issued in execution of an unauthorized
1239 payment order, or because of a mistake by a sender in the
1240 funds transfer which resulted in the issuance of a payment
1241 order (i) that is a duplicate of a payment order previously
1242 issued by the sender, (ii) that orders payment to a
1243 beneficiary not entitled to receive payment from the
1244 originator, or (iii) that orders payment in an amount greater
1245 than the amount the beneficiary was entitled to receive from
1246 the originator. If the payment order is canceled or amended,
1247 the beneficiary's bank is entitled to recover from the
1248 beneficiary any amount paid to the beneficiary to the extent
1249 allowed by the law governing mistake and restitution.

1250 (d) An unaccepted payment order is canceled by
1251 operation of law at the close of the fifth funds-transfer
1252 business day of the receiving bank after the execution date or
1253 payment date of the order.

1254 (e) A canceled payment order cannot be accepted. If an
1255 accepted payment order is canceled, the acceptance is
1256 nullified and no person has any right or obligation based on
1257 the acceptance. Amendment of a payment order is deemed to be
1258 cancellation of the original order at the time of amendment
1259 and issue of a new payment order in the amended form at the
1260 same time.



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1261 (f) Unless otherwise provided in an agreement of the
1262 parties or in a funds-transfer system rule, if the receiving
1263 bank, after accepting a payment order agrees to cancellation
1264 or amendment of the order by the sender or is bound by a
1265 funds-transfer system rule allowing cancellation or amendment
1266 without the bank's agreement, the sender, whether or not
1267 cancellation or amendment is effective, is liable to the bank
1268 for any loss and expenses, including reasonable attorney's
1269 fees, incurred by the bank as a result of the cancellation or
1270 amendment or attempted cancellation or amendment.

1271 (g) A payment order is not revoked by the death or
1272 legal incapacity of the sender unless the receiving bank knows
1273 of the death or of an adjudication of incapacity by a court of
1274 competent jurisdiction and has reasonable opportunity to act
1275 before acceptance of the order.

1276 (h) A funds-transfer system rule is not effective to
1277 the extent it conflicts with subsection (c) (2)."

1278 "§7-4A-305. Liability for late or improper execution or
1279 failure to execute payment order.

1280 (a) If a funds transfer is completed but execution of a
1281 payment order by the receiving bank in breach of Section
1282 7-4A-302 results in delay in payment to the beneficiary, the
1283 bank is obliged to pay interest to either the originator or
1284 the beneficiary of the funds transfer for the period of delay
1285 caused by the improper execution. Except as provided in
1286 subsection (c), additional damages are not recoverable.

1287 (b) If execution of a payment order by a receiving bank
1288 in breach of Section 7-4A-302 results in (i) noncompletion of



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1289 the funds transfer, (ii) failure to use an intermediary bank
1290 designated by the originator, or (iii) issuance of a payment
1291 order that does not comply with the terms of the payment order
1292 of the originator, the bank is liable to the originator for
1293 its expenses in the funds transfer and for incidental expenses
1294 and interest losses, to the extent not covered by subsection
1295 (a), resulting from the improper execution. Except as provided
1296 in subsection (c), additional damages are not recoverable.

1297 (c) In addition to the amounts payable under
1298 subsections (a) and (b), damages, including consequential
1299 damages, are recoverable to the extent provided in an express
1300 ~~written~~ agreement of the receiving bank, evidenced by a
1301 record.

1302 (d) If a receiving bank fails to execute a payment
1303 order it was obliged by express agreement to execute, the
1304 receiving bank is liable to the sender for its expenses in the
1305 transaction and for incidental expenses and interest losses
1306 resulting from the failure to execute. Additional damages,
1307 including consequential damages, are recoverable to the extent
1308 provided in an express ~~written~~ agreement of the receiving
1309 bank, evidenced by a record, but are not otherwise
1310 recoverable.

1311 (e) Reasonable attorney's fees are recoverable if
1312 demand for compensation under subsection (a) or (b) is made
1313 and refused before an action is brought on the claim. If a
1314 claim is made for breach of an agreement under subsection (d)
1315 and the agreement does not provide for damages, reasonable
1316 attorney's fees are recoverable if demand for compensation



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1317 under subsection (d) is made and refused before an action is
1318 brought on the claim.

1319 (f) Except as stated in this section, the liability of a
1320 receiving bank under subsections (a) and (b) may not be varied
1321 by agreement."

1322 "§7-5-104. Formal requirements.

1323 A letter of credit, confirmation, advice, transfer,
1324 amendment, or cancellation may be issued in any form that is a
1325 signed record ~~and is authenticated (i) by a signature or (ii)~~
1326 ~~in accordance with the agreement of the parties or the~~
1327 ~~standard practice referred to in Section 7-5-108(c).~~"

1328 "§7-5-116. Choice of law and forum.

1329 (a) The liability of an issuer, nominated person, or
1330 adviser for action or omission is governed by the law of the
1331 jurisdiction chosen by an agreement in the form of a record
1332 signed ~~or otherwise authenticated~~ by the affected parties ~~in~~
1333 ~~the manner provided in Section 7-5-104~~ or by a provision in
1334 the person's letter of credit, confirmation, or other
1335 undertaking. The jurisdiction whose law is chosen need not
1336 bear any relation to the transaction.

1337 (b) Unless subsection (a) applies, the liability of an
1338 issuer, nominated person, or adviser for action or omission is
1339 governed by the law of the jurisdiction in which the person is
1340 located. The person is considered to be located at the address
1341 indicated in the person's undertaking. If more than one
1342 address is indicated, the person is considered to be located
1343 at the address from which the person's undertaking was issued.

1344 (c) For the purpose of jurisdiction, choice of law, and



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1345 recognition of interbranch letters of credit, but not
1346 enforcement of a judgment, all branches of a bank are
1347 considered separate juridical entities and a bank is
1348 considered to be located at the place where its relevant
1349 branch is considered to be located under ~~this~~ subsection (d).

1350 (d) A branch of a bank is considered to be located at
1351 the address indicated in the branch's undertaking. If more
1352 than one address is indicated, the branch is considered to be
1353 located at the address from which the undertaking was issued.

1354 ~~(e)~~ (e) Except as otherwise provided in this subsection,
1355 the liability of an issuer, nominated person, or adviser is
1356 governed by any rules of custom or practice, such as the
1357 Uniform Customs and Practice for Documentary Credits, to which
1358 the letter of credit, confirmation, or other undertaking is
1359 expressly made subject. If (i) this article would govern the
1360 liability of an issuer, nominated person, or adviser under
1361 subsection (a) or (b), (ii) the relevant undertaking
1362 incorporates rules of custom or practice, and (iii) there is
1363 conflict between this article and those rules as applied to
1364 that undertaking, those rules govern except to the extent of
1365 any conflict with the nonvariable provisions specified in
1366 Section 7-5-103(c).

1367 ~~(d)~~ (f) If there is conflict between this article and
1368 Article 3, 4, 4A, or 9, this article governs.

1369 ~~(e)~~ (g) The forum for settling disputes arising out of
1370 an undertaking within this article may be chosen in the manner
1371 and with the binding effect that governing law may be chosen
1372 in accordance with subsection (a)."



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1373 "§7-7-102. Definitions and index of definitions.

1374 (a) In this article, unless the context otherwise
1375 requires:

1376 (1) "Bailee" means a person that by a warehouse
1377 receipt, bill of lading, or other document of title
1378 acknowledges possession of goods and contracts to deliver
1379 them.

1380 (2) A "carrier" means a person that issues a bill of
1381 lading.

1382 (3) "Consignee" means a person named in a bill of
1383 lading to which or to whose order the bill promises delivery.

1384 (4) "Consignor" means a person named in a bill of
1385 lading as the person from which the goods have been received
1386 for shipment.

1387 (5) "Delivery order" means a record that contains an
1388 order to deliver goods directed to a warehouse, carrier, or
1389 other person that in the ordinary course of business issues
1390 warehouse receipts or bills of lading.

1391 (6) "Good faith" means honesty in fact in the conduct
1392 or transaction concerned.

1393 (7) "Goods" means all things that are treated as
1394 movable for the purposes of a contract for storage or
1395 transportation.

1396 (8) "Issuer" means a bailee that issues a document of
1397 title or, in the case of an unaccepted delivery order, the
1398 person that orders the possessor of goods to deliver. The term
1399 includes a person for which an agent or employee purports to
1400 act in issuing a document if the agent or employee has real or



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1401 apparent authority to issue documents, even if the issuer did
1402 not receive any goods, the goods were misdescribed, or in any
1403 other respect the agent or employee violated the issuer's
1404 instructions.

1405 (9) "Person entitled under the document" means the
1406 holder, in the case of a negotiable document of title, or the
1407 person to which delivery of the goods is to be made by the
1408 terms of, or pursuant to instructions in a record under, a
1409 nonnegotiable document of title.

1410 (10) ~~"Record" means information that is inscribed on a~~
1411 ~~tangible medium or that is stored in an electronic or other~~
1412 ~~medium and is retrievable in perceivable form.~~ [Reserved].

1413 (11) ~~"Sign" means, with present intent to authenticate~~
1414 ~~or adopt a record:~~

1415 ~~(A) To execute or adopt a tangible symbol; or~~

1416 ~~(B) To attach to or logically associate with the record~~
1417 ~~an electronic sound, symbol, or process.~~ [Reserved].

1418 (12) "Shipper" means a person that enters into a
1419 contract of transportation with a carrier.

1420 (13) "Warehouse" means a person engaged in the business
1421 of storing goods for hire.

1422 (b) Definitions in other articles applying to this
1423 article and the sections in which they appear are:

1424 (1) "Contract for sale," Section 7-2-106.

1425 (2) "Lessee in ordinary course," Section 7-2A-103.

1426 (3) "Receipt" of goods, Section 7-2-103.

1427 (c) In addition, Article 1 contains general definitions
1428 and principles of construction and interpretation applicable



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1429 throughout this article."

1430 "§7-7-106. Control of electronic document of title.

1431 (a) A person has control of an electronic document of
1432 title if a system employed for evidencing the transfer of
1433 interests in the electronic document reliably establishes that
1434 person as the person to which the electronic document was
1435 issued or transferred.

1436 (b) A system satisfies subsection (a), and a person ~~is~~
1437 ~~deemed to have~~ has control of an electronic document of title,
1438 if the document is created, stored, and ~~assigned~~ transferred
1439 in such a manner that:

1440 (1) ~~A~~ a single authoritative copy of the document exists
1441 which is unique, identifiable, and, except as otherwise
1442 provided in subdivisions (4), (5), and (6), unalterable;

1443 (2) ~~The~~ the authoritative copy identifies the person
1444 asserting control as:

1445 a. ~~The~~ the person to which the document was issued; or

1446 b. ~~If~~ if the authoritative copy indicates that the
1447 document has been transferred, the person to which the
1448 document was most recently transferred;

1449 (3) ~~The~~ the authoritative copy is communicated to and
1450 maintained by the person asserting control or its designated
1451 custodian;

1452 (4) ~~Copies~~ copies or amendments that add or change an
1453 identified ~~assignee~~ transferee of the authoritative copy can be
1454 made only with the consent of the person asserting control;

1455 (5) ~~Each~~ each copy of the authoritative copy and any
1456 copy of a copy is readily identifiable as a copy that is not



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1457 the authoritative copy; and

1458 (6) Anyany amendment of the authoritative copy is
1459 readily identifiable as authorized or unauthorized.

1460 (c) A system satisfies subsection (a) and a person has
1461 control of an electronic document of title, if an
1462 authoritative electronic copy of the document, a record
1463 attached to or logically associated with the electronic copy,
1464 or a system in which the electronic copy is recorded:

1465 (1) enables the person readily to identify each
1466 electronic copy as either an authoritative copy or a
1467 nonauthoritative copy;

1468 (2) enables the person readily to identify itself in
1469 any way, including by name, identifying number, cryptographic
1470 key, office, or account number, as the person to which each
1471 authoritative electronic copy was issued or transferred; and

1472 (3) gives the person exclusive power, subject to
1473 subsection (d), to:

1474 (A) prevent others from adding or changing the person
1475 to which each authoritative electronic copy has been issued or
1476 transferred; and

1477 (B) transfer control of each authoritative electronic
1478 copy.

1479 (d) Subject to subsection (e), a power is exclusive
1480 under subsection (c) (3) (A) and (B), even if:

1481 (1) the authoritative electronic copy, a record
1482 attached to or logically associated with the authoritative
1483 electronic copy, or a system in which the authoritative
1484 electronic copy is recorded limits the use of the document of



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1485 title or has a protocol that is programmed to cause a change,
1486 including a transfer or loss of control; or

1487 (2) the power is shared with another person.

1488 (e) A power of a person is not shared with another
1489 person under subsection (d) (2) and the person's power is not
1490 exclusive if:

1491 (1) the person can exercise the power only if the power
1492 also is exercised by the other person; and

1493 (2) the other person:

1494 (A) can exercise the power without exercise of the
1495 power by the person; or

1496 (B) is the transferor to the person of an interest in
1497 the document of title.

1498 (f) If a person has the powers specified in subsection
1499 (c) (3) (A) and (B), the powers are presumed to be exclusive.

1500 (g) A person has control of an electronic document of
1501 title if another person, other than the transferor to the
1502 person of an interest in the document:

1503 (1) has control of the document and acknowledges that
1504 it has control on behalf of the person; or

1505 (2) obtains control of the document after having
1506 acknowledged that it will obtain control of the document on
1507 behalf of the person.

1508 (h) A person that has control under this section is not
1509 required to acknowledge that it has control on behalf of
1510 another person.

1511 (i) If a person acknowledges that it has or will obtain
1512 control on behalf of another person, unless the person



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1513 otherwise agrees or law other than this article or Article 9A
1514 otherwise provides, the person does not owe any duty to the
1515 other person and is not required to confirm the acknowledgment
1516 to any other person."

1517 "§7-8-102. Definitions and index of definitions.

1518 (a) In this article:

1519 (1) "Adverse claim" means a claim that a claimant has a
1520 property interest in a financial asset and that it is a
1521 violation of the rights of the claimant for another person to
1522 hold, transfer, or deal with the financial asset.

1523 (2) "Bearer form," as applied to a certificated
1524 security, means a form in which the security is payable to the
1525 bearer of the security certificate according to its terms but
1526 not by reason of an indorsement.

1527 (3) "Broker" means a person defined as a broker or
1528 dealer under the federal securities laws, but without
1529 excluding a bank acting in that capacity.

1530 (4) "Certificated security" means a security that is
1531 represented by a certificate.

1532 (5) "Clearing corporation" means:

1533 (i) a person that is registered as a "clearing agency"
1534 under the federal securities laws;

1535 (ii) a federal reserve bank; or

1536 (iii) any other person that provides clearance or
1537 settlement services with respect to financial assets that
1538 would require it to register as a clearing agency under the
1539 federal securities laws but for an exclusion or exemption from
1540 the registration requirement, if its activities as a clearing



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1541 corporation, including ~~promulgation~~adoption of rules, are
1542 subject to regulation by a federal or state governmental
1543 authority.

1544 (6) "Communicate" means to:

1545 (i) send a signed ~~writing~~record; or

1546 (ii) transmit information by any mechanism agreed upon
1547 by the persons transmitting and receiving the information.

1548 (7) "Entitlement holder" means a person identified in
1549 the records of a securities intermediary as the person having
1550 a security entitlement against the securities intermediary. If
1551 a person acquires a security entitlement by virtue of Section
1552 7-8-501(b) (2) or (3), that person is the entitlement holder.

1553 (8) "Entitlement order" means a notification
1554 communicated to a securities intermediary directing transfer
1555 or redemption of a financial asset to which the entitlement
1556 holder has a security entitlement.

1557 (9) "Financial asset," except as otherwise provided in
1558 Section 7-8-103, means:

1559 (i) a security;

1560 (ii) an obligation of a person or a share,
1561 participation, or other interest in a person or in property or
1562 an enterprise of a person, which is, or is of a type, dealt in
1563 or traded on financial markets, or which is recognized in any
1564 area in which it is issued or dealt in as a medium for
1565 investment; or

1566 (iii) any property that is held by a securities
1567 intermediary for another person in a securities account if the
1568 securities intermediary has expressly agreed with the other



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1569 person that the property is to be treated as a financial asset
1570 under this article. As the context requires, the term means
1571 either the interest itself or the means by which a person's
1572 claim to it is evidenced, including a certificated or
1573 uncertificated security, a security certificate, or a security
1574 entitlement.

1575 (10) "Good faith," for purposes of the obligation of
1576 good faith in the performance or enforcement of contracts or
1577 duties within this article, means honesty in fact and the
1578 observance of reasonable commercial standards of fair dealing.

1579 (11) "Indorsement" means a signature that alone or
1580 accompanied by other words is made on a security certificate
1581 in registered form or on a separate document for the purpose
1582 of assigning, transferring, or redeeming the security or
1583 granting a power to assign, transfer, or redeem it.

1584 (12) "Instruction" means a notification communicated to
1585 the issuer of an uncertificated security which directs that
1586 the transfer of the security be registered or that the
1587 security be redeemed.

1588 (13) "Registered form," as applied to a certificated
1589 security, means a form in which:

1590 (i) the security certificate specifies a person
1591 entitled to the security; and

1592 (ii) a transfer of the security may be registered upon
1593 books maintained for that purpose by or on behalf of the
1594 issuer, or the security certificate so states.

1595 (14) "Securities intermediary" means:

1596 (i) a clearing corporation; or



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1597 (ii) a person, including a bank or broker, that in the
1598 ordinary course of its business maintains securities accounts
1599 for others and is acting in that capacity.

1600 (15) "Security," except as otherwise provided in
1601 Section 7-8-103, means an obligation of an issuer or a share,
1602 participation, or other interest in an issuer or in property
1603 or an enterprise of an issuer:

1604 (i) which is represented by a security certificate in
1605 bearer or registered form, or the transfer of which may be
1606 registered upon books maintained for that purpose by or on
1607 behalf of the issuer;

1608 (ii) which is one of a class or series or by its terms
1609 is divisible into a class or series of shares, participations,
1610 interests, or obligations; and

1611 (iii) which:

1612 (A) is, or is of a type, dealt in or traded on
1613 securities exchanges or securities markets; or

1614 (B) is a medium for investment and by its terms
1615 expressly provides that it is a security governed by this
1616 article.

1617 (16) "Security certificate" means a certificate
1618 representing a security.

1619 (17) "Security entitlement" means the rights and
1620 property interest of an entitlement holder with respect to a
1621 financial asset specified in Part 5.

1622 (18) "Uncertificated security" means a security that is
1623 not represented by a certificate.

1624 (b) Other definitions applying to this article and the



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1625 sections in which they appear are:

1626 "Appropriate person." Section 7-8-107.

1627 "Control." Section 7-8-106.

1628 "Delivery." Section 7-8-301.

1629 "Investment company security." Section 7-8-103.

1630 "Issuer." Section 7-8-201.

1631 "Overissue." Section 7-8-210.

1632 "Protected purchaser." Section 7-8-303.

1633 "Securities account." Section 7-8-501.

1634 (b.1) The following definitions in this article and
1635 other articles apply to this article:

1636 "Controllable account." Section 7-9A-102.

1637 "Controllable electronic record." Section 7-12-102.

1638 "Controllable payment intangible." Section 7-9A-102.

1639 (c) In addition, Article 1 contains general definitions
1640 and principles of construction and interpretation applicable
1641 throughout this article.

1642 (d) The characterization of a person, business, or
1643 transaction for purposes of this article does not determine
1644 the characterization of the person, business, or transaction
1645 for purposes of any other law, regulation, or rule."

1646 "§7-8-103. Rules for determining whether certain
1647 obligations and interests are securities or financial assets.

1648 (a) A share or similar equity interest issued by a
1649 corporation, business trust, joint stock company, or similar
1650 entity is a security.

1651 (b) An "investment company security" is a security.

1652 "Investment company security" means a share or similar equity



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1653 interest issued by an entity that is registered as an
1654 investment company under the federal investment company laws,
1655 an interest in a unit investment trust that is so registered,
1656 or a face-amount certificate issued by a face-amount
1657 certificate company that is so registered. Investment company
1658 security does not include an insurance policy or endowment
1659 policy or annuity contract issued by an insurance company.

1660 (c) An interest in a partnership or limited liability
1661 company is not a security unless it is dealt in or traded on
1662 securities exchanges or in securities markets, its terms
1663 expressly provide that it is a security governed by this
1664 article, or it is an investment company security. However, an
1665 interest in a partnership or limited liability company is a
1666 financial asset if it is held in a securities account.

1667 (d) A writing that is a security certificate is
1668 governed by this article and not by Article 3, even though it
1669 also meets the requirements of that article. However, a
1670 negotiable instrument governed by Article 3 is a financial
1671 asset if it is held in a securities account.

1672 (e) An option or similar obligation issued by a
1673 clearing corporation to its participants is not a security,
1674 but is a financial asset.

1675 (f) A commodity contract, as defined in Section
1676 7-9A-102(a)(15), is not a security or a financial asset.

1677 (g) A document of title is not a financial asset unless
1678 Section 7-8-102(a)(9)(iii) applies.

1679 (h) A controllable account, controllable electronic
1680 record, or controllable payment intangible is not a financial



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1681 asset unless Section 7-8-102(a)(9)(iii) applies."

1682 "§7-8-106. Control.

1683 (a) A purchaser has "control" of a certificated
1684 security in bearer form if the certificated security is
1685 delivered to the purchaser.

1686 (b) A purchaser has "control" of a certificated
1687 security in registered form if the certificated security is
1688 delivered to the purchaser, and:

1689 (1) the certificate is indorsed to the purchaser or in
1690 blank by an effective indorsement; or

1691 (2) the certificate is registered in the name of the
1692 purchaser, upon original issue or registration of transfer by
1693 the issuer.

1694 (c) A purchaser has "control" of an uncertificated
1695 security if:

1696 (1) the uncertificated security is delivered to the
1697 purchaser; or

1698 (2) the issuer has agreed that it will comply with
1699 instructions originated by the purchaser without further
1700 consent by the registered owner.

1701 (d) A purchaser has "control" of a security entitlement
1702 if:

1703 (1) the purchaser becomes the entitlement holder;

1704 (2) the securities intermediary has agreed that it will
1705 comply with entitlement orders originated by the purchaser
1706 without further consent by the entitlement holder; or

1707 (3) ~~another person has control of the security~~
1708 ~~entitlement on behalf of the purchaser or, having previously~~



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1709 ~~acquired control of the security entitlement, acknowledges~~
1710 ~~that it has control on behalf of the purchaser.~~ person, other
1711 than the transferor to the purchaser of an interest in the
1712 security entitlement:

1713 (A) has control of the security entitlement and
1714 acknowledges that it has control on behalf of the purchaser;
1715 or

1716 (B) obtains control of the security entitlement after
1717 having acknowledged that it will obtain control of the
1718 security entitlement on behalf of the purchaser.

1719 (e) If an interest in a security entitlement is granted
1720 by the entitlement holder to the entitlement holder's own
1721 securities intermediary, the securities intermediary has
1722 control.

1723 (f) A purchaser who has satisfied the requirements of
1724 subsection (c) or (d) has control, even if the registered
1725 owner in the case of subsection (c) or the entitlement holder
1726 in the case of subsection (d) retains the right to make
1727 substitutions for the uncertificated security or security
1728 entitlement, to originate instructions or entitlement orders
1729 to the issuer or securities intermediary, or otherwise to deal
1730 with the uncertificated security or security entitlement.

1731 (g) An issuer or a securities intermediary may not
1732 enter into an agreement of the kind described in subsection
1733 (c) (2) or (d) (2) without the consent of the registered owner
1734 or entitlement holder, but an issuer or a securities
1735 intermediary is not required to enter into such an agreement
1736 even though the registered owner or entitlement holder so



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1737 directs. An issuer or securities intermediary that has entered
1738 into such an agreement is not required to confirm the
1739 existence of the agreement to another party unless requested
1740 to do so by the registered owner or entitlement holder.

1741 (h) A person that has control under this section is not
1742 required to acknowledge that it has control on behalf of a
1743 purchaser.

1744 (i) If a person acknowledges that it has or will obtain
1745 control on behalf of a purchaser, unless the person otherwise
1746 agrees or law other than this article or Article 9A otherwise
1747 provides, the person does not owe any duty to the purchaser
1748 and is not required to confirm the acknowledgement to any
1749 other person."

1750 "§7-8-110. Applicability; choice of law.

1751 (a) The local law of the issuer's jurisdiction, as
1752 specified in subsection (d), governs:

1753 (1) the validity of a security;

1754 (2) the rights and duties of the issuer with respect to
1755 registration of transfer;

1756 (3) the effectiveness of registration of transfer by
1757 the issuer;

1758 (4) whether the issuer owes any duties to an adverse
1759 claimant to a security; and

1760 (5) whether an adverse claim can be asserted against a
1761 person to whom transfer of a certificated or uncertificated
1762 security is registered or a person who obtains control of an
1763 uncertificated security.

1764 (b) The local law of the securities intermediary's



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1765 jurisdiction, as specified in subsection (e), governs:

1766 (1) acquisition of a security entitlement from the
1767 securities intermediary;

1768 (2) the rights and duties of the securities
1769 intermediary and entitlement holder arising out of a security
1770 entitlement;

1771 (3) whether the securities intermediary owes any duties
1772 to an adverse claimant to a security entitlement; and

1773 (4) whether an adverse claim can be asserted against a
1774 person who acquires a security entitlement from the securities
1775 intermediary or a person who purchases a security entitlement
1776 or interest therein from an entitlement holder.

1777 (c) The local law of the jurisdiction in which a
1778 security certificate is located at the time of delivery
1779 governs whether an adverse claim can be asserted against a
1780 person to whom the security certificate is delivered.

1781 (d) "Issuer's jurisdiction" means the jurisdiction
1782 under which the issuer of the security is organized or, if
1783 permitted by the law of that jurisdiction, the law of another
1784 jurisdiction specified by the issuer. An issuer organized
1785 under the law of this state may specify the law of another
1786 jurisdiction as the law governing the matters specified in
1787 subsection (a)(2) through (5).

1788 (e) The following rules determine a "securities
1789 intermediary's jurisdiction" for purposes of this section:

1790 (1) If an agreement between the securities intermediary
1791 and its entitlement holder governing the securities account
1792 expressly provides that a particular jurisdiction is the



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1793 securities intermediary's jurisdiction for purposes of this
1794 part, this article, or this title, that jurisdiction is the
1795 securities intermediary's jurisdiction.

1796 (2) If paragraph (1) does not apply and an agreement
1797 between the securities intermediary and its entitlement holder
1798 governing the securities account expressly provides that the
1799 agreement is governed by the law of a particular jurisdiction,
1800 that jurisdiction is the securities intermediary's
1801 jurisdiction.

1802 (3) If neither paragraph (1) nor paragraph (2) applies
1803 and an agreement between the securities intermediary and its
1804 entitlement holder governing the securities account expressly
1805 provides that the securities account is maintained at an
1806 office in a particular jurisdiction, that jurisdiction is the
1807 securities intermediary's jurisdiction.

1808 (4) If none of the preceding paragraphs applies, the
1809 securities intermediary's jurisdiction is the jurisdiction in
1810 which the office identified in an account statement as the
1811 office serving the entitlement holder's account is located.

1812 (5) If none of the preceding paragraphs applies, the
1813 securities intermediary's jurisdiction is the jurisdiction in
1814 which the chief executive office of the securities
1815 intermediary is located.

1816 (f) A securities intermediary's jurisdiction is not
1817 determined by the physical location of certificates
1818 representing financial assets, or by the jurisdiction in which
1819 is organized the issuer of the financial asset with respect to
1820 which an entitlement holder has a security entitlement, or by



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1821 the location of facilities for data processing or other record
1822 keeping concerning the account.

1823 (g) The local law of the issuer's jurisdiction or the
1824 securities intermediary's jurisdiction governs a matter or
1825 transaction specified in subsection (a) or (b) even if the
1826 matter or transaction does not bear any relation to that
1827 jurisdiction."

1828 "§7-8-303. Protected purchaser.

1829 (a) "Protected purchaser" means a purchaser of a
1830 certificated or uncertificated security, or of an interest
1831 therein, who:

1832 (1) gives value;

1833 (2) does not have notice of any adverse claim to the
1834 security; and

1835 (3) obtains control of the certificated or
1836 uncertificated security.

1837 ~~(b) In addition to acquiring the rights of a purchaser,~~
1838 ~~a~~ A protected purchaser ~~also~~ acquires its interest in the
1839 security free of any adverse claim.

1840 "§7-9A-102. Definitions and index of definitions.

1841 (a) Article 9A definitions. In this article:

1842 (1) "Accession" means goods that are physically united
1843 with other goods in such a manner that the identity of the
1844 original goods is not lost.

1845 (2) "Account," except as used in "account for,"
1846 "account statement," "account to," "commodity account" in
1847 paragraph (14), "customer's account," "deposit account" in
1848 paragraph (29), "on account of," and "statement of account,"



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1849 means a right to payment of a monetary obligation, whether or
1850 not earned by performance, (i) for property that has been or
1851 is to be sold, leased, licensed, assigned, or otherwise
1852 disposed of, (ii) for services rendered or to be rendered,
1853 (iii) for a policy of insurance issued or to be issued, (iv)
1854 for a secondary obligation incurred or to be incurred, (v) for
1855 energy provided or to be provided, (vi) for the use or hire of
1856 a vessel under a charter or other contract, (vii) arising out
1857 of the use of a credit or charge card or information contained
1858 on or for use with the card, or (viii) as winnings in a
1859 lottery or other game of chance operated or sponsored by a
1860 State, governmental unit of a State, or person licensed or
1861 authorized to operate the game by a State or governmental unit
1862 of a State. The term includes controllable accounts and
1863 health-care-insurance receivables. The term does not include
1864 (i) ~~rights to payment evidenced by chattel paper or an~~
1865 ~~instrument~~ chattel paper, (ii) commercial tort claims, (iii)
1866 deposit accounts, (iv) investment property, (v)
1867 letter-of-credit rights or letters of credit, ~~or~~ (vi) rights
1868 to payment for money or funds advanced or sold, other than
1869 rights arising out of the use of a credit or charge card or
1870 information contained on or for use with the card, or (vii)
1871 rights to payment evidenced by an instrument.

1872 (3) "Account debtor" means a person obligated on an
1873 account, chattel paper, or general intangible. The term does
1874 not include persons obligated to pay a negotiable instrument,
1875 even if the negotiable instrument ~~constitutes part of~~
1876 evidences chattel paper.



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1877 (4) "Accounting," except as used in "accounting for,"
1878 means a record:

1879 (A) ~~authenticated~~-signed by a secured party;

1880 (B) indicating the aggregate unpaid secured obligations
1881 as of a date not more than 35 days earlier or 35 days later
1882 than the date of the record; and

1883 (C) identifying the components of the obligations in
1884 reasonable detail.

1885 (5) "Agricultural lien" means an interest, other than a
1886 security interest, in farm products:

1887 (A) which secures payment or performance of an
1888 obligation for:

1889 (i) goods or services furnished in connection with a
1890 debtor's farming operation; or

1891 (ii) rent on real property leased by a debtor in
1892 connection with its farming operation;

1893 (B) which is created by statute in favor of a person
1894 that:

1895 (i) in the ordinary course of its business furnished
1896 goods or services to a debtor in connection with a debtor's
1897 farming operation; or

1898 (ii) leased real property to a debtor in connection
1899 with the debtor's farming operation; and

1900 (C) whose effectiveness does not depend on the person's
1901 possession of the personal property.

1902 (6) "As-extracted collateral" means:

1903 (A) oil, gas, or other minerals that are subject to a
1904 security interest that:



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1905 (i) is created by a debtor having an interest in the
1906 minerals before extraction; and

1907 (ii) attaches to the minerals as extracted; or

1908 (B) accounts arising out of the sale at the wellhead or
1909 mine of oil, gas, or other minerals in which the debtor had an
1910 interest before extraction.

1911 (7) [Reserved]. ~~"Authenticate" means:~~

1912 ~~(A) to sign; or~~

1913 ~~(B) with present intent to adopt or accept a record, to~~
1914 ~~attach to or logically associate with the record an electronic~~
1915 ~~sound, symbol, or process.~~

1916 (7A) "Assignee," except as used in "assignee for
1917 benefit of creditors," means a person (i) in whose favor a
1918 security interest that secures an obligation is created or
1919 provided for under a security agreement, whether or not the
1920 obligation is outstanding or (ii) to which an account, chattel
1921 paper, payment intangible, or promissory note has been sold.
1922 The term includes a person to which a security interest has
1923 been transferred by a secured party.

1924 (7B) "Assignor" means a person that (i) under a
1925 security agreement creates or provides for a security interest
1926 that secures an obligation or (ii) sells an account, chattel
1927 paper, payment intangible, or promissory note. The term
1928 includes a secured party that has transferred a security
1929 interest to another person.

1930 (8) "Bank" means an organization that is engaged in the
1931 business of banking. The term includes savings banks, savings
1932 and loan associations, credit unions, and trust companies.



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1933 (9) "Cash proceeds" means proceeds that are money,
1934 checks, deposit accounts, or the like.

1935 (9A) "Central bank digital currency" means a digital
1936 currency, a digital medium of exchange, or a digital monetary
1937 unit of account issued by the United States Federal Reserve
1938 System, a federal agency, a foreign government, a foreign
1939 central bank, or a foreign reserve system, that is made
1940 directly available to a consumer by such entities. The term
1941 includes a digital currency, a digital medium of exchange, or
1942 a digital monetary unit of account issued by the United States
1943 Federal Reserve System, a federal agency, a foreign
1944 government, a foreign central bank, or a foreign reserve
1945 system, that is processed or validated directly by such
1946 entities.

1947 (10) "Certificate of title" means a certificate of
1948 title with respect to which a statute provides for the
1949 security interest in question to be indicated on the
1950 certificate as a condition or result of the security
1951 interest's obtaining priority over the rights of a lien
1952 creditor with respect to the collateral. The term includes
1953 another record maintained as an alternative to a certificate
1954 of title by the governmental unit that issues certificates of
1955 title if a statute permits the security interest in question
1956 to be indicated on the record as a condition or result of the
1957 security interest's obtaining priority over the rights of a
1958 lien creditor with respect to the collateral.

1959 ~~(11) "Chattel paper" means a record or records that~~
1960 ~~evidence both a monetary obligation and a security interest in~~



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1961 ~~specific goods, a security interest in specific goods and~~
1962 ~~software used in the goods, a security interest in specific~~
1963 ~~goods and license of software used in the goods, a lease of~~
1964 ~~specific goods, or a lease of specific goods and license of~~
1965 ~~software used in the goods. In this paragraph, "monetary~~
1966 ~~obligation" means a monetary obligation secured by the goods~~
1967 ~~or owed under a lease of the goods and includes a monetary~~
1968 ~~obligation with respect to software used in the goods. The~~
1969 ~~term does not include (i) charters or other contracts~~
1970 ~~involving the use or hire of a vessel or (ii) records that~~
1971 ~~evidence a right to payment arising out of the use of a credit~~
1972 ~~or charge card or information contained on or for use with the~~
1973 ~~card. If a transaction is evidenced by records that include an~~
1974 ~~instrument or series of instruments, the group of records~~
1975 ~~taken together constitutes chattel paper.~~

1976 (11) "Chattel paper" means:

1977 (A) a right to payment of a monetary obligation secured
1978 by specific goods, if the right to payment and security
1979 agreement are evidenced by a record; or

1980 (B) a right to payment of a monetary obligation owed by
1981 a lessee under a lease agreement with respect to specific
1982 goods and a monetary obligation owed by the lessee in
1983 connection with the transaction giving rise to the lease, if:

1984 (i) the right to payment and lease agreement are
1985 evidenced by a record; and

1986 (ii) the predominant purpose of the transaction giving
1987 rise to the lease was to give the lessee the right to
1988 possession and use of the goods.



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1989 The term does not include a right to payment arising
1990 out of a charter or other contract involving the use or hire
1991 of a vessel or a right to payment arising out of the use of a
1992 credit or charge card or information contained on or for use
1993 with the card.

1994 (12) "Collateral" means the property subject to a
1995 security interest or agricultural lien. The term includes:

1996 (A) proceeds to which a security interest attaches;

1997 (B) accounts, chattel paper, payment intangibles, and
1998 promissory notes that have been sold; and

1999 (C) goods that are the subject of a consignment.

2000 (13) "Commercial tort claim" means a claim arising in
2001 tort with respect to which:

2002 (A) the claimant is an organization; or

2003 (B) the claimant is an individual and the claim:

2004 (i) arose in the course of the claimant's business or
2005 profession; and

2006 (ii) does not include damages arising out of personal
2007 injury to or the death of an individual.

2008 (14) "Commodity account" means an account maintained by
2009 a commodity intermediary in which a commodity contract is
2010 carried for a commodity customer.

2011 (15) "Commodity contract" means a commodity futures
2012 contract, an option on a commodity futures contract, a
2013 commodity option, or another contract if the contract or
2014 option is:

2015 (A) traded on or subject to the rules of a board of
2016 trade that has been designated as a contract market for such a



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2017 contract pursuant to federal commodities laws; or

2018 (B) traded on a foreign commodity board of trade,
2019 exchange, or market, and is carried on the books of a
2020 commodity intermediary for a commodity customer.

2021 (16) "Commodity customer" means a person for which a
2022 commodity intermediary carries a commodity contract on its
2023 books.

2024 (17) "Commodity intermediary" means a person that:

2025 (A) is registered as a futures commission merchant
2026 under federal commodities law; or

2027 (B) in the ordinary course of its business provides
2028 clearance or settlement services for a board of trade that has
2029 been designated as a contract market pursuant to federal
2030 commodities law.

2031 (18) "Communicate" means:

2032 (A) to send a written or other tangible record;

2033 (B) to transmit a record by any means agreed upon by
2034 the persons sending and receiving the record; or

2035 (C) in the case of transmission of a record to or by a
2036 filing office, to transmit a record by any means prescribed by
2037 filing-office rule.

2038 (19) "Consignee" means a merchant to which goods are
2039 delivered in a consignment.

2040 (20) "Consignment" means a transaction, regardless of
2041 its form, in which a person delivers goods to a merchant for
2042 the purpose of sale and:

2043 (A) the merchant:

2044 (i) deals in goods of that kind under a name other than



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2045 the name of the person making delivery;

2046 (ii) is not an auctioneer; and

2047 (iii) is not generally known by its creditors to be
2048 substantially engaged in selling the goods of others;

2049 (B) with respect to each delivery, the aggregate value
2050 of the goods is ~~\$1,000~~one thousand dollars (\$1,000) or more at
2051 the time of delivery;

2052 (C) the goods are not consumer goods immediately before
2053 delivery; and

2054 (D) the transaction does not create a security interest
2055 that secures an obligation.

2056 (21) "Consignor" means a person that delivers goods to
2057 a consignee in a consignment.

2058 (22) "Consumer debtor" means a debtor in a consumer
2059 transaction.

2060 (23) "Consumer goods" means goods that are used or
2061 bought for use primarily for personal, family, or household
2062 purposes.

2063 (24) "Consumer-goods transaction" means a consumer
2064 transaction in which:

2065 (A) an individual incurs an obligation primarily for
2066 personal, family, or household purposes; and

2067 (B) a security interest in consumer goods secures the
2068 obligation.

2069 (25) "Consumer obligor" means an obligor who is an
2070 individual and who incurred the obligation as part of a
2071 transaction entered into primarily for personal, family, or
2072 household purposes.



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2073 (26) "Consumer transaction" means a transaction in
2074 which (i) an individual incurs an obligation primarily for
2075 personal, family, or household purposes, (ii) a security
2076 interest secures the obligation, and (iii) the collateral is
2077 held or acquired primarily for personal, family, or household
2078 purposes. The term includes consumer-goods transactions.

2079 (27) "Continuation statement" means an amendment of a
2080 financing statement which:

2081 (A) identifies, by its file number, the initial
2082 financing statement to which it relates; and

2083 (B) indicates that it is a continuation statement for,
2084 or that it is filed to continue the effectiveness of, the
2085 identified financing statement.

2086 (27A) "Controllable account" means an account evidenced
2087 by a controllable electronic record that provides that the
2088 account debtor undertakes to pay the person that has control
2089 under Section 7-12-105 of the controllable electronic record.

2090 (27B) "Controllable payment intangible" means a payment
2091 intangible evidenced by a controllable electronic record that
2092 provides that the account debtor undertakes to pay the person
2093 that has control under Section 7-12-105 of the controllable
2094 electronic record.

2095 (28) "Debtor" means:

2096 (A) a person having an interest, other than a security
2097 interest or other lien, in the collateral, whether or not the
2098 person is an obligor;

2099 (B) a seller of accounts, chattel paper, payment
2100 intangibles, or promissory notes; or



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2101 (C) a consignee.

2102 (29) "Deposit account" means a demand, time, savings,
2103 passbook, or similar account maintained with a bank. The term
2104 does not include investment property, a central bank digital
2105 currency, or accounts evidenced by an instrument.

2106 (30) "Document" means a document of title or a receipt
2107 of the type described in Section 7-7-201(b).

2108 (31) ~~"Electronic chattel paper" means chattel paper~~
2109 ~~evidenced by a record or records consisting of information~~
2110 ~~stored in an electronic medium.~~ [Reserved].

2111 (32) "Encumbrance" means a right, other than an
2112 ownership interest, in real property. The term includes
2113 mortgages and other liens on real property.

2114 (33) "Equipment" means goods other than inventory, farm
2115 products, or consumer goods.

2116 (34) "Farm products" means goods, other than standing
2117 timber, with respect to which the debtor is engaged in a
2118 farming operation and which are:

2119 (A) crops grown, growing, or to be grown, including:

2120 (i) crops produced on trees, vines, and bushes; and

2121 (ii) aquatic goods produced in aquacultural operations;

2122 (B) livestock, born or unborn, including aquatic goods
2123 produced in aquacultural operations;

2124 (C) supplies used or produced in a farming operation;

2125 or

2126 (D) products of crops or livestock in their
2127 unmanufactured states.

2128 (35) "Farming operation" means raising, cultivating,



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2129 propagating, fattening, grazing, or any other farming,
2130 livestock, or aquacultural operation.

2131 (36) "File number" means the number assigned to an
2132 initial financing statement pursuant to Section 7-9A-519(a).

2133 (37) "Filing office" means an office designated in
2134 Section 7-9A-501 as the place to file a financing statement.

2135 (38) "Filing-office rule" means a rule adopted pursuant
2136 to Section 7-9A-526.

2137 (39) "Financing statement" means a record or records
2138 composed of an initial financing statement and any filed
2139 record relating to the initial financing statement.

2140 (40) "Fixture filing" means the filing of a financing
2141 statement covering goods that are or are to become fixtures
2142 and satisfying Section 7-9A-502(a) and (b). The term includes
2143 the filing of a financing statement covering goods of a
2144 transmitting utility which are or are to become fixtures.

2145 (41) "Fixtures" means goods that have become so related
2146 to particular real property that an interest in them arises
2147 under real property law.

2148 (42) "General intangible" means any personal property,
2149 including things in action, other than accounts, chattel
2150 paper, commercial tort claims, deposit accounts, documents,
2151 goods, instruments, investment property, letter-of-credit
2152 rights, letters of credit, money, and oil, gas, or other
2153 minerals before extraction. The term includes controllable
2154 electronic records, payment intangibles, and software.

2155 (43) "Good faith" means honesty in fact in the conduct
2156 or transaction concerned.



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2157 (44) "Goods" means all things that are movable when a
2158 security interest attaches. The term includes (i) fixtures,
2159 (ii) standing timber that is to be cut and removed under a
2160 conveyance or contract for sale, to the extent such standing
2161 timber and cutting rights with respect thereto are considered
2162 as chattels under Section 35-4-363, (iii) the unborn young of
2163 animals, (iv) crops grown, growing, or to be grown, even if
2164 the crops are produced on trees, vines, or bushes, and (v)
2165 manufactured homes. The term also includes a computer program
2166 embedded in goods and any supporting information provided in
2167 connection with a transaction relating to the program if (i)
2168 the program is associated with the goods in such a manner that
2169 it customarily is considered part of the goods, or (ii) by
2170 becoming the owner of the goods, a person acquires a right to
2171 use the program in connection with the goods. The term does
2172 not include a computer program embedded in goods that consist
2173 solely of the medium in which the program is embedded. The
2174 term also does not include accounts, chattel paper, commercial
2175 tort claims, deposit accounts, documents, general intangibles,
2176 instruments, investment property, letter-of-credit rights,
2177 letters of credit, money, or oil, gas, or other minerals
2178 before extraction.

2179 (45) "Governmental unit" means a subdivision, agency,
2180 department, county, parish, municipality, or other unit of the
2181 government of the United States, a state, or a foreign
2182 country. The term includes an organization having a separate
2183 corporate existence if the organization is eligible to issue
2184 debt on which interest is exempt from income taxation under



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2185 the laws of the United States.

2186 (46) "Health-care-insurance receivable" means an
2187 interest in or claim under a policy of insurance which is a
2188 right to payment of a monetary obligation for health-care
2189 goods or services provided.

2190 (47) "Instrument" means a negotiable instrument or any
2191 other writing that evidences a right to the payment of a
2192 monetary obligation, is not itself a security agreement or
2193 lease, and is of a type that in ordinary course of business is
2194 transferred by delivery with any necessary indorsement or
2195 assignment. The term does not include (i) investment property,
2196 (ii) letters of credit, ~~or~~ (iii) writings that evidence a
2197 right to payment arising out of the use of a credit or charge
2198 card or information contained on or for use with the card, or
2199 (iv) writings that evidence chattel paper.

2200 (48) "Inventory" means goods, other than farm products,
2201 which:

2202 (A) are leased by a person as lessor;

2203 (B) are held by a person for sale or lease or to be
2204 furnished under a contract of service;

2205 (C) are furnished by a person under a contract of
2206 service; or

2207 (D) consist of raw materials, work in process, or
2208 materials used or consumed in a business.

2209 (49) "Investment property" means a security, whether
2210 certificated or uncertificated, security entitlement,
2211 securities account, commodity contract, or commodity account.

2212 (50) "Jurisdiction of organization," with respect to a



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2213 registered organization, means the jurisdiction under whose
2214 law the organization is formed or organized.

2215 (51) "Letter-of-credit right" means a right to payment
2216 or performance under a letter of credit, whether or not the
2217 beneficiary has demanded or is at the time entitled to demand
2218 payment or performance. The term does not include the right of
2219 a beneficiary to demand payment or performance under a letter
2220 of credit.

2221 (52) "Lien creditor" means:

2222 (A) a creditor that has acquired a lien on the property
2223 involved by attachment, levy, or the like;

2224 (B) an assignee for benefit of creditors from the time
2225 of assignment;

2226 (C) a trustee in bankruptcy from the date of the filing
2227 of the petition; or

2228 (D) a receiver in equity from the time of appointment.

2229 (53) "Manufactured home" means a structure defined as a
2230 "manufactured home" in Section 32-8-2.

2231 (54) "Manufactured-home transaction" means a secured
2232 transaction:

2233 (A) that creates a purchase-money security interest in
2234 a manufactured home, other than a manufactured home held as
2235 inventory; or

2236 (B) in which a manufactured home, other than a
2237 manufactured home held as inventory, is the primary
2238 collateral.

2239 (54A) "Money" has the meaning as in Section
2240 7-1-201(b)(24), but does not include a deposit account.



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2241 (55) "Mortgage" means a consensual interest in real
2242 property, including fixtures, which secures payment or
2243 performance of an obligation.

2244 (56) "New debtor" means a person that becomes bound as
2245 debtor under Section 7-9A-203(d) by a security agreement
2246 previously entered into by another person.

2247 (57) "New value" means (i) money, (ii) money's worth in
2248 property, services, or new credit, or (iii) release by a
2249 transferee of an interest in property previously transferred
2250 to the transferee. The term does not include an obligation
2251 substituted for another obligation.

2252 (58) "Noncash proceeds" means proceeds other than cash
2253 proceeds.

2254 (59) "Obligor" means a person that, with respect to an
2255 obligation secured by a security interest in or an
2256 agricultural lien on the collateral, (i) owes payment or other
2257 performance of the obligation, (ii) has provided property
2258 other than the collateral to secure payment or other
2259 performance of the obligation, or (iii) is otherwise
2260 accountable in whole or in part for payment or other
2261 performance of the obligation. The term does not include
2262 issuers or nominated persons under a letter of credit.

2263 (60) "Original debtor," except as used in Section
2264 7-9A-310(c), means a person that, as debtor, entered into a
2265 security agreement to which a new debtor has become bound
2266 under Section 7-9A-203(d).

2267 (61) "Payment intangible" means a general intangible
2268 under which the account debtor's principal obligation is a



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2269 monetary obligation. The term includes a controllable payment
2270 intangible.

2271 (62) "Person related to," with respect to an
2272 individual, means:

2273 (A) the spouse of the individual;

2274 (B) a brother, brother-in-law, sister, or sister-in-law
2275 of the individual;

2276 (C) an ancestor or lineal descendant of the individual
2277 or the individual's spouse; or

2278 (D) any other relative, by blood or marriage, of the
2279 individual or the individual's spouse who shares the same home
2280 with the individual.

2281 (63) "Person related to," with respect to an
2282 organization, means:

2283 (A) a person directly or indirectly controlling,
2284 controlled by, or under common control with the organization;

2285 (B) an officer or director of, or a person performing
2286 similar functions with respect to, the organization;

2287 (C) an officer or director of, or a person performing
2288 similar functions with respect to, a person described in
2289 subparagraph (A);

2290 (D) the spouse of an individual described in
2291 subparagraph (A), (B), or (C); or

2292 (E) an individual who is related by blood or marriage
2293 to an individual described in subparagraph (A), (B), (C), or
2294 (D) and shares the same home with the individual.

2295 (64) "Proceeds," except as used in Section 7-9A-609(b),
2296 means the following property:



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2297 (A) whatever is acquired upon the sale, lease, license,
2298 exchange, or other disposition of collateral;

2299 (B) whatever is collected on, or distributed on account
2300 of, collateral;

2301 (C) rights arising out of collateral;

2302 (D) to the extent of the value of collateral, claims
2303 arising out of the loss, nonconformity, or interference with
2304 the use of, defects or infringement of rights in, or damage
2305 to, the collateral; or

2306 (E) to the extent of the value of collateral and to the
2307 extent payable to the debtor or the secured party, insurance
2308 payable by reason of the loss or nonconformity of, defects or
2309 infringement of rights in, or damage to, the collateral.

2310 (65) "Promissory note" means an instrument that
2311 evidences a promise to pay a monetary obligation, does not
2312 evidence an order to pay, and does not contain an
2313 acknowledgment by a bank that the bank has received for
2314 deposit a sum of money or funds.

2315 (66) "Proposal" means a record ~~authenticated~~ signed by
2316 a secured party which includes the terms on which the secured
2317 party is willing to accept collateral in full or partial
2318 satisfaction of the obligation it secures pursuant to Sections
2319 7-9A-620, 7-9A-621, and 7-9A-622.

2320 (67) Omitted.

2321 (68) "Public organic record" means a record that is
2322 available to the public for inspection and that is:

2323 (A) a record consisting of the record initially filed
2324 with or issued by a state or the United States to form or



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2325 organize an organization and any record filed with or issued
2326 by the state or the United States which amends or restates the
2327 initial record;

2328 (B) an organic record of a business trust consisting of
2329 the record initially filed with a state and any record filed
2330 with the state which amends or restates the initial record, if
2331 a statute of the state governing business trusts requires that
2332 the record be filed with the state; or

2333 (C) a record consisting of legislation enacted by the
2334 legislature of a state or the Congress of the United States
2335 which forms or organizes an organization, any record amending
2336 the legislation, and any record filed with or issued by the
2337 state or United States which amends or restates the name of
2338 the organization.

2339 For purposes of this definition and the definition of
2340 registered organization, a certificate of formation filed with
2341 a judge of probate pursuant to Section 10A-1-4.02(a) is filed
2342 with the state.

2343 (69) "Pursuant to commitment," with respect to an
2344 advance made or other value given by a secured party, means
2345 pursuant to the secured party's obligation, whether or not a
2346 subsequent event of default or other event not within the
2347 secured party's control has relieved or may relieve the
2348 secured party from its obligation.

2349 (70) "Record," except as used in "for record," "of
2350 record," "record or legal title," and "record owner," means
2351 information that is inscribed on a tangible medium or which is
2352 stored in an electronic or other medium and is retrievable in



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2353 perceivable form.

2354 (71) "Registered organization" means an organization
2355 formed or organized solely under the law of a single State or
2356 the United States by the filing of a public organic record
2357 with, the issuance of a public organic record by, or the
2358 enactment of legislation by the state or the United States.
2359 The term ~~includes~~ includes a business trust that is formed or
2360 organized under the law of a single state if a statute of the
2361 state governing business trusts requires that the business
2362 trust's organic record be filed with the state.

2363 (72) "Secondary obligor" means an obligor to the extent
2364 that:

2365 (A) the obligor's obligation is secondary; or

2366 (B) the obligor has a right of recourse with respect to
2367 an obligation secured by collateral against the debtor,
2368 another obligor, or property of either.

2369 (73) "Secured party" means:

2370 (A) a person in whose favor a security interest is
2371 created or provided for under a security agreement, whether or
2372 not any obligation to be secured is outstanding;

2373 (B) a person that holds an agricultural lien;

2374 (C) a consignor;

2375 (D) a person to which accounts, chattel paper, payment
2376 intangibles, or promissory notes have been sold;

2377 (E) a trustee, indenture trustee, agent, collateral
2378 agent, or other representative in whose favor a security
2379 interest or agricultural lien is created or provided for; or

2380 (F) a person that holds a security interest arising



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2381 under Section 7-2-401, 7-2-505, 7-2-711(3), 7-2A-508(5),
2382 7-4-210, or 7-5-118.

2383 (74) "Security agreement" means an agreement that
2384 creates or provides for a security interest.

2385 (75) ~~"Send," in connection with a record or~~
2386 ~~notification, means:~~

2387 ~~(A) to deposit in the mail, deliver for transmission,~~
2388 ~~or transmit by any other usual means of communication, with~~
2389 ~~postage or cost of transmission provided for, addressed to any~~
2390 ~~address reasonable under the circumstances; or~~

2391 ~~(B) to cause the record or notification to be received~~
2392 ~~within the time that it would have been received if properly~~
2393 ~~sent under subparagraph (A). [Reserved.]~~

2394 (76) "Software" means a computer program and any
2395 supporting information provided in connection with a
2396 transaction relating to the program. The term does not include
2397 a computer program that is included in the definition of
2398 goods.

2399 (77) "State" means a state of the United States, the
2400 District of Columbia, Puerto Rico, the United States Virgin
2401 Islands, or any territory or insular possession subject to the
2402 jurisdiction of the United States.

2403 (78) "Supporting obligation" means a letter-of-credit
2404 right or secondary obligation that supports the payment or
2405 performance of an account, chattel paper, a document, a
2406 general intangible, an instrument, or investment property.

2407 (79) ~~"Tangible chattel paper" means chattel paper~~
2408 ~~evidenced by a record or records consisting of information~~



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2409 ~~that is inscribed on a tangible medium.~~ [Reserved.]

2410 (80) "Termination statement" means an amendment of a
2411 financing statement which:

2412 (A) identifies, by its file number, the initial
2413 financing statement to which it relates; and

2414 (B) indicates either that it is a termination statement
2415 or that the identified financing statement is no longer
2416 effective.

2417 (81) "Transmitting utility" means a person primarily
2418 engaged in the business of:

2419 (A) operating a railroad, subway, street railway, or
2420 trolley bus;

2421 (B) transmitting communications electrically,
2422 electromagnetically, or by light;

2423 (C) transmitting goods by pipeline or sewer;

2424 (D) transmitting or producing or distributing
2425 electricity, steam, gas, or water; or

2426 (E) owning, operating, leasing or controlling a
2427 "utility" as defined in Section 37-1-30.

2428 (b) Definitions in other articles. "Control" as
2429 provided in Section 7-7-106 and the following definitions in
2430 other articles of this title apply to this article:

2431 "Applicant." Section 7-5-102.

2432 "Beneficiary." Section 7-5-102.

2433 "Broker." Section 7-8-102.

2434 "Certificated security." Section 7-8-102.

2435 "Check." Section 7-3-104.

2436 "Clearing corporation." Section 7-8-102.



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2437 "Contract for sale." Section 7-2-106.

2438 "Controllable electronic record." Section 7-12-102.

2439 "Customer." Section 7-4-104.

2440 "Entitlement holder." Section 7-8-102.

2441 "Financial asset." Section 7-8-102.

2442 "Holder in due course." Section 7-3-302.

2443 "Issuer" (with respect to a letter of credit or

2444 letter-of-credit right). Section 7-5-102.

2445 "Issuer" (with respect to a security). Section 7-8-201.

2446 "Issuer" (with respect to documents of title). Section

2447 7-7-102.

2448 "Lease." Section 7-2A-103.

2449 "Lease agreement." Section 7-2A-103.

2450 "Lease contract." Section 7-2A-103.

2451 "Leasehold interest." Section 7-2A-103.

2452 "Lessee." Section 7-2A-103.

2453 "Lessee in ordinary course of business." Section

2454 7-2A-103.

2455 "Lessor." Section 7-2A-103.

2456 "Lessor's residual interest." Section 7-2A-103.

2457 "Letter of credit." Section 7-5-102.

2458 "Merchant." Section 7-2-104.

2459 "Negotiable instrument." Section 7-3-104.

2460 "Nominated person." Section 7-5-102.

2461 "Note." Section 7-3-104.

2462 "Proceeds of a letter of credit." Section 7-5-114.

2463 "Protected purchaser." Section 7-8-303.

2464 "Prove." Section 7-3-103.



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2465 "Qualifying purchaser." Section 7-12-102.
2466 "Sale." Section 7-2-106.
2467 "Securities account." Section 7-8-501.
2468 "Securities intermediary." Section 7-8-102.
2469 "Security." Section 7-8-102.
2470 "Security certificate." Section 7-8-102.
2471 "Security entitlement." Section 7-8-102.
2472 "Uncertificated security." Section 7-8-102.
2473 (c) Article 1 definitions and principles. Article 1
2474 contains general definitions and principles of construction
2475 and interpretation applicable throughout this article."
2476 "§7-9A-104. Control of deposit account.
2477 (a) Requirements for control. A secured party has
2478 control of a deposit account if:
2479 (1) the secured party is the bank with which the
2480 deposit account is maintained;
2481 (2) the debtor, secured party, and bank have agreed in
2482 ~~an authenticated~~ a signed record that the bank will comply
2483 with instructions originated by the secured party directing
2484 disposition of the funds in the deposit account without
2485 further consent by the debtor; ~~or~~
2486 (3) the secured party becomes the bank's customer with
2487 respect to the deposit account; ~~or~~ or
2488 (4) another person, other than the debtor:
2489 (A) has control of the deposit account and acknowledges
2490 that it has control on behalf of the secured party; or
2491 (B) obtains control of the deposit account after having
2492 acknowledged that it will obtain control of the deposit



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2493 account on behalf of the secured party.

2494 (b) Debtor's right to direct disposition. A secured
2495 party that has satisfied subsection (a) has control, even if
2496 the debtor retains the right to direct the disposition of
2497 funds from the deposit account."

2498 "§7-9A-105. Control of electronic copy of record
2499 evidencing chattel paper.

2500 ~~(a) General rule: control of electronic chattel paper.~~
2501 ~~A secured party has control of electronic chattel paper if a~~
2502 ~~system employed for evidencing the transfer of interests in~~
2503 ~~the chattel paper reliably establishes the secured party as~~
2504 ~~the person to which the chattel paper was assigned.~~

2505 ~~(b) Specific facts giving control. A system satisfies~~
2506 ~~subsection (a) and a secured party has control of electronic~~
2507 ~~chattel paper if the record or records comprising the chattel~~
2508 ~~paper are created, stored, and assigned in such a manner that:~~

2509 ~~(1) a single authoritative copy of the record or~~
2510 ~~records exists which is unique, identifiable and, except as~~
2511 ~~otherwise provided in paragraphs (4), (5), and (6),~~
2512 ~~unalterable;~~

2513 ~~(2) the authoritative copy identifies the secured party~~
2514 ~~as the assignee of the record or records;~~

2515 ~~(3) the authoritative copy is communicated to and~~
2516 ~~maintained by the secured party or its designated custodian;~~

2517 ~~(4) copies or amendments that add or change an~~
2518 ~~identified assignee of the authoritative copy can be made only~~
2519 ~~with the consent of the secured party;~~

2520 ~~(5) each copy of the authoritative copy and any copy of~~



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2521 ~~a copy is readily identifiable as a copy that is not the~~
2522 ~~authoritative copy; and~~

2523 ~~(6) any amendment of the authoritative copy is readily~~
2524 ~~identifiable as authorized or unauthorized.~~

2525 (a) General Rule: control of electronic copy of record
2526 evidencing chattel paper. A purchaser has control of an
2527 authoritative electronic copy of a record evidencing chattel
2528 paper if a system employed for evidencing the assignment of
2529 interests in the chattel paper reliably establishes the
2530 purchaser as the person to which the authoritative electronic
2531 copy was assigned.

2532 (b) Single authoritative copy. A system satisfies
2533 subsection (a) if the record or records evidencing chattel
2534 paper are created, stored, and assigned in a manner that:

2535 (1) a single authoritative copy of the record or
2536 records exists which is unique, identifiable, and, except as
2537 otherwise provided in paragraphs (4), (5), and (6),
2538 unalterable;

2539 (2) the authoritative copy identifies the purchaser as
2540 the assignee of the record or records;

2541 (3) the authoritative copy is communicated to and
2542 maintained by the purchaser or its designated custodian;

2543 (4) copies or amendments that add or change an
2544 identified assignee of the authoritative copy can be made only
2545 with the consent of the purchaser;

2546 (5) each copy of the authoritative copy and any copy of
2547 a copy is readily identifiable as a copy that is not the
2548 authoritative copy; and



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2549 (6) any amendment of the authoritative copy is readily
2550 identifiable as authorized or unauthorized.

2551 (c) One or more authoritative copies. A system
2552 satisfies subsection (a), and a purchaser has control of an
2553 authoritative electronic copy of a record evidencing chattel
2554 paper, if the electronic copy, a record attached to or
2555 logically associated with the electronic copy, or a system in
2556 which the electronic copy is recorded:

2557 (1) enables the purchaser readily to identify each
2558 electronic copy as either an authoritative copy or a
2559 nonauthoritative copy;

2560 (2) enables the purchaser readily to identify itself in
2561 any way, including by name, identifying number, cryptographic
2562 key, office, or account number, as the assignee of the
2563 authoritative electronic copy; and

2564 (3) gives the purchaser exclusive power, subject to
2565 subsection (d), to:

2566 (A) prevent others from adding or changing an
2567 identified assignee of the authoritative electronic copy; and

2568 (B) transfer control of the authoritative electronic
2569 copy.

2570 (d) Meaning of exclusive. Subject to subsection (e), a
2571 power is exclusive under subsection (c) (3) (A) and (B) even if:

2572 (1) the authoritative electronic copy, a record
2573 attached to or logically associated with the authoritative
2574 electronic copy, or a system in which the authoritative
2575 electronic copy is recorded limits the use of the
2576 authoritative electronic copy or has a protocol programmed to



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2577 cause a change, including a transfer or loss of control; or

2578 (2) the power is shared with another person.

2579 (e) When power not shared with another person. A power

2580 of a purchaser is not shared with another person under

2581 subsection (d) (2) and the purchaser's power is not exclusive

2582 if:

2583 (1) the purchaser can exercise the power only if the

2584 power also is exercised by the other person; and

2585 (2) the other person:

2586 (A) can exercise the power without exercise of the

2587 power by the purchaser; or

2588 (B) is the transferor to the purchaser of an interest

2589 in the chattel paper.

2590 (f) Presumption of exclusivity of certain powers. If a

2591 purchaser has the powers specified in subsection (c) (3) (A) and

2592 (B), the powers are presumed to be exclusive.

2593 (g) Obtaining control through another person. A

2594 purchaser has control of an authoritative electronic copy of a

2595 record evidencing chattel paper if another person, other than

2596 the transferor to the purchaser of an interest in the chattel

2597 paper:

2598 (1) has control of the authoritative electronic copy

2599 and acknowledges that it has control on behalf of the

2600 purchaser; or

2601 (2) obtains control of the authoritative electronic

2602 copy after having acknowledged that it will obtain control of

2603 the electronic copy on behalf of the purchaser."

2604 "§7-9A-203. Attachment and enforceability of security



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2605 interest; proceeds; supporting obligations; formal requisites.

2606 (a) Attachment. A security interest attaches to
2607 collateral when it becomes enforceable against the debtor with
2608 respect to the collateral, unless an agreement expressly
2609 postpones the time of attachment.

2610 (b) Enforceability. Except as otherwise provided in
2611 subsections (c) through (i), a security interest is
2612 enforceable against the debtor and third parties with respect
2613 to the collateral only if:

2614 (1) value has been given;

2615 (2) the debtor has rights in the collateral or the
2616 power to transfer rights in the collateral to a secured party;
2617 and

2618 (3) one of the following conditions is met:

2619 (A) the debtor has ~~authenticated~~signed a security
2620 agreement that provides a description of the collateral and,
2621 if the security interest covers timber to be cut, a
2622 description of the land concerned;

2623 (B) the collateral is not a certificated security and
2624 is in the possession of the secured party under Section
2625 7-9A-313 pursuant to the debtor's security agreement;

2626 (C) the collateral is a certificated security in
2627 registered form and the security certificate has been
2628 delivered to the secured party under Section 7-8-301 pursuant
2629 to the debtor's security agreement; ~~or~~

2630 (D) the collateral is controllable accounts,
2631 controllable electronic records, controllable payment
2632 intangibles, deposit accounts, ~~electronic chattel paper,~~



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2633 electronic documents, investment property, or letter-of-credit
2634 rights, and the secured party has control under Section
2635 7-7-106, 7-9A-104, ~~7-9A-105,~~ 7-9A-106, ~~or~~ 7-9A-107, or
2636 7-9A-107A, pursuant to the debtor's security agreement-; or
2637 (E) the collateral is chattel paper and the secured
2638 party has possession and control under Section 7-9A-314A
2639 pursuant to the debtor's security agreement.

2640 (c) Other UCC provisions. Subsection (b) is subject to
2641 Section 7-4-210 on the security interest of a collecting bank,
2642 Section 7-5-118 on the security interest of a letter-of-credit
2643 issuer or nominated person, Section 7-9A-110 on a security
2644 interest arising under Article 2 or 2A, and Section 7-9A-206
2645 on security interests in investment property.

2646 (d) When person becomes bound by another person's
2647 security agreement. A person becomes bound as debtor by a
2648 security agreement entered into by another person if, by
2649 operation of law other than this article or by contract:

2650 (1) the security agreement becomes effective to create
2651 a security interest in the person's property; or

2652 (2) the person becomes generally obligated for the
2653 obligations of the other person, including the obligation
2654 secured under the security agreement, and acquires or succeeds
2655 to all or substantially all of the assets of the other person.

2656 (e) Effect of new debtor becoming bound. If a new
2657 debtor becomes bound as debtor by a security agreement entered
2658 into by another person:

2659 (1) the agreement satisfies subsection (b)(3) with
2660 respect to existing or after-acquired property of the new



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2661 debtor to the extent the property is described in the
2662 agreement; and

2663 (2) another agreement is not necessary to make a
2664 security interest in the property enforceable.

2665 (f) Proceeds and supporting obligations. The attachment
2666 of a security interest in collateral gives the secured party
2667 the rights to proceeds provided by Section 7-9A-315 and is
2668 also attachment of a security interest in a supporting
2669 obligation for the collateral.

2670 (g) Lien securing right to payment. The attachment of a
2671 security interest in a right to payment or performance secured
2672 by a security interest or other lien on personal or real
2673 property is also attachment of a security interest in the
2674 security interest, mortgage, or other lien.

2675 (h) Security entitlement carried in securities account.
2676 The attachment of a security interest in a securities account
2677 is also attachment of a security interest in the security
2678 entitlements carried in the securities account.

2679 (i) Commodity contracts carried in commodity account.
2680 The attachment of a security interest in a commodity account
2681 is also attachment of a security interest in the commodity
2682 contracts carried in the commodity account."

2683 "§7-9A-204. After-acquired property; future advances.

2684 (a) After-acquired collateral. Except as otherwise
2685 provided in subsection (b), a security agreement may create or
2686 provide for a security interest in after-acquired collateral.

2687 (b) When after-acquired property clause not effective.

2688 ~~A~~ Subject to subsection (b.1), a security interest does not



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2689 attach under a term constituting an after-acquired property
2690 clause to:

2691 (1) consumer goods, other than an accession when given
2692 as additional security, unless the debtor acquires rights in
2693 them within 10 days after the secured party gives value; or

2694 (2) a commercial tort claim.

2695 (b.1) Limitation on subsection (b). Subsection (b) does
2696 not prevent a security interest from attaching:

2697 (1) to consumer goods as proceeds under Section
2698 7-9A-315(a) or commingled goods under Section 7-9A-336(c);

2699 (2) to a commercial tort claim as proceeds under
2700 Section 7-9A-315(a); or

2701 (3) under an after-acquired property clause to property
2702 that is proceeds of consumer goods or a commercial tort claim.

2703 (c) Future advances and other value. A security
2704 agreement may provide that collateral secures, or that
2705 accounts, chattel paper, payment intangibles, or promissory
2706 notes are sold in connection with, future advances or other
2707 value, whether or not the advances or value are given pursuant
2708 to commitment."

2709 "§7-9A-207. Rights and duties of secured party having
2710 possession or control of collateral.

2711 (a) Duty of care when secured party in possession.

2712 Except as otherwise provided in subsection (d), a secured
2713 party shall use reasonable care in the custody and

2714 preservation of collateral in the secured party's possession.

2715 In the case of chattel paper or an instrument, reasonable care
2716 includes taking necessary steps to preserve rights against



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2717 prior parties unless otherwise agreed.

2718 (b) Expenses, risks, duties, and rights when secured
2719 party in possession. Except as otherwise provided in
2720 subsection (d), if a secured party has possession of
2721 collateral:

2722 (1) reasonable expenses, including the cost of
2723 insurance and payment of taxes or other charges, incurred in
2724 the custody, preservation, use, or operation of the collateral
2725 are chargeable to the debtor and are secured by the
2726 collateral;

2727 (2) the risk of accidental loss or damage is on the
2728 debtor to the extent of a deficiency in any effective
2729 insurance coverage;

2730 (3) the secured party shall keep the collateral
2731 identifiable, but fungible collateral may be commingled; and

2732 (4) the secured party may use or operate the
2733 collateral:

2734 (A) for the purpose of preserving the collateral or its
2735 value;

2736 (B) as permitted by an order of a court having
2737 competent jurisdiction; or

2738 (C) except in the case of consumer goods, in the manner
2739 and to the extent agreed by the debtor.

2740 (c) Duties and rights when secured party in possession
2741 or control. Except as otherwise provided in subsection (d), a
2742 secured party having possession of collateral or control of
2743 collateral under Section 7-7-106, 7-9A-104, 7-9A-105,
2744 7-9A-106, ~~or~~ 7-9A-107, or 7-9A-107A:



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2745 (1) may hold as additional security any proceeds,
2746 except money or funds, received from the collateral;

2747 (2) shall apply money or funds received from the
2748 collateral to reduce the secured obligation, unless remitted
2749 to the debtor; and

2750 (3) may create a security interest in the collateral.

2751 (d) Buyer of certain rights to payment. If the secured
2752 party is a buyer of accounts, chattel paper, payment
2753 intangibles, or promissory notes or a consignor:

2754 (1) subsection (a) does not apply unless the secured
2755 party is entitled under an agreement:

2756 (A) to charge back uncollected collateral; or

2757 (B) otherwise to full or limited recourse against the
2758 debtor or a secondary obligor based on the nonpayment or other
2759 default of an account debtor or other obligor on the
2760 collateral; and

2761 (2) subsections (b) and (c) do not apply."

2762 "§7-9A-208. Additional duties of secured party having
2763 control of collateral.

2764 (a) Applicability of section. This section applies to
2765 cases in which there is no outstanding secured obligation and
2766 the secured party is not committed to make advances, incur
2767 obligations, or otherwise give value.

2768 (b) Duties of secured party after receiving demand from
2769 debtor. Within 10 days after receiving ~~an authenticated~~ a
2770 signed demand by the debtor:

2771 (1) a secured party having control of a deposit account
2772 under Section 7-9A-104(a) (2) shall send to the bank with which



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2773 the deposit account is maintained ~~an authenticated~~ a signed
2774 record ~~statement~~ that releases the bank from any further
2775 obligation to comply with instructions originated by the
2776 secured party;

2777 (2) a secured party having control of a deposit account
2778 under Section 7-9A-104(a) (3) shall:

2779 (A) pay the debtor the balance on deposit in the
2780 deposit account; or

2781 (B) transfer the balance on deposit into a deposit
2782 account in the debtor's name;

2783 (3) a secured party, other than a buyer, having control
2784 ~~of electronic chattel paper~~ under Section 7-9A-105 of an
2785 authoritative electronic copy of a record evidencing chattel
2786 paper shall transfer control of the electronic copy to the
2787 debtor or a person designated by the debtor; shall:

2788 ~~(A) communicate the authoritative copy of the~~
2789 ~~electronic chattel paper to the debtor or its designated~~
2790 ~~custodian;~~

2791 ~~(B) if the debtor designates a custodian that is the~~
2792 ~~designated custodian with which the authoritative copy of the~~
2793 ~~electronic chattel paper is maintained for the secured party,~~
2794 ~~communicate to the custodian an authenticated record releasing~~
2795 ~~the designated custodian from any further obligation to comply~~
2796 ~~with instructions originated by the secured party and~~
2797 ~~instructing the custodian to comply with instructions~~
2798 ~~originated by the debtor; and~~

2799 ~~(C) take appropriate action to enable the debtor or its~~
2800 ~~designated custodian to make copies of or revisions to the~~



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2801 ~~authoritative copy which add or change an identified assignee~~
2802 ~~of the authoritative copy without the consent of the secured~~
2803 ~~party;~~

2804 (4) a secured party having control of investment
2805 property under Section 7-8-106(d) (2) or 7-9A-106(b) shall send
2806 to the securities intermediary or commodity intermediary with
2807 which the security entitlement or commodity contract is
2808 maintained ~~an authenticated~~ a signed record that releases the
2809 securities intermediary or commodity intermediary from any
2810 further obligation to comply with entitlement orders or
2811 directions originated by the secured party;

2812 (5) a secured party having control of a
2813 letter-of-credit right under Section 7-9A-107 shall send to
2814 each person having an unfulfilled obligation to pay or deliver
2815 proceeds of the letter of credit to the secured party ~~an~~
2816 ~~authenticated~~ a signed release from any further obligation to
2817 pay or deliver proceeds of the letter of credit to the secured
2818 party.;

2819 ~~(6) a secured party having control of an electronic~~
2820 ~~document shall:~~

2821 ~~a. Give control of the electronic document to the~~
2822 ~~debtor or its designated custodian;~~

2823 ~~b. If the debtor designates a custodian that is the~~
2824 ~~designated custodian with which the authoritative copy of the~~
2825 ~~electronic document is maintained for the secured party,~~
2826 ~~communicate to the custodian an authenticated record releasing~~
2827 ~~the designated custodian from any further obligation to comply~~
2828 ~~with instructions originated by the secured party and~~



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2829 ~~instructing the custodian to comply with instructions~~
2830 ~~originated by the debtor; and~~

2831 ~~e. Take appropriate action to enable the debtor or its~~
2832 ~~designated custodian to make copies of or revisions to the~~
2833 ~~authoritative copy which add or change an identified assignee~~
2834 ~~of the authoritative copy without the consent of the secured~~
2835 ~~party.~~

2836 (6) a secured party having control under Section
2837 7-7-106 of an authoritative electronic copy of an electronic
2838 document shall transfer control of the electronic copy to the
2839 debtor or a person designated by the debtor; and

2840 (7) a secured party having control under Section
2841 7-12-105 of a controllable electronic record, other than a
2842 buyer of a controllable account or controllable payment
2843 intangible evidenced by the controllable electronic record,
2844 shall transfer control of the controllable electronic record
2845 to the debtor or a person designated by the debtor.

2846 (c) ~~Authenticated-Signed~~ demand. In this section,
2847 "~~authenticated~~ signed demand" means a record ~~authenticated~~
2848 signed by the debtor demanding that the secured party take one
2849 or more of the specific actions described in subsection (b)
2850 and reasonably identifying the collateral that is the subject
2851 of the demand. The secured party may designate in a record
2852 sent to the debtor or as to which the debtor has notice an
2853 address to which such demands must be sent. A demand sent to
2854 another address of the secured party will be effective, but
2855 the 10-day period for action by the secured party does not
2856 begin until the person or department at the address specified



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2857 by the secured party has notice of the demand."

2858 "§7-9A-209. Duties of secured party if account debtor
2859 has been notified of assignment.

2860 (a) Applicability of section. Except as otherwise
2861 provided in subsection (c), this section applies if:

2862 (1) there is no outstanding secured obligation; and

2863 (2) the secured party is not committed to make
2864 advances, incur obligations, or otherwise give value.

2865 (b) Duties of secured party after receiving demand from
2866 debtor. Within 10 days after receiving ~~an authenticated~~a
2867 signed demand by the debtor, a secured party shall send to an
2868 account debtor that has received notification, under Section
2869 7-9A-406(a) or 7-12-106(b), of an assignment to the secured
2870 party as assignee ~~under Section 7-9A-406(a) an authenticated~~ a
2871 signed record that releases the account debtor from any
2872 further obligation to the secured party.

2873 (c) Inapplicability to sales. This section does not
2874 apply to an assignment constituting the sale of an account,
2875 chattel paper, or payment intangible.

2876 (d) ~~Authenticated~~ Signed demand. In this section,
2877 "~~authenticated~~ signed demand" means a record signed
2878 ~~authenticated~~ by the debtor demanding that the secured party
2879 take the action described in subsection (b). The secured party
2880 may designate in a record sent to the debtor or as to which
2881 the debtor has notice an address to which such demand must be
2882 sent. A demand sent to another address of the secured party
2883 will be effective, but the 10-day period for action by the
2884 secured party does not begin until the person or department at



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2885 the address specified by the secured party has notice of the
2886 demand."

2887 "§7-9A-210. Request for accounting; request regarding
2888 list of collateral or statement of account.

2889 (a) Definitions. In this section:

2890 (1) "Request" means a record of a type described in
2891 paragraph (2), (3), or (4).

2892 (2) "Request for an accounting" means a record
2893 ~~authenticated~~signed by a debtor requesting that the recipient
2894 provide an accounting of the unpaid obligations secured by
2895 collateral and reasonably identifying the transaction or
2896 relationship that is the subject of the request.

2897 (3) "Request regarding a list of collateral" means a
2898 record~~authenticated~~signed by a debtor requesting that the
2899 recipient approve or correct a list of what the debtor
2900 believes to be the collateral securing an obligation and
2901 reasonably identifying the transaction or relationship that is
2902 the subject of the request.

2903 (4) "Request regarding a statement of account" means a
2904 record~~authenticated~~signed by a debtor requesting that the
2905 recipient approve or correct a statement indicating what the
2906 debtor believes to be the aggregate amount of unpaid
2907 obligations secured by collateral as of a specified date and
2908 reasonably identifying the transaction or relationship that is
2909 the subject of the request.

2910 (b) Duty to respond to requests. Subject to subsections
2911 (c), (d), (e), and (f), a secured party, other than a buyer of
2912 accounts, chattel paper, payment intangibles, or promissory



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2913 notes or a consignor, shall comply with a request within 14
2914 days after receipt:

2915 (1) in the case of a request for an accounting, by
2916 ~~authenticating~~ signing and sending to the debtor an
2917 accounting; and

2918 (2) in the case of a request regarding a list of
2919 collateral or a request regarding a statement of account, by
2920 ~~authenticating~~ signing and sending to the debtor an approval
2921 or correction.

2922 (c) Request regarding list of collateral; statement
2923 concerning type of collateral. A secured party that claims a
2924 security interest in all of a particular type of collateral
2925 owned by the debtor may comply with a request regarding a list
2926 of collateral by sending to the debtor ~~an authenticated~~ a
2927 signed record including a statement to that effect within 14
2928 days after receipt.

2929 (d) Request regarding list of collateral; no interest
2930 claimed. A person that receives a request regarding a list of
2931 collateral, claims no interest in the collateral when it
2932 receives the request, and claimed an interest in the
2933 collateral at an earlier time shall comply with the request
2934 within 14 days after receipt by sending to the debtor ~~an~~
2935 ~~authenticated~~ a signed record:

2936 (1) disclaiming any interest in the collateral; and

2937 (2) if known to the recipient, providing the name and
2938 mailing address of any assignee of or successor to the
2939 recipient's interest in the collateral.

2940 (e) Request for accounting or regarding statement of



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2941 account; no interest in obligation claimed. A person that
2942 receives a request for an accounting or a request regarding a
2943 statement of account, claims no interest in the obligations
2944 when it receives the request, and claimed an interest in the
2945 obligations at an earlier time shall comply with the request
2946 within 14 days after receipt by sending to the debtor ~~an~~
2947 ~~authenticated~~ a signed record:

2948 (1) disclaiming any interest in the obligations; and

2949 (2) if known to the recipient, providing the name and
2950 mailing address of any assignee of or successor to the
2951 recipient's interest in the obligations.

2952 (f) Charges for responses. A debtor is entitled without
2953 charge to one response to a request under this section during
2954 any six-month period. The secured party may require payment of
2955 a charge not exceeding ~~\$25~~ twenty-five dollars (\$25) for each
2956 additional response.

2957 (g) Designation of address for request. The secured
2958 party may designate in a record sent to the debtor,
2959 ~~authenticated~~ signed by the debtor, or, as to which the debtor
2960 has notice, an address to which a request under this section
2961 must be sent. A request sent to another address of the secured
2962 party will be effective, but the 14-day period for action by
2963 the secured party does not begin until the person or
2964 department at the address specified by the secured party has
2965 notice of the request."

2966 "§7-9A-301. Law governing perfection and priority of
2967 security interests.

2968 Except as otherwise provided in Sections 7-9A-303



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2969 through ~~7-9A-306~~ 7-9A-306B, the following rules determine the
2970 law governing perfection, the effect of perfection or
2971 nonperfection, and the priority of a security interest in
2972 collateral:

2973 (1) Except as otherwise provided in this section, while
2974 a debtor is located in a jurisdiction, the local law of that
2975 jurisdiction governs perfection, the effect of perfection or
2976 nonperfection, and the priority of a security interest in
2977 collateral.

2978 (2) While collateral is located in a jurisdiction, the
2979 local law of that jurisdiction governs perfection, the effect
2980 of perfection or nonperfection, and the priority of a
2981 possessory security interest in that collateral.

2982 (3) Except as otherwise provided in paragraph (4),
2983 while ~~tangible~~-negotiable tangible documents, goods,
2984 instruments, or money, ~~or tangible chattel paper~~ is located in
2985 a jurisdiction, the local law of that jurisdiction governs:

2986 (A) perfection of a security interest in the goods by
2987 filing a fixture filing;

2988 (B) perfection of a security interest in timber to be
2989 cut; and

2990 (C) the effect of perfection or nonperfection and the
2991 priority of a nonpossessory security interest in the
2992 collateral.

2993 (4) The local law of the jurisdiction in which the
2994 wellhead or mine is located governs perfection, the effect of
2995 perfection or nonperfection, and the priority of a security
2996 interest in as-extracted collateral."



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2997 "§7-9A-304. Law governing perfection and priority of
2998 security interests in deposit accounts.

2999 (a) Law of bank's jurisdiction governs. The local law
3000 of a bank's jurisdiction governs perfection, the effect of
3001 perfection or nonperfection, and the priority of a security
3002 interest in a deposit account maintained with that bank even
3003 if the transaction does not bear any relation to the bank's
3004 jurisdiction.

3005 (b) Bank's jurisdiction. The following rules determine
3006 a bank's jurisdiction for purposes of this part:

3007 (1) If an agreement between the bank and the debtor
3008 governing the deposit account expressly provides that a
3009 particular jurisdiction is the bank's jurisdiction for
3010 purposes of this part, this article, or the Uniform Commercial
3011 Code, that jurisdiction is the bank's jurisdiction.

3012 (2) If paragraph (1) does not apply and an agreement
3013 between the bank and its customer governing the deposit
3014 account expressly provides that the agreement is governed by
3015 the law of a particular jurisdiction, that jurisdiction is the
3016 bank's jurisdiction.

3017 (3) If neither paragraph (1) nor paragraph (2) applies
3018 and an agreement between the bank and its customer governing
3019 the deposit account expressly provides that the deposit
3020 account is maintained at an office in a particular
3021 jurisdiction, that jurisdiction is the bank's jurisdiction.

3022 (4) If none of the preceding paragraphs applies, the
3023 bank's jurisdiction is the jurisdiction in which the office
3024 identified in an account statement as the office serving the



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3025 customer's account is located.

3026 (5) If none of the preceding paragraphs applies, the
3027 bank's jurisdiction is the jurisdiction in which the chief
3028 executive office of the bank is located."

3029 "§7-9A-305. Law governing perfection and priority of
3030 security interests in investment property.

3031 (a) Governing law: General rules. Except as otherwise
3032 provided in subsection (c), the following rules apply:

3033 (1) While a security certificate is located in a
3034 jurisdiction, the local law of that jurisdiction governs
3035 perfection, the effect of perfection or nonperfection, and the
3036 priority of a security interest in the certificated security
3037 represented thereby.

3038 (2) The local law of the issuer's jurisdiction as
3039 specified in Section 7-8-110(d) governs perfection, the effect
3040 of perfection or nonperfection, and the priority of a security
3041 interest in an uncertificated security.

3042 (3) The local law of the securities intermediary's
3043 jurisdiction as specified in Section 7-8-110(e) governs
3044 perfection, the effect of perfection or nonperfection, and the
3045 priority of a security interest in a security entitlement or
3046 securities account.

3047 (4) The local law of the commodity intermediary's
3048 jurisdiction governs perfection, the effect of perfection or
3049 nonperfection, and the priority of a security interest in a
3050 commodity contract or commodity account.

3051 (5) Paragraphs (2), (3), and (4) apply even if the
3052 transaction does not bear any relation to the jurisdiction.



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3053 (b) Commodity intermediary's jurisdiction. The
3054 following rules determine a commodity intermediary's
3055 jurisdiction for purposes of this part:

3056 (1) If an agreement between the commodity intermediary
3057 and commodity customer governing the commodity account
3058 expressly provides that a particular jurisdiction is the
3059 commodity intermediary's jurisdiction for purposes of this
3060 part, this article, or the Uniform Commercial Code, that
3061 jurisdiction is the commodity intermediary's jurisdiction.

3062 (2) If paragraph (1) does not apply and an agreement
3063 between the commodity intermediary and commodity customer
3064 governing the commodity account expressly provides that the
3065 agreement is governed by the law of a particular jurisdiction,
3066 that jurisdiction is the commodity intermediary's
3067 jurisdiction.

3068 (3) If neither paragraph (1) nor paragraph (2) applies
3069 and an agreement between the commodity intermediary and
3070 commodity customer governing the commodity account expressly
3071 provides that the commodity account is maintained at an office
3072 in a particular jurisdiction, that jurisdiction is the
3073 commodity intermediary's jurisdiction.

3074 (4) If none of the preceding paragraphs applies, the
3075 commodity intermediary's jurisdiction is the jurisdiction in
3076 which the office identified in an account statement as the
3077 office serving the commodity customer's account is located.

3078 (5) If none of the preceding paragraphs applies, the
3079 commodity intermediary's jurisdiction is the jurisdiction in
3080 which the chief executive office of the commodity intermediary



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3081 is located.

3082 (c) When perfection governed by law of jurisdiction
3083 where debtor located. The local law of the jurisdiction in
3084 which the debtor is located governs:

3085 (1) perfection of a security interest in investment
3086 property by filing;

3087 (2) automatic perfection of a security interest in
3088 investment property created by a broker or securities
3089 intermediary; and

3090 (3) automatic perfection of a security interest in a
3091 commodity contract or commodity account created by a commodity
3092 intermediary."

3093 "§7-9A-310. When filing required to perfect security
3094 interest or agricultural lien; security interests and
3095 agricultural liens to which filing provisions do not apply.

3096 (a) General rule: Perfection by filing. Except as
3097 otherwise provided in subsection (b) and Section 7-9A-312(b),
3098 a financing statement must be filed to perfect all security
3099 interests and agricultural liens.

3100 (b) Exceptions: Filing not necessary. The filing of a
3101 financing statement is not necessary to perfect a security
3102 interest:

3103 (1) that is perfected under Section 7-9A-308(d), (e),
3104 (f), or (g);

3105 (2) that is perfected under Section 7-9A-309 when it
3106 attaches;

3107 (3) in property subject to a statute, regulation, or
3108 treaty described in Section 7-9A-311(a);



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3109 (4) in goods in possession of a bailee which is
3110 perfected under Section 7-9A-312(d) (1) or (2);

3111 (5) in certificated securities, documents, goods, or
3112 instruments which is perfected without filing, control, or
3113 possession under Section 7-9A-312(e), (f), or (g);

3114 (6) in collateral in the secured party's possession
3115 under Section 7-9A-313;

3116 (7) in a certificated security which is perfected by
3117 delivery of the security certificate to the secured party
3118 under Section 7-9A-313;

3119 (8) in controllable accounts, controllable electronic
3120 records, controllable payment intangibles, deposit accounts,
3121 electronic documents, ~~electronic chattel paper,~~ investment
3122 property, or letter-of-credit rights which is perfected by
3123 control under Section 7-9A-314;

3124 (8A) in chattel paper which is perfected by possession
3125 and control under Section 7-9A-314A;

3126 (9) in proceeds which is perfected under Section
3127 7-9A-315; or

3128 (10) that is perfected under Section 7-9A-316.

3129 (c) Assignment of perfected security interest. If a
3130 secured party assigns a perfected security interest or
3131 agricultural lien, a filing under this article is not required
3132 to continue the perfected status of the security interest
3133 against creditors of and transferees from the original debtor.

3134 "§7-9A-312. ~~Perfection of certain security interests by~~
3135 ~~filing; temporary perfection~~Perfection of security interests
3136 in chattel paper, controllable accounts, controllable



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3137 electronic records, controllable payment intangibles, deposit
3138 accounts, negotiable documents, goods covered by documents,
3139 instruments, investment property, letter-of-credit rights, and
3140 money; perfection by permissive filing; temporary without
3141 filing or transfer of possession.

3142 (a) Perfection by filing permitted. A security interest
3143 in chattel paper, controllable accounts, controllable
3144 electronic records, controllable payment intangibles,
3145 ~~negotiable documents,~~ instruments, ~~or~~ investment property, or
3146 negotiable documents may be perfected by filing.

3147 (b) Control or possession of certain collateral. Except
3148 as otherwise provided in Section 7-9A-315(c) and (d) for
3149 proceeds:

3150 (1) a security interest in a deposit account may be
3151 perfected only by control under Section 7-9A-314;

3152 (2) ~~and~~ except as otherwise provided in Section
3153 7-9A-308(d), a security interest in a letter-of-credit right
3154 may be perfected only by control under Section 7-9A-314; and

3155 (3) a security interest in money may be perfected only
3156 by the secured party's taking possession under Section
3157 7-9A-313.

3158 (c) Goods covered by negotiable document. While goods
3159 are in the possession of a bailee that has issued a negotiable
3160 document covering the goods:

3161 (1) a security interest in the goods may be perfected
3162 by perfecting a security interest in the document; and

3163 (2) a security interest perfected in the document has
3164 priority over any security interest that becomes perfected in



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3165 the goods by another method during that time.

3166 (d) Goods covered by nonnegotiable document. While
3167 goods are in the possession of a bailee that has issued a
3168 nonnegotiable document covering the goods, a security interest
3169 in the goods may be perfected by:

3170 (1) issuance of a document in the name of the secured
3171 party;

3172 (2) the bailee's receipt of notification of the secured
3173 party's interest; or

3174 (3) filing as to the goods.

3175 (e) Temporary perfection: New value. A security
3176 interest in certificated securities, negotiable documents, or
3177 instruments is perfected without filing or the taking of
3178 possession or control for a period of 20 days from the time it
3179 attaches to the extent that it arises for new value given
3180 under ~~an authenticated~~ a signed security agreement.

3181 (f) Temporary perfection: Goods or documents made
3182 available to debtor. A perfected security interest in a
3183 negotiable document or goods in possession of a bailee, other
3184 than one that has issued a negotiable document for the goods,
3185 remains perfected for 20 days without filing if the secured
3186 party makes available to the debtor the goods or documents
3187 representing the goods for the purpose of:

3188 (1) ultimate sale or exchange; or

3189 (2) loading, unloading, storing, shipping,
3190 transshipping, manufacturing, processing, or otherwise dealing
3191 with them in a manner preliminary to their sale or exchange.

3192 (g) Temporary perfection: Delivery of security



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3193 certificate or instrument to debtor. A perfected security
3194 interest in a certificated security or instrument remains
3195 perfected for 20 days without filing if the secured party
3196 delivers the security certificate or instrument to the debtor
3197 for the purpose of:

3198 (1) ultimate sale or exchange; or

3199 (2) presentation, collection, enforcement, renewal, or
3200 registration of transfer.

3201 (h) Expiration of temporary perfection. After the
3202 20-day period specified in subsection (e), (f), or (g)
3203 expires, perfection depends upon compliance with this
3204 article."

3205 "§7-9A-313. When possession by or delivery to secured
3206 party perfects security interest without filing.

3207 (a) Perfection by possession or delivery. Except as
3208 otherwise provided in subsection (b), a secured party may
3209 perfect a security interest in ~~tangible negotiable documents,~~
3210 goods, instruments, negotiable tangible documents, or money,
3211 ~~or tangible chattel paper~~ by taking possession of the
3212 collateral. A secured party may perfect a security interest in
3213 certificated securities by taking delivery of the certificated
3214 securities under Section 7-8-301.

3215 (b) Goods covered by certificate of title. With respect
3216 to goods covered by a certificate of title issued by this
3217 State, a secured party may perfect a security interest in the
3218 goods by taking possession of the goods only in the
3219 circumstances described in Section 7-9A-316(d).

3220 (c) Collateral in possession of person other than



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3221 debtor. With respect to collateral other than certificated
3222 securities and goods covered by a document, a secured party
3223 takes possession of collateral in the possession of a person
3224 other than the debtor, the secured party, or a lessee of the
3225 collateral from the debtor in the ordinary course of the
3226 debtor's business, when:

3227 (1) the person in possession ~~authenticates~~ signs a
3228 record acknowledging that it holds possession of the
3229 collateral for the secured party's benefit; or

3230 (2) the person takes possession of the collateral after
3231 having ~~authenticated~~ signed a record acknowledging that it
3232 will hold possession of the collateral for the secured party's
3233 benefit.

3234 (d) Time of perfection by possession; continuation of
3235 perfection. If perfection of a security interest depends upon
3236 possession of the collateral by a secured party, perfection
3237 occurs ~~no~~ not earlier than the time the secured party takes
3238 possession and continues only while the secured party retains
3239 possession.

3240 (e) Time of perfection by delivery; continuation of
3241 perfection. A security interest in a certificated security in
3242 registered form is perfected by delivery when delivery of the
3243 certificated security occurs under Section 7-8-301 and remains
3244 perfected by delivery until the debtor obtains possession of
3245 the security certificate.

3246 (f) Acknowledgment not required. A person in possession
3247 of collateral is not required to acknowledge that it holds
3248 possession for a secured party's benefit.



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3249 (g) Effectiveness of acknowledgment; no duties or
3250 confirmation. If a person acknowledges that it holds
3251 possession for the secured party's benefit:

3252 (1) the acknowledgment is effective under subsection
3253 (c) or Section 7-8-301(a), even if the acknowledgment violates
3254 the rights of a debtor; and

3255 (2) unless the person otherwise agrees or law other
3256 than this article otherwise provides, the person does not owe
3257 any duty to the secured party and is not required to confirm
3258 the acknowledgment to another person.

3259 (h) Secured party's delivery to person other than
3260 debtor. A secured party having possession of collateral does
3261 not relinquish possession by delivering the collateral to a
3262 person other than the debtor or a lessee of the collateral
3263 from the debtor in the ordinary course of the debtor's
3264 business if the person was instructed before the delivery or
3265 is instructed contemporaneously with the delivery:

3266 (1) to hold possession of the collateral for the
3267 secured party's benefit; or

3268 (2) to redeliver the collateral to the secured party.

3269 (i) Effect of delivery under subsection (h); no duties
3270 or confirmation. A secured party does not relinquish
3271 possession, even if a delivery under subsection (h) violates
3272 the rights of a debtor. A person to which collateral is
3273 delivered under subsection (h) does not owe any duty to the
3274 secured party and is not required to confirm the delivery to
3275 another person unless the person otherwise agrees or law other
3276 than this article otherwise provides."



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3277 "§7-9A-314. Perfection by control.

3278 (a) Perfection by control. A security interest in
3279 ~~investment property, deposit accounts, letter-of-credit~~
3280 ~~rights, electronic chattel paper, or electronic documents~~
3281 controllable accounts, controllable electronic records,
3282 controllable payment intangibles, deposit accounts, electronic
3283 documents, investment property, or letter-of-credit rights may
3284 be perfected by control of the collateral under Section
3285 7-7-106, 7-9A-104, ~~7-9A-105~~, 7-9A-106, ~~or~~ 7-9A-107, or
3286 7-9A-107A.

3287 (b) Specified collateral: Time of perfection by
3288 control; continuation of perfection. A security interest in
3289 ~~deposit accounts, electronic chattel paper, letter-of-credit~~
3290 ~~rights, or electronic documents~~ controllable accounts,
3291 controllable electronic records, controllable payment
3292 intangibles, deposit accounts, electronic documents, or
3293 letter-of-credit rights is perfected by control under Section
3294 7-7-106, 7-9A-104, ~~7-9A-105, or~~ 7-9A-107, or 7-9A-107A ~~when~~
3295 not earlier than the time the secured party obtains control
3296 and remains perfected by control only while the secured party
3297 retains control.

3298 (c) Investment property: Time of perfection by control;
3299 continuation of perfection. A security interest in investment
3300 property is perfected by control under Section 7-9A-106 ~~from~~
3301 not earlier than the time the secured party obtains control
3302 and remains perfected by control until:

- 3303 (1) the secured party does not have control; and
3304 (2) one of the following occurs:



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3305 (A) if the collateral is a certificated security, the
3306 debtor has or acquires possession of the security certificate;

3307 (B) if the collateral is an uncertificated security,
3308 the issuer has registered or registers the debtor as the
3309 registered owner; or

3310 (C) if the collateral is a security entitlement, the
3311 debtor is or becomes the entitlement holder.

3312 "§7-9A-316. ~~Effect of~~ Continued perfection of security
3313 interest following change in governing law.

3314 (a) General rule: Effect on ~~perfection of change in~~
3315 ~~governing~~ law. A security interest perfected pursuant to the
3316 law of the jurisdiction designated in Section 7-9A-301(1), ~~or~~
3317 7-9A-305(c), 7-9A-306A(d), or 7-9A-306B(b) remains perfected
3318 until the earliest of:

3319 (1) the time perfection would have ceased under the law
3320 of that jurisdiction;

3321 (2) the expiration of four months after a change of the
3322 debtor's location to another jurisdiction; or

3323 (3) the expiration of one year after a transfer of
3324 collateral to a person that thereby becomes a debtor and is
3325 located in another jurisdiction.

3326 (b) Security interest perfected or unperfected under
3327 law of new jurisdiction. If a security interest described in
3328 subsection (a) becomes perfected under the law of the other
3329 jurisdiction before the earliest time or event described in
3330 that subsection, it remains perfected thereafter. If the
3331 security interest does not become perfected under the law of
3332 the other jurisdiction before the earliest time or event, it



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3333 becomes unperfected and is deemed never to have been perfected
3334 as against a purchaser of the collateral for value.

3335 (c) Possessory security interest in collateral moved to
3336 new jurisdiction. A possessory security interest in
3337 collateral, other than goods covered by a certificate of title
3338 and as-extracted collateral consisting of goods, remains
3339 continuously perfected if:

3340 (1) the collateral is located in one jurisdiction and
3341 subject to a security interest perfected under the law of that
3342 jurisdiction;

3343 (2) thereafter the collateral is brought into another
3344 jurisdiction; and

3345 (3) upon entry into the other jurisdiction, the
3346 security interest is perfected under the law of the other
3347 jurisdiction.

3348 (d) Goods covered by certificate of title from this
3349 State. Except as otherwise provided in subsection (e), a
3350 security interest in goods covered by a certificate of title
3351 which is perfected by any method under the law of another
3352 jurisdiction when the goods become covered by a certificate of
3353 title from this State remains perfected until the security
3354 interest would have become unperfected under the law of the
3355 other jurisdiction had the goods not become so covered.

3356 (e) When subsection (d) security interest becomes
3357 unperfected against purchasers. A security interest described
3358 in subsection (d) becomes unperfected as against a purchaser
3359 of the goods for value and is deemed never to have been
3360 perfected as against a purchaser of the goods for value if the



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3361 applicable requirements for perfection under Section
3362 7-9A-311(b) or 7-9A-313 are not satisfied before the earlier
3363 of:

3364 (1) the time the security interest would have become
3365 unperfected under the law of the other jurisdiction had the
3366 goods not become covered by a certificate of title from this
3367 State; or

3368 (2) the expiration of four months after the goods had
3369 become so covered.

3370 (f) ~~Change in jurisdiction of bank, issuer, nominated~~
3371 ~~person, securities intermediary, or commodity~~

3372 ~~intermediary.~~ Change in jurisdiction of chattel paper,
3373 controllable electronic record, bank, issuer, nominated
3374 person, securities intermediary, or commodity intermediary. A

3375 security interest in chattel paper, controllable accounts,
3376 controllable electronic accounts, controllable payment
3377 intangibles, deposit accounts, letter-of-credit rights, or

3378 investment property which is perfected under the law of the
3379 chattel paper's jurisdiction, the controllable electronic

3380 record's jurisdiction, the bank's jurisdiction, the issuer's
3381 jurisdiction, a nominated person's jurisdiction, the

3382 securities intermediary's jurisdiction, or the commodity

3383 intermediary's jurisdiction, as applicable, remains perfected
3384 until the earlier of:

3385 (1) the time the security interest would have become
3386 unperfected under the law of that jurisdiction; or

3387 (2) the expiration of four months after a change of the
3388 applicable jurisdiction to another jurisdiction.



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3389 (g) Subsection (f) security interest perfected or
3390 unperfected under law of new jurisdiction. If a security
3391 interest described in subsection (f) becomes perfected under
3392 the law of the other jurisdiction before the earlier of the
3393 time or the end of the period described in that subsection, it
3394 remains perfected thereafter. If the security interest does
3395 not become perfected under the law of the other jurisdiction
3396 before the earlier of that time or the end of that period, it
3397 becomes unperfected and is deemed never to have been perfected
3398 as against a purchaser of the collateral for value.

3399 (h) Effect on filed financing statement of change in
3400 governing law. The following rules apply to collateral to
3401 which a security interest attaches within four months after
3402 the debtor changes its location to another jurisdiction:

3403 (1) A financing statement filed before the change
3404 pursuant to the law of the jurisdiction designated in Section
3405 7-9A-301(1) or 7-9A-305(c) is effective to perfect a security
3406 interest in the collateral if the financing statement would
3407 have been effective to perfect a security interest in the
3408 collateral if the debtor had not changed its location.

3409 (2) If a security interest that is perfected by a
3410 financing statement that is effective under paragraph (1)
3411 becomes perfected under the law of the other jurisdiction
3412 before the earlier of the time the financing statement would
3413 have become ineffective under the law of the jurisdiction
3414 designated in Section 7-9A-301(1) or 7-9A-305(c) or the
3415 expiration of the four-month period, it remains perfected
3416 thereafter. If the security interest does not become perfected



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3417 under the law of the other jurisdiction before the earlier
3418 time or event, it becomes unperfected and is deemed never to
3419 have been perfected as against a purchaser of the collateral
3420 for value.

3421 (i) Effect of change in governing law on financing
3422 statement filed against original debtor. If a financing
3423 statement naming an original debtor is filed pursuant to the
3424 law of the jurisdiction designated in Section 7-9A-301(1) or
3425 7-9A-305(c) and the new debtor is located in another
3426 jurisdiction, the following rules apply:

3427 (1) The financing statement is effective to perfect a
3428 security interest in collateral acquired by the new debtor
3429 before, and within four months after, the new debtor becomes
3430 bound under Section 7-9A-203(d), if the financing statement
3431 would have been effective to perfect a security interest in
3432 the collateral if the collateral had been acquired by the
3433 original debtor.

3434 (2) A security interest that is perfected by the
3435 financing statement and which becomes perfected under the law
3436 of the other jurisdiction before the earlier of the expiration
3437 of the four-month period or the time the financing statement
3438 would have become ineffective under the law of the
3439 jurisdiction designated in Section 7-9A-301(1) or 7-9A-305(c)
3440 remains perfected thereafter. A security interest that is
3441 perfected by the financing statement but which does not become
3442 perfected under the law of the other jurisdiction before the
3443 earlier time or event becomes unperfected and is deemed never
3444 to have been perfected as against a purchaser of the



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3445 collateral for value."

3446 "§7-9A-317. Interests that take priority over or take
3447 free of security interest or agricultural lien.

3448 (a) Conflicting security interests and rights of lien
3449 creditors. A security interest or agricultural lien is
3450 subordinate to the rights of:

3451 (1) a person entitled to priority under Section
3452 7-9A-322; and

3453 (2) except as otherwise provided in subsection (e), a
3454 person that becomes a lien creditor before the earlier of the
3455 time:

3456 (A) the security interest or agricultural lien is
3457 perfected; or

3458 (B) one of the conditions specified in Section
3459 7-9A-203(b) (3) is met and a financing statement covering the
3460 collateral is filed.

3461 (b) Buyers that receive delivery. Except as otherwise
3462 provided in subsection (e), a buyer, other than a secured
3463 party, ~~of tangible chattel paper, tangible documents, of~~
3464 goods, instruments, tangible documents, or a certificated
3465 security takes free of a security interest or agricultural
3466 lien if the buyer gives value and receives delivery of the
3467 collateral without knowledge of the security interest or
3468 agricultural lien and before it is perfected.

3469 (c) Lessees that receive delivery. Except as otherwise
3470 provided in subsection (e), a lessee of goods takes free of a
3471 security interest or agricultural lien if the lessee gives
3472 value and receives delivery of the collateral without



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3473 knowledge of the security interest or agricultural lien and
3474 before it is perfected.

3475 (d) Licensees and buyers of certain collateral. ~~A~~
3476 Subject to subsections (f) through (i), a licensee of a
3477 general intangible or a buyer, other than a secured party, of
3478 collateral other than ~~tangible chattel paper, tangible~~
3479 ~~documents,~~ goods, instruments, tangible documents, or a
3480 certificated security takes free of a security interest if the
3481 licensee or buyer gives value without knowledge of the
3482 security interest and before it is perfected.

3483 (e) Purchase-money security interest. Except as
3484 otherwise provided in Sections 7-9A-320 and 7-9A-321, if a
3485 person files a financing statement with respect to a
3486 purchase-money security interest before or within 20 days
3487 after the debtor receives delivery of the collateral, the
3488 security interest takes priority over the rights of a buyer,
3489 lessee, or lien creditor which arise between the time the
3490 security interest attaches and the time of filing.

3491 (f) Buyers of chattel paper. A buyer, other than a
3492 secured party, of chattel paper takes free of a security
3493 interest if, without knowledge of the security interest and
3494 before it is perfected, the buyer gives value and:

3495 (1) receives delivery of each authoritative tangible
3496 copy of the record evidencing the chattel paper; and

3497 (2) if each authoritative electronic copy of the record
3498 evidencing the chattel paper can be subjected to control under
3499 Section 7-9A-105, obtains control of each authoritative
3500 electronic copy.



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3501 (g) Buyers of electronic documents. A buyer of an
3502 electronic document takes free of a security interest if,
3503 without knowledge of the security interest and before it is
3504 perfected, the buyer gives value and, if each authoritative
3505 electronic copy of the document can be subjected to control
3506 under Section 7-7-106, obtains control of each authoritative
3507 electronic copy.

3508 (h) Buyers of controllable electronic records. A buyer
3509 of a controllable electronic record takes free of a security
3510 interest if, without knowledge of the security interest and
3511 before it is perfected, the buyer gives value and obtains
3512 control of the controllable electronic record.

3513 (i) Buyers of controllable accounts and controllable
3514 payment intangibles. A buyer, other than a secured party, of a
3515 controllable account or a controllable payment intangible
3516 takes free of a security interest if, without knowledge of the
3517 security interest and before it is perfected, the buyer gives
3518 value and obtains control of the controllable account or
3519 controllable payment intangible."

3520 "§7-9A-323. Future advances.

3521 (a) When priority based on time of advance. Except as
3522 otherwise provided in subsection (c), for purposes of
3523 determining the priority of a perfected security interest
3524 under Section 7-9A-322(a)(1), perfection of the security
3525 interest dates from the time an advance is made to the extent
3526 that the security interest secures an advance that:

3527 (1) is made while the security interest is perfected
3528 only:



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3529 (A) under Section 7-9A-309 when it attaches; or
3530 (B) temporarily under Section 7-9A-312(e), (f), or (g);

3531 and

3532 (2) is not made pursuant to a commitment entered into
3533 before or while the security interest is perfected by a method
3534 other than under Section 7-9A-309 or 7-9A-312(e), (f), or (g).

3535 (b) Lien creditor. Except as otherwise provided in
3536 subsection (c), a security interest is subordinate to the
3537 rights of a person that becomes a lien creditor to the extent
3538 that the security interest secures an advance made more than
3539 45 days after the person becomes a lien creditor unless the
3540 advance is made:

3541 (1) without knowledge of the lien; or

3542 (2) pursuant to a commitment entered into without
3543 knowledge of the lien.

3544 (c) Buyer of receivables. Subsections (a) and (b) do
3545 not apply to a security interest held by a secured party that
3546 is a buyer of accounts, chattel paper, payment intangibles, or
3547 promissory notes or a consignor.

3548 (d) Buyer of goods. Except as otherwise provided in
3549 subsection (e), a buyer of goods ~~other than a buyer in~~
3550 ~~ordinary course of business~~ takes free of a security interest
3551 to the extent that it secures advances made after the earlier
3552 of:

3553 (1) the time the secured party acquires knowledge of
3554 the buyer's purchase; or

3555 (2) 45 days after the purchase.

3556 (e) Advances made pursuant to commitment: Priority of



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3557 buyer of goods. Subsection (d) does not apply if the advance
3558 is made pursuant to a commitment entered into without
3559 knowledge of the buyer's purchase and before the expiration of
3560 the 45-day period.

3561 (f) Lessee of goods. Except as otherwise provided in
3562 subsection (g), a lessee of goods, ~~other than a lessee in~~
3563 ~~ordinary course of business,~~ takes the leasehold interest free
3564 of a security interest to the extent that it secures advances
3565 made after the earlier of:

3566 (1) the time the secured party acquires knowledge of
3567 the lease; or

3568 (2) 45 days after the lease contract becomes
3569 enforceable.

3570 (g) Advances made pursuant to commitment: Priority of
3571 lessee of goods. Subsection (f) does not apply if the advance
3572 is made pursuant to a commitment entered into without
3573 knowledge of the lease and before the expiration of the 45-day
3574 period."

3575 "§7-9A-324. Priority of purchase-money security
3576 interests.

3577 (a) General rule: Purchase-money priority. Except as
3578 otherwise provided in subsection (g), a perfected
3579 purchase-money security interest in goods other than inventory
3580 or livestock has priority over a conflicting security interest
3581 in the same goods, and, except as otherwise provided in
3582 Section 7-9A-327, a perfected security interest in its
3583 identifiable proceeds also has priority, if the purchase-money
3584 security interest is perfected when the debtor receives



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3585 possession of the collateral or within 20 days thereafter.

3586 (b) Inventory purchase-money priority. Subject to
3587 subsection (c) and except as otherwise provided in subsection
3588 (g), a perfected purchase-money security interest in inventory
3589 has priority over a conflicting security interest in the same
3590 inventory, has priority over a conflicting security interest
3591 in chattel paper or an instrument constituting proceeds of the
3592 inventory and in proceeds of the chattel paper, if so provided
3593 in Section 7-9A-330, and, except as otherwise provided in
3594 Section 7-9A-327, also has priority in identifiable cash
3595 proceeds of the inventory to the extent the identifiable cash
3596 proceeds are received on or before the delivery of the
3597 inventory to a buyer, if:

3598 (1) the purchase-money security interest is perfected
3599 when the debtor receives possession of the inventory;

3600 (2) the purchase-money secured party sends ~~an~~
3601 ~~authenticated~~ a signed notification to the holder of the
3602 conflicting security interest;

3603 (3) the holder of the conflicting security interest
3604 receives the notification within five years before the debtor
3605 receives possession of the inventory; and

3606 (4) the notification states that the person sending the
3607 notification has or expects to acquire a purchase-money
3608 security interest in inventory of the debtor and describes the
3609 inventory.

3610 (c) Holders of conflicting inventory security interests
3611 to be notified. Subsections (b) (2) through (4) apply only if
3612 the holder of the conflicting security interest had filed a



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3613 financing statement covering the same types of inventory:

3614 (1) if the purchase-money security interest is
3615 perfected by filing, before the date of the filing; or

3616 (2) if the purchase-money security interest is
3617 temporarily perfected without filing or possession under
3618 Section 7-9A-312(f), before the beginning of the 20-day period
3619 thereunder.

3620 (d) Livestock purchase-money priority. Subject to
3621 subsection (e) and except as otherwise provided in subsection
3622 (g), a perfected purchase-money security interest in livestock
3623 that are farm products has priority over a conflicting
3624 security interest in the same livestock, and, except as
3625 otherwise provided in Section 7-9A-327, a perfected security
3626 interest in their identifiable proceeds and identifiable
3627 products in their unmanufactured states also has priority, if:

3628 (1) the purchase-money security interest is perfected
3629 when the debtor receives possession of the livestock;

3630 (2) the purchase-money secured party sends ~~an~~
3631 ~~authenticated~~ a signed notification to the holder of the
3632 conflicting security interest;

3633 (3) the holder of the conflicting security interest
3634 receives the notification within six months before the debtor
3635 receives possession of the livestock; and

3636 (4) the notification states that the person sending the
3637 notification has or expects to acquire a purchase-money
3638 security interest in livestock of the debtor and describes the
3639 livestock.

3640 (e) Holders of conflicting livestock security interests



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3641 to be notified. Subsections (d)(2) through (4) apply only if
3642 the holder of the conflicting security interest had filed a
3643 financing statement covering the same types of livestock:

3644 (1) if the purchase-money security interest is
3645 perfected by filing, before the date of the filing; or

3646 (2) if the purchase-money security interest is
3647 temporarily perfected without filing or possession under
3648 Section 7-9A-312(f), before the beginning of the 20-day period
3649 thereunder.

3650 (f) Software purchase-money priority. Except as
3651 otherwise provided in subsection (g), a perfected
3652 purchase-money security interest in software has priority over
3653 a conflicting security interest in the same collateral, and,
3654 except as otherwise provided in Section 7-9A-327, a perfected
3655 security interest in its identifiable proceeds also has
3656 priority, to the extent that the purchase-money security
3657 interest in the goods in which the software was acquired for
3658 use has priority in the goods and proceeds of the goods under
3659 this section.

3660 (g) Conflicting purchase-money security interests. If
3661 more than one security interest qualifies for priority in the
3662 same collateral under subsection (a), (b), (d), or (f):

3663 (1) a security interest securing an obligation incurred
3664 as all or part of the price of the collateral has priority
3665 over a security interest securing an obligation incurred for
3666 value given to enable the debtor to acquire rights in or the
3667 use of collateral; and

3668 (2) in all other cases, Section 7-9A-322(a) applies to



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3669 the qualifying security interests.

3670 "§7-9A-330. Priority of purchaser of chattel paper or
3671 instrument.

3672 (a) Purchaser's priority: Security interest claimed
3673 merely as proceeds. A purchaser of chattel paper has priority
3674 over a security interest in the chattel paper which is claimed
3675 merely as proceeds of inventory subject to a security interest
3676 if:

3677 (1) in good faith and in the ordinary course of the
3678 purchaser's business, the purchaser gives new value and takes
3679 possession of each authoritative tangible copy of the record
3680 evidencing the chattel paper, ~~or~~ and obtains control under
3681 Section 7-9A-105 of each authoritative electronic copy of the
3682 record evidencing ~~of~~ the chattel paper ~~under Section 7-9A-105;~~
3683 and

3684 (2) the ~~chattel paper does~~ authoritative copies of the
3685 record evidencing the chattel paper do not indicate that ~~it~~
3686 the chattel paper has been assigned to an identified assignee
3687 other than the purchaser.

3688 (b) Purchaser's priority: Other security interests. A
3689 purchaser of chattel paper has priority over a security
3690 interest in the chattel paper which is claimed other than
3691 merely as proceeds of inventory subject to a security interest
3692 if the purchaser gives new value and takes possession of each
3693 authoritative tangible copy of the record evidencing the
3694 chattel paper ~~or~~ and obtains control ~~of~~ under Section 7-9A-105
3695 of each authoritative electronic copy of the record evidencing
3696 the chattel paper ~~under Section 7-9A-105~~ in good faith, in the



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3697 ordinary course of the purchaser's business, and without
3698 knowledge that the purchase violates the rights of the secured
3699 party.

3700 (c) Chattel paper purchaser's priority in proceeds.
3701 Except as otherwise provided in Section 7-9A-327, a purchaser
3702 having priority in chattel paper under subsection (a) or (b)
3703 also has priority in proceeds of the chattel paper to the
3704 extent that:

3705 (1) Section 7-9A-322 provides for priority in the
3706 proceeds; or

3707 (2) the proceeds consist of the specific goods covered
3708 by the chattel paper or cash proceeds of the specific goods,
3709 even if the purchaser's security interest in the proceeds is
3710 unperfected.

3711 (d) Instrument purchaser's priority. Except as
3712 otherwise provided in Section 7-9A-331(a), a purchaser of an
3713 instrument has priority over a security interest in the
3714 instrument perfected by a method other than possession if the
3715 purchaser gives value and takes possession of the instrument
3716 in good faith and without knowledge that the purchase violates
3717 the rights of the secured party.

3718 (e) Holder of purchase-money security interest gives
3719 new value. For purposes of subsections (a) and (b), the holder
3720 of a purchase-money security interest in inventory gives new
3721 value for chattel paper constituting proceeds of the
3722 inventory.

3723 (f) Indication of assignment gives knowledge. For
3724 purposes of subsections (b) and (d), if [the authoritative](#)



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3725 copies of the record evidencing chattel paper or an instrument
3726 ~~indicates~~ indicate that ~~it~~ the chattel paper or instrument
3727 has been assigned to an identified secured party other than
3728 the purchaser, a purchaser of the chattel paper or instrument
3729 has knowledge that the purchase violates the rights of the
3730 secured party."

3731 "§7-9A-331. Priority of rights of purchasers of
3732 controllable accounts, controllable electronic records,
3733 controllable payments intangibles, instruments, documents, and
3734 securities under other articles; priority of interests in
3735 financial assets and security entitlements and protection
3736 against assertion of claim under Articles 8 and 12.

3737 (a) Rights under Articles 3, 7, ~~and 8,~~ and 12 not
3738 limited. This article does not limit the rights of a holder in
3739 due course of a negotiable instrument, a holder to which a
3740 negotiable document of title has been duly negotiated, ~~or~~ a
3741 protected purchaser of a security ~~-,~~ or a qualifying purchaser
3742 of a controllable account, controllable electronic record, or
3743 controllable payment intangible. These holders or purchasers
3744 take priority over an earlier security interest, even if
3745 perfected, to the extent provided in Articles 3, 7, ~~and 8,~~ and
3746 12.

3747 (b) Protection under ~~Article~~ Articles 8 and 12. This
3748 article does not limit the rights of or impose liability on a
3749 person to the extent that the person is protected against the
3750 assertion of a claim under ~~Article~~ Articles 8 or 12.

3751 (c) Filing not notice. Filing under this article does
3752 not constitute notice of a claim or defense to the holders, or



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3753 purchasers, or persons described in subsections (a) and (b)."

3754 "§7-9A-332. Transfer of money; transfer of funds from
3755 deposit account.

3756 (a) Transferee of money. A transferee of money takes
3757 the money free of a security interest ~~unless the transferee~~
3758 acts if the transferee receives possession of the money
3759 without acting in collusion with the debtor in violating the
3760 rights of the secured party.

3761 (b) Transferee of funds from deposit account. A
3762 transferee of funds from a deposit account takes the funds
3763 free of a security interest in the deposit account ~~unless the~~
3764 ~~transferee acts~~ if the transferee receives possession of the
3765 money without acting in collusion with the debtor in violating
3766 the rights of the secured party."

3767 "§7-9A-334. Priority of security interests in fixtures
3768 and crops.

3769 (a) Security interest in fixtures under this article. A
3770 security interest under this article may be created in goods
3771 that are fixtures or may continue in goods that become
3772 fixtures. A security interest does not exist under this
3773 article in ordinary building materials incorporated into an
3774 improvement on land.

3775 (b) Security interest in fixtures under real-property
3776 law. This article does not prevent creation of an encumbrance
3777 upon fixtures under real property law.

3778 (c) General rule: Subordination of security interest in
3779 fixtures. In cases not governed by subsections (d) through
3780 (h), a security interest in fixtures is subordinate to a



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3781 conflicting interest of an encumbrancer or owner of the
3782 related real property other than the debtor.

3783 (d) Fixtures purchase-money priority. Except as
3784 otherwise provided in subsection (h), a perfected security
3785 interest in fixtures has priority over a conflicting interest
3786 of an encumbrancer or owner of the real property if the debtor
3787 has an interest of record in or is in possession of the real
3788 property and:

3789 (1) the security interest is a purchase-money security
3790 interest;

3791 (2) the interest of the encumbrancer or owner arises
3792 before the goods become fixtures; and

3793 (3) the security interest is perfected by a fixture
3794 filing before the goods become fixtures or within 20 days
3795 thereafter.

3796 (e) Priority of security interest in fixtures over
3797 interests in real property. A perfected security interest in
3798 fixtures has priority over a conflicting interest of an
3799 encumbrancer or owner of the real property if:

3800 (1) the debtor has an interest of record in the real
3801 property or is in possession of the real property and the
3802 security interest:

3803 (A) is perfected by a fixture filing before the
3804 interest of the encumbrancer or owner is of record; and

3805 (B) has priority over any conflicting interest of a
3806 predecessor in title of the encumbrancer or owner;

3807 (2) before the goods become fixtures, the security
3808 interest is perfected by any method permitted by this article



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3809 and the fixtures are readily removable:

3810 (A) factory or office machines;

3811 (B) equipment that is not primarily used or leased for
3812 use in the operation of the real property; or

3813 (C) replacements of domestic appliances that are
3814 consumer goods;

3815 (3) the conflicting interest is a lien on the real
3816 property obtained by legal or equitable proceedings after the
3817 security interest was perfected by any method permitted by
3818 this article; or

3819 (4) the security interest is:

3820 (A) created in a manufactured home in a
3821 manufactured-home transaction; and

3822 (B) perfected pursuant to a statute described in
3823 Section 7-9A-311(a) (2).

3824 (f) Priority based on consent, disclaimer, or right to
3825 remove. A security interest in fixtures, whether or not
3826 perfected, has priority over a conflicting interest of an
3827 encumbrancer or owner of the real property if:

3828 (1) the encumbrancer or owner has, in ~~an authenticated~~
3829 a signed record, consented to the security interest or
3830 disclaimed an interest in the goods as fixtures; or

3831 (2) the debtor has a right to remove the goods as
3832 against the encumbrancer or owner.

3833 (g) Continuation of paragraph (f) (2) priority. The
3834 priority of the security interest under paragraph (f) (2)
3835 continues for a reasonable time if the debtor's right to
3836 remove the goods as against the encumbrancer or owner



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3837 terminates.

3838 (h) Priority of construction mortgage. A mortgage is a
3839 construction mortgage to the extent that it secures an
3840 obligation incurred for the construction of an improvement on
3841 land, including the acquisition cost of the land, if a
3842 recorded record of the mortgage so indicates. Except as
3843 otherwise provided in subsections (e) and (f), a security
3844 interest in fixtures is subordinate to a construction mortgage
3845 if a record of the mortgage is recorded before the goods
3846 become fixtures and the goods become fixtures before the
3847 completion of the construction. A mortgage has this priority
3848 to the same extent as a construction mortgage to the extent
3849 that it is given to refinance a construction mortgage.

3850 (i) Priority of security interest in crops. A perfected
3851 security interest in crops growing on real property has
3852 priority over a conflicting interest of an encumbrancer or
3853 owner of the real property if the debtor has an interest of
3854 record in or is in possession of the real property.

3855 (j) Subsection (i) prevails over inconsistent law.
3856 Subsection (i) prevails over any inconsistent provision of an
3857 existing or future statute, rule, or regulation of this State
3858 unless the provision is contained in a statute of this State,
3859 refers expressly to subsection (i), and states that the
3860 provision prevails over subsection (i)."

3861 "§7-9A-341. Bank's rights and duties with respect to
3862 deposit account.

3863 Except as otherwise provided in Section 7-9A-340(c),
3864 and unless the bank otherwise agrees in ~~an authenticated~~ a



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3865 signed record, a bank's rights and duties with respect to a
3866 deposit account maintained with the bank are not terminated,
3867 suspended, or modified by:

3868 (1) the creation, attachment, or perfection of a
3869 security interest in the deposit account;

3870 (2) the bank's knowledge of the security interest; or

3871 (3) the bank's receipt of instructions from the secured
3872 party."

3873 "§7-9A-404. Rights acquired by assignee; claims and
3874 defenses against assignee.

3875 (a) Assignee's rights subject to terms, claims, and
3876 defenses; exceptions. Unless an account debtor has made an
3877 enforceable agreement not to assert defenses or claims, and
3878 subject to subsections (b) through (e), the rights of an
3879 assignee are subject to:

3880 (1) all terms of the agreement between the account
3881 debtor and assignor and any defense or claim in recoupment
3882 arising from the transaction that gave rise to the contract;
3883 and

3884 (2) any other defense or claim of the account debtor
3885 against the assignor which accrues before the account debtor
3886 receives a notification of the assignment ~~authenticated~~ signed
3887 by the assignor or the assignee.

3888 (b) Account debtor's claim reduces amount owed to
3889 assignee. Subject to subsection (c) and except as otherwise
3890 provided in subsection (d), the claim of an account debtor
3891 against an assignor may be asserted against an assignee under
3892 subsection (a) only to reduce the amount the account debtor



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3893 owes.

3894 (c) Rule for individual under other law. This section
3895 is subject to law other than this article which establishes a
3896 different rule for an account debtor who is an individual and
3897 who incurred the obligation primarily for personal, family, or
3898 household purposes.

3899 (d) Omission of required statement in consumer
3900 transaction. In a consumer transaction, if a record evidences
3901 the account debtor's obligation, if law other than this
3902 article requires that the record include a statement to the
3903 effect that the account debtor's recovery against an assignee
3904 with respect to claims and defenses against the assignor may
3905 not exceed amounts paid by the account debtor under the
3906 record, and if the record does not include such a statement,
3907 the extent to which a claim of an account debtor against the
3908 assignor may be asserted against an assignee is determined as
3909 if the record included such a statement.

3910 (e) Inapplicability to health-care-insurance
3911 receivable. This section does not apply to an assignment of a
3912 health-care-insurance receivable."

3913 "§7-9A-406. Discharge of account debtor; notification
3914 of assignment; identification and proof of assignment;
3915 restrictions on assignment of accounts, chattel paper, payment
3916 intangibles, and promissory notes ineffective.

3917 (a) Discharge of account debtor; effect of
3918 notification. Subject to subsections (b) through (i) and
3919 subsection (1), an account debtor on an account, chattel
3920 paper, or a payment intangible may discharge its obligation by



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3921 paying the assignor until, but not after, the account debtor
3922 receives a notification, ~~authenticated~~ signed by the assignor
3923 or the assignee, that the amount due or to become due has been
3924 assigned and that payment is to be made to the assignee. After
3925 receipt of the notification, the account debtor may discharge
3926 its obligation by paying the assignee and may not discharge
3927 the obligation by paying the assignor.

3928 (b) When notification ineffective. Subject to
3929 ~~subsection~~ subsections (h) and (l), notification is
3930 ineffective under subsection (a):

3931 (1) if it does not reasonably identify the rights
3932 assigned;

3933 (2) to the extent that an agreement between an account
3934 debtor and a seller of a payment intangible limits the account
3935 debtor's duty to pay a person other than the seller and the
3936 limitation is effective under law other than this article; or

3937 (3) at the option of an account debtor, if the
3938 notification notifies the account debtor to make less than the
3939 full amount of any installment or other periodic payment to
3940 the assignee, even if:

3941 (A) only a portion of the account, chattel paper, or
3942 payment intangible has been assigned to that assignee;

3943 (B) a portion has been assigned to another assignee; or

3944 (C) the account debtor knows that the assignment to
3945 that assignee is limited.

3946 (c) Proof of assignment. Subject to ~~subsection~~
3947 subsections (h) and (l), if requested by the account debtor,
3948 an assignee shall seasonably furnish reasonable proof that the



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3949 assignment has been made. Unless the assignee complies, the
3950 account debtor may discharge its obligation by paying the
3951 assignor, even if the account debtor has received a
3952 notification under subsection (a).

3953 (d) Term restricting assignment generally ineffective.
3954 In this subsection, "promissory note" includes a negotiable
3955 instrument that evidences chattel paper. Except as otherwise
3956 provided in subsection (e) and Sections 7-2A-303 and 7-9A-407,
3957 and subject to subsection (h), a term in an agreement between
3958 an account debtor and an assignor or in a promissory note is
3959 ineffective to the extent that it:

3960 (1) prohibits, restricts, or requires the consent of
3961 the account debtor or person obligated on the promissory note
3962 to the assignment or transfer of, or the creation, attachment,
3963 perfection, or enforcement of a security interest in, the
3964 account, chattel paper, payment intangible, or promissory
3965 note; or

3966 (2) provides that the assignment or transfer or the
3967 creation, attachment, perfection, or enforcement of the
3968 security interest may give rise to a default, breach, right of
3969 recoupment, claim, defense, termination, right of termination,
3970 or remedy under the account, chattel paper, payment
3971 intangible, or promissory note.

3972 (e) Inapplicability of subsection (d) to certain sales.
3973 Subsection (d) does not apply to the sale of a payment
3974 intangible or promissory note, other than a sale pursuant to a
3975 disposition under Section 7-9A-610 or an acceptance of
3976 collateral under Section 7-9A-620.



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3977 (f) Legal restrictions on assignment generally
3978 ineffective. Except as otherwise provided in Sections 7-2A-303
3979 and 7-9A-407 and subject to subsections (h) and (i), a rule of
3980 law, statute, or regulation that prohibits, restricts, or
3981 requires the consent of a government, governmental body or
3982 official, or account debtor to the assignment or transfer of,
3983 or creation of a security interest in, an account or chattel
3984 paper is ineffective to the extent that the rule of law,
3985 statute, or regulation:

3986 (1) prohibits, restricts, or requires the consent of
3987 the government, governmental body or official, or account
3988 debtor to the assignment or transfer of, or the creation,
3989 attachment, perfection, or enforcement of a security interest
3990 in the account or chattel paper; or

3991 (2) provides that the assignment or transfer or the
3992 creation, attachment, perfection, or enforcement of the
3993 security interest may give rise to a default, breach, right of
3994 recoupment, claim, defense, termination, right of termination,
3995 or remedy under the account or chattel paper.

3996 (g) Subsection (b) (3) not waivable. Subject to
3997 ~~subsection~~ subsections (h) and (1), an account debtor may not
3998 waive or vary its option under subsection (b) (3).

3999 (h) Rule for individual under other law. This section
4000 is subject to law other than this article which establishes a
4001 different rule for an account debtor who is an individual and
4002 who incurred the obligation primarily for personal, family, or
4003 household purposes.

4004 (i) Inapplicability to health-care-insurance



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4005 receivable. This section does not apply to an assignment of a
4006 health-care-insurance receivable.

4007 (j) Section prevails over inconsistent law. This
4008 section prevails over any inconsistent provision of an
4009 existing or future statute, rule, or regulation of this State
4010 unless the provision is contained in a statute of this State,
4011 refers expressly to this section, and states that the
4012 provision prevails over this section.

4013 (k) [Reserved].

4014 (l) Inapplicability of certain subsections. Subsections
4015 (a), (b), (c), and (g) do not apply to a controllable account
4016 or controllable payment intangible.

4017 "§7-9A-408. Restrictions on assignment of promissory
4018 notes, health-care-insurance receivables, and certain general
4019 intangibles ineffective.

4020 (a) Term restricting assignment generally ineffective.
4021 Except as otherwise provided in subsection (b), a term in a
4022 promissory note or in an agreement between an account debtor
4023 and a debtor which relates to a health-care-insurance
4024 receivable or a general intangible, including a contract,
4025 permit, license, or franchise, and which term prohibits,
4026 restricts, or requires the consent of the person obligated on
4027 the promissory note or the account debtor to, the assignment
4028 or transfer of, or creation, attachment, or perfection of a
4029 security interest in, the promissory note,
4030 health-care-insurance receivable, or general intangible, is
4031 ineffective to the extent that the term:

4032 (1) would impair the creation, attachment, or



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4033 perfection of a security interest; or

4034 (2) provides that the assignment or transfer or the
4035 creation, attachment, or perfection of the security interest
4036 may give rise to a default, breach, right of recoupment,
4037 claim, defense, termination, right of termination, or remedy
4038 under the promissory note, health-care-insurance receivable,
4039 or general intangible.

4040 (b) Applicability of subsection (a) to sales of certain
4041 rights to payment. Subsection (a) applies to a security
4042 interest in a payment intangible or promissory note only if
4043 the security interest arises out of a sale of the payment
4044 intangible or promissory note, other than a sale pursuant to a
4045 disposition under Section 7-9A-610 or an acceptance of
4046 collateral under Section 7-9A-620.

4047 (c) Legal restrictions on assignment generally
4048 ineffective. A rule of law, statute, or regulation that
4049 prohibits, restricts, or requires the consent of a government,
4050 governmental body or official, person obligated on a
4051 promissory note, or account debtor to the assignment or
4052 transfer of, or creation of a security interest in, a
4053 promissory note, health-care-insurance receivable, or general
4054 intangible, including a contract, permit, license, or
4055 franchise between an account debtor and a debtor, is
4056 ineffective to the extent that the rule of law, statute, or
4057 regulation:

4058 (1) would impair the creation, attachment, or
4059 perfection of a security interest; or

4060 (2) provides that the assignment or transfer or the



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4061 creation, attachment, or perfection of the security interest
4062 may give rise to a default, breach, right of recoupment,
4063 claim, defense, termination, right of termination, or remedy
4064 under the promissory note, health-care-insurance receivable,
4065 or general intangible.

4066 (d) Limitation on ineffectiveness under subsections (a)
4067 and (c). To the extent that a term in a promissory note or in
4068 an agreement between an account debtor and a debtor which
4069 relates to a health-care-insurance receivable or general
4070 intangible or a rule of law, statute, or regulation described
4071 in subsection (c) would be effective under law other than this
4072 article but is ineffective under subsection (a) or (c), the
4073 creation, attachment, or perfection of a security interest in
4074 the promissory note, health-care-insurance receivable, or
4075 general intangible:

4076 (1) is not enforceable against the person obligated on
4077 the promissory note or the account debtor;

4078 (2) does not impose a duty or obligation on the person
4079 obligated on the promissory note or the account debtor;

4080 (3) does not require the person obligated on the
4081 promissory note or the account debtor to recognize the
4082 security interest, pay or render performance to the secured
4083 party, or accept payment or performance from the secured
4084 party;

4085 (4) does not entitle the secured party to use or assign
4086 the debtor's rights under the promissory note,
4087 health-care-insurance receivable, or general intangible,
4088 including any related information or materials furnished to



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4089 the debtor in the transaction giving rise to the promissory
4090 note, health-care-insurance receivable, or general intangible;

4091 (5) does not entitle the secured party to use, assign,
4092 possess, or have access to any trade secrets or confidential
4093 information of the person obligated on the promissory note or
4094 the account debtor; and

4095 (6) does not entitle the secured party to enforce the
4096 security interest in the promissory note,
4097 health-care-insurance receivable, or general intangible.

4098 (e) Section prevails over inconsistent law. This
4099 section prevails over any inconsistent provision of an
4100 existing or future statute, rule, or regulation of this State
4101 unless the provision is contained in a statute of this State,
4102 refers expressly to this section, and states that the
4103 provision prevails over this section.

4104 (f) [Reserved.]

4105 (g) "Promissory note." In this section, "promissory
4106 note" includes a negotiable instrument that evidences chattel
4107 paper.

4108 "§7-9A-509. Persons entitled to file a record.

4109 (a) Person entitled to file record. A person may file
4110 an initial financing statement, amendment that adds collateral
4111 covered by a financing statement, or amendment that adds a
4112 debtor to a financing statement only if:

4113 (1) the debtor authorizes the filing in ~~an~~
4114 ~~authenticated~~ a signed record or pursuant to subsection (b) or
4115 (c); or

4116 (2) the person holds an agricultural lien that has



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4117 become effective at the time of filing and the financing
4118 statement covers only collateral in which the person holds an
4119 agricultural lien.

4120 (b) Security agreement as authorization. By
4121 ~~authenticating~~ signing or becoming bound as debtor by a
4122 security agreement, a debtor or new debtor authorizes the
4123 filing of an initial financing statement, and an amendment,
4124 covering:

4125 (1) the collateral described in the security agreement;
4126 and

4127 (2) property that becomes collateral under Section
4128 7-9A-315(a)(2), whether or not the security agreement
4129 expressly covers proceeds.

4130 (c) Acquisition of collateral as authorization. By
4131 acquiring collateral in which a security interest or
4132 agricultural lien continues under Section 7-9A-315(a)(1), a
4133 debtor authorizes the filing of an initial financing
4134 statement, and an amendment, covering the collateral and
4135 property that becomes collateral under Section 7-9A-315(a)(2).

4136 (d) Person entitled to file certain amendments. A
4137 person may file an amendment other than an amendment that adds
4138 collateral covered by a financing statement or an amendment
4139 that adds a debtor to a financing statement only if:

4140 (1) the secured party of record authorizes the filing;
4141 or

4142 (2) the amendment is a termination statement for a
4143 financing statement as to which the secured party of record
4144 has failed to file or send a termination statement as required



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4145 by Section 7-9A-513(a) or (c), the debtor authorizes the
4146 filing, and the termination statement indicates that the
4147 debtor authorized it to be filed.

4148 (e) Multiple secured parties of record. If there is
4149 more than one secured party of record for a financing
4150 statement, each secured party of record may authorize the
4151 filing of an amendment under subsection (d)."

4152 "§7-9A-513. Termination statement.

4153 (a) Consumer goods. A secured party shall cause the
4154 secured party of record for a financing statement to file a
4155 termination statement for the financing statement if the
4156 financing statement covers consumer goods and:

4157 (1) there is no obligation secured by the collateral
4158 covered by the financing statement and no commitment to make
4159 an advance, incur an obligation, or otherwise give value; or

4160 (2) the debtor did not authorize the filing of the
4161 initial financing statement.

4162 (b) Time for compliance with subsection (a). To comply
4163 with subsection (a), a secured party shall cause the secured
4164 party of record to file the termination statement:

4165 (1) within one month after there is no obligation
4166 secured by the collateral covered by the financing statement
4167 and no commitment to make an advance, incur an obligation, or
4168 otherwise give value; or

4169 (2) if earlier, within 20 days after the secured party
4170 receives ~~an authenticated~~ a signed demand from a debtor.

4171 (c) Other collateral. In cases not governed by
4172 subsection (a), within 20 days after a secured party receives



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4173 ~~an authenticated~~ a signed demand from a debtor, the secured
4174 party shall cause the secured party of record for a financing
4175 statement to send to the debtor a termination statement for
4176 the financing statement or file the termination statement in
4177 the filing office if:

4178 (1) except in the case of a financing statement
4179 covering accounts or chattel paper that has been sold or goods
4180 that are the subject of a consignment, there is no obligation
4181 secured by the collateral covered by the financing statement
4182 and no commitment to make an advance, incur an obligation, or
4183 otherwise give value;

4184 (2) the financing statement covers accounts or chattel
4185 paper that has been sold but as to which the account debtor or
4186 other person obligated has discharged its obligation;

4187 (3) the financing statement covers goods that were the
4188 subject of a consignment to the debtor but are not in the
4189 debtor's possession; or

4190 (4) the debtor did not authorize the filing of the
4191 initial financing statement.

4192 (d) Effect of filing termination statement. Except as
4193 otherwise provided in Section 7-9A-510, upon the filing of a
4194 termination statement with the filing office, the financing
4195 statement to which the termination statement relates ceases to
4196 be effective. Except as otherwise provided in Section
4197 7-9A-510, for purposes of Sections 7-9A-519(g), 7-9A-522(a),
4198 and 7-9A-523(c), the filing with the filing office of a
4199 termination statement relating to a financing statement that
4200 indicates that the debtor is a transmitting utility also



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4201 causes the effectiveness of the financing statement to lapse."

4202 "§7-9A-601. Rights after default; judicial enforcement;
4203 consignor or buyer of accounts, chattel paper, payment
4204 intangibles, or promissory notes.

4205 (a) Rights of secured party after default. After
4206 default, a secured party has the rights provided in this part
4207 and, except as otherwise provided in Section 7-9A-602, those
4208 provided by agreement of the parties. A secured party:

4209 (1) may reduce a claim to judgment, foreclose, or
4210 otherwise enforce the claim, security interest, or
4211 agricultural lien by any available judicial procedure; and

4212 (2) if the collateral is documents, may proceed either
4213 as to the documents or as to the goods they cover.

4214 (b) Rights and duties of secured party in possession or
4215 control. A secured party in possession of collateral or
4216 control of collateral under Section 7-7-106, 7-9A-104,
4217 7-9A-105, 7-9A-106, ~~or 7-9A-107~~, or 7-9A-107A has the rights
4218 and duties provided in Section 7-9A-207.

4219 (c) Rights cumulative; simultaneous exercise. The
4220 rights under subsections (a) and (b) are cumulative and may be
4221 exercised simultaneously.

4222 (d) Rights of debtor and obligor. Except as otherwise
4223 provided in subsection (g) and Section 7-9A-605, after
4224 default, a debtor and an obligor have the rights provided in
4225 this part and by agreement of the parties.

4226 (e) Lien of levy after judgment. If a secured party has
4227 reduced its claim to judgment, the lien of any levy that may
4228 be made upon the collateral by virtue of an execution based



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4229 upon the judgment relates back to the earliest of:

4230 (1) the date of perfection of the security interest or
4231 agricultural lien in the collateral;

4232 (2) the date of filing a financing statement covering
4233 the collateral; or

4234 (3) any date specified in a statute under which the
4235 agricultural lien was created.

4236 (f) Execution sale. A sale pursuant to an execution is
4237 a foreclosure of the security interest or agricultural lien by
4238 judicial procedure within the meaning of this section. A
4239 secured party may purchase at the sale and thereafter hold the
4240 collateral free of any other requirements of this article.

4241 (g) Consignor or buyer of certain rights to payment.
4242 Except as otherwise provided in Section 7-9A-607(c), this part
4243 imposes no duties upon a secured party that is a consignor or
4244 is a buyer of accounts, chattel paper, payment intangibles, or
4245 promissory notes."

4246 "§7-9A-605. Unknown debtor or secondary obligor.

4247 Ⓐ(a) In general: No duty owed by secured party. Except
4248 as provided in subsection (b), a secured party does not owe a
4249 duty based on its status as secured party:

4250 (1) to a person that is a debtor or obligor, unless the
4251 secured party knows:

4252 (A) that the person is a debtor or obligor;

4253 (B) the identity of the person; and

4254 (C) how to communicate with the person; or

4255 (2) to a secured party or lienholder that has filed a
4256 financing statement against a person, unless the secured party



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4257 knows:

4258 (A) that the person is a debtor; and

4259 (B) the identity of the person.

4260 (b) Exception: Secured party owes duty to debtor or
4261 obligor. A secured party owes a duty based on its status as a
4262 secured party to a person if, at the time the secured party
4263 obtains control of collateral that is a controllable account,
4264 controllable electronic record, or controllable payment
4265 intangible or at the time the security interest attaches to
4266 the collateral, whichever is later:

4267 (1) the person is a debtor or obligor; and

4268 (2) the secured party knows that the information in
4269 subsection (a) (1) (A), (B), or (C) relating to the person is
4270 not provided by the collateral, a record attached to or
4271 logically associated with the collateral, or the system in
4272 which the collateral is recorded."

4273 "§7-9A-608. Application of proceeds of collection or
4274 enforcement; liability for deficiency and right to surplus.

4275 (a) Application of proceeds, surplus, and deficiency if
4276 obligation secured. If a security interest or agricultural
4277 lien secures payment or performance of an obligation, the
4278 following rules apply:

4279 (1) A secured party shall apply or pay over for
4280 application the cash proceeds of collection or enforcement
4281 under Section 7-9A-607 in the following order to:

4282 (A) the reasonable expenses of collection and
4283 enforcement and, to the extent provided for by agreement and
4284 not prohibited by law, reasonable attorney's fees and legal



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4285 expenses incurred by the secured party;

4286 (B) the satisfaction of obligations secured by the
4287 security interest or agricultural lien under which the
4288 collection or enforcement is made; and

4289 (C) the satisfaction of obligations secured by any
4290 subordinate security interest in or other lien on the
4291 collateral subject to the security interest or agricultural
4292 lien under which the collection or enforcement is made if the
4293 secured party receives ~~an authenticated~~ a signed demand for
4294 proceeds before distribution of the proceeds is completed.

4295 (2) If requested by a secured party, a holder of a
4296 subordinate security interest or other lien shall furnish
4297 reasonable proof of the interest or lien within a reasonable
4298 time. Unless the holder complies, the secured party need not
4299 comply with the holder's demand under paragraph (1) (C).

4300 (3) A secured party need not apply or pay over for
4301 application noncash proceeds of collection and enforcement
4302 under Section 7-9A-607 unless the failure to do so would be
4303 commercially unreasonable. A secured party that applies or
4304 pays over for application noncash proceeds shall do so in a
4305 commercially reasonable manner.

4306 (4) A secured party shall account to and pay a debtor
4307 for any surplus, and the obligor is liable for any deficiency.

4308 (b) No surplus or deficiency in sales of certain rights
4309 to payment. If the underlying transaction is a sale of
4310 accounts, chattel paper, payment intangibles, or promissory
4311 notes, the debtor is not entitled to any surplus, and the
4312 obligor is not liable for any deficiency."



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4313 "§7-9A-611. Notification before disposition of
4314 collateral.

4315 (a) "Notification date." In this section, "notification
4316 date" means the earlier of the date on which:

4317 (1) a secured party sends to the debtor and any
4318 secondary obligor ~~an authenticated~~ a signed notification of
4319 disposition; or

4320 (2) the debtor and any secondary obligor waive the
4321 right to notification.

4322 (b) Notification of disposition required. Except as
4323 otherwise provided in subsection (d), a secured party that
4324 disposes of collateral under Section 7-9A-610 shall send to
4325 the persons specified in subsection (c) a reasonable
4326 ~~authenticated~~ signed notification of disposition.

4327 (c) Persons to be notified. To comply with subsection
4328 (b), the secured party shall send ~~an authenticated~~ a signed
4329 notification of disposition to:

4330 (1) the debtor;

4331 (2) any secondary obligor; and

4332 (3) if the collateral is other than consumer goods:

4333 (A) any other person from which the secured party has
4334 received, before the notification date, ~~an authenticated~~ a
4335 signed notification of a claim of an interest in the
4336 collateral;

4337 (B) any other secured party or lienholder that, 10 days
4338 before the notification date, held a security interest in or
4339 other lien on the collateral perfected by the filing of a
4340 financing statement that:



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4341 (i) identified the collateral;

4342 (ii) was indexed under the debtor's name as of that
4343 date; and

4344 (iii) was filed in the office in which to file a
4345 financing statement against the debtor covering the collateral
4346 as of that date; and

4347 (C) any other secured party that, 10 days before the
4348 notification date, held a security interest in the collateral
4349 perfected by compliance with a statute, regulation, or treaty
4350 described in Section 7-9A-311(a).

4351 (d) Subsection (b) inapplicable: Perishable collateral;
4352 recognized market. Subsection (b) does not apply if the
4353 collateral is perishable or threatens to decline speedily in
4354 value or is of a type customarily sold on a recognized market.

4355 (e) Compliance with subsection (c)(3)(B). A secured
4356 party complies with the requirement for notification
4357 prescribed by subsection (c)(3)(B) if:

4358 (1) not later than 20 days or earlier than 30 days
4359 before the notification date, the secured party requests, in a
4360 commercially reasonable manner, information concerning
4361 financing statements indexed under the debtor's name in the
4362 office indicated in subsection (c)(3)(B); and

4363 (2) before the notification date, the secured party:

4364 (A) did not receive a response to the request for
4365 information; or

4366 (B) received a response to the request for information
4367 and sent ~~an authenticated~~ a signed notification of disposition
4368 to each secured party or other lienholder named in that



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4369 response whose financing statement covered the collateral."

4370 "§7-9A-613. Contents and form of notification before
4371 disposition of collateral: general.

4372 (a) Content and form of notification. Except in a
4373 consumer-goods transaction, the following rules apply:

4374 (1) The contents of a notification of disposition are
4375 sufficient if the notification:

4376 (A) describes the debtor and the secured party;

4377 (B) describes the collateral that is the subject of the
4378 intended disposition;

4379 (C) states the method of intended disposition;

4380 (D) states that the debtor is entitled to an accounting
4381 of the unpaid indebtedness and states the charge, if any, for
4382 an accounting; and

4383 (E) states the time and place of a public disposition
4384 or the time after which any other disposition is to be made.

4385 (2) Whether the contents of a notification that lacks
4386 any of the information specified in paragraph (1) are
4387 nevertheless sufficient is a question of fact.

4388 (3) The contents of a notification providing
4389 substantially the information specified in paragraph (1) are
4390 sufficient, even if the notification includes:

4391 (A) information not specified by that paragraph; or

4392 (B) minor errors that are not seriously misleading.

4393 (4) A particular phrasing of the notification is not
4394 required.

4395 (5) The following form of notification and the form
4396 appearing in Section 7-9A-614 (a) (3), when completed in



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4397 accordance with the instructions in subsection (b) and Section
4398 7-9A-614(b), each provides sufficient information:

4399 ~~NOTIFICATION OF DISPOSITION OF COLLATERAL~~

4400 ~~To: _____ (Name of debtor, obligor, or other~~
4401 ~~person to which the notification is sent)~~

4402 ~~From: _____ (Name, address, and telephone number~~
4403 ~~of secured party)~~

4404 ~~Name of Debtor(s): _____ (Include only if debtor(s)~~
4405 ~~are not an addressee)~~

4406 ~~For a public disposition:~~

4407 ~~We will sell or lease or license, as applicable, the~~
4408 ~~_____ (describe collateral) to the highest qualified bidder~~
4409 ~~in public as follows:~~

4410 ~~Day and Date:~~

4411 ~~Time:~~

4412 ~~Place:~~

4413 ~~For a private disposition:~~

4414 ~~We will sell or lease or license, as applicable, the~~
4415 ~~_____ (describe collateral) privately some time after~~
4416 ~~_____ (day and date).~~

4417 ~~You are entitled to an accounting of the unpaid~~
4418 ~~indebtedness secured by the property that we intend to sell or~~
4419 ~~lease or license, as applicable, for a charge of \$____. You~~
4420 ~~may request an accounting by calling us at _____ (telephone~~
4421 ~~number).~~

4422 ~~[End of Form]~~

4423 NOTIFICATION OF DISPOSITION OF COLLATERAL

4424 To: (Name of debtor, obligor, or other person to which



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4425 the notification is sent)

4426 From: (Name, address, and telephone number of secured
4427 party)

4428 {1} Name of any debtor that is not an addressee: (name
4429 of each debtor)

4430 {2} We will sell (describe collateral) (to the highest
4431 qualified bidder) at public sale. A sale could include a lease
4432 or license. The sale will be held as follows:

4433 (Date)

4434 (Time)

4435 (Place)

4436 {3} We will sell (describe collateral) at private sale
4437 sometime after (date). A sale could include a lease or
4438 license.

4439 {4} You are entitled to an accounting of the unpaid
4440 indebtedness secured by the property that we intend to sell
4441 or, as applicable, lease or license.

4442 {5} If you request an accounting you must pay a charge
4443 of \$ (amount).

4444 {6} You may request an accounting by calling us at
4445 (telephone number).

4446 [End of Form]

4447 (b) Instructions for form of notification. The
4448 following instructions apply to the form of notification in
4449 subsection (a) (5):

4450 (1) The instructions in this subsection refer to the
4451 numbers in braces before items in the form of notification in
4452 subsection (a) (5). Do not include the numbers or braces in the



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4453 notification. The numbers and braces are used only for the
4454 purpose of these instructions.

4455 (2) Include and complete item {1} only if there is a
4456 debtor that is not an addressee of the notification and list
4457 the name or names.

4458 (3) Include and complete either item {2}, if the
4459 notification relates to a public disposition of the
4460 collateral, or item {3}, if the notification relates to a
4461 private disposition of the collateral. If item {2} is
4462 included, include the words "to the highest qualified bidder"
4463 only if applicable.

4464 (4) Include and complete items {4} and {6}.

4465 (5) Include and complete item {5} only if the sender
4466 will charge the recipient for an accounting."

4467 "§7-9A-614. Contents and form of notification before
4468 disposition of collateral: consumer-goods transaction.

4469 (a) Content and form of notification. In a
4470 consumer-goods transaction, the following rules apply:

4471 (1) A notification of disposition must provide the
4472 following information:

4473 (A) the information specified in Section
4474 7-9A-613 (a) (1);

4475 (B) a description of any liability for a deficiency of
4476 the person to which the notification is sent;

4477 (C) a telephone number from which the amount that must
4478 be paid to the secured party to redeem the collateral under
4479 Section 7-9A-623 is available; and

4480 (D) a telephone number or mailing address from which



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4481 additional information concerning the disposition and the
4482 obligation secured is available.

4483 (2) A particular phrasing of the notification is not
4484 required.

4485 (3) The following form of notification, when completed
4486 in accordance with instructions in subsection (b), provides
4487 sufficient information:

4488 ~~Name and address of secured party~~

4489 ~~Date~~

4490 ~~NOTICE OF OUR PLAN TO SELL PROPERTY~~

4491 ~~Name and address of any obligor who is also a debtor~~

4492 ~~Subject: _____ (Identification of Transaction)~~

4493 ~~We have your _____ (describe collateral), because~~
4494 ~~you broke promises in our agreement.~~

4495 ~~For a public disposition:~~

4496 ~~We will sell _____ (describe collateral) at~~
4497 ~~public sale. A sale could include a lease or license. The sale~~
4498 ~~will be held as follows:~~

4499 ~~Date:~~

4500 ~~Time:~~

4501 ~~Place:~~

4502 ~~You may attend the sale and bring bidders if you want.~~

4503 ~~For a private disposition:~~

4504 ~~We will sell _____ (describe collateral) at private~~
4505 ~~sale some time after _____ (date). A sale could include a~~
4506 ~~lease or license.~~

4507 ~~The money that we get from the sale (after paying our~~
4508 ~~costs) will reduce the amount you owe. If we get less money~~



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4509 ~~than you owe, you _____ (will or will not, as~~
4510 ~~applicable) still owe us the difference. If we get more money~~
4511 ~~than you owe, you will get the extra money, unless we must pay~~
4512 ~~it to someone else.~~

4513 ~~You can get the property back at any time before we~~
4514 ~~sell it by paying us the full amount you owe (not just the~~
4515 ~~past due payments), including our expenses. To learn the exact~~
4516 ~~amount you must pay, call us at _____ (telephone number).~~

4517 ~~If you want us to explain to you in writing how we have~~
4518 ~~figured the amount that you owe us, you may call us at~~
4519 ~~_____ (telephone number) or write us at _____~~
4520 ~~(secured party's address) and request a written explanation.~~
4521 ~~We will charge you \$ _____ for the explanation if we sent you~~
4522 ~~another written explanation of the amount you owe us within~~
4523 ~~the last six months.~~

4524 ~~If you need more information about the sale call us at~~
4525 ~~_____ (telephone number) or write us at _____~~
4526 ~~(secured party's address).~~

4527 ~~We are sending this notice to the following other~~
4528 ~~people who have an interest in _____ (describe collateral)~~
4529 ~~or who owe money under your agreement:~~

4530 ~~_____ (Names of all other debtors and~~
4531 ~~obligors, if any)~~

4532 ~~[End of Form]~~

4533 (Name and address of secured party)

4534 (Date)

4535 NOTICE OF OUR PLAN TO SELL PROPERTY

4536 (Name and address of any obligor who is also a debtor)



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4537 Subject: (Identify transaction)
4538 We have your (describe collateral) because you broke
4539 promises in our agreement.
4540 {1} We will sell (describe collateral) at public sale.
4541 A sale could include a lease or license. The sale will be held
4542 as follows:
4543 (Date)
4544 (Time)
4545 (Place)
4546 You may attend the sale and bring bidders if you want.
4547 {2} We will sell (describe collateral) at private sale
4548 sometime after (date). A sale could include a lease or
4549 license.
4550 {3} The money that we get from the sale, after paying
4551 our costs, will reduce the amount you owe. If we get less
4552 money than you owe, you (will or will not, as applicable) owe
4553 us the difference. If we get more money than you owe, you will
4554 get the extra money, unless we must pay it to someone else.
4555 {4} You can get the property back at any time before we
4556 sell it by paying us the full amount you owe, not just the
4557 past due payments, including our expenses. To learn the exact
4558 amount you must pay, call us at (telephone number).
4559 {5} If you want us to explain to you in (writing)
4560 (writing or in (description of electronic record))
4561 (description of electronic record) how we have figured the
4562 amount that you owe us, {6} call us at (telephone number) (or)
4563 (write us at (secured party's address)) (or contact us by
4564 (description of electronic communication method)) {7} and



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4565 request (a written explanation) (a written explanation or an
4566 explanation in (description of electronic record)) (an
4567 explanation in (description of electronic record)).

4568 {8} We will charge you \$ (amount) for the explanation
4569 if we sent you another written explanation of the amount you
4570 owe us within the last six months.

4571 {9} If you need more information about the sale, (call
4572 us at (telephone number) (or) (write us at (secured party's
4573 address)) (or contact us by (description of electronic
4574 communication method)).

4575 {10} We are sending this notice to the following other
4576 people who have an interest in (describe collateral) or who
4577 owe money under your agreement:

4578 (Names of all other debtors and obligors, if any)

4579 [End of Form]

4580 (4) A notification in the form of paragraph (3) is
4581 sufficient, even if additional information appears at the end
4582 of the form.

4583 (5) A notification in the form of paragraph (3) is
4584 sufficient, even if it includes errors in information not
4585 required by paragraph (1), unless the error is misleading with
4586 respect to rights arising under this article.

4587 (6) If a notification under this section is not in the
4588 form of paragraph (3), law other than this article determines
4589 the effect of including information not required by paragraph
4590 (1).

4591 (b) Instructions for form of notification. The
4592 following instructions apply to the form of notification in



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4593 subsection (a) (3):

4594 (1) The instructions in this subsection refer to the
4595 numbers in braces before items in the form of notification in
4596 subsection (a) (3). Do not include the numbers or braces in the
4597 notification. The numbers and braces are used only for the
4598 purpose of these instructions.

4599 (2) Include and complete either item {1}, if the
4600 notification relates to a public disposition of the
4601 collateral, or item {2}, if the notification relates to a
4602 private disposition of the collateral.

4603 (3) Include and complete items {3}, {4}, {5}, {6}, and
4604 {7}.

4605 (4) In item {5}, include and complete any one of the
4606 three alternative methods for the explanation: writing,
4607 writing or electronic record, or electronic record.

4608 (5) In item {6}, include the telephone number. In
4609 addition, the sender may include and complete either or both
4610 of the two additional alternative methods of communication,
4611 writing or electronic communication, for the recipient of the
4612 notification to communicate with the sender. Neither of the
4613 two additional methods of communication are required to be
4614 included.

4615 (6) In item {7}, include and complete the method or
4616 methods for the explanation, writing, writing or electronic
4617 record, or electronic record, which are included in item {5}.

4618 (7) Include and complete item {8} only if a written
4619 explanation is included in item {5} as a method for
4620 communicating the explanation and the sender will charge the



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4621 recipient for another written explanation.

4622 (8) In item {9}, include either the telephone number or
4623 the address or both the telephone number and the address. In
4624 addition, the sender may include and complete the additional
4625 method of communication--electronic communication--for the
4626 recipient of the notification to communicate with the sender.
4627 The additional method of electronic communication is not
4628 required to be included.

4629 (9) If item {10} does not apply, insert "None" after
4630 "agreement:". "

4631 "§7-9A-615. Application of proceeds of disposition;
4632 liability for deficiency and right to surplus.

4633 (a) Application of proceeds. A secured party shall
4634 apply or pay over for application the cash proceeds of
4635 disposition under Section 7-9A-610 in the following order to:

4636 (1) the reasonable expenses of retaking, holding,
4637 preparing for disposition, processing, and disposing, and, to
4638 the extent provided for by agreement and not prohibited by
4639 law, reasonable attorney's fees and legal expenses incurred by
4640 the secured party;

4641 (2) the satisfaction of obligations secured by the
4642 security interest or agricultural lien under which the
4643 disposition is made;

4644 (3) the satisfaction of obligations secured by any
4645 subordinate security interest in or other subordinate lien on
4646 the collateral if:

4647 (A) the secured party receives from the holder of the
4648 subordinate security interest or other lien ~~an authenticated~~ a



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4649 signed demand for proceeds before distribution of the proceeds
4650 is completed; and

4651 (B) in a case in which a consignor has an interest in
4652 the collateral, the subordinate security interest or other
4653 lien is senior to the interest of the consignor; and

4654 (4) a secured party that is a consignor of the
4655 collateral if the secured party receives from the consignor ~~an~~
4656 ~~authenticated~~ a signed demand for proceeds before distribution
4657 of the proceeds is completed.

4658 (b) Proof of subordinate interest. If requested by a
4659 secured party, a holder of a subordinate security interest or
4660 other lien shall furnish reasonable proof of the interest or
4661 lien within a reasonable time. Unless the holder does so, the
4662 secured party need not comply with the holder's demand under
4663 subsection (a) (3).

4664 (c) Application of noncash proceeds. A secured party
4665 need not apply or pay over for application noncash proceeds of
4666 disposition under Section 7-9A-610 unless the failure to do so
4667 would be commercially unreasonable. A secured party that
4668 applies or pays over for application noncash proceeds shall do
4669 so in a commercially reasonable manner.

4670 (d) Surplus or deficiency if obligation secured. If the
4671 security interest under which a disposition is made secures
4672 payment or performance of an obligation, after making the
4673 payments and applications required by subsection (a) and
4674 permitted by subsection (c):

4675 (1) unless subsection (a) (4) requires the secured party
4676 to apply or pay over cash proceeds to a consignor, the secured



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4677 party shall account to and pay a debtor for any surplus; and

4678 (2) the obligor is liable for any deficiency.

4679 (e) No surplus or deficiency in sales of certain rights
4680 to payment. If the underlying transaction is a sale of
4681 accounts, chattel paper, payment intangibles, or promissory
4682 notes:

4683 (1) the debtor is not entitled to any surplus; and

4684 (2) the obligor is not liable for any deficiency.

4685 (f) Calculation of surplus or deficiency in disposition
4686 to person related to secured party. The surplus or deficiency
4687 following a disposition is calculated based on the amount of
4688 proceeds that would have been realized in a disposition
4689 complying with this part to a transferee other than the
4690 secured party, a person related to the secured party, or a
4691 secondary obligor if:

4692 (1) the transferee in the disposition is the secured
4693 party, a person related to the secured party, or a secondary
4694 obligor; and

4695 (2) the amount of proceeds of the disposition is
4696 significantly below the range of proceeds that a complying
4697 disposition to a person other than the secured party, a person
4698 related to the secured party, or a secondary obligor would
4699 have brought.

4700 (g) Cash proceeds received by junior secured party. A
4701 secured party that receives cash proceeds of a disposition in
4702 good faith and without knowledge that the receipt violates the
4703 rights of the holder of a security interest or other lien that
4704 is not subordinate to the security interest or agricultural



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4705 lien under which the disposition is made:

4706 (1) takes the cash proceeds free of the security
4707 interest or other lien;

4708 (2) is not obligated to apply the proceeds of the
4709 disposition to the satisfaction of obligations secured by the
4710 security interest or other lien; and

4711 (3) is not obligated to account to or pay the holder of
4712 the security interest or other lien for any surplus."

4713 "§7-9A-616. Explanation of calculation of surplus or
4714 deficiency.

4715 (a) Definitions. In this section:

4716 (1) "Explanation" means a ~~writing~~ record that:

4717 (A) states the amount of the surplus or deficiency;

4718 (B) provides an explanation in accordance with
4719 subsection (c) of how the secured party calculated the surplus
4720 or deficiency;

4721 (C) states, if applicable, that future debits, credits,
4722 charges, including additional credit service charges or
4723 interest, rebates, and expenses may affect the amount of the
4724 surplus or deficiency; and

4725 (D) provides a telephone number or mailing address from
4726 which additional information concerning the transaction is
4727 available.

4728 (2) "Request" means a record:

4729 (A) ~~authenticated~~ signed by a debtor or consumer
4730 obligor;

4731 (B) requesting that the recipient provide an
4732 explanation; and



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4733 (C) sent after disposition of the collateral under
4734 Section 7-9A-610.

4735 (b) Explanation of calculation. In a consumer-goods
4736 transaction in which the debtor is entitled to a surplus or a
4737 consumer obligor is liable for a deficiency under Section
4738 7-9A-615, the secured party shall:

4739 (1) send an explanation to the debtor or consumer
4740 obligor, as applicable, after the disposition and:

4741 (A) before or when the secured party accounts to the
4742 debtor and pays any surplus or first makes ~~written~~ demand in a
4743 record on the consumer obligor after the disposition for
4744 payment of the deficiency; and

4745 (B) within 14 days after receipt of a request; or

4746 (2) in the case of a consumer obligor who is liable for
4747 a deficiency, within 14 days after receipt of a request, send
4748 to the consumer obligor a record waiving the secured party's
4749 right to a deficiency.

4750 (c) Required information. To comply with subsection

4751 (a) (1) (B), ~~a writing~~ an explanation must provide the following
4752 information in the following order:

4753 (1) the aggregate amount of obligations secured by the
4754 security interest under which the disposition was made, and,
4755 if the amount reflects a rebate of unearned interest or credit
4756 service charge, an indication of that fact, calculated as of a
4757 specified date:

4758 (A) if the secured party takes or receives possession
4759 of the collateral after default, not more than 35 days before
4760 the secured party takes or receives possession; or



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4761 (B) if the secured party takes or receives possession
4762 of the collateral before default or does not take possession
4763 of the collateral, not more than 35 days before the
4764 disposition;

4765 (2) the amount of proceeds of the disposition;

4766 (3) the aggregate amount of the obligations after
4767 deducting the amount of proceeds;

4768 (4) the amount, in the aggregate or by type, and types
4769 of expenses, including expenses of retaking, holding,
4770 preparing for disposition, processing, and disposing of the
4771 collateral, and attorney's fees secured by the collateral
4772 which are known to the secured party and relate to the current
4773 disposition;

4774 (5) the amount, in the aggregate or by type, and types
4775 of credits, including rebates of interest or credit service
4776 charges, to which the obligor is known to be entitled and
4777 which are not reflected in the amount in paragraph (1); and

4778 (6) the amount of the surplus or deficiency.

4779 (d) Substantial compliance. A particular phrasing of
4780 the explanation is not required. An explanation complying
4781 substantially with the requirements of subsection (a) is
4782 sufficient, even if it includes minor errors that are not
4783 seriously misleading.

4784 (e) Charges for responses. A debtor or consumer obligor
4785 is entitled without charge to one response to a request under
4786 this section during any six-month period in which the secured
4787 party did not send to the debtor or consumer obligor an
4788 explanation pursuant to subsection (b)(1). The secured party



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4789 may require payment of a charge not exceeding ~~\$25~~twenty-five
4790 dollars (\$25) for each additional response."

4791 "§7-9A-619. Transfer of record or legal title.

4792 (a) "Transfer statement." In this section, "transfer
4793 statement" means a record ~~authenticated~~ signed by a secured
4794 party stating:

4795 (1) that the debtor has defaulted in connection with an
4796 obligation secured by specified collateral;

4797 (2) that the secured party has exercised its
4798 post-default remedies with respect to the collateral;

4799 (3) that, by reason of the exercise, a transferee has
4800 acquired the rights of the debtor in the collateral; and

4801 (4) the name and mailing address of the secured party,
4802 debtor, and transferee.

4803 (b) Effect of transfer statement. A transfer statement
4804 entitles the transferee to the transfer of record of all
4805 rights of the debtor in the collateral specified in the
4806 statement in any official filing, recording, registration, or
4807 certificate-of-title system covering the collateral. If a
4808 transfer statement is presented with the applicable fee and
4809 request form to the official or office responsible for
4810 maintaining the system, the official or office shall:

4811 (1) accept the transfer statement;

4812 (2) promptly amend its records to reflect the transfer;

4813 and

4814 (3) if applicable, issue a new appropriate certificate
4815 of title in the name of the transferee.

4816 (c) Transfer not a disposition; no relief of secured



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4817 party's duties. A transfer of the record or legal title to
4818 collateral to a secured party under subsection (b) or
4819 otherwise is not of itself a disposition of collateral under
4820 this article and does not of itself relieve the secured party
4821 of its duties under this article."

4822 "§7-9A-620. Acceptance of collateral in full or partial
4823 satisfaction of obligation; compulsory disposition of
4824 collateral.

4825 (a) Conditions to acceptance in satisfaction. Except as
4826 otherwise provided in subsection (g), a secured party may
4827 accept collateral in full or partial satisfaction of the
4828 obligation it secures only if:

4829 (1) the debtor consents to the acceptance under
4830 subsection (c);

4831 (2) the secured party does not receive, within the time
4832 set forth in subsection (d), a notification of objection to
4833 the proposal ~~authenticated~~ signed by:

4834 (A) a person to which the secured party was required to
4835 send a proposal under Section 7-9A-621; or

4836 (B) any other person, other than the debtor, holding an
4837 interest in the collateral subordinate to the security
4838 interest that is the subject of the proposal;

4839 (3) if the collateral is consumer goods, the collateral
4840 is not in the possession of the debtor when the debtor
4841 consents to the acceptance; and

4842 (4) subsection (e) does not require the secured party
4843 to dispose of the collateral or the debtor waives the
4844 requirement pursuant to Section 7-9A-624.



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4845 (b) Purported acceptance ineffective. A purported or
4846 apparent acceptance of collateral under this section is
4847 ineffective unless:

4848 (1) the secured party consents to the acceptance in ~~an~~
4849 ~~authenticated~~ a signed record or sends a proposal to the
4850 debtor; and

4851 (2) the conditions of subsection (a) are met.

4852 (c) Debtor's consent. For purposes of this section:

4853 (1) a debtor consents to an acceptance of collateral in
4854 partial satisfaction of the obligation it secures only if the
4855 debtor agrees to the terms of the acceptance in a record
4856 ~~authenticated~~ signed after default; and

4857 (2) a debtor consents to an acceptance of collateral in
4858 full satisfaction of the obligation it secures only if the
4859 debtor agrees to the terms of the acceptance in a record
4860 ~~authenticated~~ signed after default or the secured party:

4861 (A) sends to the debtor after default a proposal that
4862 is unconditional or subject only to a condition that
4863 collateral not in the possession of the secured party be
4864 preserved or maintained;

4865 (B) in the proposal, proposes to accept collateral in
4866 full satisfaction of the obligation it secures; and

4867 (C) does not receive a notification of objection
4868 ~~authenticated~~ signed by the debtor within 20 days after the
4869 proposal is sent.

4870 (d) Effectiveness of notification. To be effective
4871 under subsection (a) (2), a notification of objection must be
4872 received by the secured party:



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4873 (1) in the case of a person to which the proposal was
4874 sent pursuant to Section 7-9A-621, within 20 days after
4875 notification was sent to that person; and

4876 (2) in other cases:

4877 (A) within 20 days after the last notification was sent
4878 pursuant to Section 7-9A-621; or

4879 (B) if a notification was not sent, before the debtor
4880 consents to the acceptance under subsection (c).

4881 (e) Mandatory disposition of consumer goods. A secured
4882 party that has taken possession of collateral shall dispose of
4883 the collateral pursuant to Section 7-9A-610 within the time
4884 specified in subsection (f) if:

4885 (1) 60 percent of the cash price has been paid in the
4886 case of a purchase-money security interest in consumer goods;
4887 or

4888 (2) 60 percent of the principal amount of the
4889 obligation secured has been paid in the case of a
4890 non-purchase-money security interest in consumer goods.

4891 (f) Compliance with mandatory disposition requirement.
4892 To comply with subsection (e), the secured party shall dispose
4893 of the collateral:

4894 (1) within 90 days after taking possession; or

4895 (2) within any longer period to which the debtor and
4896 all secondary obligors have agreed in an agreement to that
4897 effect entered into and ~~authenticated~~ signed after default.

4898 (g) No partial satisfaction in consumer transaction. In
4899 a consumer transaction, a secured party may not accept
4900 collateral in partial satisfaction of the obligation it



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4901 secures."

4902 "§7-9A-621. Notification of proposal to accept
4903 collateral.

4904 (a) Persons to which proposal to be sent. A secured
4905 party that desires to accept collateral in full or partial
4906 satisfaction of the obligation it secures shall send its
4907 proposal to:

4908 (1) any person from which the secured party has
4909 received, before the debtor consented to the acceptance, ~~an~~
4910 ~~authenticated~~ a signed notification of a claim of an interest
4911 in the collateral;

4912 (2) any other secured party or lienholder that, 10 days
4913 before the debtor consented to the acceptance, held a security
4914 interest in or other lien on the collateral perfected by the
4915 filing of a financing statement that:

4916 (A) identified the collateral;

4917 (B) was indexed under the debtor's name as of that
4918 date; and

4919 (C) was filed in the office or offices in which to file
4920 a financing statement against the debtor covering the
4921 collateral as of that date; and

4922 (3) any other secured party that, 10 days before the
4923 debtor consented to the acceptance, held a security interest
4924 in the collateral perfected by compliance with a statute,
4925 regulation, or treaty described in Section 7-9A-311(a).

4926 (b) Proposal to be sent to secondary obligor in partial
4927 satisfaction. A secured party that desires to accept
4928 collateral in partial satisfaction of the obligation it



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4929 secures shall send its proposal to any secondary obligor in
4930 addition to the persons described in subsection (a)."

4931 "§7-9A-624. Waiver.

4932 (a) Waiver of disposition notification. A debtor or
4933 secondary obligor may waive the right to notification of
4934 disposition of collateral under Section 7-9A-611 only by an
4935 agreement to that effect entered into and ~~authenticated~~ signed
4936 after default.

4937 (b) Waiver of mandatory disposition. A debtor may waive
4938 the right to require disposition of collateral under Section
4939 7-9A-620(e) only by an agreement to that effect entered into
4940 and ~~authenticated~~ signed after default.

4941 (c) Waiver of redemption right. Except in a
4942 consumer-goods transaction, a debtor or secondary obligor may
4943 waive the right to redeem collateral under Section 7-9A-623
4944 only by an agreement to that effect entered into and
4945 ~~authenticated~~ signed after default."

4946 "§7-9A-628. Nonliability and limitation on liability of
4947 secured party; liability of secondary obligor.

4948 (a) Limitation of liability of secured party for
4949 noncompliance with article. ~~Unless~~ Subject to subsection (f),
4950 unless a secured party knows that a person is a debtor or
4951 obligor, knows the identity of the person, and knows how to
4952 communicate with the person:

4953 (1) the secured party is not liable to the person, or
4954 to a secured party or lienholder that has filed a financing
4955 statement against the person, for failure to comply with this
4956 article; and



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4957 (2) the secured party's failure to comply with this
4958 article does not affect the liability of the person for a
4959 deficiency.

4960 (b) Limitation of liability based on status as secured
4961 party. Subject to subsection (f), a ~~A~~-secured party is not
4962 liable because of its status as secured party:

4963 (1) to a person that is a debtor or obligor, unless the
4964 secured party knows:

4965 (A) that the person is a debtor or obligor;

4966 (B) the identity of the person; and

4967 (C) how to communicate with the person; or

4968 (2) to a secured party or lienholder that has filed a
4969 financing statement against a person, unless the secured party
4970 knows:

4971 (A) that the person is a debtor; and

4972 (B) the identity of the person.

4973 (c) Limitation of liability if reasonable belief that
4974 transaction not a consumer-goods transaction or consumer
4975 transaction. A secured party is not liable to any person, and
4976 a person's liability for a deficiency is not affected, because
4977 of any act or omission arising out of the secured party's
4978 reasonable belief that a transaction is not a consumer-goods
4979 transaction or a consumer transaction or that goods are not
4980 consumer goods, if the secured party's belief is based on its
4981 reasonable reliance on:

4982 (1) a debtor's representation concerning the purpose
4983 for which collateral was to be used, acquired, or held; or

4984 (2) an obligor's representation concerning the purpose



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4985 for which a secured obligation was incurred.

4986 (d) Limitation of liability for statutory damages. A
4987 secured party is not liable to any person under Section
4988 7-9A-625(c)(2) for its failure to comply with Section
4989 7-9A-616.

4990 (e) Limitation of multiple liability for statutory
4991 damages. A secured party is not liable under Section
4992 7-9A-625(c)(2) more than once with respect to any one secured
4993 obligation.

4994 (f) Exception: Limitation of liability under
4995 subsections (a) and (b) does not apply. Subsections (a) and
4996 (b) do not apply to limit the liability of a secured party to
4997 a person if, at the time the secured party obtains control of
4998 collateral that is a controllable account, controllable
4999 electronic record, or controllable payment intangible or at
5000 the time the security interest attaches to the collateral,
5001 whichever is later:

5002 (1) the person is a debtor or obligor; and

5003 (2) the secured party knows that the information in
5004 subsection (b)(1)(A), (B), or (C) relating to the person is
5005 not provided by the collateral, a record attached to or
5006 logically associated with the collateral, or the system in
5007 which the collateral is recorded.

5008 Section 2. Sections 7-9A-107A, 7-9A-107B, 7-9A-306A,
5009 7-9A-306B, 7-9A-314A, and 7-9A-326A are added to the Code of
5010 Alabama 1975, to read as follows:

5011 §7-9A-107A. Control of controllable electronic record,
5012 controllable account, or controllable payment intangible.



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5013 (a) Control under Section 7-12-105. A secured party has
5014 control of a controllable electronic record as provided in
5015 Section 7-12-105.

5016 (b) Control of controllable account and controllable
5017 payment intangible. A secured party has control of a
5018 controllable account or controllable payment intangible if the
5019 secured party has control of the controllable electronic
5020 record that evidences the controllable account or controllable
5021 payment intangible.

5022 §7-9A-107B. No requirement to acknowledge or confirm;
5023 no duties.

5024 (a) No requirement to acknowledge. A person that has
5025 control under Section 7-9A-104, or 7-9A-105, is not required
5026 to acknowledge that it has control on behalf of another
5027 person.

5028 (b) No duties or confirmation. If a person acknowledges
5029 that it has or will obtain control on behalf of another
5030 person, unless the person otherwise agrees or law other than
5031 this article otherwise provides, the person does not owe any
5032 duty to the other person and is not required to confirm the
5033 acknowledgment to any other person.

5034 §7-9A-306A. Law governing perfection and priority of
5035 security interests in chattel paper.

5036 (a) Chattel paper evidenced by authoritative electronic
5037 copy. Except as provided in subsection (d), if chattel paper
5038 is evidenced only by an authoritative electronic copy of the
5039 chattel paper or is evidenced by an authoritative electronic
5040 copy and an authoritative tangible copy, the local law of the



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5041 chattel paper's jurisdiction governs perfection, the effect of
5042 perfection or nonperfection, and the priority of a security
5043 interest in the chattel paper, even if the transaction does
5044 not bear any relation to the chattel paper's jurisdiction.

5045 (b) Chattel paper's jurisdiction. The following rules
5046 determine the chattel paper's jurisdiction under this section:

5047 (1) If the authoritative electronic copy of the record
5048 evidencing chattel paper, or a record attached to or logically
5049 associated with the electronic copy and readily available for
5050 review, expressly provides that a particular jurisdiction is
5051 the chattel paper's jurisdiction for purposes of this part,
5052 this article, or the Uniform Commercial Code, that
5053 jurisdiction is the chattel paper's jurisdiction.

5054 (2) If paragraph (1) does not apply and the rules of
5055 the system in which the authoritative electronic copy is
5056 recorded are readily available for review and expressly
5057 provide that a particular jurisdiction is the chattel paper's
5058 jurisdiction for purposes of this part, this article, or the
5059 Uniform Commercial Code, that jurisdiction is the chattel
5060 paper's jurisdiction.

5061 (3) If paragraphs (1) and (2) do not apply and the
5062 authoritative electronic copy, or a record attached to or
5063 logically associated with the electronic copy and readily
5064 available for review, expressly provides that the chattel
5065 paper is governed by the law of a particular jurisdiction,
5066 that jurisdiction is the chattel paper's jurisdiction.

5067 (4) If paragraphs (1), (2), and (3) do not apply and
5068 the rules of the system in which the authoritative electronic



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5069 copy is recorded are readily available for review and
5070 expressly provide that the chattel paper or the system is
5071 governed by the law of a particular jurisdiction, that
5072 jurisdiction is the chattel paper's jurisdiction.

5073 (5) If paragraphs (1) through (4) do not apply, the
5074 chattel paper's jurisdiction is the jurisdiction in which the
5075 debtor is located.

5076 (c) Chattel paper evidenced by authoritative tangible
5077 copy. If an authoritative tangible copy of a record evidences
5078 chattel paper and the chattel paper is not evidenced by an
5079 authoritative electronic copy, while the authoritative
5080 tangible copy of the record evidencing chattel paper is
5081 located in a jurisdiction, the local law of that jurisdiction
5082 governs:

5083 (1) perfection of a security interest in the chattel
5084 paper by possession under Section 7-9A-314A; and

5085 (2) the effect of perfection or nonperfection and the
5086 priority of a security interest in the chattel paper.

5087 (d) When perfection governed by law of jurisdiction
5088 where debtor located. The local law of the jurisdiction in
5089 which the debtor is located governs perfection of a security
5090 interest in chattel paper by filing."

5091 §7-9A-306B. Law governing perfection and priority of
5092 security interests in controllable accounts, controllable
5093 electronic records, and controllable payment intangibles.

5094 (a) Governing law: general rules. Except as provided in
5095 subsection (b), the local law of the controllable electronic
5096 record's jurisdiction specified in Section 7-12-107(c) and (d)



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5097 governs perfection, the effect of perfection or nonperfection,
5098 and the priority of a security interest in a controllable
5099 electronic record and a security interest in a controllable
5100 account or controllable payment intangible evidenced by the
5101 controllable electronic record.

5102 (b) When perfection governed by law of jurisdiction
5103 where the debtor is located. The local law of the jurisdiction
5104 in which the debtor is located governs:

5105 (1) perfection of a security interest in a controllable
5106 account, controllable electronic record, or controllable
5107 payment intangible by filing; and

5108 (2) automatic perfection of a security interest in a
5109 controllable payment intangible created by a sale of the
5110 controllable payment intangible.

5111 §7-9A-314A. Perfection by possession and control of
5112 chattel paper.

5113 (a) Perfection by possession and control. A secured
5114 party may perfect a security interest in chattel paper by
5115 taking possession of each authoritative tangible copy of the
5116 record evidencing the chattel paper and obtaining control of
5117 each authoritative electronic copy of the electronic record
5118 evidencing the chattel paper.

5119 (b) Time of perfection; continuation of perfection. A
5120 security interest is perfected under subsection (a) not
5121 earlier than the time the secured party takes possession and
5122 obtains control and remains perfected under subsection (a)
5123 only while the secured party retains possession and control.

5124 (c) Application of Section 7-9A-313 to perfection by



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5125 possession of chattel paper. Subsections (c) and (f) through
5126 (i) of Section 7-9A-313 apply to perfection by possession of
5127 an authoritative tangible copy of a record evidencing chattel
5128 paper.

5129 §7-9A-326A. Priority of security interest in
5130 controllable account, controllable electronic record, and
5131 controllable payment intangible.

5132 A security interest in a controllable account,
5133 controllable electronic record, or controllable payment
5134 intangible held by a secured party having control of the
5135 account, electronic record, or payment intangible has priority
5136 over a conflicting security interest held by a secured party
5137 that does not have control.

5138 Section 3. Article 12 is added to Title 7 of the Code
5139 of Alabama 1975, to read as follows:

ARTICLE 12

CONTROLLABLE ELECTRONIC RECORDS

5142 §7-12-101. Short title.

5143 This article may be cited as Uniform Commercial
5144 Code—Controllable Electronic Records.

5145 §7-12-102. Definitions.

5146 (a) Article 12 definitions. In this article:

5147 (1) "Controllable electronic record" means a record
5148 stored in an electronic medium that can be subjected to
5149 control under Section 7-12-105. The term does not include a
5150 controllable account, a controllable payment intangible, a
5151 deposit account, an electronic copy of a record evidencing
5152 chattel paper, an electronic document of title, investment



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5153 property, a transferable record, or an electronic record that
5154 is currently authorized or adopted by a domestic or foreign
5155 government and is not a medium of exchange that was recorded
5156 and transferable in a system that existed and operated for the
5157 medium of exchange before the medium of exchange was
5158 authorized or adopted by a government.

5159 (2) "Qualifying purchaser" means a purchaser of a
5160 controllable electronic record or an interest in a
5161 controllable electronic record that obtains control of the
5162 controllable electronic record for value, in good faith, and
5163 without notice of a claim of a property right in the
5164 controllable electronic record.

5165 (3) "Transferable record" has the meaning provided for
5166 that term in:

5167 (A) Section 201(a)(1) of the Electronic Signatures in
5168 Global and National Commerce Act, 15 U.S.C. § 7021(a)(1), as
5169 amended; or

5170 (B) Section 8-1A-16(a).

5171 (4) "Value" has the meaning provided in Section
5172 7-3-303(a), as if references in that subsection to an
5173 "instrument" were references to a controllable account,
5174 controllable electronic record, or controllable payment
5175 intangible.

5176 (b) Definitions in Article 9A. The definitions in
5177 Article 9A of "account debtor," "controllable account,"
5178 "controllable payment intangible," "chattel paper," "deposit
5179 account," and "investment property" apply to this article.

5180 (c) Article 1 definitions and principles. Article 1



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5181 contains general definitions and principles of construction
5182 and interpretation applicable throughout this article.

5183 §7-12-103. Relation to Article 9A and consumer laws.

5184 (a) Article 9A governs in case of conflict. If there is
5185 conflict between this article and Article 9A, Article 9A
5186 governs.

5187 (b) Applicable consumer law and other laws. A
5188 transaction subject to this article is subject to any
5189 applicable rule of law that establishes a different rule for
5190 consumers and to (i) any other statute or regulation that
5191 regulates the rates, charges, agreements, and practices for
5192 loans, credit sales, or other extensions of credit and (ii)
5193 any consumer-protection statute or regulation.

5194 §7-12-104. Rights in controllable account, controllable
5195 electronic record, and controllable payment intangible.

5196 (a) Applicability of section to controllable account
5197 and controllable payment intangible. This section applies to
5198 the acquisition and purchase of rights in a controllable
5199 account or controllable payment intangible, including the
5200 rights and benefits under subsections (c), (d), (e), (g), and
5201 (h) of a purchaser and qualifying purchaser, in the same
5202 manner this section applies to a controllable electronic
5203 record.

5204 (b) Control of controllable account and controllable
5205 payment intangible. To determine whether a purchaser of a
5206 controllable account or a controllable payment intangible is a
5207 qualifying purchaser, the purchaser obtains control of the
5208 account or payment intangible if it obtains control of the



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5209 controllable electronic record that evidences the account or
5210 payment intangible.

5211 (c) Applicability of other law to acquisition of
5212 rights. Except as provided in this section, law other than
5213 this article determines whether a person acquires a right in a
5214 controllable electronic record and the right the person
5215 acquires.

5216 (d) Shelter principle and purchase of limited interest.
5217 A purchaser of a controllable electronic record acquires all
5218 rights in the controllable electronic record that the
5219 transferor had or had power to transfer, except that a
5220 purchaser of a limited interest in a controllable electronic
5221 record acquires rights only to the extent of the interest
5222 purchased.

5223 (e) Rights of qualifying purchaser. A qualifying
5224 purchaser acquires its rights in the controllable electronic
5225 record free of a claim of a property right in the controllable
5226 electronic record.

5227 (f) Limitation of rights of qualifying purchaser in
5228 other property. Except as provided in subsections (a) and (e)
5229 for a controllable account and a controllable payment
5230 intangible or law other than this article, a qualifying
5231 purchaser takes a right to payment, right to performance, or
5232 other interest in property evidenced by the controllable
5233 electronic record subject to a claim of a property right in
5234 the right to payment, right to performance, or other interest
5235 in property.

5236 (g) No-action protection for qualifying purchaser. An



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5237 action may not be asserted against a qualifying purchaser
5238 based on both a purchase by the qualifying purchaser of a
5239 controllable electronic record and a claim of a property right
5240 in another controllable electronic record, whether the action
5241 is framed in conversion, replevin, constructive trust,
5242 equitable lien, or other theory.

5243 (h) Filing not notice. Filing of a financing statement
5244 under Article 9A is not notice of a claim of a property right
5245 in a controllable electronic record.

5246 §7-12-105. Control of controllable electronic record.

5247 (a) General rule: control of controllable electronic
5248 record. A person has control of a controllable electronic
5249 record if the electronic record, a record attached to or
5250 logically associated with the electronic record, or a system
5251 in which the electronic record is recorded:

5252 (1) gives the person:

5253 (A) power to avail itself of substantially all the
5254 benefits from the electronic record; and

5255 (B) exclusive power, subject to subsection (b), to:

5256 (i) prevent others from availing themselves of
5257 substantially all the benefits from the electronic record; and

5258 (ii) transfer control of the electronic record to
5259 another person or cause another person to obtain control of
5260 another controllable electronic record as a result of the
5261 transfer of the electronic record; and

5262 (2) enables the person readily to identify itself in
5263 any way, including by name, identifying number, cryptographic
5264 key, office, or account number, as having the powers specified



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5265 in paragraph (1).

5266 (b) Meaning of exclusive. Subject to subsection (c), a
5267 power is exclusive under subsection (a)(1)(B)(i) and (ii) even
5268 if:

5269 (1) the controllable electronic record, a record
5270 attached to or logically associated with the electronic
5271 record, or a system in which the electronic record is recorded
5272 limits the use of the electronic record or has a protocol
5273 programmed to cause a change, including a transfer or loss of
5274 control or a modification of benefits afforded by the
5275 electronic record; or

5276 (2) the power is shared with another person.

5277 (c) When power not shared with another person. A power
5278 of a person is not shared with another person under subsection
5279 (b)(2) and the person's power is not exclusive if:

5280 (1) the person can exercise the power only if the power
5281 also is exercised by the other person; and

5282 (2) the other person:

5283 (A) can exercise the power without exercise of the
5284 power by the person; or

5285 (B) is the transferor to the person of an interest in
5286 the controllable electronic record or a controllable account
5287 or controllable payment intangible evidenced by the
5288 controllable electronic record.

5289 (d) Presumption of exclusivity of certain powers. If a
5290 person has the powers specified in subsection (a)(1)(B)(i) and
5291 (ii), the powers are presumed to be exclusive.

5292 (e) Control through another person. A person has



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5293 control of a controllable electronic record if another person,
5294 other than the transferor to the person of an interest in the
5295 controllable electronic record or a controllable account or
5296 controllable payment intangible evidenced by the controllable
5297 electronic record:

5298 (1) has control of the electronic record and
5299 acknowledges that it has control on behalf of the person; or

5300 (2) obtains control of the electronic record after
5301 having acknowledged that it will obtain control of the
5302 electronic record on behalf of the person.

5303 (f) No requirement to acknowledge. A person that has
5304 control under this section is not required to acknowledge that
5305 it has control on behalf of another person.

5306 (g) No duties or confirmation. If a person acknowledges
5307 that it has or will obtain control on behalf of another
5308 person, unless the person otherwise agrees or law other than
5309 this article or Article 9A otherwise provides, the person does
5310 not owe any duty to the other person and is not required to
5311 confirm the acknowledgment to any other person.

5312 §7-12-106. Discharge of account debtor on controllable
5313 account or controllable payment intangible.

5314 (a) Discharge of account debtor. An account debtor on a
5315 controllable account or controllable payment intangible may
5316 discharge its obligation by paying:

5317 (1) the person having control of the controllable
5318 electronic record that evidences the controllable account or
5319 controllable payment intangible; or

5320 (2) except as provided in subsection (b), a person that



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5321 formerly had control of the controllable electronic record.

5322 (b) Content and effect of notification. Subject to
5323 subsection (d), the account debtor may not discharge its
5324 obligation by paying a person that formerly had control of the
5325 controllable electronic record if the account debtor receives
5326 a notification that:

5327 (1) is signed by a person that formerly had control or
5328 the person to which control was transferred;

5329 (2) reasonably identifies the controllable account or
5330 controllable payment intangible;

5331 (3) notifies the account debtor that control of the
5332 controllable electronic record that evidences the controllable
5333 account or controllable payment intangible was transferred;

5334 (4) identifies the transferee, in any reasonable way,
5335 including by name, identifying number, cryptographic key,
5336 office, or account number; and

5337 (5) provides a commercially reasonable method by which
5338 the account debtor is to pay the transferee.

5339 (c) Discharge following effective notification. After
5340 receipt of a notification that complies with subsection (b),
5341 the account debtor may discharge its obligation by paying in
5342 accordance with the notification and may not discharge the
5343 obligation by paying a person that formerly had control.

5344 (d) When notification ineffective. Subject to
5345 subsection (h), notification is ineffective under subsection
5346 (b):

5347 (1) unless, before the notification is sent, the
5348 account debtor and the person that, at that time, had control



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5349 of the controllable electronic record that evidences the
5350 controllable account or controllable payment intangible agree
5351 in a signed record to a commercially reasonable method by
5352 which a person may furnish reasonable proof that control has
5353 been transferred;

5354 (2) to the extent an agreement between the account
5355 debtor and seller of a payment intangible limits the account
5356 debtor's duty to pay a person other than the seller and the
5357 limitation is effective under law other than this article; or

5358 (3) at the option of the account debtor, if the
5359 notification notifies the account debtor to:

5360 (A) divide a payment;

5361 (B) make less than the full amount of an installment or
5362 other periodic payment; or

5363 (C) pay any part of a payment by more than one method
5364 or to more than one person.

5365 (e) Proof of transfer of control. Subject to subsection
5366 (h), if requested by the account debtor, the person giving the
5367 notification under subsection (b) seasonably shall furnish
5368 reasonable proof, using the method in the agreement referred
5369 to in subsection (d)(1), that control of the controllable
5370 electronic record has been transferred. Unless the person
5371 complies with the request, the account debtor may discharge
5372 its obligation by paying a person that formerly had control,
5373 even if the account debtor has received a notification under
5374 subsection (b).

5375 (f) What constitutes reasonable proof. A person
5376 furnishes reasonable proof under subsection (e) that control



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5377 has been transferred if the person demonstrates, using the
5378 method in the agreement referred to in subsection (d)(1), that
5379 the transferee has the power to:

5380 (1) avail itself of substantially all the benefits from
5381 the controllable electronic record;

5382 (2) prevent others from availing themselves of
5383 substantially all the benefits from the controllable
5384 electronic record; and

5385 (3) transfer the powers specified in paragraphs (1) and
5386 (2) to another person.

5387 (g) Rights not waivable. Subject to subsection (h), an
5388 account debtor may not waive or vary its rights under
5389 subsections (d)(1) and (e) or its option under subsection
5390 (d)(3).

5391 (h) Rule for individual under other law. This section
5392 is subject to law other than this article which establishes a
5393 different rule for an account debtor who is an individual and
5394 who incurred the obligation primarily for personal, family, or
5395 household purposes.

5396 §7-12-107. Governing law.

5397 (a) Governing law: general rule. Except as provided in
5398 subsection (b), the local law of a controllable electronic
5399 record's jurisdiction governs a matter covered by this
5400 article.

5401 (b) Governing law: Section 7-12-106. For a controllable
5402 electronic record that evidences a controllable account or
5403 controllable payment intangible, the local law of the
5404 controllable electronic record's jurisdiction governs a matter



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5405 covered by Section 7-12-106 unless an effective agreement
5406 determines that the local law of another jurisdiction governs.

5407 (c) Controllable electronic record's jurisdiction. The
5408 following rules determine a controllable electronic record's
5409 jurisdiction under this section:

5410 (1) If the controllable electronic record, or a record
5411 attached to or logically associated with the controllable
5412 electronic record and readily available for review, expressly
5413 provides that a particular jurisdiction is the controllable
5414 electronic record's jurisdiction for purposes of this article
5415 or the Uniform Commercial Code, that jurisdiction is the
5416 controllable electronic record's jurisdiction.

5417 (2) If paragraph (1) does not apply and the rules of
5418 the system in which the controllable electronic record is
5419 recorded are readily available for review and expressly
5420 provide that a particular jurisdiction is the controllable
5421 electronic record's jurisdiction for purposes of this article
5422 or the Uniform Commercial Code, that jurisdiction is the
5423 controllable electronic record's jurisdiction.

5424 (3) If paragraphs (1) and (2) do not apply and the
5425 controllable electronic record, or a record attached to or
5426 logically associated with the controllable electronic record
5427 and readily available for review, expressly provides that the
5428 controllable electronic record is governed by the law of a
5429 particular jurisdiction, that jurisdiction is the controllable
5430 electronic record's jurisdiction.

5431 (4) If paragraphs (1), (2), and (3) do not apply and
5432 the rules of the system in which the controllable electronic



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5433 record is recorded are readily available for review and
5434 expressly provide that the controllable electronic record or
5435 the system is governed by the law of a particular
5436 jurisdiction, that jurisdiction is the controllable electronic
5437 record's jurisdiction.

5438 (5) If paragraphs (1) through (4) do not apply, the
5439 controllable electronic record's jurisdiction is the District
5440 of Columbia.

5441 (d) Applicability of Article 12. If subsection (c) (5)
5442 applies and Article 12 is not in effect in the District of
5443 Columbia without material modification, the governing law for
5444 a matter covered by this article is the law of the District of
5445 Columbia as though Article 12 were in effect in the District
5446 of Columbia without material modification. In this subsection,
5447 "Article 12" means Article 12 of Uniform Commercial Code
5448 Amendments (2022).

5449 (e) Relation of matter or transaction to controllable
5450 electronic record's jurisdiction not necessary. To the extent
5451 subsections (a) and (b) provide that the local law of the
5452 controllable electronic record's jurisdiction governs a matter
5453 covered by this article, that law governs even if the matter
5454 or a transaction to which the matter relates does not bear any
5455 relation to the controllable electronic record's jurisdiction.

5456 (f) Rights of purchasers determined at time of
5457 purchase. The rights acquired under Section 7-12-104 by a
5458 purchaser or qualifying purchaser are governed by the law
5459 applicable under this section at the time of purchase.

5460 Section 4. Article 12A is added to Title 7, Code of



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5461 Alabama 1975, to read as follows:

5462 Article 12A. Transitional Provisions for Uniform
5463 Commercial Code Amendments (2022).

5464 Part 1. General Provisions and Definitions.

5465 Section 7-12A-101. Short Title.

5466 This article may be cited as Transitional Provisions
5467 for Uniform Commercial Code Amendments (2022).

5468 Section 7-12A-102. Definitions.

5469 (a) Article 12A Definitions. In this article:

5470 (1) "Adjustment date" means July 1, 2025, or the date
5471 that is one year after the effective date of this act,
5472 whichever is later.

5473 (2) "Article 12" means Article 12 of the Uniform
5474 Commercial Code.

5475 (3) "Article 12 property" means a controllable account,
5476 controllable electronic record, or controllable payment
5477 intangible.

5478 (4) "Article 9A" means Article 9A of the Uniform
5479 Commercial Code.

5480 (b) Definitions in other articles. The following
5481 definitions in other articles of the Uniform Commercial Code
5482 apply to this article:

5483 "Controllable account." Section 7-9A-102.

5484 "Controllable electronic record." Section 7-12-102.

5485 "Controllable payment intangible." Section 7-9A-102.

5486 "Financing statement." Section 7-9A-102.

5487 (c) Article 1 definitions and principles. Article 1 of
5488 the Uniform Commercial Code contains general definitions and



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5489 principles of construction and interpretation applicable
5490 throughout this article.

5491 Part 2. General Transitional Provision.

5492 Section 7-12A-201. Saving Clause.

5493 Except as provided in Part 3, a transaction validly
5494 entered into before the effective date of this act and the
5495 rights, duties, and interests flowing from the transaction
5496 remain valid thereafter and may be terminated, completed,
5497 consummated, or enforced as required or permitted by law other
5498 than the Uniform Commercial Code or, if applicable, the
5499 Uniform Commercial Code, as though this act had not taken
5500 effect.

5501 Part 3. Transitional Provisions for Articles 9A and 12.

5502 Section 7-12A-301. Saving Clause.

5503 (a) Pre-effective date transaction, lien, or interest.

5504 Except as provided in this part, Article 9A as amended by this
5505 act and Article 12 apply to a transaction, lien, or other
5506 interest in property, even if the transaction, lien, or
5507 interest was entered into, created, or acquired before the
5508 effective date of this act.

5509 (b) Continuing validity. Except as provided in
5510 subsection (c) and Sections 7-12A-302 through 7-12A-306:

5511 (1) a transaction, lien, or interest in property that
5512 was validly entered into, created, or transferred before the
5513 effective date of this act and was not governed by the Uniform
5514 Commercial Code, but would be subject to Article 9A as amended
5515 by this act or Article 12 if it had been entered into,
5516 created, or transferred on or after the effective date of this



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5517 act, including the rights, duties, and interests flowing from
5518 the transaction, lien, or interest, remains valid on and after
5519 the effective date of this act; and

5520 (2) the transaction, lien, or interest may be
5521 terminated, completed, consummated, and enforced as required
5522 or permitted by this act or by the law that would apply if
5523 this act had not taken effect.

5524 (c) Pre-effective date proceeding. This act does not
5525 affect an action, case, or proceeding commenced before the
5526 effective date of this act.

5527 Section 7-12A-302. Security Interest Perfected Before
5528 Effective Date.

5529 (a) Continuing perfection: perfection requirements
5530 satisfied. A security interest that is enforceable and
5531 perfected immediately before the effective date of this act is
5532 a perfected security interest under this act if, on the
5533 effective date of this act, the requirements for
5534 enforceability and perfection under this act are satisfied
5535 without further action.

5536 (b) Continuing perfection: enforceability or perfection
5537 requirements not satisfied. If a security interest is
5538 enforceable and perfected immediately before the effective
5539 date of this act, but the requirements for enforceability or
5540 perfection under this act are not satisfied on the effective
5541 date of this act, the security interest:

5542 (1) is a perfected security interest until the earlier
5543 of the time perfection would have ceased under the law in
5544 effect immediately before the effective date of this act or



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5545 the adjustment date;

5546 (2) remains enforceable thereafter only if the security
5547 interest satisfies the requirements for enforceability under
5548 Section 7-9A-203, as amended by this act, before the
5549 adjustment date; and

5550 (3) remains perfected thereafter only if the
5551 requirements for perfection under this act are satisfied
5552 before the time specified in paragraph (1).

5553 Section 7-12A-303. Security Interest Unperfected Before
5554 Effective Date.

5555 A security interest that is enforceable immediately
5556 before the effective date of this act but is unperfected at
5557 that time:

5558 (1) remains an enforceable security interest until the
5559 adjustment date;

5560 (2) remains enforceable thereafter if the security
5561 interest becomes enforceable under Section 7-9A-203, as
5562 amended by this act, on the effective date of this act or
5563 before the adjustment date; and

5564 (3) becomes perfected:

5565 (A) without further action, on the effective date of
5566 this act if the requirements for perfection under this act are
5567 satisfied before or at that time; or

5568 (B) when the requirements for perfection are satisfied
5569 if the requirements are satisfied after that time.

5570 Section 7-12A-304. Effectiveness of Actions Taken
5571 Before Effective Date.

5572 (a) Pre-effective-date action; attachment and



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5573 perfection before adjustment date. If action, other than the
5574 filing of a financing statement, is taken before the effective
5575 date of this act and the action would have resulted in
5576 perfection of the security interest had the security interest
5577 become enforceable before the effective date of this act, the
5578 action is effective to perfect a security interest that
5579 attaches under this act before the adjustment date. An
5580 attached security interest becomes unperfected on the
5581 adjustment date unless the security interest becomes a
5582 perfected security interest under this act before the
5583 adjustment date.

5584 (b) Pre-effective-date filing. The filing of a
5585 financing statement before the effective date of this act is
5586 effective to perfect a security interest on the effective date
5587 of this act to the extent the filing would satisfy the
5588 requirements for perfection under this act.

5589 (c) Pre-effective-date enforceability action. The
5590 taking of an action before the effective date of this act is
5591 sufficient for the enforceability of a security interest on
5592 the effective date of this act if the action would satisfy the
5593 requirements for enforceability under this act.

5594 Section 7-12A-305. Priority.

5595 (a) Determination of priority. Subject to subsections
5596 (b) and (c), this act determines the priority of conflicting
5597 claims to collateral.

5598 (b) Established priorities. Subject to subsection (c),
5599 if the priorities of claims to collateral were established
5600 before the effective date of this act, Article 9A as in effect



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5601 before the effective date of this act determines priority.

5602 (c) Determination of certain priorities on adjustment
5603 date. On the adjustment date, to the extent the priorities
5604 determined by Article 9A as amended by this act modify the
5605 priorities established before the effective date of this act,
5606 the priorities of claims to Article 12 property established
5607 before the effective date of this act cease to apply.

5608 Section 7-12A-306. Priority of Claims When Priority
5609 Rules of Article 9A Do Not Apply.

5610 (a) Determination of priority. Subject to subsections
5611 (b) and (c), Article 12 determines the priority of conflicting
5612 claims to Article 12 property when the priority rules of
5613 Article 9A as amended by this act do not apply.

5614 (b) Established priorities. Subject to subsection (c),
5615 when the priority rules of Article 9A as amended by this act
5616 do not apply and the priorities of claims to Article 12
5617 property were established before the effective date of this
5618 act, law other than Article 12 determines priority.

5619 (c) Determination of certain priorities on adjustment
5620 date. When the priority rules of Article 9A as amended by this
5621 act do not apply, to the extent the priorities determined by
5622 this act modify the priorities established before the
5623 effective date of this act, the priorities of claims to
5624 Article 12 property established before the effective date of
5625 this act cease to apply on the adjustment date.

5626 Section 5. This act shall become effective July 1,
5627 2024, following its passage and approval by the Governor, or
5628 its otherwise becoming law.



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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 09-May-23, as amended.

John Treadwell
Clerk

Senate

31-May-23

Passed