

HB348 INTRODUCED



1 9JHIMB-1
2 By Representative Faulkner
3 RFD: Judiciary
4 First Read: 20-Apr-23
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SYNOPSIS:

This bill would provide a substantial revision to the Uniform Commercial Code (UCC) by adopting the Uniform Commercial Code Amendments (2022), which includes a new UCC article that governs the transfer of property rights in certain intangible digital assets (controllable electronic records), including electronic rights to payment, and would provide for a manner to establish control of those assets, provide a mechanism for evidencing certain rights of payment, and adopt special rules with regard to the payment obligations and conditions of discharge of account debtors on controllable accounts and controllable payment obligations.

This bill would provide extensive amendments to Article 9 of the UCC to address security interests in controllable electronic records and the rights to payment for those records, including controllable accounts and controllable payment intangibles, and that a security interest in these assets may be perfected by a secured party obtaining control of the asset or by filing a financing statement.

This bill would also provide transitional provisions for the Uniform Commercial Code Amendments (2022).



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29 A BILL
30 TO BE ENACTED
31 AN ACT

32
33 Relating to the Uniform Commercial Code; to add
34 Article 12 to the Uniform Commercial Code to govern the
35 property rights of certain intangible digital assets
36 (controllable electronic records), including electronic rights
37 to payment, to provide for a manner to establish the transfer
38 and control of those assets, to provide a mechanism for
39 evidencing certain rights of payment, and to adopt special
40 rules with regard to the payment obligations and conditions of
41 discharge of account debtors on controllable accounts and
42 controllable payment intangibles; to amend Sections 7-1-201,
43 7-1-204, 7-1-301, 7-1-306, 7-2-102, 7-2-106, 7-2-201, 7-2-202,
44 7-2-203, 7-2-205, 7-2-209, 7-2A-102, 7-2A-103, 7-2A-107,
45 7-2A-201, 7-2A-202, 7-2A-203, 7-2A-205, 7-2A-208, 7-3-104,
46 7-3-105, 7-3-401, 7-3-604, 7-4A-103, 7-4A-201, 7-4A-202,
47 7-4A-203, 7-4A-207, 7-4A-208, 7-4A-210, 7-4A-211, 7-4A-305,
48 7-5-104, 7-5-116, 7-7-102, 7-7-106, 7-8-102, 7-8-103, 7-8-106,
49 7-8-110, 7-8-303, 7-9A-102, 7-9A-104, 7-9A-105, 7-9A-203,
50 7-9A-204, 7-9A-207, 7-9A-208, 7-9A-209, 7-9A-210, 7-9A-301,
51 7-9A-304, 7-9A-305, 7-9A-310, 7-9A-312, 7-9A-313, 7-9A-314,
52 7-9A-316, 7-9A-317, 7-9A-323, 7-9A-324, 7-9A-330, 7-9A-331,
53 7-9A-332, 7-9A-334, 7-9A-341, 7-9A-404, 7-9A-406, 7-9A-408,
54 7-9A-509, 7-9A-513, 7-9A-601, 7-9A-605, 7-9A-608, 7-9A-611,
55 7-9A-613, 7-9A-614, 7-9A-615, 7-9A-616, 7-9A-619, 7-9A-620,
56 7-9A-621, 7-9A-624, and 7-9A-628, Code of Alabama 1975, and to



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57 add Sections 7-9A-107A, 7-9A-107B, 7-9A-306A, 7-9A-306B,
58 7-9A-314A, and 7-9A-326A to the Code of Alabama 1975, to
59 provide a substantial revision to the Uniform Commercial Code
60 in conformity with a substantial portion of the Uniform
61 Commercial Code Amendments (2022), to clarify the meaning of
62 the term chattel paper and other definitions, to define and
63 provide for hybrid transactions, and to provide extensive
64 amendments to the Uniform Commercial Code providing for the
65 perfection of security interests in controllable electronic
66 records, documents of title, chattel paper, and other assets;
67 and to add Article 12A to the Uniform Commercial Code to
68 provide transitional provisions for the Uniform Commercial
69 Code Amendments (2022).

70 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

71 Section 1. Sections 7-1-201, 7-1-204, 7-1-301,
72 7-1-306, 7-2-102, 7-2-106, 7-2-201, 7-2-202, 7-2-203, 7-2-205,
73 7-2-209, 7-2A-102, 7-2A-103, 7-2A-107, 7-2A-201, 7-2A-202,
74 7-2A-203, 7-2A-205, 7-2A-208, 7-3-104, 7-3-105, 7-3-401,
75 7-3-604, 7-4A-103, 7-4A-201, 7-4A-202, 7-4A-203, 7-4A-207,
76 7-4A-208, 7-4A-210, 7-4A-211, 7-4A-305, 7-5-104, 7-5-116,
77 7-7-102, 7-7-106, 7-8-102, 7-8-103, 7-8-106, 7-8-110, 7-8-303,
78 7-9A-102, 7-9A-104, 7-9A-105, 7-9A-203, 7-9A-204, 7-9A-207,
79 7-9A-208, 7-9A-209, 7-9A-210, 7-9A-301, 7-9A-304, 7-9A-305,
80 7-9A-310, 7-9A-312, 7-9A-313, 7-9A-314, 7-9A-316, 7-9A-317,
81 7-9A-323, 7-9A-324, 7-9A-330, 7-9A-331, 7-9A-332, 7-9A-334,
82 7-9A-341, 7-9A-404, 7-9A-406, 7-9A-408, 7-9A-509, 7-9A-513,
83 7-9A-601, 7-9A-605, 7-9A-608, 7-9A-611, 7-9A-613, 7-9A-614,
84 7-9A-615, 7-9A-616, 7-9A-619, 7-9A-620, 7-9A-621, 7-9A-624,



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85 and 7-9A-628, Code of Alabama 1975, are amended to read as
86 follows:

87 "§7-1-201.General definitions.

88 (a) [Reserved].

89 (b) Subject to ~~additional~~ definitions contained in ~~the~~
90 ~~subsequent~~ other articles of ~~this title~~ the Uniform Commercial
91 Code ~~which are applicable~~ that apply to ~~specific~~ particular
92 articles or parts thereof, ~~and unless the context otherwise~~
93 ~~requires, in this title~~:

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

97 (2) "Aggrieved party" means a party entitled to pursue
98 a remedy.

99 (3) "Agreement," as distinguished from "contract,"
100 means the bargain of the parties in fact, as found in their
101 language or inferred from other circumstances, including
102 course of performance, course of dealing, or usage of trade as
103 provided in Section 7-1-303.

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

107 (5) "Bearer" means a person in control of a negotiable
108 electronic document of title or a person in possession of a
109 negotiable instrument, negotiable tangible document of title,
110 or certificated security that is payable to bearer or indorsed
111 in blank.

112 (6) "Bill of lading" means a document of title



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113 evidencing the receipt of goods for shipment issued by a
114 person engaged in the business of transporting or forwarding
115 goods. The term does not include a warehouse receipt.

116 (7) "Branch" includes a separately incorporated foreign
117 branch of a bank.

118 (8) "Burden of establishing" a fact means the burden of
119 persuading the trier of fact that the existence of the fact is
120 more probable than its nonexistence.

121 (9) "Buyer in ordinary course of business" means a
122 person that buys goods in good faith, without knowledge that
123 the sale violates the rights of another person in the goods,
124 and in the ordinary course from a person, other than a
125 pawnbroker, in the business of selling goods of that kind. A
126 person buys goods in the ordinary course if the sale to the
127 person comports with the usual or customary practices in the
128 kind of business in which the seller is engaged or with the
129 seller's own usual or customary practices. A person that sells
130 oil, gas, or other minerals at the wellhead or mine is a
131 person in the business of selling goods of that kind. A buyer
132 in ordinary course of business may buy for cash, by exchange
133 of other property, or on secured or unsecured credit, and may
134 acquire goods or documents of title under a preexisting
135 contract for sale. Only a buyer that takes possession of the
136 goods or has a right to recover the goods from the seller
137 under Article 2 may be a buyer in ordinary course of business.
138 "Buyer in ordinary course of business" does not include a
139 person that acquires goods in a transfer in bulk or as
140 security for or in total or partial satisfaction of a money



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141 debt.

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

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

151 ~~(B) Language in the body of a record or display in~~
152 ~~larger type than the surrounding text, or in contrasting type,~~
153 ~~font, or color to the surrounding text of the same size, or~~
154 ~~set off from surrounding text of the same size by symbols or~~
155 ~~other marks that call attention to the language.~~

156 (11) "Consumer" means an individual who enters into a
157 transaction primarily for personal, family, or household
158 purposes.

159 (12) "Contract," as distinguished from "agreement,"
160 means the total legal obligation that results from the
161 parties' agreement as determined by this title as supplemented
162 by any other applicable laws.

163 (13) "Creditor" includes a general creditor, a secured
164 creditor, a lien creditor, and any representative of
165 creditors, including an assignee for the benefit of creditors,
166 a trustee in bankruptcy, a receiver in equity, and an executor
167 or administrator of an insolvent debtor's or assignor's
168 estate.



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169 (14) "Defendant" includes a person in the position of
170 defendant in a counterclaim, cross-claim, or third-party
171 claim.

172 (15) "Delivery," with respect to an ~~instrument,~~
173 electronic document of title, ~~or chattel paper,~~ means
174 voluntary transfer of ~~possession~~ control and, with respect to
175 an instrument, a tangible document of title, or an
176 authoritative tangible copy of record evidencing chattel
177 paper, means voluntary transfer of possession.

178 (16) "Document of title" means a record (i) that in the
179 regular course of business or financing is treated as
180 adequately evidencing that the person in possession or control
181 of the record is entitled to receive, control, hold, and
182 dispose of the record and the goods the record covers and (ii)
183 that purports to be issued by or addressed to a bailee and to
184 cover goods in the bailee's possession which are either
185 identified or are fungible portions of an identifiable mass.
186 The term includes bill of lading, transport documents, dock
187 warrant, dock receipt, warehouse receipt ~~or,~~ and order for the
188 delivery of goods. ~~, and also any other document which in the~~
189 ~~regular course of business or financing is treated as~~
190 ~~adequately evidencing that the person in possession of it is~~
191 ~~entitled to receive, hold, and dispose of the document and the~~
192 ~~goods it covers. To be a document of title, a document must~~
193 ~~purport to be issued by or addressed to a bailee and purport~~
194 ~~to cover goods in the bailee's possession which are either~~
195 ~~identified or are fungible portions of an identified mass.~~ An
196 electronic document of title means a document of title



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197 evidenced by a record consisting of information stored in an
198 electronic medium. A tangible document of title means a
199 document of title evidenced by a record consisting of
200 information that is inscribed on a tangible medium.

201 (16A) "Electronic" means relating to technology having
202 electrical, digital, magnetic, wireless, optical,
203 electromagnetic, or similar capabilities.

204 (17) "Fault" means a default, breach, or wrongful act
205 or omission.

206 (18) "Fungible goods" means:

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

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

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

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

213 (21) "Holder" means:

214 (A) ~~The~~the person in possession of a negotiable
215 instrument that is payable either to bearer or to an
216 identified person that is the person in possession; or

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

220 (C) the person in control, other than pursuant to
221 Section 7-7-106(g), of a negotiable electronic document of
222 title.

223 (22) "Insolvency proceeding" includes an assignment for
224 the benefit of creditors or other proceeding intended to



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225 liquidate or rehabilitate the estate of the person involved.

226 (23) "Insolvent" means:

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

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

231 (C) Being insolvent within the meaning of federal
232 bankruptcy law.

233 (24) "Money" means a medium of exchange that is
234 currently authorized or adopted by a domestic or foreign
235 government and is not in an electronic form. The term includes
236 a monetary unit of account established by an intergovernmental
237 organization or ~~by~~ pursuant to an agreement between two or
238 more countries.

239 (25) "Organization" means a person other than an
240 individual.

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

244 (27) "Person" means an individual, corporation,
245 business trust, estate, trust, partnership, limited liability
246 company, association, joint venture, ~~public corporation,~~
247 government, governmental subdivision, agency, or
248 instrumentality, or any other legal or commercial entity. The
249 term includes a series or a protected series, however
250 denominated, of any entity if the series or protected series
251 is established under law other than the Uniform Commercial
252 Code that limits, or limits if conditions specified under the



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253 law are satisfied, the ability of a creditor of the entity or
254 of any other series or protected series of the entity to
255 satisfy a claim from assets of the series or protected series.

256 (28) "Present value" means the amount as of a date
257 certain of one or more sums payable in the future, discounted
258 to the date certain by use of either an interest rate
259 specified by the parties if that rate is not manifestly
260 unreasonable at the time the transaction is entered into or,
261 if an interest rate is not so specified, a commercially
262 reasonable rate that takes into account the facts and
263 circumstances at the time the transaction is entered into.

264 (29) "Purchase" means taking by sale, lease, discount,
265 negotiation, mortgage, pledge, lien, security interest, issue
266 or reissue, gift, or any other voluntary transaction creating
267 an interest in property.

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

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

272 (32) "Remedy" means any remedial right to which an
273 aggrieved party is entitled with or without resort to a
274 tribunal.

275 (33) "Representative" means a person empowered to act
276 for another, including an agent, an officer of a corporation
277 or association, and a trustee, executor, or administrator of
278 an estate.

279 (34) "Right" includes remedy.

280 (35) "Security interest" means an interest in personal



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281 property or fixtures which secures payment or performance of
282 an obligation. "Security interest" includes any interest of a
283 consignor and a buyer of accounts, chattel paper, a payment
284 intangible, or a promissory note in a transaction that is
285 subject to Article 9A. "Security interest" does not include
286 the special property interest of a buyer of goods on
287 identification of those goods to a contract for sale under
288 Section 7-2-401, but a buyer may also acquire a "security
289 interest" by complying with Article 9A. Except as otherwise
290 provided in Section 7-2-505, the right of a seller or lessor
291 of goods under Article 2 or 2A to retain or acquire possession
292 of the goods is not a "security interest," but a seller or
293 lessor may also acquire a "security interest" by complying
294 with Article 9A. The retention or reservation of title by a
295 seller of goods notwithstanding shipment or delivery to the
296 buyer under Section 7-2-401 is limited in effect to a
297 reservation of a "security interest." Whether a transaction in
298 the form of a lease creates a "security interest" is
299 determined pursuant to Section 7-1-203.

300 (36) "Send," in connection with a ~~writing, record,~~ or
301 ~~notice notification,~~ means:

302 (A) ~~To~~to deposit in the mail, or deliver for
303 transmission, or transmit by any other usual means of
304 communication, with postage or cost of transmission provided
305 for, ~~and properly addressed and, in the case of an instrument,~~
306 ~~to an address specified thereon or otherwise agreed, or if~~
307 ~~there be none~~ addressed to any address reasonable under the
308 circumstances; or



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309 (B) ~~In any other way to cause to be received any record~~
310 ~~or notice within the time it would have arrived if properly~~
311 ~~sent.~~ to cause the record or notification to be received
312 within the time it would have been received if properly sent
313 under subparagraph (A).

314 (37) ~~"Signed" includes using any symbol executed or~~
315 ~~adopted with present intention to adopt or accept a writing.~~
316 "Sign" means, with present intent to authenticate or adopt a
317 record, to:

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

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

321 "Signed," "signing," and "signature" have corresponding
322 meanings.

323 (38) "State" means a State of the United States, the
324 District of Columbia, Puerto Rico, the United States Virgin
325 Islands, or any territory or insular possession subject to the
326 jurisdiction of the United States.

327 (39) "Surety" includes a guarantor or other secondary
328 obligor.

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

331 (41) "Unauthorized signature" means a signature made
332 without actual, implied, or apparent authority. The term
333 includes a forgery.

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

336 (43) "Writing" includes printing, typewriting, or any



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337 other intentional reduction to tangible form. "Written" has a
338 corresponding meaning."

339 "§7-1-204. Value.

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

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

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

349 (3) By accepting delivery under a preexisting contract
350 for purchase; or

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

353 "§7-1-301. Territorial applicability; parties' power to
354 choose applicable law.

355 (a) Except as otherwise provided in this section, when
356 a transaction bears a reasonable relation to this state and
357 also to another state or nation, the parties may agree that
358 the law either of this state or of such other state or nation
359 shall govern their rights and duties.

360 (b) In the absence of an agreement effective under
361 subsection (a), and except as provided in subsection (c), ~~this~~
362 title the Uniform Commercial Code applies to transactions
363 bearing an appropriate relation to this state.

364 (c) If one of the following provisions of ~~this title~~



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365 the Uniform Commercial Code specifies the applicable law, that
366 provision governs and a contrary agreement is effective only
367 to the extent permitted by the law so specified:

368 (1) Section 7-2-402;

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

370 (3) Section 7-4-102;

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

372 (5) Section 7-5-116;

373 (6) [Reserved.]

374 ~~(6)~~ (7) Section 7-8-110;

375 ~~(7)~~ (8) Sections 7-9A-301 through 7-9A-307;

376 (9) Section 7-12-107.

377 "§7-1-306. Waiver or renunciation of claim or right
378 after breach.

379 A claim or right arising out of an alleged breach may
380 be discharged in whole or in part without consideration by
381 agreement of the aggrieved party in ~~an authenticated~~ a signed
382 record.

383 "§7-2-102. Scope; certain security and other
384 transactions excluded from this article.

385 ~~Unless the context otherwise requires, this article~~
386 ~~applies to transactions in goods; it does not apply to any~~
387 ~~transaction which although in the form of an unconditional~~
388 ~~contract to sell or present sale is intended to operate only~~
389 ~~as a security transaction nor does this article impair or~~
390 ~~repeal any statute regulating sales to consumers, farmers or~~
391 ~~other specified classes of buyers.~~

392 (1) Unless the context otherwise requires, and except



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393 as provided in subsection (3), this article applies to
394 transactions in goods and, in the case of a hybrid
395 transaction, it applies to the extent provided in subsection
396 (2).

397 (2) In a hybrid transaction:

398 (a) If the sale-of-goods aspects do not predominate,
399 only the provisions of this article which relate primarily to
400 the sale-of-goods aspects of the transaction apply, and the
401 provisions that relate primarily to the transaction as a whole
402 do not apply.

403 (b) If the sale-of-goods aspects predominate, this
404 article applies to the transaction but does not preclude
405 application in appropriate circumstances of other law to
406 aspects of the transaction which do not relate to the sale of
407 goods.

408 (3) This article does not:

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

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

414 "§7-2-106. Definitions: "Contract"; "agreement";
415 "contract for sale"; "sale"; "present sale"; "conforming" to
416 contract; "termination"; "cancellation"; "hybrid
417 transaction"."

418 (1) In this article unless the context otherwise
419 requires "contract" and "agreement" are limited to those
420 relating to the present or future sale of goods. "Contract for



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421 sale" includes both a present sale of goods and a contract to
422 sell goods at a future time. A "sale" consists in the passing
423 of title from the seller to the buyer for a price (Section
424 7-2-401). A "present sale" means a sale which is accomplished
425 by the making of the contract.

426 (2) Goods or conduct including any part of a
427 performance are "conforming" or "conform to the contract" when
428 they are in accordance with the obligations under the
429 contract.

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

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

441 (5) "Hybrid transaction" means a single transaction
442 involving a sale of goods and:

443 (a) the provision of services;

444 (b) a lease of other goods; or

445 (c) a sale, lease, or license of property other than
446 goods.

447 "§7-2-201. Formal requirements; statute of frauds.

448 (1) Except as otherwise provided in this section, a



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449 contract for the sale of goods for the price of ~~\$500~~five
450 hundred dollars (\$500) or more is not enforceable by way of
451 action or defense unless there is ~~some writing~~a record
452 sufficient to indicate that a contract for sale has been made
453 between the parties and signed by the party against whom
454 enforcement is sought or by ~~his~~ the party's authorized agent
455 or broker. A ~~writing~~record is not insufficient because it
456 omits or incorrectly states a term agreed upon, but the
457 contract is not enforceable under this ~~paragraph~~subsection
458 beyond the quantity of goods shown in ~~such writing~~the record.

459 (2) Between merchants if within a reasonable time a
460 ~~writing~~record in confirmation of the contract and sufficient
461 against the sender is received and the party receiving it has
462 reason to know its contents, it satisfies the requirements of
463 subsection (1) against ~~such~~ the party unless notice in a
464 record~~written notice~~ of objection to its contents is given
465 within 10 days after it is received.

466 (3) A contract which does not satisfy the requirements
467 of subsection (1) but which is valid in other respects is
468 enforceable:

469 (a) If the goods are to be specially manufactured for
470 the buyer and are not suitable for sale to others in the
471 ordinary course of the seller's business and the seller,
472 before notice of repudiation is received and under
473 circumstances which reasonably indicate that the goods are for
474 the buyer, has made either a substantial beginning of their
475 manufacture or commitments for their procurement; or

476 (b) If the party against whom enforcement is sought



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477 admits in ~~his~~the party's pleading, testimony, or otherwise in
478 court that a contract for sale was made, but the contract is
479 not enforceable under this provision beyond the quantity of
480 goods admitted; or

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

484 "§7-2-202. Final ~~written~~ expression: Parol or extrinsic
485 evidence.

486 Terms with respect to which the confirmatory memoranda
487 of the parties agree or which are otherwise set forth in a
488 ~~writing~~record intended by the parties as a final expression
489 of their agreement with respect to such terms as are included
490 therein may not be contradicted by evidence of any prior
491 agreement or of a contemporaneous oral agreement but may be
492 explained or supplemented:

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

495 (b) ~~By~~by evidence of consistent additional terms unless
496 the court finds the ~~writing~~record to have been intended also
497 as a complete and exclusive statement of the terms of the
498 agreement."

499 "§7-2-203. Seals inoperative.

500 The affixing of a seal to a ~~writing~~record evidencing a
501 contract for sale or an offer to buy or sell goods does not
502 constitute the ~~writing~~record a sealed instrument, and the law
503 with respect to sealed instruments does not apply to such a
504 contract or offer."



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505 "§7-2-205. Firm offers.

506 An offer by a merchant to buy or sell goods in a signed
507 writing record which by its terms gives assurance that it will
508 be held open is not revocable, for lack of consideration,
509 during the time stated or if no time is stated for a
510 reasonable time, but in no event may such period of
511 irrevocability exceed three months; but any such term of
512 assurance on a form supplied by the offeree must be separately
513 signed by the offeror."

514 "§7-2-209. Modification, rescission and waiver.

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

517 (2) A signed agreement which excludes modification or
518 rescission except by a signed writing or other signed record
519 cannot be otherwise modified or rescinded, but except as
520 between merchants such a requirement on a form supplied by the
521 merchant must be separately signed by the other party.

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

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

528 (5) A party who has made a waiver affecting an
529 executory portion of the contract may retract the waiver by
530 reasonable notification received by the other party that
531 strict performance will be required of any term waived, unless
532 the retraction would be unjust in view of a material change of



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533 position in reliance on the waiver.

534 "§7-2A-102. Scope.

535 ~~This article applies to any transaction, regardless of~~
536 ~~form, that creates a lease, as defined in Section~~
537 ~~7-2A-103(1)(j).~~

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

541 (2) In a hybrid lease:

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

543 (i) only the provisions of this article which relate
544 primarily to the lease-of-goods aspect of the transaction
545 apply, and the provisions that relate primarily to the
546 transaction as a whole do not apply;

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

549 (iii) Section 7-2A-407 applies to the promise of the
550 lessee in a finance lease to the extent the promises are
551 consideration for the right to possession and use of the
552 leased goods; and

553 (b) if the lease-of-goods aspects predominate, this
554 article applies to the transaction, but does not preclude
555 application in appropriate circumstances of other law to
556 aspects of the lease which do not relate to the lease of
557 goods.

558 "§7-2A-103. Definitions and index of definitions.

559 (1) In this article unless the context otherwise
560 requires:



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561 (a) "Buyer in ordinary course of business" means a
562 person who in good faith and without knowledge that the sale
563 to him or her is in violation of the ownership rights or
564 security interest or leasehold interest of a third party in
565 the goods, buys in ordinary course from a person in the
566 business of selling goods of that kind but does not include a
567 pawnbroker. "Buying" may be for cash or by exchange of other
568 property or on secured or unsecured credit and includes
569 receiving goods or documents of title under a pre-existing
570 contract for sale but does not include a transfer in bulk or
571 as security for or in total or partial satisfaction of a money
572 debt.

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

575 (c) "Commercial unit" means such a unit of goods as by
576 commercial usage is a single whole for purposes of lease and
577 division of which materially impairs its character or value on
578 the market or in use. A commercial unit may be a single
579 article, as a machine, or a set of articles, as a suite of
580 furniture or a line of machinery, or a quantity, as a gross or
581 carload, or any other unit treated in use or in the relevant
582 market as a single whole.

583 (d) "Conforming" goods or performance under a lease
584 contract means goods or performance that are in accordance
585 with the obligations under the lease contract.

586 (e) "Consumer lease" means a lease that a lessor
587 regularly engaged in the business of leasing or selling makes
588 to a lessee who is an individual and who takes under the lease



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589 primarily for a personal, family, or household purpose, if the
590 total payments to be made under the lease contract, excluding
591 payments for options to renew or buy, do not exceed
592 ~~\$100,000~~ one hundred thousand dollars (\$100,000).

593 (f) "Fault" means wrongful act, omission, breach, or
594 default.

595 (g) "Finance lease" means a lease with respect to
596 which:

597 (i) the lessor does not select, manufacture, or supply
598 the goods;

599 (ii) the lessor acquires the goods or the right to
600 possession and use of the goods in connection with the lease;
601 and

602 (iii) one of the following occurs:

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

606 (B) the lessee's approval of the contract by which the
607 lessor acquired the goods or the right to possession and use
608 of the goods is a condition to effectiveness of the lease
609 contract;

610 (C) the lease contract or a separate accurate and
611 complete statement delivered to the lessee discloses in
612 writing (a) all express warranties and other rights provided
613 to the lessee by the lessor and the supplier in connection
614 with the lease contract (b) that there are no other express
615 warranties or rights provided to the lessee by the lessor or
616 the supplier in connection with the lease contract, and (c) in



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617 a consumer lease, any waiver, disclaimer, or other negation of
618 express or implied warranties and any limitation or
619 modification of remedy or liquidation of damages for breach of
620 those warranties or other rights of the lessee in a manner as
621 provided in this article or in Article 2, as applicable; or

622 (D) the lessor, before the lessee signs the lease
623 contract, informs the lessee in writing (a) of the identity of
624 the supplier, unless the lessee has selected the supplier and
625 directed the lessor to purchase the goods from the supplier,
626 (b) that the lessee is entitled under this article to all
627 warranties and other rights provided to the lessee by the
628 supplier in connection with the lease contract, and (c) to
629 contact the supplier to receive an accurate and complete
630 statement from the supplier of any such express warranties and
631 other rights and any disclaimers or limitations of them or of
632 remedies.

633 (h) "Goods" means all things that are movable at the
634 time of identification to the lease contract, or are fixtures
635 (Section 7-2A-309), but the term does not include money,
636 documents, instruments, accounts, chattel paper, general
637 intangibles, or minerals or the like, including oil and gas,
638 before extraction. The term also includes the unborn young of
639 animals.

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

642 (i) the provision of services;

643 (ii) a sale of other goods; or

644 (iii) a sale, lease, or license of property other than



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645 [goods.](#)

646 (i) "Installment lease contract" means a lease contract
647 that authorizes or requires the delivery of goods in separate
648 lots to be separately accepted, even though the lease contract
649 contains a clause "each delivery is a separate lease" or its
650 equivalent.

651 (j) "Lease" means a transfer of the right to possession
652 and use of goods for a term in return for consideration, but a
653 sale, including a sale on approval or a sale or return, or
654 retention or creation of a security interest is not a lease.
655 Unless the context clearly indicates otherwise, the term
656 includes a sublease.

657 (k) "Lease agreement" means the bargain, with respect
658 to the lease, of the lessor and the lessee in fact as found in
659 their language or by implication from other circumstances
660 including course of dealing or usage of trade or course of
661 performance as provided in this article. Unless the context
662 clearly indicates otherwise, the term includes a sublease
663 agreement.

664 (l) "Lease contract" means the total legal obligation
665 that results from the lease agreement as affected by this
666 article and any other applicable rules of law. Unless the
667 context clearly indicates otherwise, the term includes a
668 sublease contract.

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

671 (n) "Lessee" means a person who acquires the right to
672 possession and use of goods under a lease. Unless the context



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673 clearly indicates otherwise, the term includes a sublessee.

674 (o) "Lessee in ordinary course of business" means a
675 person who in good faith and without knowledge that the lease
676 to him or her is in violation of the ownership rights or
677 security interest or leasehold interest of a third party in
678 the goods leases in ordinary course from a person in the
679 business of selling or leasing goods of that kind but does not
680 include a pawnbroker. "Leasing" may be for cash or by exchange
681 of other property or on secured or unsecured credit and
682 includes acquiring goods or documents of title under a
683 preexisting lease contract but does not include a transfer in
684 bulk or as security for or in total or partial satisfaction of
685 a money debt.

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

689 (q) "Lessor's residual interest" means the lessor's
690 interest in the goods after expiration, termination, or
691 cancellation of the lease contract.

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

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

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

700 (u) "Present value" means the amount as of a date



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701 certain of one or more sums payable in the future, discounted
702 to the date certain. The discount is determined by the
703 interest rate specified by the parties if the rate was not
704 manifestly unreasonable at the time the transaction was
705 entered into; otherwise, the discount is determined by the
706 court as a matter of law as a commercially reasonable rate
707 that takes into account the facts and circumstances of each
708 case at the time the transaction was entered into.

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

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

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

717 (y) "Supply contract" means a contract under which a
718 lessor buys or leases goods to be leased.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

753 "§7-2A-107. Waiver or renunciation of claim or right
754 after default.

755 Any claim or right arising out of an alleged default or
756 breach of warranty may be discharged in whole or in part



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757 without consideration by a ~~written~~ waiver or renunciation in a
758 signed ~~and~~ record delivered by the aggrieved party."

759 "§7-2A-201. Statute of frauds.

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

762 (a) the total payments to be made under the lease
763 contract, excluding payments for options to renew or buy, are
764 less than ~~\$1,000;~~ one thousand dollars (\$1,000) tangible or

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

770 (2) Any description of leased goods or of the lease
771 term is sufficient and satisfies subsection (1)(b), whether or
772 not it is specific, if it reasonably identifies what is
773 described.

774 (3) A ~~writing~~ record is not insufficient because it
775 omits or incorrectly states a term agreed upon, but the lease
776 contract is not enforceable under subsection (1)(b) beyond the
777 lease term and the quantity of goods shown in the ~~writing~~
778 record.

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

782 (a) if the goods are to be specially manufactured or
783 obtained for the lessee and are not suitable for lease or sale
784 to others in the ordinary course of the lessor's business, and



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785 the lessor, before notice of repudiation is received and under
786 circumstances that reasonably indicate that the goods are for
787 the lessee, has made either a substantial beginning of their
788 manufacture or commitments for their procurement;

789 (b) if the party against whom enforcement is sought
790 admits in that party's pleading, testimony, or otherwise in
791 court that a lease contract was made, but the lease contract
792 is not enforceable under this provision beyond the quantity of
793 goods admitted; or

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

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

798 (a) if there is a ~~writing~~ record signed by the party
799 against whom enforcement is sought or by that party's
800 authorized agent specifying the lease term, the term so
801 specified;

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

805 (c) a reasonable lease term."

806 "§7-2A-202. Final ~~written~~ expression: Parol or
807 extrinsic evidence.

808 Terms with respect to which the confirmatory memoranda
809 of the parties agree or which are otherwise set forth in a
810 ~~writing~~ record intended by the parties as a final expression
811 of their agreement with respect to such terms as are included
812 therein may not be contradicted by evidence of any prior



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813 agreement or of a contemporaneous oral agreement but may be
814 explained or supplemented:

815 (a) by course of dealing or usage of trade or by course
816 of performance; and

817 (b) by evidence of consistent additional terms unless
818 the court finds the ~~writing~~record to have been intended also
819 as a complete and exclusive statement of the terms of the
820 agreement."

821 "§7-2A-203. Seals inoperative.

822 The affixing of a seal to a ~~writing~~record evidencing a
823 lease contract or an offer to enter into a lease contract does
824 not render the ~~writing~~record a sealed instrument and the law
825 with respect to sealed instruments does not apply to the lease
826 contract or offer."

827 "§7-2A-205. Firm offers.

828 An offer by a merchant to lease goods to or from
829 another person in a signed ~~writing~~record that by its terms
830 gives assurance it will be held open is not revocable, for
831 lack of consideration, during the time stated or, if no time
832 is stated, for a reasonable time, but in no event may the
833 period of irrevocability exceed ~~3~~three months. Any such term
834 of assurance on a form supplied by the offeree must be
835 separately signed by the offeror."

836 "§7-2A-208. Modification, rescission and waiver.

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

839 (2) A signed lease agreement that excludes modification
840 or rescission except by a signed ~~writing~~record may not be



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841 otherwise modified or rescinded, but, except as between
842 merchants, such a requirement on a form supplied by a merchant
843 must be separately signed by the other party.

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

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

850 (5) A party who has made a waiver affecting an
851 executory portion of a lease contract may retract the waiver
852 by reasonable notification received by the other party that
853 strict performance will be required of any term waived, unless
854 the retraction would be unjust in view of a material change of
855 position in reliance on the waiver.

856 "§7-3-104. Negotiable instrument.

857 (a) Except as provided in subsections (c) and (d),
858 "negotiable instrument" means an unconditional promise or
859 order to pay a fixed amount of money, with or without interest
860 or other charges described in the promise or order, if it:

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

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

864 (3) ~~Does~~does not state any other undertaking or
865 instruction by the person promising or ordering payment to do
866 any act in addition to the payment of money, but the promise
867 or order may contain (i) an undertaking or power to give,
868 maintain, or protect collateral to secure payment, (ii) an



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869 authorization or power to the holder to confess judgment or
870 realize on or dispose of collateral, ~~or~~ (iii) a waiver of the
871 benefit of any law intended for the advantage or protection of
872 an obligor, (iv) a term that specifies the law that governs
873 the promise or order, or (v) an undertaking to resolve in a
874 specified forum a dispute concerning the promise or order.

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

876 (c) An order that meets all of the requirements of
877 subsection (a), except subdivision (1), and otherwise falls
878 within the definition of "check" in subsection (f) is a
879 negotiable instrument and a check.

880 (d) A promise or order other than a check is not an
881 instrument if, at the time it is issued or first comes into
882 possession of a holder, it contains a conspicuous statement,
883 however expressed, to the effect that the promise or order is
884 not negotiable or is not an instrument governed by this
885 article.

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

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

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



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897 the same bank.

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

900 (i) "Traveler's check" means an instrument that (i) is
901 payable on demand, (ii) is drawn on or payable at or through a
902 bank, (iii) is designated by the term "traveler's check" or by
903 a substantially similar term, and (iv) requires, as a
904 condition to payment, a countersignature by a person whose
905 specimen signature appears on the instrument.

906 (j) "Certificate of deposit" means an instrument
907 containing an acknowledgment by a bank that a sum of money has
908 been received by the bank and a promise by the bank to repay
909 the sum of money. A certificate of deposit is a note of the
910 bank."

911 "§7-3-105. Issue of instrument.

912 (a) "Issue" means:

913 (1) the first delivery of an instrument by the maker or
914 drawer, whether to a holder or nonholder, for the purpose of
915 giving rights on the instrument to any person; or

916 (2) if agreed by the payee, the first transmission by
917 the drawer to the payee of an image of an item and information
918 derived from the item that enables the depository bank to
919 collect the item by transferring or presenting under federal
920 law an electronic check.

921 (b) An unissued instrument, or an unissued incomplete
922 instrument that is completed, is binding on the maker or
923 drawer, but nonissuance is a defense. An instrument that is
924 conditionally issued or is issued for a special purpose is



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925 binding on the maker or drawer, but failure of the condition
926 or special purpose to be fulfilled is a defense.

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

929 "§7-3-401. Signature necessary for liability on
930 instrument.

931 ~~(a)~~ A person is not liable on an instrument unless (i)
932 the person signed the instrument, or (ii) the person is
933 represented by an agent or representative who signed the
934 instrument and the signature is binding on the represented
935 person under Section 7-3-402.

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

941 "§7-3-604. Discharge by cancellation or renunciation.

942 (a) A person entitled to enforce an instrument, with or
943 without consideration, may discharge the obligation of a party
944 to pay the instrument (i) by an intentional voluntary act,
945 such as surrender of the instrument to the party, destruction,
946 mutilation, or cancellation of the instrument, cancellation or
947 striking out of the party's signature, or the addition of
948 words to the instrument indicating discharge, or (ii) by
949 agreeing not to sue or otherwise renouncing rights against the
950 party by a signed ~~writing~~ record. The obligation of a party to
951 pay a check is not discharged solely by destruction of the
952 check in connection with a process in which information is



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953 extracted from the check and an image of the check is made
954 and, subsequently, the information and image are transmitted
955 for payment.

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

959 "§7-4A-103. Payment order - Definitions.

960 (a) In this article:

961 (1) "Payment order" means an instruction of a sender to
962 a receiving bank, transmitted orally, ~~electronically, or in~~
963 ~~writing~~ or in a record, to pay, or to cause another bank to
964 pay, a fixed or determinable amount of money to a beneficiary
965 if:

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

968 (ii) the receiving bank is to be reimbursed by debiting
969 an account of, or otherwise receiving payment from, the
970 sender, and

971 (iii) the instruction is transmitted by the sender
972 directly to the receiving bank or to an agent, funds-transfer
973 system, or communication system for transmittal to the
974 receiving bank.

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

977 (3) "Beneficiary's bank" means the bank identified in a
978 payment order in which an account of the beneficiary is to be
979 credited pursuant to the order or which otherwise is to make
980 payment to the beneficiary if the order does not provide for



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981 payment to an account.

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

984 (5) "Sender" means the person giving the instruction to
985 the receiving bank.

986 (b) If an instruction complying with subsection (a) (1)
987 is to make more than one payment to a beneficiary, the
988 instruction is a separate payment order with respect to each
989 payment.

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

992 "§7-4A-201. Security procedure.

993 "Security procedure" means a procedure established by
994 agreement of a customer and a receiving bank for the purpose
995 of (i) verifying that a payment order or communication
996 amending or cancelling a payment order is that of the
997 customer, or (ii) detecting error in the transmission or the
998 content of the payment order or communication. A security
999 procedure may impose an obligation on the receiving bank or
1000 the customer and may require the use of algorithms or other
1001 codes, identifying words, ~~or~~ numbers, symbols, sounds,
1002 biometrics, encryption, callback procedures, or similar
1003 security devices. Comparison of a signature on a payment order
1004 or communication with an authorized specimen signature of the
1005 customer or requiring a payment order to be sent from a known
1006 email address, IP address, or telephone number is not by
1007 itself a security procedure."

1008 "§7-4A-202. Authorized and verified payment orders.



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1009 (a) A payment order received by the receiving bank is
1010 the authorized order of the person identified as sender if
1011 that person authorized the order or is otherwise bound by it
1012 under the law of agency.

1013 (b) If a bank and its customer have agreed that the
1014 authenticity of payment orders issued to the bank in the name
1015 of the customer as sender will be verified pursuant to a
1016 security procedure, a payment order received by the receiving
1017 bank is effective as the order of the customer, whether or not
1018 authorized, if (i) the security procedure is a commercially
1019 reasonable method of providing security against unauthorized
1020 payment orders, and (ii) the bank proves that it accepted the
1021 payment order in good faith and in compliance with the bank's
1022 obligations under the security procedure and any ~~written~~
1023 agreement or instruction of the customer, evidenced by a
1024 record, restricting acceptance of payment orders issued in the
1025 name of the customer. The bank is not required to follow an
1026 instruction that violates ~~a written~~ an agreement with the
1027 customer, evidenced by a record, with the customer or notice
1028 of which is not received at a time and in a manner affording
1029 the bank a reasonable opportunity to act on it before the
1030 payment order is accepted.

1031 (c) Commercial reasonableness of a security procedure
1032 is a question of law to be determined by considering the
1033 wishes of the customer expressed to the bank, the
1034 circumstances of the customer known to the bank, including the
1035 size, type, and frequency of payment orders normally issued by
1036 the customer to the bank, alternative security procedures



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1037 offered to the customer, and security procedures in general
1038 use by customers and receiving banks similarly situated. A
1039 security procedure is deemed to be commercially reasonable if
1040 (i) the security procedure was chosen by the customer after
1041 the bank offered, and the customer refused, a security
1042 procedure that was commercially reasonable for that customer,
1043 and (ii) the customer expressly agreed in ~~writing~~ a record to
1044 be bound by any payment order, whether or not authorized,
1045 issued in its name, and accepted by the bank in compliance
1046 with the bank's obligations under the security procedure
1047 chosen by the customer.

1048 (d) The term "sender" in this article includes the
1049 customer in whose name a payment order is issued if the order
1050 is the authorized order of the customer under subsection (a),
1051 or it is effective as the order of the customer under
1052 subsection (b).

1053 (e) This section applies to amendments and
1054 cancellations of payment orders to the same extent it applies
1055 to payment orders.

1056 (f) Except as provided in this section and in Section
1057 7-4A-203(a)(1), rights and obligations arising under this
1058 section or Section 7-4A-203 may not be varied by agreement."

1059 "§7-4A-203. Unenforceability of certain verified
1060 payment orders.

1061 (a) If an accepted payment order is not, under Section
1062 7-4A-202(a), an authorized order of a customer identified as
1063 sender, but is effective as an order of the customer pursuant
1064 to Section 7-4A-202(b), the following rules apply:



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1065 (1) By express~~written~~ agreement evidenced by a record,
1066 the receiving bank may limit the extent to which it is
1067 entitled to enforce or retain payment of the payment order.

1068 (2) The receiving bank is not entitled to enforce or
1069 retain payment of the payment order if the customer proves
1070 that the order was not caused, directly or indirectly, by a
1071 person (i) entrusted at any time with duties to act for the
1072 customer with respect to payment orders or the security
1073 procedure, or (ii) who obtained access to transmitting
1074 facilities of the customer or who obtained, from a source
1075 controlled by the customer and without authority of the
1076 receiving bank, information facilitating breach of the
1077 security procedure, regardless of how the information was
1078 obtained or whether the customer was at fault. Information
1079 includes any access device, computer software, or the like.

1080 (b) This section applies to amendments of payment
1081 orders to the same extent it applies to payment orders."

1082 "§7-4A-207. Misdescription of beneficiary.

1083 (a) Subject to subsection (b), if, in a payment order
1084 received by the beneficiary's bank, the name, bank account
1085 number, or other identification of the beneficiary refers to a
1086 nonexistent or unidentifiable person or account, no person has
1087 rights as a beneficiary of the order and acceptance of the
1088 order cannot occur.

1089 (b) If a payment order received by the beneficiary's
1090 bank identifies the beneficiary both by name and by an
1091 identifying or bank account number and the name and number
1092 identify different persons, the following rules apply:



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1093 (1) Except as otherwise provided in subsection (c), if
1094 the beneficiary's bank does not know that the name and number
1095 refer to different persons, it may rely on the number as the
1096 proper identification of the beneficiary of the order. The
1097 beneficiary's bank need not determine whether the name and
1098 number refer to the same person.

1099 (2) If the beneficiary's bank pays the person
1100 identified by name or knows that the name and number identify
1101 different persons, no person has rights as beneficiary except
1102 the person paid by the beneficiary's bank if that person was
1103 entitled to receive payment from the originator of the funds
1104 transfer. If no person has rights as beneficiary, acceptance
1105 of the order cannot occur.

1106 (c) If (i) a payment order described in subsection (b)
1107 is accepted, (ii) the originator's payment order described the
1108 beneficiary inconsistently by name and number, and (iii) the
1109 beneficiary's bank pays the person identified by number as
1110 permitted by subsection (b)(1), the following rules apply:

1111 (1) If the originator is a bank, the originator is
1112 obliged to pay its order.

1113 (2) If the originator is not a bank and proves that the
1114 person identified by number was not entitled to receive
1115 payment from the originator, the originator is not obliged to
1116 pay its order unless the originator's bank proves that the
1117 originator, before acceptance of the originator's order, had
1118 notice that payment of a payment order issued by the
1119 originator might be made by the beneficiary's bank on the
1120 basis of an identifying or bank account number even if it



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1121 identifies a person different from the named beneficiary.
1122 Proof of notice may be made by any admissible evidence. The
1123 originator's bank satisfies the burden of proof if it proves
1124 that the originator, before the payment order was accepted,
1125 signed a ~~writing~~ record stating the information to which the
1126 notice relates.

1127 (d) In a case governed by subsection (b)(1), if the
1128 beneficiary's bank rightfully pays the person identified by
1129 number and that person was not entitled to receive payment
1130 from the originator, the amount paid may be recovered from
1131 that person to the extent allowed by the law governing mistake
1132 and restitution as follows:

1133 (1) If the originator is obliged to pay its payment
1134 order as stated in subsection (c), the originator has the
1135 right to recover.

1136 (2) If the originator is not a bank and is not obliged
1137 to pay its payment order, the originator's bank has the right
1138 to recover."

1139 "§7-4A-208. Misdescription of intermediary bank or
1140 beneficiary's bank.

1141 (a) This subsection applies to a payment order
1142 identifying an intermediary bank or the beneficiary's bank
1143 only by an identifying number.

1144 (1) The receiving bank may rely on the number as the
1145 proper identification of the intermediary or beneficiary's
1146 bank and need not determine whether the number identifies a
1147 bank.

1148 (2) The sender is obliged to compensate the receiving



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1149 bank for any loss and expenses incurred by the receiving bank
1150 as a result of its reliance on the number in executing or
1151 attempting to execute the order.

1152 (b) This subsection applies to a payment order
1153 identifying an intermediary bank or the beneficiary's bank
1154 both by name and an identifying number if the name and number
1155 identify different persons.

1156 (1) If the sender is a bank, the receiving bank may
1157 rely on the number as the proper identification of the
1158 intermediary or beneficiary's bank if the receiving bank, when
1159 it executes the sender's order, does not know that the name
1160 and number identify different persons. The receiving bank need
1161 not determine whether the name and number refer to the same
1162 person or whether the number refers to a bank. The sender is
1163 obliged to compensate the receiving bank for any loss and
1164 expenses incurred by the receiving bank as a result of its
1165 reliance on the number in executing or attempting to execute
1166 the order.

1167 (2) If the sender is not a bank and the receiving bank
1168 proves that the sender, before the payment order was accepted,
1169 had notice that the receiving bank might rely on the number as
1170 the proper identification of the intermediary or beneficiary's
1171 bank even if it identifies a person different from the bank
1172 identified by name, the rights and obligations of the sender
1173 and the receiving bank are governed by subsection (b) (1), as
1174 though the sender were a bank. Proof of notice may be made by
1175 any admissible evidence. The receiving bank satisfies the
1176 burden of proof if it proves that the sender, before the



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1177 payment order was accepted, signed a ~~writing~~ record stating
1178 the information to which the notice relates.

1179 (3) Regardless of whether the sender is a bank, the
1180 receiving bank may rely on the name as the proper
1181 identification of the intermediary or beneficiary's bank if
1182 the receiving bank, at the time it executes the sender's
1183 order, does not know that the name and number identify
1184 different persons. The receiving bank need not determine
1185 whether the name and number refer to the same person.

1186 (4) If the receiving bank knows that the name and
1187 number identify different persons, reliance on either the name
1188 or the number in executing the sender's payment order is a
1189 breach of the obligation stated in Section 7-4A-302(a)(1)."

1190 "§7-4A-210. Rejection of payment order.

1191 (a) A payment order is rejected by the receiving bank
1192 by a notice of rejection transmitted to the sender orally, ~~r~~
1193 ~~electronically,~~ or in ~~writing~~ a record. A notice of rejection
1194 need not use any particular words and is sufficient if it
1195 indicates that the receiving bank is rejecting the order or
1196 will not execute or pay the order. Rejection is effective when
1197 the notice is given if transmission is by a means that is
1198 reasonable in the circumstances. If notice of rejection is
1199 given by a means that is not reasonable, rejection is
1200 effective when the notice is received. If an agreement of the
1201 sender and receiving bank establishes the means to be used to
1202 reject a payment order, (i) any means complying with the
1203 agreement is reasonable, and (ii) any means not complying is
1204 not reasonable unless no significant delay in receipt of the



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1205 notice resulted from the use of the noncomplying means.

1206 (b) This subsection applies if a receiving bank other
1207 than the beneficiary's bank fails to execute a payment order
1208 despite the existence on the execution date of a withdrawable
1209 credit balance in an authorized account of the sender
1210 sufficient to cover the order. If the sender does not receive
1211 notice of rejection of the order on the execution date and the
1212 authorized account of the sender does not bear interest, the
1213 bank is obliged to pay interest to the sender on the amount of
1214 the order for the number of days elapsing after the execution
1215 date to the earlier of the day the order is canceled pursuant
1216 to Section 7-4A-211(d) or the day the sender receives notice
1217 or learns that the order was not executed, counting the final
1218 day of the period as an elapsed day. If the withdrawable
1219 credit balance during that period falls below the amount of
1220 the order, the amount of interest is reduced accordingly.

1221 (c) If a receiving bank suspends payments, all
1222 unaccepted payment orders issued to it are deemed rejected at
1223 the time the bank suspends payments.

1224 (d) Acceptance of a payment order precludes a later
1225 rejection of the order. Rejection of a payment order precludes
1226 a later acceptance of the order."

1227 "§7-4A-211. Cancellation and amendment of payment
1228 order.

1229 (a) A communication of the sender of a payment order
1230 cancelling or amending the order may be transmitted to the
1231 receiving bank orally, ~~electronically,~~ or in ~~writing~~ a record.
1232 If a security procedure is in effect between the sender and



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1233 the receiving bank, the communication is not effective to
1234 cancel or amend the order unless the communication is verified
1235 pursuant to the security procedure or the bank agrees to the
1236 cancellation or amendment.

1237 (b) Subject to subsection (a), a communication by the
1238 sender cancelling or amending a payment order is effective to
1239 cancel or amend the order if notice of the communication is
1240 received at a time and in a manner affording the receiving
1241 bank a reasonable opportunity to act on the communication
1242 before the bank accepts the payment order.

1243 (c) After a payment order has been accepted,
1244 cancellation or amendment of the order is not effective unless
1245 the receiving bank agrees or a funds-transfer system rule
1246 allows cancellation or amendment without agreement of the
1247 bank.

1248 (1) With respect to a payment order accepted by a
1249 receiving bank other than the beneficiary's bank, cancellation
1250 or amendment is not effective unless a conforming cancellation
1251 or amendment of the payment order issued by the receiving bank
1252 is also made.

1253 (2) With respect to a payment order accepted by the
1254 beneficiary's bank, cancellation or amendment is not effective
1255 unless the order was issued in execution of an unauthorized
1256 payment order, or because of a mistake by a sender in the
1257 funds transfer which resulted in the issuance of a payment
1258 order (i) that is a duplicate of a payment order previously
1259 issued by the sender, (ii) that orders payment to a
1260 beneficiary not entitled to receive payment from the



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1261 originator, or (iii) that orders payment in an amount greater
1262 than the amount the beneficiary was entitled to receive from
1263 the originator. If the payment order is canceled or amended,
1264 the beneficiary's bank is entitled to recover from the
1265 beneficiary any amount paid to the beneficiary to the extent
1266 allowed by the law governing mistake and restitution.

1267 (d) An unaccepted payment order is canceled by
1268 operation of law at the close of the fifth funds-transfer
1269 business day of the receiving bank after the execution date or
1270 payment date of the order.

1271 (e) A canceled payment order cannot be accepted. If an
1272 accepted payment order is canceled, the acceptance is
1273 nullified and no person has any right or obligation based on
1274 the acceptance. Amendment of a payment order is deemed to be
1275 cancellation of the original order at the time of amendment
1276 and issue of a new payment order in the amended form at the
1277 same time.

1278 (f) Unless otherwise provided in an agreement of the
1279 parties or in a funds-transfer system rule, if the receiving
1280 bank, after accepting a payment order agrees to cancellation
1281 or amendment of the order by the sender or is bound by a
1282 funds-transfer system rule allowing cancellation or amendment
1283 without the bank's agreement, the sender, whether or not
1284 cancellation or amendment is effective, is liable to the bank
1285 for any loss and expenses, including reasonable attorney's
1286 fees, incurred by the bank as a result of the cancellation or
1287 amendment or attempted cancellation or amendment.

1288 (g) A payment order is not revoked by the death or



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1289 legal incapacity of the sender unless the receiving bank knows
1290 of the death or of an adjudication of incapacity by a court of
1291 competent jurisdiction and has reasonable opportunity to act
1292 before acceptance of the order.

1293 (h) A funds-transfer system rule is not effective to
1294 the extent it conflicts with subsection (c)(2)."

1295 "§7-4A-305. Liability for late or improper execution or
1296 failure to execute payment order.

1297 (a) If a funds transfer is completed but execution of a
1298 payment order by the receiving bank in breach of Section
1299 7-4A-302 results in delay in payment to the beneficiary, the
1300 bank is obliged to pay interest to either the originator or
1301 the beneficiary of the funds transfer for the period of delay
1302 caused by the improper execution. Except as provided in
1303 subsection (c), additional damages are not recoverable.

1304 (b) If execution of a payment order by a receiving bank
1305 in breach of Section 7-4A-302 results in (i) noncompletion of
1306 the funds transfer, (ii) failure to use an intermediary bank
1307 designated by the originator, or (iii) issuance of a payment
1308 order that does not comply with the terms of the payment order
1309 of the originator, the bank is liable to the originator for
1310 its expenses in the funds transfer and for incidental expenses
1311 and interest losses, to the extent not covered by subsection
1312 (a), resulting from the improper execution. Except as provided
1313 in subsection (c), additional damages are not recoverable.

1314 (c) In addition to the amounts payable under
1315 subsections (a) and (b), damages, including consequential
1316 damages, are recoverable to the extent provided in an express



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1317 ~~written~~ agreement of the receiving bank, evidenced by a
1318 record.

1319 (d) If a receiving bank fails to execute a payment
1320 order it was obliged by express agreement to execute, the
1321 receiving bank is liable to the sender for its expenses in the
1322 transaction and for incidental expenses and interest losses
1323 resulting from the failure to execute. Additional damages,
1324 including consequential damages, are recoverable to the extent
1325 provided in an express ~~written~~ agreement of the receiving
1326 bank, evidenced by a record, but are not otherwise
1327 recoverable.

1328 (e) Reasonable attorney's fees are recoverable if
1329 demand for compensation under subsection (a) or (b) is made
1330 and refused before an action is brought on the claim. If a
1331 claim is made for breach of an agreement under subsection (d)
1332 and the agreement does not provide for damages, reasonable
1333 attorney's fees are recoverable if demand for compensation
1334 under subsection (d) is made and refused before an action is
1335 brought on the claim.

1336 (f) Except as stated in this section, the liability of a
1337 receiving bank under subsections (a) and (b) may not be varied
1338 by agreement."

1339 "§7-5-104. Formal requirements.

1340 A letter of credit, confirmation, advice, transfer,
1341 amendment, or cancellation may be issued in any form that is a
1342 signed record ~~and is authenticated (i) by a signature or (ii)~~
1343 ~~in accordance with the agreement of the parties or the~~
1344 ~~standard practice referred to in Section 7-5-108(c).~~"



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1345 "§7-5-116. Choice of law and forum.

1346 (a) The liability of an issuer, nominated person, or
1347 adviser for action or omission is governed by the law of the
1348 jurisdiction chosen by an agreement in the form of a record
1349 signed ~~or otherwise authenticated~~ by the affected parties ~~in~~
1350 ~~the manner provided in Section 7-5-104~~ or by a provision in
1351 the person's letter of credit, confirmation, or other
1352 undertaking. The jurisdiction whose law is chosen need not
1353 bear any relation to the transaction.

1354 (b) Unless subsection (a) applies, the liability of an
1355 issuer, nominated person, or adviser for action or omission is
1356 governed by the law of the jurisdiction in which the person is
1357 located. The person is considered to be located at the address
1358 indicated in the person's undertaking. If more than one
1359 address is indicated, the person is considered to be located
1360 at the address from which the person's undertaking was issued.

1361 (c) For the purpose of jurisdiction, choice of law, and
1362 recognition of interbranch letters of credit, but not
1363 enforcement of a judgment, all branches of a bank are
1364 considered separate juridical entities and a bank is
1365 considered to be located at the place where its relevant
1366 branch is considered to be located under ~~this~~ subsection (d).

1367 (d) A branch of a bank is considered to be located at
1368 the address indicated in the branch's undertaking. If more
1369 than one address is indicated, the branch is considered to be
1370 located at the address from which the undertaking was issued.

1371 ~~(e)~~ (e) Except as otherwise provided in this subsection,
1372 the liability of an issuer, nominated person, or adviser is



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1373 governed by any rules of custom or practice, such as the
1374 Uniform Customs and Practice for Documentary Credits, to which
1375 the letter of credit, confirmation, or other undertaking is
1376 expressly made subject. If (i) this article would govern the
1377 liability of an issuer, nominated person, or adviser under
1378 subsection (a) or (b), (ii) the relevant undertaking
1379 incorporates rules of custom or practice, and (iii) there is
1380 conflict between this article and those rules as applied to
1381 that undertaking, those rules govern except to the extent of
1382 any conflict with the nonvariable provisions specified in
1383 Section 7-5-103(c).

1384 ~~(d)~~ (f) If there is conflict between this article and
1385 Article 3, 4, 4A, or 9, this article governs.

1386 ~~(e)~~ (g) The forum for settling disputes arising out of
1387 an undertaking within this article may be chosen in the manner
1388 and with the binding effect that governing law may be chosen
1389 in accordance with subsection (a)."

1390 "§7-7-102. Definitions and index of definitions.

1391 (a) In this article, unless the context otherwise
1392 requires:

1393 (1) "Bailee" means a person that by a warehouse
1394 receipt, bill of lading, or other document of title
1395 acknowledges possession of goods and contracts to deliver
1396 them.

1397 (2) A "carrier" means a person that issues a bill of
1398 lading.

1399 (3) "Consignee" means a person named in a bill of
1400 lading to which or to whose order the bill promises delivery.



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1429 ~~medium and is retrievable in perceivable form.~~ [Reserved].

1430 (11) ~~"Sign" means, with present intent to authenticate~~
1431 ~~or adopt a record:~~

1432 ~~(A) To execute or adopt a tangible symbol; or~~

1433 ~~(B) To attach to or logically associate with the record~~
1434 ~~an electronic sound, symbol, or process.~~ [Reserved].

1435 (12) "Shipper" means a person that enters into a
1436 contract of transportation with a carrier.

1437 (13) "Warehouse" means a person engaged in the business
1438 of storing goods for hire.

1439 (b) Definitions in other articles applying to this
1440 article and the sections in which they appear are:

1441 (1) "Contract for sale," Section 7-2-106.

1442 (2) "Lessee in ordinary course," Section 7-2A-103.

1443 (3) "Receipt" of goods, Section 7-2-103.

1444 (c) In addition, Article 1 contains general definitions
1445 and principles of construction and interpretation applicable
1446 throughout this article."

1447 "§7-7-106. Control of electronic document of title.

1448 (a) A person has control of an electronic document of
1449 title if a system employed for evidencing the transfer of
1450 interests in the electronic document reliably establishes that
1451 person as the person to which the electronic document was
1452 issued or transferred.

1453 (b) A system satisfies subsection (a), and a person ~~is~~
1454 ~~deemed to have~~ has control of an electronic document of title,
1455 if the document is created, stored, and ~~assigned~~ transferred
1456 in such a manner that:



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1457 (1) ~~A~~a single authoritative copy of the document exists
1458 which is unique, identifiable, and, except as otherwise
1459 provided in subdivisions (4), (5), and (6), unalterable;

1460 (2) ~~The~~the authoritative copy identifies the person
1461 asserting control as:

1462 a. ~~The~~the person to which the document was issued; or

1463 b. ~~If~~if the authoritative copy indicates that the
1464 document has been transferred, the person to which the
1465 document was most recently transferred;

1466 (3) ~~The~~the authoritative copy is communicated to and
1467 maintained by the person asserting control or its designated
1468 custodian;

1469 (4) ~~Copies~~copies or amendments that add or change an
1470 identified ~~assignee~~transferee of the authoritative copy can be
1471 made only with the consent of the person asserting control;

1472 (5) ~~Each~~each copy of the authoritative copy and any
1473 copy of a copy is readily identifiable as a copy that is not
1474 the authoritative copy; and

1475 (6) ~~Any~~any amendment of the authoritative copy is
1476 readily identifiable as authorized or unauthorized.

1477 (c) A system satisfies subsection (a) and a person has
1478 control of an electronic document of title, if an
1479 authoritative electronic copy of the document, a record
1480 attached to or logically associated with the electronic copy,
1481 or a system in which the electronic copy is recorded:

1482 (1) enables the person readily to identify each
1483 electronic copy as either an authoritative copy or a
1484 nonauthoritative copy;



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1485 (2) enables the person readily to identify itself in
1486 any way, including by name, identifying number, cryptographic
1487 key, office, or account number, as the person to which each
1488 authoritative electronic copy was issued or transferred; and

1489 (3) gives the person exclusive power, subject to
1490 subsection (d), to:

1491 (A) prevent others from adding or changing the person
1492 to which each authoritative electronic copy has been issued or
1493 transferred; and

1494 (B) transfer control of each authoritative electronic
1495 copy.

1496 (d) Subject to subsection (e), a power is exclusive
1497 under subsection (c) (3) (A) and (B), even if:

1498 (1) the authoritative electronic copy, a record
1499 attached to or logically associated with the authoritative
1500 electronic copy, or a system in which the authoritative
1501 electronic copy is recorded limits the use of the document of
1502 title or has a protocol that is programmed to cause a change,
1503 including a transfer or loss of control; or

1504 (2) the power is shared with another person.

1505 (e) A power of a person is not shared with another
1506 person under subsection (d) (2) and the person's power is not
1507 exclusive if:

1508 (1) the person can exercise the power only if the power
1509 also is exercised by the other person; and

1510 (2) the other person:

1511 (A) can exercise the power without exercise of the
1512 power by the person; or



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1513 (B) is the transferor to the person of an interest in
1514 the document of title.

1515 (f) If a person has the powers specified in subsection
1516 (c) (3) (A) and (B), the powers are presumed to be exclusive.

1517 (g) A person has control of an electronic document of
1518 title if another person, other than the transferor to the
1519 person of an interest in the document:

1520 (1) has control of the document and acknowledges that
1521 it has control on behalf of the person; or

1522 (2) obtains control of the document after having
1523 acknowledged that it will obtain control of the document on
1524 behalf of the person.

1525 (h) A person that has control under this section is not
1526 required to acknowledge that it has control on behalf of
1527 another person.

1528 (i) If a person acknowledges that it has or will obtain
1529 control on behalf of another person, unless the person
1530 otherwise agrees or law other than this article or Article 9A
1531 otherwise provides, the person does not owe any duty to the
1532 other person and is not required to confirm the acknowledgment
1533 to any other person."

1534 "§7-8-102. Definitions and index of definitions.

1535 (a) In this article:

1536 (1) "Adverse claim" means a claim that a claimant has a
1537 property interest in a financial asset and that it is a
1538 violation of the rights of the claimant for another person to
1539 hold, transfer, or deal with the financial asset.

1540 (2) "Bearer form," as applied to a certificated



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1541 security, means a form in which the security is payable to the
1542 bearer of the security certificate according to its terms but
1543 not by reason of an indorsement.

1544 (3) "Broker" means a person defined as a broker or
1545 dealer under the federal securities laws, but without
1546 excluding a bank acting in that capacity.

1547 (4) "Certificated security" means a security that is
1548 represented by a certificate.

1549 (5) "Clearing corporation" means:

1550 (i) a person that is registered as a "clearing agency"
1551 under the federal securities laws;

1552 (ii) a federal reserve bank; or

1553 (iii) any other person that provides clearance or
1554 settlement services with respect to financial assets that
1555 would require it to register as a clearing agency under the
1556 federal securities laws but for an exclusion or exemption from
1557 the registration requirement, if its activities as a clearing
1558 corporation, including ~~promulgation~~adoption of rules, are
1559 subject to regulation by a federal or state governmental
1560 authority.

1561 (6) "Communicate" means to:

1562 (i) send a signed ~~writing~~ record; or

1563 (ii) transmit information by any mechanism agreed upon
1564 by the persons transmitting and receiving the information.

1565 (7) "Entitlement holder" means a person identified in
1566 the records of a securities intermediary as the person having
1567 a security entitlement against the securities intermediary. If
1568 a person acquires a security entitlement by virtue of Section



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1569 7-8-501(b) (2) or (3), that person is the entitlement holder.

1570 (8) "Entitlement order" means a notification
1571 communicated to a securities intermediary directing transfer
1572 or redemption of a financial asset to which the entitlement
1573 holder has a security entitlement.

1574 (9) "Financial asset," except as otherwise provided in
1575 Section 7-8-103, means:

1576 (i) a security;

1577 (ii) an obligation of a person or a share,
1578 participation, or other interest in a person or in property or
1579 an enterprise of a person, which is, or is of a type, dealt in
1580 or traded on financial markets, or which is recognized in any
1581 area in which it is issued or dealt in as a medium for
1582 investment; or

1583 (iii) any property that is held by a securities
1584 intermediary for another person in a securities account if the
1585 securities intermediary has expressly agreed with the other
1586 person that the property is to be treated as a financial asset
1587 under this article. As the context requires, the term means
1588 either the interest itself or the means by which a person's
1589 claim to it is evidenced, including a certificated or
1590 uncertificated security, a security certificate, or a security
1591 entitlement.

1592 (10) "Good faith," for purposes of the obligation of
1593 good faith in the performance or enforcement of contracts or
1594 duties within this article, means honesty in fact and the
1595 observance of reasonable commercial standards of fair dealing.

1596 (11) "Indorsement" means a signature that alone or



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1597 accompanied by other words is made on a security certificate
1598 in registered form or on a separate document for the purpose
1599 of assigning, transferring, or redeeming the security or
1600 granting a power to assign, transfer, or redeem it.

1601 (12) "Instruction" means a notification communicated to
1602 the issuer of an uncertificated security which directs that
1603 the transfer of the security be registered or that the
1604 security be redeemed.

1605 (13) "Registered form," as applied to a certificated
1606 security, means a form in which:

1607 (i) the security certificate specifies a person
1608 entitled to the security; and

1609 (ii) a transfer of the security may be registered upon
1610 books maintained for that purpose by or on behalf of the
1611 issuer, or the security certificate so states.

1612 (14) "Securities intermediary" means:

1613 (i) a clearing corporation; or

1614 (ii) a person, including a bank or broker, that in the
1615 ordinary course of its business maintains securities accounts
1616 for others and is acting in that capacity.

1617 (15) "Security," except as otherwise provided in
1618 Section 7-8-103, means an obligation of an issuer or a share,
1619 participation, or other interest in an issuer or in property
1620 or an enterprise of an issuer:

1621 (i) which is represented by a security certificate in
1622 bearer or registered form, or the transfer of which may be
1623 registered upon books maintained for that purpose by or on
1624 behalf of the issuer;



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1625 (ii) which is one of a class or series or by its terms
1626 is divisible into a class or series of shares, participations,
1627 interests, or obligations; and

1628 (iii) which:

1629 (A) is, or is of a type, dealt in or traded on
1630 securities exchanges or securities markets; or

1631 (B) is a medium for investment and by its terms
1632 expressly provides that it is a security governed by this
1633 article.

1634 (16) "Security certificate" means a certificate
1635 representing a security.

1636 (17) "Security entitlement" means the rights and
1637 property interest of an entitlement holder with respect to a
1638 financial asset specified in Part 5.

1639 (18) "Uncertificated security" means a security that is
1640 not represented by a certificate.

1641 (b) Other definitions applying to this article and the
1642 sections in which they appear are:

1643 "Appropriate person." Section 7-8-107.

1644 "Control." Section 7-8-106.

1645 "Delivery." Section 7-8-301.

1646 "Investment company security." Section 7-8-103.

1647 "Issuer." Section 7-8-201.

1648 "Overissue." Section 7-8-210.

1649 "Protected purchaser." Section 7-8-303.

1650 "Securities account." Section 7-8-501.

1651 (b.1) The following definitions in this article and
1652 other articles apply to this article:



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1653 ["Controllable account." Section 7-9A-102.](#)

1654 ["Controllable electronic record." Section 7-12-102.](#)

1655 ["Controllable payment intangible." Section 7-9A-102.](#)

1656 (c) In addition, Article 1 contains general definitions
1657 and principles of construction and interpretation applicable
1658 throughout this article.

1659 (d) The characterization of a person, business, or
1660 transaction for purposes of this article does not determine
1661 the characterization of the person, business, or transaction
1662 for purposes of any other law, regulation, or rule."

1663 "§7-8-103. Rules for determining whether certain
1664 obligations and interests are securities or financial assets.

1665 (a) A share or similar equity interest issued by a
1666 corporation, business trust, joint stock company, or similar
1667 entity is a security.

1668 (b) An "investment company security" is a security.

1669 "Investment company security" means a share or similar equity
1670 interest issued by an entity that is registered as an
1671 investment company under the federal investment company laws,
1672 an interest in a unit investment trust that is so registered,
1673 or a face-amount certificate issued by a face-amount
1674 certificate company that is so registered. Investment company
1675 security does not include an insurance policy or endowment
1676 policy or annuity contract issued by an insurance company.

1677 (c) An interest in a partnership or limited liability
1678 company is not a security unless it is dealt in or traded on
1679 securities exchanges or in securities markets, its terms
1680 expressly provide that it is a security governed by this



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1681 article, or it is an investment company security. However, an
1682 interest in a partnership or limited liability company is a
1683 financial asset if it is held in a securities account.

1684 (d) A writing that is a security certificate is
1685 governed by this article and not by Article 3, even though it
1686 also meets the requirements of that article. However, a
1687 negotiable instrument governed by Article 3 is a financial
1688 asset if it is held in a securities account.

1689 (e) An option or similar obligation issued by a
1690 clearing corporation to its participants is not a security,
1691 but is a financial asset.

1692 (f) A commodity contract, as defined in Section
1693 7-9A-102(a)(15), is not a security or a financial asset.

1694 (g) A document of title is not a financial asset unless
1695 Section 7-8-102(a)(9)(iii) applies.

1696 (h) A controllable account, controllable electronic
1697 record, or controllable payment intangible is not a financial
1698 asset unless Section 7-8-102(a)(9)(iii) applies."

1699 "§7-8-106. Control.

1700 (a) A purchaser has "control" of a certificated
1701 security in bearer form if the certificated security is
1702 delivered to the purchaser.

1703 (b) A purchaser has "control" of a certificated
1704 security in registered form if the certificated security is
1705 delivered to the purchaser, and:

1706 (1) the certificate is indorsed to the purchaser or in
1707 blank by an effective indorsement; or

1708 (2) the certificate is registered in the name of the



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1709 purchaser, upon original issue or registration of transfer by
1710 the issuer.

1711 (c) A purchaser has "control" of an uncertificated
1712 security if:

1713 (1) the uncertificated security is delivered to the
1714 purchaser; or

1715 (2) the issuer has agreed that it will comply with
1716 instructions originated by the purchaser without further
1717 consent by the registered owner.

1718 (d) A purchaser has "control" of a security entitlement
1719 if:

1720 (1) the purchaser becomes the entitlement holder;

1721 (2) the securities intermediary has agreed that it will
1722 comply with entitlement orders originated by the purchaser
1723 without further consent by the entitlement holder; or

1724 (3) ~~another person has control of the security~~
1725 ~~entitlement on behalf of the purchaser or, having previously~~
1726 ~~acquired control of the security entitlement, acknowledges~~
1727 ~~that it has control on behalf of the purchaser.~~ person, other
1728 than the transferor to the purchaser of an interest in the
1729 security entitlement:

1730 (A) has control of the security entitlement and
1731 acknowledges that it has control on behalf of the purchaser;
1732 or

1733 (B) obtains control of the security entitlement after
1734 having acknowledged that it will obtain control of the
1735 security entitlement on behalf of the purchaser.

1736 (e) If an interest in a security entitlement is granted



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1737 by the entitlement holder to the entitlement holder's own
1738 securities intermediary, the securities intermediary has
1739 control.

1740 (f) A purchaser who has satisfied the requirements of
1741 subsection (c) or (d) has control, even if the registered
1742 owner in the case of subsection (c) or the entitlement holder
1743 in the case of subsection (d) retains the right to make
1744 substitutions for the uncertificated security or security
1745 entitlement, to originate instructions or entitlement orders
1746 to the issuer or securities intermediary, or otherwise to deal
1747 with the uncertificated security or security entitlement.

1748 (g) An issuer or a securities intermediary may not
1749 enter into an agreement of the kind described in subsection
1750 (c) (2) or (d) (2) without the consent of the registered owner
1751 or entitlement holder, but an issuer or a securities
1752 intermediary is not required to enter into such an agreement
1753 even though the registered owner or entitlement holder so
1754 directs. An issuer or securities intermediary that has entered
1755 into such an agreement is not required to confirm the
1756 existence of the agreement to another party unless requested
1757 to do so by the registered owner or entitlement holder.

1758 (h) A person that has control under this section is not
1759 required to acknowledge that it has control on behalf of a
1760 purchaser.

1761 (i) If a person acknowledges that it has or will obtain
1762 control on behalf of a purchaser, unless the person otherwise
1763 agrees or law other than this article or Article 9A otherwise
1764 provides, the person does not owe any duty to the purchaser



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1765 and is not required to confirm the acknowledgement to any
1766 other person."

1767 "§7-8-110. Applicability; choice of law.

1768 (a) The local law of the issuer's jurisdiction, as
1769 specified in subsection (d), governs:

1770 (1) the validity of a security;

1771 (2) the rights and duties of the issuer with respect to
1772 registration of transfer;

1773 (3) the effectiveness of registration of transfer by
1774 the issuer;

1775 (4) whether the issuer owes any duties to an adverse
1776 claimant to a security; and

1777 (5) whether an adverse claim can be asserted against a
1778 person to whom transfer of a certificated or uncertificated
1779 security is registered or a person who obtains control of an
1780 uncertificated security.

1781 (b) The local law of the securities intermediary's
1782 jurisdiction, as specified in subsection (e), governs:

1783 (1) acquisition of a security entitlement from the
1784 securities intermediary;

1785 (2) the rights and duties of the securities
1786 intermediary and entitlement holder arising out of a security
1787 entitlement;

1788 (3) whether the securities intermediary owes any duties
1789 to an adverse claimant to a security entitlement; and

1790 (4) whether an adverse claim can be asserted against a
1791 person who acquires a security entitlement from the securities
1792 intermediary or a person who purchases a security entitlement



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1793 or interest therein from an entitlement holder.

1794 (c) The local law of the jurisdiction in which a
1795 security certificate is located at the time of delivery
1796 governs whether an adverse claim can be asserted against a
1797 person to whom the security certificate is delivered.

1798 (d) "Issuer's jurisdiction" means the jurisdiction
1799 under which the issuer of the security is organized or, if
1800 permitted by the law of that jurisdiction, the law of another
1801 jurisdiction specified by the issuer. An issuer organized
1802 under the law of this state may specify the law of another
1803 jurisdiction as the law governing the matters specified in
1804 subsection (a) (2) through (5).

1805 (e) The following rules determine a "securities
1806 intermediary's jurisdiction" for purposes of this section:

1807 (1) If an agreement between the securities intermediary
1808 and its entitlement holder governing the securities account
1809 expressly provides that a particular jurisdiction is the
1810 securities intermediary's jurisdiction for purposes of this
1811 part, this article, or this title, that jurisdiction is the
1812 securities intermediary's jurisdiction.

1813 (2) If paragraph (1) does not apply and an agreement
1814 between the securities intermediary and its entitlement holder
1815 governing the securities account expressly provides that the
1816 agreement is governed by the law of a particular jurisdiction,
1817 that jurisdiction is the securities intermediary's
1818 jurisdiction.

1819 (3) If neither paragraph (1) nor paragraph (2) applies
1820 and an agreement between the securities intermediary and its



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1821 entitlement holder governing the securities account expressly
1822 provides that the securities account is maintained at an
1823 office in a particular jurisdiction, that jurisdiction is the
1824 securities intermediary's jurisdiction.

1825 (4) If none of the preceding paragraphs applies, the
1826 securities intermediary's jurisdiction is the jurisdiction in
1827 which the office identified in an account statement as the
1828 office serving the entitlement holder's account is located.

1829 (5) If none of the preceding paragraphs applies, the
1830 securities intermediary's jurisdiction is the jurisdiction in
1831 which the chief executive office of the securities
1832 intermediary is located.

1833 (f) A securities intermediary's jurisdiction is not
1834 determined by the physical location of certificates
1835 representing financial assets, or by the jurisdiction in which
1836 is organized the issuer of the financial asset with respect to
1837 which an entitlement holder has a security entitlement, or by
1838 the location of facilities for data processing or other record
1839 keeping concerning the account.

1840 (g) The local law of the issuer's jurisdiction or the
1841 securities intermediary's jurisdiction governs a matter or
1842 transaction specified in subsection (a) or (b) even if the
1843 matter or transaction does not bear any relation to that
1844 jurisdiction."

1845 "§7-8-303. Protected purchaser.

1846 (a) "Protected purchaser" means a purchaser of a
1847 certificated or uncertificated security, or of an interest
1848 therein, who:



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1849 (1) gives value;

1850 (2) does not have notice of any adverse claim to the
1851 security; and

1852 (3) obtains control of the certificated or
1853 uncertificated security.

1854 (b) ~~In addition to acquiring the rights of a purchaser,~~
1855 ~~a~~ A protected purchaser ~~also~~ acquires its interest in the
1856 security free of any adverse claim.

1857 "§7-9A-102. Definitions and index of definitions.

1858 (a) Article 9A definitions. In this article:

1859 (1) "Accession" means goods that are physically united
1860 with other goods in such a manner that the identity of the
1861 original goods is not lost.

1862 (2) "Account," except as used in "account for,"
1863 "account statement," "account to," "commodity account" in
1864 paragraph (14), "customer's account," "deposit account" in
1865 paragraph (29), "on account of," and "statement of account,"
1866 means a right to payment of a monetary obligation, whether or
1867 not earned by performance, (i) for property that has been or
1868 is to be sold, leased, licensed, assigned, or otherwise
1869 disposed of, (ii) for services rendered or to be rendered,
1870 (iii) for a policy of insurance issued or to be issued, (iv)
1871 for a secondary obligation incurred or to be incurred, (v) for
1872 energy provided or to be provided, (vi) for the use or hire of
1873 a vessel under a charter or other contract, (vii) arising out
1874 of the use of a credit or charge card or information contained
1875 on or for use with the card, or (viii) as winnings in a
1876 lottery or other game of chance operated or sponsored by a



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1877 State, governmental unit of a State, or person licensed or
1878 authorized to operate the game by a State or governmental unit
1879 of a State. The term includes controllable accounts and
1880 health-care-insurance receivables. The term does not include
1881 (i) ~~rights to payment evidenced by chattel paper or an~~
1882 ~~instrument~~ chattel paper, (ii) commercial tort claims, (iii)
1883 deposit accounts, (iv) investment property, (v)
1884 letter-of-credit rights or letters of credit, ~~or~~ (vi) rights
1885 to payment for money or funds advanced or sold, other than
1886 rights arising out of the use of a credit or charge card or
1887 information contained on or for use with the card, or (vii)
1888 rights to payment evidenced by an instrument.

1889 (3) "Account debtor" means a person obligated on an
1890 account, chattel paper, or general intangible. The term does
1891 not include persons obligated to pay a negotiable instrument,
1892 even if the negotiable instrument ~~constitutes part of~~
1893 evidences chattel paper.

1894 (4) "Accounting," except as used in "accounting for,"
1895 means a record:

1896 (A) ~~authenticated~~ signed by a secured party;

1897 (B) indicating the aggregate unpaid secured obligations
1898 as of a date not more than 35 days earlier or 35 days later
1899 than the date of the record; and

1900 (C) identifying the components of the obligations in
1901 reasonable detail.

1902 (5) "Agricultural lien" means an interest, other than a
1903 security interest, in farm products:

1904 (A) which secures payment or performance of an



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1905 obligation for:

1906 (i) goods or services furnished in connection with a
1907 debtor's farming operation; or

1908 (ii) rent on real property leased by a debtor in
1909 connection with its farming operation;

1910 (B) which is created by statute in favor of a person
1911 that:

1912 (i) in the ordinary course of its business furnished
1913 goods or services to a debtor in connection with a debtor's
1914 farming operation; or

1915 (ii) leased real property to a debtor in connection
1916 with the debtor's farming operation; and

1917 (C) whose effectiveness does not depend on the person's
1918 possession of the personal property.

1919 (6) "As-extracted collateral" means:

1920 (A) oil, gas, or other minerals that are subject to a
1921 security interest that:

1922 (i) is created by a debtor having an interest in the
1923 minerals before extraction; and

1924 (ii) attaches to the minerals as extracted; or

1925 (B) accounts arising out of the sale at the wellhead or
1926 mine of oil, gas, or other minerals in which the debtor had an
1927 interest before extraction.

1928 (7) [Reserved]. ~~"Authenticate" means:~~

1929 ~~(A) to sign; or~~

1930 ~~(B) with present intent to adopt or accept a record, to~~
1931 ~~attach to or logically associate with the record an electronic~~
1932 ~~sound, symbol, or process.~~



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1933 (7A) "Assignee," except as used in "assignee for
1934 benefit of creditors," means a person (i) in whose favor a
1935 security interest that secures an obligation is created or
1936 provided for under a security agreement, whether or not the
1937 obligation is outstanding or (ii) to which an account, chattel
1938 paper, payment intangible, or promissory note has been sold.
1939 The term includes a person to which a security interest has
1940 been transferred by a secured party.

1941 (7B) "Assignor" means a person that (i) under a
1942 security agreement creates or provides for a security interest
1943 that secures an obligation or (ii) sells an account, chattel
1944 paper, payment intangible, or promissory note. The term
1945 includes a secured party that has transferred a security
1946 interest to another person.

1947 (8) "Bank" means an organization that is engaged in the
1948 business of banking. The term includes savings banks, savings
1949 and loan associations, credit unions, and trust companies.

1950 (9) "Cash proceeds" means proceeds that are money,
1951 checks, deposit accounts, or the like.

1952 (10) "Certificate of title" means a certificate of
1953 title with respect to which a statute provides for the
1954 security interest in question to be indicated on the
1955 certificate as a condition or result of the security
1956 interest's obtaining priority over the rights of a lien
1957 creditor with respect to the collateral. The term includes
1958 another record maintained as an alternative to a certificate
1959 of title by the governmental unit that issues certificates of
1960 title if a statute permits the security interest in question



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1961 to be indicated on the record as a condition or result of the
1962 security interest's obtaining priority over the rights of a
1963 lien creditor with respect to the collateral.

1964 ~~(11) "Chattel paper" means a record or records that~~
1965 ~~evidence both a monetary obligation and a security interest in~~
1966 ~~specific goods, a security interest in specific goods and~~
1967 ~~software used in the goods, a security interest in specific~~
1968 ~~goods and license of software used in the goods, a lease of~~
1969 ~~specific goods, or a lease of specific goods and license of~~
1970 ~~software used in the goods. In this paragraph, "monetary~~
1971 ~~obligation" means a monetary obligation secured by the goods~~
1972 ~~or owed under a lease of the goods and includes a monetary~~
1973 ~~obligation with respect to software used in the goods. The~~
1974 ~~term does not include (i) charters or other contracts~~
1975 ~~involving the use or hire of a vessel or (ii) records that~~
1976 ~~evidence a right to payment arising out of the use of a credit~~
1977 ~~or charge card or information contained on or for use with the~~
1978 ~~card. If a transaction is evidenced by records that include an~~
1979 ~~instrument or series of instruments, the group of records~~
1980 ~~taken together constitutes chattel paper.~~

1981 (11) "Chattel paper" means:

1982 (A) a right to payment of a monetary obligation secured
1983 by specific goods, if the right to payment and security
1984 agreement are evidenced by a record; or

1985 (B) a right to payment of a monetary obligation owed by
1986 a lessee under a lease agreement with respect to specific
1987 goods and a monetary obligation owed by the lessee in
1988 connection with the transaction giving rise to the lease, if:



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1989 (i) the right to payment and lease agreement are
1990 evidenced by a record; and

1991 (ii) the predominant purpose of the transaction giving
1992 rise to the lease was to give the lessee the right to
1993 possession and use of the goods.

1994 The term does not include a right to payment arising
1995 out of a charter or other contract involving the use or hire
1996 of a vessel or a right to payment arising out of the use of a
1997 credit or charge card or information contained on or for use
1998 with the card.

1999 (12) "Collateral" means the property subject to a
2000 security interest or agricultural lien. The term includes:

2001 (A) proceeds to which a security interest attaches;

2002 (B) accounts, chattel paper, payment intangibles, and
2003 promissory notes that have been sold; and

2004 (C) goods that are the subject of a consignment.

2005 (13) "Commercial tort claim" means a claim arising in
2006 tort with respect to which:

2007 (A) the claimant is an organization; or

2008 (B) the claimant is an individual and the claim:

2009 (i) arose in the course of the claimant's business or
2010 profession; and

2011 (ii) does not include damages arising out of personal
2012 injury to or the death of an individual.

2013 (14) "Commodity account" means an account maintained by
2014 a commodity intermediary in which a commodity contract is
2015 carried for a commodity customer.

2016 (15) "Commodity contract" means a commodity futures



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2017 contract, an option on a commodity futures contract, a
2018 commodity option, or another contract if the contract or
2019 option is:

2020 (A) traded on or subject to the rules of a board of
2021 trade that has been designated as a contract market for such a
2022 contract pursuant to federal commodities laws; or

2023 (B) traded on a foreign commodity board of trade,
2024 exchange, or market, and is carried on the books of a
2025 commodity intermediary for a commodity customer.

2026 (16) "Commodity customer" means a person for which a
2027 commodity intermediary carries a commodity contract on its
2028 books.

2029 (17) "Commodity intermediary" means a person that:

2030 (A) is registered as a futures commission merchant
2031 under federal commodities law; or

2032 (B) in the ordinary course of its business provides
2033 clearance or settlement services for a board of trade that has
2034 been designated as a contract market pursuant to federal
2035 commodities law.

2036 (18) "Communicate" means:

2037 (A) to send a written or other tangible record;

2038 (B) to transmit a record by any means agreed upon by
2039 the persons sending and receiving the record; or

2040 (C) in the case of transmission of a record to or by a
2041 filing office, to transmit a record by any means prescribed by
2042 filing-office rule.

2043 (19) "Consignee" means a merchant to which goods are
2044 delivered in a consignment.



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2045 (20) "Consignment" means a transaction, regardless of
2046 its form, in which a person delivers goods to a merchant for
2047 the purpose of sale and:

2048 (A) the merchant:

2049 (i) deals in goods of that kind under a name other than
2050 the name of the person making delivery;

2051 (ii) is not an auctioneer; and

2052 (iii) is not generally known by its creditors to be
2053 substantially engaged in selling the goods of others;

2054 (B) with respect to each delivery, the aggregate value
2055 of the goods is ~~\$1,000~~ one thousand dollars (\$1,000) or more at
2056 the time of delivery;

2057 (C) the goods are not consumer goods immediately before
2058 delivery; and

2059 (D) the transaction does not create a security interest
2060 that secures an obligation.

2061 (21) "Consignor" means a person that delivers goods to
2062 a consignee in a consignment.

2063 (22) "Consumer debtor" means a debtor in a consumer
2064 transaction.

2065 (23) "Consumer goods" means goods that are used or
2066 bought for use primarily for personal, family, or household
2067 purposes.

2068 (24) "Consumer-goods transaction" means a consumer
2069 transaction in which:

2070 (A) an individual incurs an obligation primarily for
2071 personal, family, or household purposes; and

2072 (B) a security interest in consumer goods secures the



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2073 obligation.

2074 (25) "Consumer obligor" means an obligor who is an
2075 individual and who incurred the obligation as part of a
2076 transaction entered into primarily for personal, family, or
2077 household purposes.

2078 (26) "Consumer transaction" means a transaction in
2079 which (i) an individual incurs an obligation primarily for
2080 personal, family, or household purposes, (ii) a security
2081 interest secures the obligation, and (iii) the collateral is
2082 held or acquired primarily for personal, family, or household
2083 purposes. The term includes consumer-goods transactions.

2084 (27) "Continuation statement" means an amendment of a
2085 financing statement which:

2086 (A) identifies, by its file number, the initial
2087 financing statement to which it relates; and

2088 (B) indicates that it is a continuation statement for,
2089 or that it is filed to continue the effectiveness of, the
2090 identified financing statement.

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

2095 (27B) "Controllable payment intangible" means a payment
2096 intangible evidenced by a controllable electronic record that
2097 provides that the account debtor undertakes to pay the person
2098 that has control under Section 7-12-105 of the controllable
2099 electronic record.

2100 (28) "Debtor" means:



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2101 (A) a person having an interest, other than a security
2102 interest or other lien, in the collateral, whether or not the
2103 person is an obligor;

2104 (B) a seller of accounts, chattel paper, payment
2105 intangibles, or promissory notes; or

2106 (C) a consignee.

2107 (29) "Deposit account" means a demand, time, savings,
2108 passbook, or similar account maintained with a bank. The term
2109 does not include investment property or accounts evidenced by
2110 an instrument.

2111 (30) "Document" means a document of title or a receipt
2112 of the type described in Section 7-7-201(b).

2113 (31) ~~"Electronic chattel paper" means chattel paper~~
2114 ~~evidenced by a record or records consisting of information~~
2115 ~~stored in an electronic medium.~~ [Reserved].

2116 (32) "Encumbrance" means a right, other than an
2117 ownership interest, in real property. The term includes
2118 mortgages and other liens on real property.

2119 (33) "Equipment" means goods other than inventory, farm
2120 products, or consumer goods.

2121 (34) "Farm products" means goods, other than standing
2122 timber, with respect to which the debtor is engaged in a
2123 farming operation and which are:

2124 (A) crops grown, growing, or to be grown, including:

2125 (i) crops produced on trees, vines, and bushes; and

2126 (ii) aquatic goods produced in aquacultural operations;

2127 (B) livestock, born or unborn, including aquatic goods
2128 produced in aquacultural operations;



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2129 (C) supplies used or produced in a farming operation;
2130 or

2131 (D) products of crops or livestock in their
2132 unmanufactured states.

2133 (35) "Farming operation" means raising, cultivating,
2134 propagating, fattening, grazing, or any other farming,
2135 livestock, or aquacultural operation.

2136 (36) "File number" means the number assigned to an
2137 initial financing statement pursuant to Section 7-9A-519(a).

2138 (37) "Filing office" means an office designated in
2139 Section 7-9A-501 as the place to file a financing statement.

2140 (38) "Filing-office rule" means a rule adopted pursuant
2141 to Section 7-9A-526.

2142 (39) "Financing statement" means a record or records
2143 composed of an initial financing statement and any filed
2144 record relating to the initial financing statement.

2145 (40) "Fixture filing" means the filing of a financing
2146 statement covering goods that are or are to become fixtures
2147 and satisfying Section 7-9A-502(a) and (b). The term includes
2148 the filing of a financing statement covering goods of a
2149 transmitting utility which are or are to become fixtures.

2150 (41) "Fixtures" means goods that have become so related
2151 to particular real property that an interest in them arises
2152 under real property law.

2153 (42) "General intangible" means any personal property,
2154 including things in action, other than accounts, chattel
2155 paper, commercial tort claims, deposit accounts, documents,
2156 goods, instruments, investment property, letter-of-credit



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2157 rights, letters of credit, money, and oil, gas, or other
2158 minerals before extraction. The term includes controllable
2159 electronic records, payment intangibles, and software.

2160 (43) "Good faith" means honesty in fact in the conduct
2161 or transaction concerned.

2162 (44) "Goods" means all things that are movable when a
2163 security interest attaches. The term includes (i) fixtures,
2164 (ii) standing timber that is to be cut and removed under a
2165 conveyance or contract for sale, to the extent such standing
2166 timber and cutting rights with respect thereto are considered
2167 as chattels under Section 35-4-363, (iii) the unborn young of
2168 animals, (iv) crops grown, growing, or to be grown, even if
2169 the crops are produced on trees, vines, or bushes, and (v)
2170 manufactured homes. The term also includes a computer program
2171 embedded in goods and any supporting information provided in
2172 connection with a transaction relating to the program if (i)
2173 the program is associated with the goods in such a manner that
2174 it customarily is considered part of the goods, or (ii) by
2175 becoming the owner of the goods, a person acquires a right to
2176 use the program in connection with the goods. The term does
2177 not include a computer program embedded in goods that consist
2178 solely of the medium in which the program is embedded. The
2179 term also does not include accounts, chattel paper, commercial
2180 tort claims, deposit accounts, documents, general intangibles,
2181 instruments, investment property, letter-of-credit rights,
2182 letters of credit, money, or oil, gas, or other minerals
2183 before extraction.

2184 (45) "Governmental unit" means a subdivision, agency,



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2185 department, county, parish, municipality, or other unit of the
2186 government of the United States, a state, or a foreign
2187 country. The term includes an organization having a separate
2188 corporate existence if the organization is eligible to issue
2189 debt on which interest is exempt from income taxation under
2190 the laws of the United States.

2191 (46) "Health-care-insurance receivable" means an
2192 interest in or claim under a policy of insurance which is a
2193 right to payment of a monetary obligation for health-care
2194 goods or services provided.

2195 (47) "Instrument" means a negotiable instrument or any
2196 other writing that evidences a right to the payment of a
2197 monetary obligation, is not itself a security agreement or
2198 lease, and is of a type that in ordinary course of business is
2199 transferred by delivery with any necessary indorsement or
2200 assignment. The term does not include (i) investment property,
2201 (ii) letters of credit, ~~or~~ (iii) writings that evidence a
2202 right to payment arising out of the use of a credit or charge
2203 card or information contained on or for use with the card, or
2204 (iv) writings that evidence chattel paper.

2205 (48) "Inventory" means goods, other than farm products,
2206 which:

2207 (A) are leased by a person as lessor;

2208 (B) are held by a person for sale or lease or to be
2209 furnished under a contract of service;

2210 (C) are furnished by a person under a contract of
2211 service; or

2212 (D) consist of raw materials, work in process, or



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2213 materials used or consumed in a business.

2214 (49) "Investment property" means a security, whether
2215 certificated or uncertificated, security entitlement,
2216 securities account, commodity contract, or commodity account.

2217 (50) "Jurisdiction of organization," with respect to a
2218 registered organization, means the jurisdiction under whose
2219 law the organization is formed or organized.

2220 (51) "Letter-of-credit right" means a right to payment
2221 or performance under a letter of credit, whether or not the
2222 beneficiary has demanded or is at the time entitled to demand
2223 payment or performance. The term does not include the right of
2224 a beneficiary to demand payment or performance under a letter
2225 of credit.

2226 (52) "Lien creditor" means:

2227 (A) a creditor that has acquired a lien on the property
2228 involved by attachment, levy, or the like;

2229 (B) an assignee for benefit of creditors from the time
2230 of assignment;

2231 (C) a trustee in bankruptcy from the date of the filing
2232 of the petition; or

2233 (D) a receiver in equity from the time of appointment.

2234 (53) "Manufactured home" means a structure defined as a
2235 "manufactured home" in Section 32-8-2.

2236 (54) "Manufactured-home transaction" means a secured
2237 transaction:

2238 (A) that creates a purchase-money security interest in
2239 a manufactured home, other than a manufactured home held as
2240 inventory; or



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2241 (B) in which a manufactured home, other than a
2242 manufactured home held as inventory, is the primary
2243 collateral.

2244 (54A) "Money" has the meaning as in Section
2245 7-1-201(b) (24), but does not include a deposit account.

2246 (55) "Mortgage" means a consensual interest in real
2247 property, including fixtures, which secures payment or
2248 performance of an obligation.

2249 (56) "New debtor" means a person that becomes bound as
2250 debtor under Section 7-9A-203(d) by a security agreement
2251 previously entered into by another person.

2252 (57) "New value" means (i) money, (ii) money's worth in
2253 property, services, or new credit, or (iii) release by a
2254 transferee of an interest in property previously transferred
2255 to the transferee. The term does not include an obligation
2256 substituted for another obligation.

2257 (58) "Noncash proceeds" means proceeds other than cash
2258 proceeds.

2259 (59) "Obligor" means a person that, with respect to an
2260 obligation secured by a security interest in or an
2261 agricultural lien on the collateral, (i) owes payment or other
2262 performance of the obligation, (ii) has provided property
2263 other than the collateral to secure payment or other
2264 performance of the obligation, or (iii) is otherwise
2265 accountable in whole or in part for payment or other
2266 performance of the obligation. The term does not include
2267 issuers or nominated persons under a letter of credit.

2268 (60) "Original debtor," except as used in Section



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2269 7-9A-310(c), means a person that, as debtor, entered into a
2270 security agreement to which a new debtor has become bound
2271 under Section 7-9A-203(d).

2272 (61) "Payment intangible" means a general intangible
2273 under which the account debtor's principal obligation is a
2274 monetary obligation. The term includes a controllable payment
2275 intangible.

2276 (62) "Person related to," with respect to an
2277 individual, means:

2278 (A) the spouse of the individual;

2279 (B) a brother, brother-in-law, sister, or sister-in-law
2280 of the individual;

2281 (C) an ancestor or lineal descendant of the individual
2282 or the individual's spouse; or

2283 (D) any other relative, by blood or marriage, of the
2284 individual or the individual's spouse who shares the same home
2285 with the individual.

2286 (63) "Person related to," with respect to an
2287 organization, means:

2288 (A) a person directly or indirectly controlling,
2289 controlled by, or under common control with the organization;

2290 (B) an officer or director of, or a person performing
2291 similar functions with respect to, the organization;

2292 (C) an officer or director of, or a person performing
2293 similar functions with respect to, a person described in
2294 subparagraph (A);

2295 (D) the spouse of an individual described in
2296 subparagraph (A), (B), or (C); or



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2297 (E) an individual who is related by blood or marriage
2298 to an individual described in subparagraph (A), (B), (C), or
2299 (D) and shares the same home with the individual.

2300 (64) "Proceeds," except as used in Section 7-9A-609(b),
2301 means the following property:

2302 (A) whatever is acquired upon the sale, lease, license,
2303 exchange, or other disposition of collateral;

2304 (B) whatever is collected on, or distributed on account
2305 of, collateral;

2306 (C) rights arising out of collateral;

2307 (D) to the extent of the value of collateral, claims
2308 arising out of the loss, nonconformity, or interference with
2309 the use of, defects or infringement of rights in, or damage
2310 to, the collateral; or

2311 (E) to the extent of the value of collateral and to the
2312 extent payable to the debtor or the secured party, insurance
2313 payable by reason of the loss or nonconformity of, defects or
2314 infringement of rights in, or damage to, the collateral.

2315 (65) "Promissory note" means an instrument that
2316 evidences a promise to pay a monetary obligation, does not
2317 evidence an order to pay, and does not contain an
2318 acknowledgment by a bank that the bank has received for
2319 deposit a sum of money or funds.

2320 (66) "Proposal" means a record ~~authenticated~~ signed by
2321 a secured party which includes the terms on which the secured
2322 party is willing to accept collateral in full or partial
2323 satisfaction of the obligation it secures pursuant to Sections
2324 7-9A-620, 7-9A-621, and 7-9A-622.



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2325 (67) Omitted.

2326 (68) "Public organic record" means a record that is
2327 available to the public for inspection and that is:

2328 (A) a record consisting of the record initially filed
2329 with or issued by a state or the United States to form or
2330 organize an organization and any record filed with or issued
2331 by the state or the United States which amends or restates the
2332 initial record;

2333 (B) an organic record of a business trust consisting of
2334 the record initially filed with a state and any record filed
2335 with the state which amends or restates the initial record, if
2336 a statute of the state governing business trusts requires that
2337 the record be filed with the state; or

2338 (C) a record consisting of legislation enacted by the
2339 legislature of a state or the Congress of the United States
2340 which forms or organizes an organization, any record amending
2341 the legislation, and any record filed with or issued by the
2342 state or United States which amends or restates the name of
2343 the organization.

2344 For purposes of this definition and the definition of
2345 registered organization, a certificate of formation filed with
2346 a judge of probate pursuant to Section 10A-1-4.02(a) is filed
2347 with the state.

2348 (69) "Pursuant to commitment," with respect to an
2349 advance made or other value given by a secured party, means
2350 pursuant to the secured party's obligation, whether or not a
2351 subsequent event of default or other event not within the
2352 secured party's control has relieved or may relieve the



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2353 secured party from its obligation.

2354 (70) "Record," except as used in "for record," "of
2355 record," "record or legal title," and "record owner," means
2356 information that is inscribed on a tangible medium or which is
2357 stored in an electronic or other medium and is retrievable in
2358 perceivable form.

2359 (71) "Registered organization" means an organization
2360 formed or organized solely under the law of a single State or
2361 the United States by the filing of a public organic record
2362 with, the issuance of a public organic record by, or the
2363 enactment of legislation by the state or the United States.
2364 The term ~~includes~~ includes a business trust that is formed or
2365 organized under the law of a single state if a statute of the
2366 state governing business trusts requires that the business
2367 trust's organic record be filed with the state.

2368 (72) "Secondary obligor" means an obligor to the extent
2369 that:

2370 (A) the obligor's obligation is secondary; or

2371 (B) the obligor has a right of recourse with respect to
2372 an obligation secured by collateral against the debtor,
2373 another obligor, or property of either.

2374 (73) "Secured party" means:

2375 (A) a person in whose favor a security interest is
2376 created or provided for under a security agreement, whether or
2377 not any obligation to be secured is outstanding;

2378 (B) a person that holds an agricultural lien;

2379 (C) a consignor;

2380 (D) a person to which accounts, chattel paper, payment



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2381 intangibles, or promissory notes have been sold;

2382 (E) a trustee, indenture trustee, agent, collateral
2383 agent, or other representative in whose favor a security
2384 interest or agricultural lien is created or provided for; or

2385 (F) a person that holds a security interest arising
2386 under Section 7-2-401, 7-2-505, 7-2-711(3), 7-2A-508(5),
2387 7-4-210, or 7-5-118.

2388 (74) "Security agreement" means an agreement that
2389 creates or provides for a security interest.

2390 (75) ~~"Send," in connection with a record or~~
2391 ~~notification, means:~~

2392 ~~(A) to deposit in the mail, deliver for transmission,~~
2393 ~~or transmit by any other usual means of communication, with~~
2394 ~~postage or cost of transmission provided for, addressed to any~~
2395 ~~address reasonable under the circumstances; or~~

2396 ~~(B) to cause the record or notification to be received~~
2397 ~~within the time that it would have been received if properly~~
2398 ~~sent under subparagraph (A).~~ [Reserved.]

2399 (76) "Software" means a computer program and any
2400 supporting information provided in connection with a
2401 transaction relating to the program. The term does not include
2402 a computer program that is included in the definition of
2403 goods.

2404 (77) "State" means a state of the United States, the
2405 District of Columbia, Puerto Rico, the United States Virgin
2406 Islands, or any territory or insular possession subject to the
2407 jurisdiction of the United States.

2408 (78) "Supporting obligation" means a letter-of-credit



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2409 right or secondary obligation that supports the payment or
2410 performance of an account, chattel paper, a document, a
2411 general intangible, an instrument, or investment property.

2412 (79) ~~"Tangible chattel paper" means chattel paper~~
2413 ~~evidenced by a record or records consisting of information~~
2414 ~~that is inscribed on a tangible medium.~~ [Reserved.]

2415 (80) "Termination statement" means an amendment of a
2416 financing statement which:

2417 (A) identifies, by its file number, the initial
2418 financing statement to which it relates; and

2419 (B) indicates either that it is a termination statement
2420 or that the identified financing statement is no longer
2421 effective.

2422 (81) "Transmitting utility" means a person primarily
2423 engaged in the business of:

2424 (A) operating a railroad, subway, street railway, or
2425 trolley bus;

2426 (B) transmitting communications electrically,
2427 electromagnetically, or by light;

2428 (C) transmitting goods by pipeline or sewer;

2429 (D) transmitting or producing or distributing
2430 electricity, steam, gas, or water; or

2431 (E) owning, operating, leasing or controlling a
2432 "utility" as defined in Section 37-1-30.

2433 (b) Definitions in other articles. "Control" as
2434 provided in Section 7-7-106 and the following definitions in
2435 other articles of this title apply to this article:

2436 "Applicant." Section 7-5-102.



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2437 "Beneficiary." Section 7-5-102.

2438 "Broker." Section 7-8-102.

2439 "Certificated security." Section 7-8-102.

2440 "Check." Section 7-3-104.

2441 "Clearing corporation." Section 7-8-102.

2442 "Contract for sale." Section 7-2-106.

2443 "Controllable electronic record." Section 7-12-102.

2444 "Customer." Section 7-4-104.

2445 "Entitlement holder." Section 7-8-102.

2446 "Financial asset." Section 7-8-102.

2447 "Holder in due course." Section 7-3-302.

2448 "Issuer" (with respect to a letter of credit or

2449 letter-of-credit right). Section 7-5-102.

2450 "Issuer" (with respect to a security). Section 7-8-201.

2451 "Issuer" (with respect to documents of title). Section

2452 7-7-102.

2453 "Lease." Section 7-2A-103.

2454 "Lease agreement." Section 7-2A-103.

2455 "Lease contract." Section 7-2A-103.

2456 "Leasehold interest." Section 7-2A-103.

2457 "Lessee." Section 7-2A-103.

2458 "Lessee in ordinary course of business." Section

2459 7-2A-103.

2460 "Lessor." Section 7-2A-103.

2461 "Lessor's residual interest." Section 7-2A-103.

2462 "Letter of credit." Section 7-5-102.

2463 "Merchant." Section 7-2-104.

2464 "Negotiable instrument." Section 7-3-104.



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2465 "Nominated person_." Section 7-5-102.

2466 "Note_." Section 7-3-104.

2467 "Proceeds of a letter of credit_." Section 7-5-114.

2468 "Protected purchaser." Section 7-8-303.

2469 "Prove_." Section 7-3-103.

2470 "Qualifying purchaser." Section 7-12-102.

2471 "Sale_." Section 7-2-106.

2472 "Securities account_." Section 7-8-501.

2473 "Securities intermediary_." Section 7-8-102.

2474 "Security_." Section 7-8-102.

2475 "Security certificate_." Section 7-8-102.

2476 "Security entitlement_." Section 7-8-102.

2477 "Uncertificated security_." Section 7-8-102.

2478 (c) Article 1 definitions and principles. Article 1

2479 contains general definitions and principles of construction

2480 and interpretation applicable throughout this article."

2481 "§7-9A-104. Control of deposit account.

2482 (a) Requirements for control. A secured party has

2483 control of a deposit account if:

2484 (1) the secured party is the bank with which the

2485 deposit account is maintained;

2486 (2) the debtor, secured party, and bank have agreed in

2487 ~~an authenticated~~ a signed record that the bank will comply

2488 with instructions originated by the secured party directing

2489 disposition of the funds in the deposit account without

2490 further consent by the debtor; ~~or~~

2491 (3) the secured party becomes the bank's customer with

2492 respect to the deposit account~~;~~ or



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2493 (4) another person, other than the debtor:

2494 (A) has control of the deposit account and acknowledges
2495 that it has control on behalf of the secured party; or

2496 (B) obtains control of the deposit account after having
2497 acknowledged that it will obtain control of the deposit
2498 account on behalf of the secured party.

2499 (b) Debtor's right to direct disposition. A secured
2500 party that has satisfied subsection (a) has control, even if
2501 the debtor retains the right to direct the disposition of
2502 funds from the deposit account."

2503 "§7-9A-105. Control of electronic copy of record
2504 evidencing chattel paper.

2505 ~~(a) General rule: control of electronic chattel paper.~~
2506 ~~A secured party has control of electronic chattel paper if a~~
2507 ~~system employed for evidencing the transfer of interests in~~
2508 ~~the chattel paper reliably establishes the secured party as~~
2509 ~~the person to which the chattel paper was assigned.~~

2510 ~~(b) Specific facts giving control. A system satisfies~~
2511 ~~subsection (a) and a secured party has control of electronic~~
2512 ~~chattel paper if the record or records comprising the chattel~~
2513 ~~paper are created, stored, and assigned in such a manner that:~~

2514 ~~(1) a single authoritative copy of the record or~~
2515 ~~records exists which is unique, identifiable and, except as~~
2516 ~~otherwise provided in paragraphs (4), (5), and (6),~~
2517 ~~unalterable;~~

2518 ~~(2) the authoritative copy identifies the secured party~~
2519 ~~as the assignee of the record or records;~~

2520 ~~(3) the authoritative copy is communicated to and~~



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2521 ~~maintained by the secured party or its designated custodian;~~
2522 ~~(4) copies or amendments that add or change an~~
2523 ~~identified assignee of the authoritative copy can be made only~~
2524 ~~with the consent of the secured party;~~

2525 ~~(5) each copy of the authoritative copy and any copy of~~
2526 ~~a copy is readily identifiable as a copy that is not the~~
2527 ~~authoritative copy; and~~

2528 ~~(6) any amendment of the authoritative copy is readily~~
2529 ~~identifiable as authorized or unauthorized.~~

2530 (a) General Rule: control of electronic copy of record
2531 evidencing chattel paper. A purchaser has control of an
2532 authoritative electronic copy of a record evidencing chattel
2533 paper if a system employed for evidencing the assignment of
2534 interests in the chattel paper reliably establishes the
2535 purchaser as the person to which the authoritative electronic
2536 copy was assigned.

2537 (b) Single authoritative copy. A system satisfies
2538 subsection (a) if the record or records evidencing chattel
2539 paper are created, stored, and assigned in a manner that:

2540 (1) a single authoritative copy of the record or
2541 records exists which is unique, identifiable, and, except as
2542 otherwise provided in paragraphs (4), (5), and (6),
2543 unalterable;

2544 (2) the authoritative copy identifies the purchaser as
2545 the assignee of the record or records;

2546 (3) the authoritative copy is communicated to and
2547 maintained by the purchaser or its designated custodian;

2548 (4) copies or amendments that add or change an



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2549 identified assignee of the authoritative copy can be made only
2550 with the consent of the purchaser;

2551 (5) each copy of the authoritative copy and any copy of
2552 a copy is readily identifiable as a copy that is not the
2553 authoritative copy; and

2554 (6) any amendment of the authoritative copy is readily
2555 identifiable as authorized or unauthorized.

2556 (c) One or more authoritative copies. A system
2557 satisfies subsection (a), and a purchaser has control of an
2558 authoritative electronic copy of a record evidencing chattel
2559 paper, if the electronic copy, a record attached to or
2560 logically associated with the electronic copy, or a system in
2561 which the electronic copy is recorded:

2562 (1) enables the purchaser readily to identify each
2563 electronic copy as either an authoritative copy or a
2564 nonauthoritative copy;

2565 (2) enables the purchaser readily to identify itself in
2566 any way, including by name, identifying number, cryptographic
2567 key, office, or account number, as the assignee of the
2568 authoritative electronic copy; and

2569 (3) gives the purchaser exclusive power, subject to
2570 subsection (d), to:

2571 (A) prevent others from adding or changing an
2572 identified assignee of the authoritative electronic copy; and

2573 (B) transfer control of the authoritative electronic
2574 copy.

2575 (d) Meaning of exclusive. Subject to subsection (e), a
2576 power is exclusive under subsection (c) (3) (A) and (B) even if:



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2577 (1) the authoritative electronic copy, a record
2578 attached to or logically associated with the authoritative
2579 electronic copy, or a system in which the authoritative
2580 electronic copy is recorded limits the use of the
2581 authoritative electronic copy or has a protocol programmed to
2582 cause a change, including a transfer or loss of control; or

2583 (2) the power is shared with another person.

2584 (e) When power not shared with another person. A power
2585 of a purchaser is not shared with another person under
2586 subsection (d) (2) and the purchaser's power is not exclusive
2587 if:

2588 (1) the purchaser can exercise the power only if the
2589 power also is exercised by the other person; and

2590 (2) the other person:

2591 (A) can exercise the power without exercise of the
2592 power by the purchaser; or

2593 (B) is the transferor to the purchaser of an interest
2594 in the chattel paper.

2595 (f) Presumption of exclusivity of certain powers. If a
2596 purchaser has the powers specified in subsection (c) (3) (A) and
2597 (B), the powers are presumed to be exclusive.

2598 (g) Obtaining control through another person. A
2599 purchaser has control of an authoritative electronic copy of a
2600 record evidencing chattel paper if another person, other than
2601 the transferor to the purchaser of an interest in the chattel
2602 paper:

2603 (1) has control of the authoritative electronic copy
2604 and acknowledges that it has control on behalf of the



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2605 purchaser; or

2606 (2) obtains control of the authoritative electronic
2607 copy after having acknowledged that it will obtain control of
2608 the electronic copy on behalf of the purchaser."

2609 "§7-9A-203. Attachment and enforceability of security
2610 interest; proceeds; supporting obligations; formal requisites.

2611 (a) Attachment. A security interest attaches to
2612 collateral when it becomes enforceable against the debtor with
2613 respect to the collateral, unless an agreement expressly
2614 postpones the time of attachment.

2615 (b) Enforceability. Except as otherwise provided in
2616 subsections (c) through (i), a security interest is
2617 enforceable against the debtor and third parties with respect
2618 to the collateral only if:

2619 (1) value has been given;

2620 (2) the debtor has rights in the collateral or the
2621 power to transfer rights in the collateral to a secured party;
2622 and

2623 (3) one of the following conditions is met:

2624 (A) the debtor has ~~authenticated~~signed a security
2625 agreement that provides a description of the collateral and,
2626 if the security interest covers timber to be cut, a
2627 description of the land concerned;

2628 (B) the collateral is not a certificated security and
2629 is in the possession of the secured party under Section
2630 7-9A-313 pursuant to the debtor's security agreement;

2631 (C) the collateral is a certificated security in
2632 registered form and the security certificate has been



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2633 delivered to the secured party under Section 7-8-301 pursuant
2634 to the debtor's security agreement; ~~or~~

2635 (D) the collateral is controllable accounts,
2636 controllable electronic records, controllable payment
2637 intangibles, deposit accounts, ~~electronic chattel paper,~~
2638 electronic documents, investment property, or letter-of-credit
2639 rights, and the secured party has control under Section
2640 7-7-106, 7-9A-104, ~~7-9A-105,~~ 7-9A-106, ~~or~~ 7-9A-107, or
2641 7-9A-107A, pursuant to the debtor's security agreement ~~;~~ or

2642 (E) the collateral is chattel paper and the secured
2643 party has possession and control under Section 7-9A-314A
2644 pursuant to the debtor's security agreement.

2645 (c) Other UCC provisions. Subsection (b) is subject to
2646 Section 7-4-210 on the security interest of a collecting bank,
2647 Section 7-5-118 on the security interest of a letter-of-credit
2648 issuer or nominated person, Section 7-9A-110 on a security
2649 interest arising under Article 2 or 2A, and Section 7-9A-206
2650 on security interests in investment property.

2651 (d) When person becomes bound by another person's
2652 security agreement. A person becomes bound as debtor by a
2653 security agreement entered into by another person if, by
2654 operation of law other than this article or by contract:

2655 (1) the security agreement becomes effective to create
2656 a security interest in the person's property; or

2657 (2) the person becomes generally obligated for the
2658 obligations of the other person, including the obligation
2659 secured under the security agreement, and acquires or succeeds
2660 to all or substantially all of the assets of the other person.



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2661 (e) Effect of new debtor becoming bound. If a new
2662 debtor becomes bound as debtor by a security agreement entered
2663 into by another person:

2664 (1) the agreement satisfies subsection (b)(3) with
2665 respect to existing or after-acquired property of the new
2666 debtor to the extent the property is described in the
2667 agreement; and

2668 (2) another agreement is not necessary to make a
2669 security interest in the property enforceable.

2670 (f) Proceeds and supporting obligations. The attachment
2671 of a security interest in collateral gives the secured party
2672 the rights to proceeds provided by Section 7-9A-315 and is
2673 also attachment of a security interest in a supporting
2674 obligation for the collateral.

2675 (g) Lien securing right to payment. The attachment of a
2676 security interest in a right to payment or performance secured
2677 by a security interest or other lien on personal or real
2678 property is also attachment of a security interest in the
2679 security interest, mortgage, or other lien.

2680 (h) Security entitlement carried in securities account.
2681 The attachment of a security interest in a securities account
2682 is also attachment of a security interest in the security
2683 entitlements carried in the securities account.

2684 (i) Commodity contracts carried in commodity account.
2685 The attachment of a security interest in a commodity account
2686 is also attachment of a security interest in the commodity
2687 contracts carried in the commodity account."

2688 "§7-9A-204. After-acquired property; future advances.



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2689 (a) After-acquired collateral. Except as otherwise
2690 provided in subsection (b), a security agreement may create or
2691 provide for a security interest in after-acquired collateral.

2692 (b) When after-acquired property clause not effective.

2693 ~~A~~ Subject to subsection (b.1), a security interest does not
2694 attach under a term constituting an after-acquired property
2695 clause to:

2696 (1) consumer goods, other than an accession when given
2697 as additional security, unless the debtor acquires rights in
2698 them within 10 days after the secured party gives value; or

2699 (2) a commercial tort claim.

2700 (b.1) Limitation on subsection (b). Subsection (b) does
2701 not prevent a security interest from attaching:

2702 (1) to consumer goods as proceeds under Section
2703 7-9A-315(a) or commingled goods under Section 7-9A-336(c);

2704 (2) to a commercial tort claim as proceeds under
2705 Section 7-9A-315(a); or

2706 (3) under an after-acquired property clause to property
2707 that is proceeds of consumer goods or a commercial tort claim.

2708 (c) Future advances and other value. A security
2709 agreement may provide that collateral secures, or that
2710 accounts, chattel paper, payment intangibles, or promissory
2711 notes are sold in connection with, future advances or other
2712 value, whether or not the advances or value are given pursuant
2713 to commitment."

2714 "§7-9A-207. Rights and duties of secured party having
2715 possession or control of collateral.

2716 (a) Duty of care when secured party in possession.



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2717 Except as otherwise provided in subsection (d), a secured
2718 party shall use reasonable care in the custody and
2719 preservation of collateral in the secured party's possession.
2720 In the case of chattel paper or an instrument, reasonable care
2721 includes taking necessary steps to preserve rights against
2722 prior parties unless otherwise agreed.

2723 (b) Expenses, risks, duties, and rights when secured
2724 party in possession. Except as otherwise provided in
2725 subsection (d), if a secured party has possession of
2726 collateral:

2727 (1) reasonable expenses, including the cost of
2728 insurance and payment of taxes or other charges, incurred in
2729 the custody, preservation, use, or operation of the collateral
2730 are chargeable to the debtor and are secured by the
2731 collateral;

2732 (2) the risk of accidental loss or damage is on the
2733 debtor to the extent of a deficiency in any effective
2734 insurance coverage;

2735 (3) the secured party shall keep the collateral
2736 identifiable, but fungible collateral may be commingled; and

2737 (4) the secured party may use or operate the
2738 collateral:

2739 (A) for the purpose of preserving the collateral or its
2740 value;

2741 (B) as permitted by an order of a court having
2742 competent jurisdiction; or

2743 (C) except in the case of consumer goods, in the manner
2744 and to the extent agreed by the debtor.



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2745 (c) Duties and rights when secured party in possession
2746 or control. Except as otherwise provided in subsection (d), a
2747 secured party having possession of collateral or control of
2748 collateral under Section 7-7-106, 7-9A-104, 7-9A-105,
2749 7-9A-106, ~~or 7-9A-107~~, or 7-9A-107A:

2750 (1) may hold as additional security any proceeds,
2751 except money or funds, received from the collateral;

2752 (2) shall apply money or funds received from the
2753 collateral to reduce the secured obligation, unless remitted
2754 to the debtor; and

2755 (3) may create a security interest in the collateral.

2756 (d) Buyer of certain rights to payment. If the secured
2757 party is a buyer of accounts, chattel paper, payment
2758 intangibles, or promissory notes or a consignor:

2759 (1) subsection (a) does not apply unless the secured
2760 party is entitled under an agreement:

2761 (A) to charge back uncollected collateral; or

2762 (B) otherwise to full or limited recourse against the
2763 debtor or a secondary obligor based on the nonpayment or other
2764 default of an account debtor or other obligor on the
2765 collateral; and

2766 (2) subsections (b) and (c) do not apply."

2767 "§7-9A-208. Additional duties of secured party having
2768 control of collateral.

2769 (a) Applicability of section. This section applies to
2770 cases in which there is no outstanding secured obligation and
2771 the secured party is not committed to make advances, incur
2772 obligations, or otherwise give value.



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2773 (b) Duties of secured party after receiving demand from
2774 debtor. Within 10 days after receiving ~~an authenticated~~ a
2775 signed demand by the debtor:

2776 (1) a secured party having control of a deposit account
2777 under Section 7-9A-104(a) (2) shall send to the bank with which
2778 the deposit account is maintained ~~an authenticated~~ a signed
2779 record ~~statement~~ that releases the bank from any further
2780 obligation to comply with instructions originated by the
2781 secured party;

2782 (2) a secured party having control of a deposit account
2783 under Section 7-9A-104(a) (3) shall:

2784 (A) pay the debtor the balance on deposit in the
2785 deposit account; or

2786 (B) transfer the balance on deposit into a deposit
2787 account in the debtor's name;

2788 (3) a secured party, other than a buyer, having control
2789 ~~of electronic chattel paper~~ under Section 7-9A-105 of an
2790 authoritative electronic copy of a record evidencing chattel
2791 paper shall transfer control of the electronic copy to the
2792 debtor or a person designated by the debtor; shall:

2793 ~~(A) communicate the authoritative copy of the~~
2794 ~~electronic chattel paper to the debtor or its designated~~
2795 ~~custodian;~~

2796 ~~(B) if the debtor designates a custodian that is the~~
2797 ~~designated custodian with which the authoritative copy of the~~
2798 ~~electronic chattel paper is maintained for the secured party,~~
2799 ~~communicate to the custodian an authenticated record releasing~~
2800 ~~the designated custodian from any further obligation to comply~~



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2801 ~~with instructions originated by the secured party and~~
2802 ~~instructing the custodian to comply with instructions~~
2803 ~~originated by the debtor; and~~

2804 ~~(C) take appropriate action to enable the debtor or its~~
2805 ~~designated custodian to make copies of or revisions to the~~
2806 ~~authoritative copy which add or change an identified assignee~~
2807 ~~of the authoritative copy without the consent of the secured~~
2808 ~~party;~~

2809 (4) a secured party having control of investment
2810 property under Section 7-8-106(d) (2) or 7-9A-106(b) shall send
2811 to the securities intermediary or commodity intermediary with
2812 which the security entitlement or commodity contract is
2813 maintained ~~an authenticated~~ a signed record that releases the
2814 securities intermediary or commodity intermediary from any
2815 further obligation to comply with entitlement orders or
2816 directions originated by the secured party;

2817 (5) a secured party having control of a
2818 letter-of-credit right under Section 7-9A-107 shall send to
2819 each person having an unfulfilled obligation to pay or deliver
2820 proceeds of the letter of credit to the secured party ~~an~~
2821 ~~authenticated~~ a signed release from any further obligation to
2822 pay or deliver proceeds of the letter of credit to the secured
2823 party ~~;~~;

2824 ~~(6) a secured party having control of an electronic~~
2825 ~~document shall:~~

2826 ~~a. Give control of the electronic document to the~~
2827 ~~debtor or its designated custodian;~~

2828 ~~b. If the debtor designates a custodian that is the~~



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2829 ~~designated custodian with which the authoritative copy of the~~
2830 ~~electronic document is maintained for the secured party,~~
2831 ~~communicate to the custodian an authenticated record releasing~~
2832 ~~the designated custodian from any further obligation to comply~~
2833 ~~with instructions originated by the secured party and~~
2834 ~~instructing the custodian to comply with instructions~~
2835 ~~originated by the debtor; and~~

2836 ~~e. Take appropriate action to enable the debtor or its~~
2837 ~~designated custodian to make copies of or revisions to the~~
2838 ~~authoritative copy which add or change an identified assignee~~
2839 ~~of the authoritative copy without the consent of the secured~~
2840 ~~party.~~

2841 (6) a secured party having control under Section
2842 7-7-106 of an authoritative electronic copy of an electronic
2843 document shall transfer control of the electronic copy to the
2844 debtor or a person designated by the debtor; and

2845 (7) a secured party having control under Section
2846 7-12-105 of a controllable electronic record, other than a
2847 buyer of a controllable account or controllable payment
2848 intangible evidenced by the controllable electronic record,
2849 shall transfer control of the controllable electronic record
2850 to the debtor or a person designated by the debtor.

2851 (c) ~~Authenticated~~ Signed demand. In this section,
2852 "~~authenticated~~ signed demand" means a record ~~authenticated~~
2853 signed by the debtor demanding that the secured party take one
2854 or more of the specific actions described in subsection (b)
2855 and reasonably identifying the collateral that is the subject
2856 of the demand. The secured party may designate in a record



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2857 sent to the debtor or as to which the debtor has notice an
2858 address to which such demands must be sent. A demand sent to
2859 another address of the secured party will be effective, but
2860 the 10-day period for action by the secured party does not
2861 begin until the person or department at the address specified
2862 by the secured party has notice of the demand."

2863 "§7-9A-209. Duties of secured party if account debtor
2864 has been notified of assignment.

2865 (a) Applicability of section. Except as otherwise
2866 provided in subsection (c), this section applies if:

2867 (1) there is no outstanding secured obligation; and

2868 (2) the secured party is not committed to make
2869 advances, incur obligations, or otherwise give value.

2870 (b) Duties of secured party after receiving demand from
2871 debtor. Within 10 days after receiving ~~an authenticated~~a
2872 signed demand by the debtor, a secured party shall send to an
2873 account debtor that has received notification, under Section
2874 7-9A-406(a) or 7-12-106(b), of an assignment to the secured
2875 party as assignee ~~under Section 7-9A-406(a) an authenticated~~ a
2876 signed record that releases the account debtor from any
2877 further obligation to the secured party.

2878 (c) Inapplicability to sales. This section does not
2879 apply to an assignment constituting the sale of an account,
2880 chattel paper, or payment intangible.

2881 (d) ~~Authenticated~~ Signed demand. In this section,
2882 "~~authenticated~~ signed demand" means a record signed
2883 ~~authenticated~~ by the debtor demanding that the secured party
2884 take the action described in subsection (b). The secured party



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2885 may designate in a record sent to the debtor or as to which
2886 the debtor has notice an address to which such demand must be
2887 sent. A demand sent to another address of the secured party
2888 will be effective, but the 10-day period for action by the
2889 secured party does not begin until the person or department at
2890 the address specified by the secured party has notice of the
2891 demand."

2892 "§7-9A-210. Request for accounting; request regarding
2893 list of collateral or statement of account.

2894 (a) Definitions. In this section:

2895 (1) "Request" means a record of a type described in
2896 paragraph (2), (3), or (4).

2897 (2) "Request for an accounting" means a record
2898 ~~authenticated~~ signed by a debtor requesting that the recipient
2899 provide an accounting of the unpaid obligations secured by
2900 collateral and reasonably identifying the transaction or
2901 relationship that is the subject of the request.

2902 (3) "Request regarding a list of collateral" means a
2903 record ~~authenticated~~ signed by a debtor requesting that the
2904 recipient approve or correct a list of what the debtor
2905 believes to be the collateral securing an obligation and
2906 reasonably identifying the transaction or relationship that is
2907 the subject of the request.

2908 (4) "Request regarding a statement of account" means a
2909 record ~~authenticated~~ signed by a debtor requesting that the
2910 recipient approve or correct a statement indicating what the
2911 debtor believes to be the aggregate amount of unpaid
2912 obligations secured by collateral as of a specified date and



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2913 reasonably identifying the transaction or relationship that is
2914 the subject of the request.

2915 (b) Duty to respond to requests. Subject to subsections
2916 (c), (d), (e), and (f), a secured party, other than a buyer of
2917 accounts, chattel paper, payment intangibles, or promissory
2918 notes or a consignor, shall comply with a request within 14
2919 days after receipt:

2920 (1) in the case of a request for an accounting, by
2921 ~~authenticating~~ signing and sending to the debtor an
2922 accounting; and

2923 (2) in the case of a request regarding a list of
2924 collateral or a request regarding a statement of account, by
2925 ~~authenticating~~ signing and sending to the debtor an approval
2926 or correction.

2927 (c) Request regarding list of collateral; statement
2928 concerning type of collateral. A secured party that claims a
2929 security interest in all of a particular type of collateral
2930 owned by the debtor may comply with a request regarding a list
2931 of collateral by sending to the debtor ~~an authenticated a~~
2932 signed record including a statement to that effect within 14
2933 days after receipt.

2934 (d) Request regarding list of collateral; no interest
2935 claimed. A person that receives a request regarding a list of
2936 collateral, claims no interest in the collateral when it
2937 receives the request, and claimed an interest in the
2938 collateral at an earlier time shall comply with the request
2939 within 14 days after receipt by sending to the debtor ~~an~~
2940 ~~authenticated~~ a signed record:



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2941 (1) disclaiming any interest in the collateral; and
2942 (2) if known to the recipient, providing the name and
2943 mailing address of any assignee of or successor to the
2944 recipient's interest in the collateral.

2945 (e) Request for accounting or regarding statement of
2946 account; no interest in obligation claimed. A person that
2947 receives a request for an accounting or a request regarding a
2948 statement of account, claims no interest in the obligations
2949 when it receives the request, and claimed an interest in the
2950 obligations at an earlier time shall comply with the request
2951 within 14 days after receipt by sending to the debtor ~~an~~
2952 ~~authenticated~~ a signed record:

2953 (1) disclaiming any interest in the obligations; and
2954 (2) if known to the recipient, providing the name and
2955 mailing address of any assignee of or successor to the
2956 recipient's interest in the obligations.

2957 (f) Charges for responses. A debtor is entitled without
2958 charge to one response to a request under this section during
2959 any six-month period. The secured party may require payment of
2960 a charge not exceeding ~~\$25~~ twenty-five dollars (\$25) for each
2961 additional response.

2962 (g) Designation of address for request. The secured
2963 party may designate in a record sent to the debtor,
2964 ~~authenticated~~ signed by the debtor, or, as to which the debtor
2965 has notice, an address to which a request under this section
2966 must be sent. A request sent to another address of the secured
2967 party will be effective, but the 14-day period for action by
2968 the secured party does not begin until the person or



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2969 department at the address specified by the secured party has
2970 notice of the request."

2971 "§7-9A-301. Law governing perfection and priority of
2972 security interests.

2973 Except as otherwise provided in Sections 7-9A-303
2974 through ~~7-9A-306~~ 7-9A-306B, the following rules determine the
2975 law governing perfection, the effect of perfection or
2976 nonperfection, and the priority of a security interest in
2977 collateral:

2978 (1) Except as otherwise provided in this section, while
2979 a debtor is located in a jurisdiction, the local law of that
2980 jurisdiction governs perfection, the effect of perfection or
2981 nonperfection, and the priority of a security interest in
2982 collateral.

2983 (2) While collateral is located in a jurisdiction, the
2984 local law of that jurisdiction governs perfection, the effect
2985 of perfection or nonperfection, and the priority of a
2986 possessory security interest in that collateral.

2987 (3) Except as otherwise provided in paragraph (4),
2988 while ~~tangible~~-negotiable tangible documents, goods,
2989 instruments, or money, ~~or tangible chattel paper~~ is located in
2990 a jurisdiction, the local law of that jurisdiction governs:

2991 (A) perfection of a security interest in the goods by
2992 filing a fixture filing;

2993 (B) perfection of a security interest in timber to be
2994 cut; and

2995 (C) the effect of perfection or nonperfection and the
2996 priority of a nonpossessory security interest in the



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2997 collateral.

2998 (4) The local law of the jurisdiction in which the
2999 wellhead or mine is located governs perfection, the effect of
3000 perfection or nonperfection, and the priority of a security
3001 interest in as-extracted collateral."

3002 "§7-9A-304. Law governing perfection and priority of
3003 security interests in deposit accounts.

3004 (a) Law of bank's jurisdiction governs. The local law
3005 of a bank's jurisdiction governs perfection, the effect of
3006 perfection or nonperfection, and the priority of a security
3007 interest in a deposit account maintained with that bank even
3008 if the transaction does not bear any relation to the bank's
3009 jurisdiction.

3010 (b) Bank's jurisdiction. The following rules determine
3011 a bank's jurisdiction for purposes of this part:

3012 (1) If an agreement between the bank and the debtor
3013 governing the deposit account expressly provides that a
3014 particular jurisdiction is the bank's jurisdiction for
3015 purposes of this part, this article, or the Uniform Commercial
3016 Code, that jurisdiction is the bank's jurisdiction.

3017 (2) If paragraph (1) does not apply and an agreement
3018 between the bank and its customer governing the deposit
3019 account expressly provides that the agreement is governed by
3020 the law of a particular jurisdiction, that jurisdiction is the
3021 bank's jurisdiction.

3022 (3) If neither paragraph (1) nor paragraph (2) applies
3023 and an agreement between the bank and its customer governing
3024 the deposit account expressly provides that the deposit



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3025 account is maintained at an office in a particular
3026 jurisdiction, that jurisdiction is the bank's jurisdiction.

3027 (4) If none of the preceding paragraphs applies, the
3028 bank's jurisdiction is the jurisdiction in which the office
3029 identified in an account statement as the office serving the
3030 customer's account is located.

3031 (5) If none of the preceding paragraphs applies, the
3032 bank's jurisdiction is the jurisdiction in which the chief
3033 executive office of the bank is located."

3034 "§7-9A-305. Law governing perfection and priority of
3035 security interests in investment property.

3036 (a) Governing law: General rules. Except as otherwise
3037 provided in subsection (c), the following rules apply:

3038 (1) While a security certificate is located in a
3039 jurisdiction, the local law of that jurisdiction governs
3040 perfection, the effect of perfection or nonperfection, and the
3041 priority of a security interest in the certificated security
3042 represented thereby.

3043 (2) The local law of the issuer's jurisdiction as
3044 specified in Section 7-8-110(d) governs perfection, the effect
3045 of perfection or nonperfection, and the priority of a security
3046 interest in an uncertificated security.

3047 (3) The local law of the securities intermediary's
3048 jurisdiction as specified in Section 7-8-110(e) governs
3049 perfection, the effect of perfection or nonperfection, and the
3050 priority of a security interest in a security entitlement or
3051 securities account.

3052 (4) The local law of the commodity intermediary's



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3053 jurisdiction governs perfection, the effect of perfection or
3054 nonperfection, and the priority of a security interest in a
3055 commodity contract or commodity account.

3056 (5) Paragraphs (2), (3), and (4) apply even if the
3057 transaction does not bear any relation to the jurisdiction.

3058 (b) Commodity intermediary's jurisdiction. The
3059 following rules determine a commodity intermediary's
3060 jurisdiction for purposes of this part:

3061 (1) If an agreement between the commodity intermediary
3062 and commodity customer governing the commodity account
3063 expressly provides that a particular jurisdiction is the
3064 commodity intermediary's jurisdiction for purposes of this
3065 part, this article, or the Uniform Commercial Code, that
3066 jurisdiction is the commodity intermediary's jurisdiction.

3067 (2) If paragraph (1) does not apply and an agreement
3068 between the commodity intermediary and commodity customer
3069 governing the commodity account expressly provides that the
3070 agreement is governed by the law of a particular jurisdiction,
3071 that jurisdiction is the commodity intermediary's
3072 jurisdiction.

3073 (3) If neither paragraph (1) nor paragraph (2) applies
3074 and an agreement between the commodity intermediary and
3075 commodity customer governing the commodity account expressly
3076 provides that the commodity account is maintained at an office
3077 in a particular jurisdiction, that jurisdiction is the
3078 commodity intermediary's jurisdiction.

3079 (4) If none of the preceding paragraphs applies, the
3080 commodity intermediary's jurisdiction is the jurisdiction in



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3081 which the office identified in an account statement as the
3082 office serving the commodity customer's account is located.

3083 (5) If none of the preceding paragraphs applies, the
3084 commodity intermediary's jurisdiction is the jurisdiction in
3085 which the chief executive office of the commodity intermediary
3086 is located.

3087 (c) When perfection governed by law of jurisdiction
3088 where debtor located. The local law of the jurisdiction in
3089 which the debtor is located governs:

3090 (1) perfection of a security interest in investment
3091 property by filing;

3092 (2) automatic perfection of a security interest in
3093 investment property created by a broker or securities
3094 intermediary; and

3095 (3) automatic perfection of a security interest in a
3096 commodity contract or commodity account created by a commodity
3097 intermediary."

3098 "§7-9A-310. When filing required to perfect security
3099 interest or agricultural lien; security interests and
3100 agricultural liens to which filing provisions do not apply.

3101 (a) General rule: Perfection by filing. Except as
3102 otherwise provided in subsection (b) and Section 7-9A-312(b),
3103 a financing statement must be filed to perfect all security
3104 interests and agricultural liens.

3105 (b) Exceptions: Filing not necessary. The filing of a
3106 financing statement is not necessary to perfect a security
3107 interest:

3108 (1) that is perfected under Section 7-9A-308(d), (e),



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3109 (f), or (g);

3110 (2) that is perfected under Section 7-9A-309 when it
3111 attaches;

3112 (3) in property subject to a statute, regulation, or
3113 treaty described in Section 7-9A-311(a);

3114 (4) in goods in possession of a bailee which is
3115 perfected under Section 7-9A-312(d)(1) or (2);

3116 (5) in certificated securities, documents, goods, or
3117 instruments which is perfected without filing, control, or
3118 possession under Section 7-9A-312(e), (f), or (g);

3119 (6) in collateral in the secured party's possession
3120 under Section 7-9A-313;

3121 (7) in a certificated security which is perfected by
3122 delivery of the security certificate to the secured party
3123 under Section 7-9A-313;

3124 (8) in controllable accounts, controllable electronic
3125 records, controllable payment intangibles, deposit accounts,
3126 electronic documents, ~~electronic chattel paper,~~ investment
3127 property, or letter-of-credit rights which is perfected by
3128 control under Section 7-9A-314;

3129 (8A) in chattel paper which is perfected by possession
3130 and control under Section 7-9A-314A;

3131 (9) in proceeds which is perfected under Section
3132 7-9A-315; or

3133 (10) that is perfected under Section 7-9A-316.

3134 (c) Assignment of perfected security interest. If a
3135 secured party assigns a perfected security interest or
3136 agricultural lien, a filing under this article is not required



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3137 to continue the perfected status of the security interest
3138 against creditors of and transferees from the original debtor.

3139 "§7-9A-312. ~~Perfection of certain security interests by~~
3140 ~~filing; temporary perfection~~Perfection of security interests
3141 in chattel paper, controllable accounts, controllable
3142 electronic records, controllable payment intangibles, deposit
3143 accounts, negotiable documents, goods covered by documents,
3144 instruments, investment property, letter-of-credit rights, and
3145 money; perfection by permissive filing; temporary without
3146 filing or transfer of possession.

3147 (a) Perfection by filing permitted. A security interest
3148 in chattel paper, controllable accounts, controllable
3149 electronic records, controllable payment intangibles,
3150 ~~negotiable documents,~~ instruments, ~~or~~ investment property, or
3151 negotiable documents may be perfected by filing.

3152 (b) Control or possession of certain collateral. Except
3153 as otherwise provided in Section 7-9A-315(c) and (d) for
3154 proceeds:

3155 (1) a security interest in a deposit account may be
3156 perfected only by control under Section 7-9A-314;

3157 (2) ~~and~~ except as otherwise provided in Section
3158 7-9A-308(d), a security interest in a letter-of-credit right
3159 may be perfected only by control under Section 7-9A-314; and

3160 (3) a security interest in money may be perfected only
3161 by the secured party's taking possession under Section
3162 7-9A-313.

3163 (c) Goods covered by negotiable document. While goods
3164 are in the possession of a bailee that has issued a negotiable



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3165 document covering the goods:

3166 (1) a security interest in the goods may be perfected
3167 by perfecting a security interest in the document; and

3168 (2) a security interest perfected in the document has
3169 priority over any security interest that becomes perfected in
3170 the goods by another method during that time.

3171 (d) Goods covered by nonnegotiable document. While
3172 goods are in the possession of a bailee that has issued a
3173 nonnegotiable document covering the goods, a security interest
3174 in the goods may be perfected by:

3175 (1) issuance of a document in the name of the secured
3176 party;

3177 (2) the bailee's receipt of notification of the secured
3178 party's interest; or

3179 (3) filing as to the goods.

3180 (e) Temporary perfection: New value. A security
3181 interest in certificated securities, negotiable documents, or
3182 instruments is perfected without filing or the taking of
3183 possession or control for a period of 20 days from the time it
3184 attaches to the extent that it arises for new value given
3185 under ~~an authenticated~~ a signed security agreement.

3186 (f) Temporary perfection: Goods or documents made
3187 available to debtor. A perfected security interest in a
3188 negotiable document or goods in possession of a bailee, other
3189 than one that has issued a negotiable document for the goods,
3190 remains perfected for 20 days without filing if the secured
3191 party makes available to the debtor the goods or documents
3192 representing the goods for the purpose of:



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3193 (1) ultimate sale or exchange; or
3194 (2) loading, unloading, storing, shipping,
3195 transshipping, manufacturing, processing, or otherwise dealing
3196 with them in a manner preliminary to their sale or exchange.

3197 (g) Temporary perfection: Delivery of security
3198 certificate or instrument to debtor. A perfected security
3199 interest in a certificated security or instrument remains
3200 perfected for 20 days without filing if the secured party
3201 delivers the security certificate or instrument to the debtor
3202 for the purpose of:

3203 (1) ultimate sale or exchange; or
3204 (2) presentation, collection, enforcement, renewal, or
3205 registration of transfer.

3206 (h) Expiration of temporary perfection. After the
3207 20-day period specified in subsection (e), (f), or (g)
3208 expires, perfection depends upon compliance with this
3209 article."

3210 "§7-9A-313. When possession by or delivery to secured
3211 party perfects security interest without filing.

3212 (a) Perfection by possession or delivery. Except as
3213 otherwise provided in subsection (b), a secured party may
3214 perfect a security interest in ~~tangible negotiable documents,~~
3215 goods, instruments, negotiable tangible documents, or money,
3216 ~~or tangible chattel paper~~ by taking possession of the
3217 collateral. A secured party may perfect a security interest in
3218 certificated securities by taking delivery of the certificated
3219 securities under Section 7-8-301.

3220 (b) Goods covered by certificate of title. With respect



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3221 to goods covered by a certificate of title issued by this
3222 State, a secured party may perfect a security interest in the
3223 goods by taking possession of the goods only in the
3224 circumstances described in Section 7-9A-316(d).

3225 (c) Collateral in possession of person other than
3226 debtor. With respect to collateral other than certificated
3227 securities and goods covered by a document, a secured party
3228 takes possession of collateral in the possession of a person
3229 other than the debtor, the secured party, or a lessee of the
3230 collateral from the debtor in the ordinary course of the
3231 debtor's business, when:

3232 (1) the person in possession ~~authenticates~~ signs a
3233 record acknowledging that it holds possession of the
3234 collateral for the secured party's benefit; or

3235 (2) the person takes possession of the collateral after
3236 having ~~authenticated~~ signed a record acknowledging that it
3237 will hold possession of the collateral for the secured party's
3238 benefit.

3239 (d) Time of perfection by possession; continuation of
3240 perfection. If perfection of a security interest depends upon
3241 possession of the collateral by a secured party, perfection
3242 occurs ~~no~~ not earlier than the time the secured party takes
3243 possession and continues only while the secured party retains
3244 possession.

3245 (e) Time of perfection by delivery; continuation of
3246 perfection. A security interest in a certificated security in
3247 registered form is perfected by delivery when delivery of the
3248 certificated security occurs under Section 7-8-301 and remains



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3249 perfected by delivery until the debtor obtains possession of
3250 the security certificate.

3251 (f) Acknowledgment not required. A person in possession
3252 of collateral is not required to acknowledge that it holds
3253 possession for a secured party's benefit.

3254 (g) Effectiveness of acknowledgment; no duties or
3255 confirmation. If a person acknowledges that it holds
3256 possession for the secured party's benefit:

3257 (1) the acknowledgment is effective under subsection
3258 (c) or Section 7-8-301(a), even if the acknowledgment violates
3259 the rights of a debtor; and

3260 (2) unless the person otherwise agrees or law other
3261 than this article otherwise provides, the person does not owe
3262 any duty to the secured party and is not required to confirm
3263 the acknowledgment to another person.

3264 (h) Secured party's delivery to person other than
3265 debtor. A secured party having possession of collateral does
3266 not relinquish possession by delivering the collateral to a
3267 person other than the debtor or a lessee of the collateral
3268 from the debtor in the ordinary course of the debtor's
3269 business if the person was instructed before the delivery or
3270 is instructed contemporaneously with the delivery:

3271 (1) to hold possession of the collateral for the
3272 secured party's benefit; or

3273 (2) to redeliver the collateral to the secured party.

3274 (i) Effect of delivery under subsection (h); no duties
3275 or confirmation. A secured party does not relinquish
3276 possession, even if a delivery under subsection (h) violates



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3277 the rights of a debtor. A person to which collateral is
3278 delivered under subsection (h) does not owe any duty to the
3279 secured party and is not required to confirm the delivery to
3280 another person unless the person otherwise agrees or law other
3281 than this article otherwise provides."

3282 "§7-9A-314. Perfection by control.

3283 (a) Perfection by control. A security interest in
3284 ~~investment property, deposit accounts, letter-of-credit~~
3285 ~~rights, electronic chattel paper, or electronic documents~~
3286 controllable accounts, controllable electronic records,
3287 controllable payment intangibles, deposit accounts, electronic
3288 documents, investment property, or letter-of-credit rights may
3289 be perfected by control of the collateral under Section
3290 7-7-106, 7-9A-104, ~~7-9A-105~~, 7-9A-106, ~~or~~ 7-9A-107, or
3291 7-9A-107A.

3292 (b) Specified collateral: Time of perfection by
3293 control; continuation of perfection. A security interest in
3294 ~~deposit accounts, electronic chattel paper, letter-of-credit~~
3295 ~~rights, or electronic documents~~ controllable accounts,
3296 controllable electronic records, controllable payment
3297 intangibles, deposit accounts, electronic documents, or
3298 letter-of-credit rights is perfected by control under Section
3299 7-7-106, 7-9A-104, ~~7-9A-105~~, ~~or~~ 7-9A-107, or 7-9A-107A ~~when~~
3300 not earlier than the time the secured party obtains control
3301 and remains perfected by control only while the secured party
3302 retains control.

3303 (c) Investment property: Time of perfection by control;
3304 continuation of perfection. A security interest in investment



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3305 property is perfected by control under Section 7-9A-106 ~~from~~
3306 not earlier than the time the secured party obtains control
3307 and remains perfected by control until:

3308 (1) the secured party does not have control; and

3309 (2) one of the following occurs:

3310 (A) if the collateral is a certificated security, the
3311 debtor has or acquires possession of the security certificate;

3312 (B) if the collateral is an uncertificated security,
3313 the issuer has registered or registers the debtor as the
3314 registered owner; or

3315 (C) if the collateral is a security entitlement, the
3316 debtor is or becomes the entitlement holder.

3317 "§7-9A-316. ~~Effect of~~ Continued perfection of security
3318 interest following change in governing law.

3319 (a) General rule: Effect on ~~change in governing law~~
3320 ~~existing perfection of change in governing~~ law. A security
3321 interest perfected pursuant to the law of the jurisdiction
3322 designated in Section 7-9A-301(1), ~~or~~ 7-9A-305(c),
3323 7-9A-306A(d), or 7-9A-306B(b) remains perfected until the
3324 earliest of:

3325 (1) the time perfection would have ceased under the law
3326 of that jurisdiction;

3327 (2) the expiration of four months after a change of the
3328 debtor's location to another jurisdiction; or

3329 (3) the expiration of one year after a transfer of
3330 collateral to a person that thereby becomes a debtor and is
3331 located in another jurisdiction.

3332 (b) Security interest perfected or unperfected under



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3333 law of new jurisdiction. If a security interest described in
3334 subsection (a) becomes perfected under the law of the other
3335 jurisdiction before the earliest time or event described in
3336 that subsection, it remains perfected thereafter. If the
3337 security interest does not become perfected under the law of
3338 the other jurisdiction before the earliest time or event, it
3339 becomes unperfected and is deemed never to have been perfected
3340 as against a purchaser of the collateral for value.

3341 (c) Possessory security interest in collateral moved to
3342 new jurisdiction. A possessory security interest in
3343 collateral, other than goods covered by a certificate of title
3344 and as-extracted collateral consisting of goods, remains
3345 continuously perfected if:

3346 (1) the collateral is located in one jurisdiction and
3347 subject to a security interest perfected under the law of that
3348 jurisdiction;

3349 (2) thereafter the collateral is brought into another
3350 jurisdiction; and

3351 (3) upon entry into the other jurisdiction, the
3352 security interest is perfected under the law of the other
3353 jurisdiction.

3354 (d) Goods covered by certificate of title from this
3355 State. Except as otherwise provided in subsection (e), a
3356 security interest in goods covered by a certificate of title
3357 which is perfected by any method under the law of another
3358 jurisdiction when the goods become covered by a certificate of
3359 title from this State remains perfected until the security
3360 interest would have become unperfected under the law of the



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3361 other jurisdiction had the goods not become so covered.

3362 (e) When subsection (d) security interest becomes
3363 unperfected against purchasers. A security interest described
3364 in subsection (d) becomes unperfected as against a purchaser
3365 of the goods for value and is deemed never to have been
3366 perfected as against a purchaser of the goods for value if the
3367 applicable requirements for perfection under Section
3368 7-9A-311(b) or 7-9A-313 are not satisfied before the earlier
3369 of:

3370 (1) the time the security interest would have become
3371 unperfected under the law of the other jurisdiction had the
3372 goods not become covered by a certificate of title from this
3373 State; or

3374 (2) the expiration of four months after the goods had
3375 become so covered.

3376 (f) ~~Change in jurisdiction of bank, issuer, nominated~~
3377 ~~person, securities intermediary, or commodity~~
3378 ~~intermediary.~~ Change in jurisdiction of chattel paper,
3379 controllable electronic record, bank, issuer, nominated
3380 person, securities intermediary, or commodity intermediary. A
3381 security interest in chattel paper, controllable accounts,
3382 controllable electronic accounts, controllable payment
3383 intangibles, deposit accounts, letter-of-credit rights, or
3384 investment property which is perfected under the law of the
3385 chattel paper's jurisdiction, the controllable electronic
3386 record's jurisdiction, the bank's jurisdiction, the issuer's
3387 jurisdiction, a nominated person's jurisdiction, the
3388 securities intermediary's jurisdiction, or the commodity



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3389 intermediary's jurisdiction, as applicable, remains perfected
3390 until the earlier of:

3391 (1) the time the security interest would have become
3392 unperfected under the law of that jurisdiction; or

3393 (2) the expiration of four months after a change of the
3394 applicable jurisdiction to another jurisdiction.

3395 (g) Subsection (f) security interest perfected or
3396 unperfected under law of new jurisdiction. If a security
3397 interest described in subsection (f) becomes perfected under
3398 the law of the other jurisdiction before the earlier of the
3399 time or the end of the period described in that subsection, it
3400 remains perfected thereafter. If the security interest does
3401 not become perfected under the law of the other jurisdiction
3402 before the earlier of that time or the end of that period, it
3403 becomes unperfected and is deemed never to have been perfected
3404 as against a purchaser of the collateral for value.

3405 (h) Effect on filed financing statement of change in
3406 governing law. The following rules apply to collateral to
3407 which a security interest attaches within four months after
3408 the debtor changes its location to another jurisdiction:

3409 (1) A financing statement filed before the change
3410 pursuant to the law of the jurisdiction designated in Section
3411 7-9A-301(1) or 7-9A-305(c) is effective to perfect a security
3412 interest in the collateral if the financing statement would
3413 have been effective to perfect a security interest in the
3414 collateral if the debtor had not changed its location.

3415 (2) If a security interest that is perfected by a
3416 financing statement that is effective under paragraph (1)



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3417 becomes perfected under the law of the other jurisdiction
3418 before the earlier of the time the financing statement would
3419 have become ineffective under the law of the jurisdiction
3420 designated in Section 7-9A-301(1) or 7-9A-305(c) or the
3421 expiration of the four-month period, it remains perfected
3422 thereafter. If the security interest does not become perfected
3423 under the law of the other jurisdiction before the earlier
3424 time or event, it becomes unperfected and is deemed never to
3425 have been perfected as against a purchaser of the collateral
3426 for value.

3427 (i) Effect of change in governing law on financing
3428 statement filed against original debtor. If a financing
3429 statement naming an original debtor is filed pursuant to the
3430 law of the jurisdiction designated in Section 7-9A-301(1) or
3431 7-9A-305(c) and the new debtor is located in another
3432 jurisdiction, the following rules apply:

3433 (1) The financing statement is effective to perfect a
3434 security interest in collateral acquired by the new debtor
3435 before, and within four months after, the new debtor becomes
3436 bound under Section 7-9A-203(d), if the financing statement
3437 would have been effective to perfect a security interest in
3438 the collateral if the collateral had been acquired by the
3439 original debtor.

3440 (2) A security interest that is perfected by the
3441 financing statement and which becomes perfected under the law
3442 of the other jurisdiction before the earlier of the expiration
3443 of the four-month period or the time the financing statement
3444 would have become ineffective under the law of the



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3445 jurisdiction designated in Section 7-9A-301(1) or 7-9A-305(c)
3446 remains perfected thereafter. A security interest that is
3447 perfected by the financing statement but which does not become
3448 perfected under the law of the other jurisdiction before the
3449 earlier time or event becomes unperfected and is deemed never
3450 to have been perfected as against a purchaser of the
3451 collateral for value."

3452 "§7-9A-317. Interests that take priority over or take
3453 free of security interest or agricultural lien.

3454 (a) Conflicting security interests and rights of lien
3455 creditors. A security interest or agricultural lien is
3456 subordinate to the rights of:

3457 (1) a person entitled to priority under Section
3458 7-9A-322; and

3459 (2) except as otherwise provided in subsection (e), a
3460 person that becomes a lien creditor before the earlier of the
3461 time:

3462 (A) the security interest or agricultural lien is
3463 perfected; or

3464 (B) one of the conditions specified in Section
3465 7-9A-203(b)(3) is met and a financing statement covering the
3466 collateral is filed.

3467 (b) Buyers that receive delivery. Except as otherwise
3468 provided in subsection (e), a buyer, other than a secured
3469 party, ~~of tangible chattel paper, tangible documents, of~~
3470 goods, instruments, tangible documents, or a certificated
3471 security takes free of a security interest or agricultural
3472 lien if the buyer gives value and receives delivery of the



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3473 collateral without knowledge of the security interest or
3474 agricultural lien and before it is perfected.

3475 (c) Lessees that receive delivery. Except as otherwise
3476 provided in subsection (e), a lessee of goods takes free of a
3477 security interest or agricultural lien if the lessee gives
3478 value and receives delivery of the collateral without
3479 knowledge of the security interest or agricultural lien and
3480 before it is perfected.

3481 (d) Licensees and buyers of certain collateral. ~~A~~
3482 Subject to subsections (f) through (i), a licensee of a
3483 general intangible or a buyer, other than a secured party, of
3484 collateral other than ~~tangible chattel paper, tangible~~
3485 ~~documents,~~ goods, instruments, tangible documents, or a
3486 certificated security takes free of a security interest if the
3487 licensee or buyer gives value without knowledge of the
3488 security interest and before it is perfected.

3489 (e) Purchase-money security interest. Except as
3490 otherwise provided in Sections 7-9A-320 and 7-9A-321, if a
3491 person files a financing statement with respect to a
3492 purchase-money security interest before or within 20 days
3493 after the debtor receives delivery of the collateral, the
3494 security interest takes priority over the rights of a buyer,
3495 lessee, or lien creditor which arise between the time the
3496 security interest attaches and the time of filing.

3497 (f) Buyers of chattel paper. A buyer, other than a
3498 secured party, of chattel paper takes free of a security
3499 interest if, without knowledge of the security interest and
3500 before it is perfected, the buyer gives value and:



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3501 (1) receives delivery of each authoritative tangible
3502 copy of the record evidencing the chattel paper; and

3503 (2) if each authoritative electronic copy of the record
3504 evidencing the chattel paper can be subjected to control under
3505 Section 7-9A-105, obtains control of each authoritative
3506 electronic copy.

3507 (g) Buyers of electronic documents. A buyer of an
3508 electronic document takes free of a security interest if,
3509 without knowledge of the security interest and before it is
3510 perfected, the buyer gives value and, if each authoritative
3511 electronic copy of the document can be subjected to control
3512 under Section 7-7-106, obtains control of each authoritative
3513 electronic copy.

3514 (h) Buyers of controllable electronic records. A buyer
3515 of a controllable electronic record takes free of a security
3516 interest if, without knowledge of the security interest and
3517 before it is perfected, the buyer gives value and obtains
3518 control of the controllable electronic record.

3519 (i) Buyers of controllable accounts and controllable
3520 payment intangibles. A buyer, other than a secured party, of a
3521 controllable account or a controllable payment intangible
3522 takes free of a security interest if, without knowledge of the
3523 security interest and before it is perfected, the buyer gives
3524 value and obtains control of the controllable account or
3525 controllable payment intangible."

3526 "§7-9A-323. Future advances.

3527 (a) When priority based on time of advance. Except as
3528 otherwise provided in subsection (c), for purposes of



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3529 determining the priority of a perfected security interest
3530 under Section 7-9A-322(a)(1), perfection of the security
3531 interest dates from the time an advance is made to the extent
3532 that the security interest secures an advance that:

3533 (1) is made while the security interest is perfected
3534 only:

3535 (A) under Section 7-9A-309 when it attaches; or

3536 (B) temporarily under Section 7-9A-312(e), (f), or (g);

3537 and

3538 (2) is not made pursuant to a commitment entered into
3539 before or while the security interest is perfected by a method
3540 other than under Section 7-9A-309 or 7-9A-312(e), (f), or (g).

3541 (b) Lien creditor. Except as otherwise provided in
3542 subsection (c), a security interest is subordinate to the
3543 rights of a person that becomes a lien creditor to the extent
3544 that the security interest secures an advance made more than
3545 45 days after the person becomes a lien creditor unless the
3546 advance is made:

3547 (1) without knowledge of the lien; or

3548 (2) pursuant to a commitment entered into without
3549 knowledge of the lien.

3550 (c) Buyer of receivables. Subsections (a) and (b) do
3551 not apply to a security interest held by a secured party that
3552 is a buyer of accounts, chattel paper, payment intangibles, or
3553 promissory notes or a consignor.

3554 (d) Buyer of goods. Except as otherwise provided in
3555 subsection (e), a buyer of goods ~~other than a buyer in~~
3556 ~~ordinary course of business~~ takes free of a security interest



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3557 to the extent that it secures advances made after the earlier
3558 of:

3559 (1) the time the secured party acquires knowledge of
3560 the buyer's purchase; or

3561 (2) 45 days after the purchase.

3562 (e) Advances made pursuant to commitment: Priority of
3563 buyer of goods. Subsection (d) does not apply if the advance
3564 is made pursuant to a commitment entered into without
3565 knowledge of the buyer's purchase and before the expiration of
3566 the 45-day period.

3567 (f) Lessee of goods. Except as otherwise provided in
3568 subsection (g), a lessee of goods, ~~other than a lessee in~~
3569 ~~ordinary course of business,~~ takes the leasehold interest free
3570 of a security interest to the extent that it secures advances
3571 made after the earlier of:

3572 (1) the time the secured party acquires knowledge of
3573 the lease; or

3574 (2) 45 days after the lease contract becomes
3575 enforceable.

3576 (g) Advances made pursuant to commitment: Priority of
3577 lessee of goods. Subsection (f) does not apply if the advance
3578 is made pursuant to a commitment entered into without
3579 knowledge of the lease and before the expiration of the 45-day
3580 period."

3581 "§7-9A-324. Priority of purchase-money security
3582 interests.

3583 (a) General rule: Purchase-money priority. Except as
3584 otherwise provided in subsection (g), a perfected



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3585 purchase-money security interest in goods other than inventory
3586 or livestock has priority over a conflicting security interest
3587 in the same goods, and, except as otherwise provided in
3588 Section 7-9A-327, a perfected security interest in its
3589 identifiable proceeds also has priority, if the purchase-money
3590 security interest is perfected when the debtor receives
3591 possession of the collateral or within 20 days thereafter.

3592 (b) Inventory purchase-money priority. Subject to
3593 subsection (c) and except as otherwise provided in subsection
3594 (g), a perfected purchase-money security interest in inventory
3595 has priority over a conflicting security interest in the same
3596 inventory, has priority over a conflicting security interest
3597 in chattel paper or an instrument constituting proceeds of the
3598 inventory and in proceeds of the chattel paper, if so provided
3599 in Section 7-9A-330, and, except as otherwise provided in
3600 Section 7-9A-327, also has priority in identifiable cash
3601 proceeds of the inventory to the extent the identifiable cash
3602 proceeds are received on or before the delivery of the
3603 inventory to a buyer, if:

3604 (1) the purchase-money security interest is perfected
3605 when the debtor receives possession of the inventory;

3606 (2) the purchase-money secured party sends ~~an~~
3607 ~~authenticated~~a signed notification to the holder of the
3608 conflicting security interest;

3609 (3) the holder of the conflicting security interest
3610 receives the notification within five years before the debtor
3611 receives possession of the inventory; and

3612 (4) the notification states that the person sending the



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3613 notification has or expects to acquire a purchase-money
3614 security interest in inventory of the debtor and describes the
3615 inventory.

3616 (c) Holders of conflicting inventory security interests
3617 to be notified. Subsections (b)(2) through (4) apply only if
3618 the holder of the conflicting security interest had filed a
3619 financing statement covering the same types of inventory:

3620 (1) if the purchase-money security interest is
3621 perfected by filing, before the date of the filing; or

3622 (2) if the purchase-money security interest is
3623 temporarily perfected without filing or possession under
3624 Section 7-9A-312(f), before the beginning of the 20-day period
3625 thereunder.

3626 (d) Livestock purchase-money priority. Subject to
3627 subsection (e) and except as otherwise provided in subsection
3628 (g), a perfected purchase-money security interest in livestock
3629 that are farm products has priority over a conflicting
3630 security interest in the same livestock, and, except as
3631 otherwise provided in Section 7-9A-327, a perfected security
3632 interest in their identifiable proceeds and identifiable
3633 products in their unmanufactured states also has priority, if:

3634 (1) the purchase-money security interest is perfected
3635 when the debtor receives possession of the livestock;

3636 (2) the purchase-money secured party sends ~~an~~
3637 ~~authenticated~~ a signed notification to the holder of the
3638 conflicting security interest;

3639 (3) the holder of the conflicting security interest
3640 receives the notification within six months before the debtor



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3641 receives possession of the livestock; and

3642 (4) the notification states that the person sending the
3643 notification has or expects to acquire a purchase-money
3644 security interest in livestock of the debtor and describes the
3645 livestock.

3646 (e) Holders of conflicting livestock security interests
3647 to be notified. Subsections (d)(2) through (4) apply only if
3648 the holder of the conflicting security interest had filed a
3649 financing statement covering the same types of livestock:

3650 (1) if the purchase-money security interest is
3651 perfected by filing, before the date of the filing; or

3652 (2) if the purchase-money security interest is
3653 temporarily perfected without filing or possession under
3654 Section 7-9A-312(f), before the beginning of the 20-day period
3655 thereunder.

3656 (f) Software purchase-money priority. Except as
3657 otherwise provided in subsection (g), a perfected
3658 purchase-money security interest in software has priority over
3659 a conflicting security interest in the same collateral, and,
3660 except as otherwise provided in Section 7-9A-327, a perfected
3661 security interest in its identifiable proceeds also has
3662 priority, to the extent that the purchase-money security
3663 interest in the goods in which the software was acquired for
3664 use has priority in the goods and proceeds of the goods under
3665 this section.

3666 (g) Conflicting purchase-money security interests. If
3667 more than one security interest qualifies for priority in the
3668 same collateral under subsection (a), (b), (d), or (f):



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3669 (1) a security interest securing an obligation incurred
3670 as all or part of the price of the collateral has priority
3671 over a security interest securing an obligation incurred for
3672 value given to enable the debtor to acquire rights in or the
3673 use of collateral; and

3674 (2) in all other cases, Section 7-9A-322(a) applies to
3675 the qualifying security interests.

3676 "§7-9A-330. Priority of purchaser of chattel paper or
3677 instrument.

3678 (a) Purchaser's priority: Security interest claimed
3679 merely as proceeds. A purchaser of chattel paper has priority
3680 over a security interest in the chattel paper which is claimed
3681 merely as proceeds of inventory subject to a security interest
3682 if:

3683 (1) in good faith and in the ordinary course of the
3684 purchaser's business, the purchaser gives new value and takes
3685 possession of each authoritative tangible copy of the record
3686 evidencing the chattel paper, ~~or~~ and obtains control under
3687 Section 7-9A-105 of each authoritative electronic copy of the
3688 record evidencing ~~of~~ the chattel paper ~~under Section 7-9A-105;~~
3689 and

3690 (2) the ~~chattel paper does~~ authoritative copies of the
3691 record evidencing the chattel paper do not indicate that ~~it~~
3692 the chattel paper has been assigned to an identified assignee
3693 other than the purchaser.

3694 (b) Purchaser's priority: Other security interests. A
3695 purchaser of chattel paper has priority over a security
3696 interest in the chattel paper which is claimed other than



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3697 merely as proceeds of inventory subject to a security interest
3698 if the purchaser gives new value and takes possession of each
3699 authoritative tangible copy of the record evidencing the
3700 chattel paper ~~or and~~ obtains control ~~of~~ under Section 7-9A-105
3701 of each authoritative electronic copy of the record evidencing
3702 the chattel paper ~~under Section 7-9A-105~~ in good faith, in the
3703 ordinary course of the purchaser's business, and without
3704 knowledge that the purchase violates the rights of the secured
3705 party.

3706 (c) Chattel paper purchaser's priority in proceeds.
3707 Except as otherwise provided in Section 7-9A-327, a purchaser
3708 having priority in chattel paper under subsection (a) or (b)
3709 also has priority in proceeds of the chattel paper to the
3710 extent that:

3711 (1) Section 7-9A-322 provides for priority in the
3712 proceeds; or

3713 (2) the proceeds consist of the specific goods covered
3714 by the chattel paper or cash proceeds of the specific goods,
3715 even if the purchaser's security interest in the proceeds is
3716 unperfected.

3717 (d) Instrument purchaser's priority. Except as
3718 otherwise provided in Section 7-9A-331(a), a purchaser of an
3719 instrument has priority over a security interest in the
3720 instrument perfected by a method other than possession if the
3721 purchaser gives value and takes possession of the instrument
3722 in good faith and without knowledge that the purchase violates
3723 the rights of the secured party.

3724 (e) Holder of purchase-money security interest gives



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3725 new value. For purposes of subsections (a) and (b), the holder
3726 of a purchase-money security interest in inventory gives new
3727 value for chattel paper constituting proceeds of the
3728 inventory.

3729 (f) Indication of assignment gives knowledge. For
3730 purposes of subsections (b) and (d), if the authoritative
3731 copies of the record evidencing chattel paper or an instrument
3732 ~~indicates~~ indicate that ~~it~~ the chattel paper or instrument
3733 has been assigned to an identified secured party other than
3734 the purchaser, a purchaser of the chattel paper or instrument
3735 has knowledge that the purchase violates the rights of the
3736 secured party."

3737 "§7-9A-331. Priority of rights of purchasers of
3738 controllable accounts, controllable electronic records,
3739 controllable payments intangibles, instruments, documents, and
3740 securities under other articles; priority of interests in
3741 financial assets and security entitlements and protection
3742 against assertion of claim under Articles 8 and 12.

3743 (a) Rights under Articles 3, 7, ~~and 8,~~ and 12 not
3744 limited. This article does not limit the rights of a holder in
3745 due course of a negotiable instrument, a holder to which a
3746 negotiable document of title has been duly negotiated, ~~or~~ a
3747 protected purchaser of a security, ~~or~~ or a qualifying purchaser
3748 of a controllable account, controllable electronic record, or
3749 controllable payment intangible. These holders or purchasers
3750 take priority over an earlier security interest, even if
3751 perfected, to the extent provided in Articles 3, 7, ~~and 8,~~ and
3752 12.



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3753 (b) Protection under ~~Article~~Articles 8 and 12. This
3754 article does not limit the rights of or impose liability on a
3755 person to the extent that the person is protected against the
3756 assertion of a claim under ~~Article~~Articles 8 or 12.

3757 (c) Filing not notice. Filing under this article does
3758 not constitute notice of a claim or defense to the holders, or
3759 purchasers, or persons described in subsections (a) and (b)."

3760 "§7-9A-332. Transfer of money; transfer of funds from
3761 deposit account.

3762 (a) Transferee of money. A transferee of money takes
3763 the money free of a security interest ~~unless the transferee~~
3764 ~~acts~~ if the transferee receives possession of the money
3765 without acting in collusion with the debtor in violating the
3766 rights of the secured party.

3767 (b) Transferee of funds from deposit account. A
3768 transferee of funds from a deposit account takes the funds
3769 free of a security interest in the deposit account ~~unless the~~
3770 ~~transferee acts~~ if the transferee receives possession of the
3771 money without acting in collusion with the debtor in violating
3772 the rights of the secured party."

3773 "§7-9A-334. Priority of security interests in fixtures
3774 and crops.

3775 (a) Security interest in fixtures under this article. A
3776 security interest under this article may be created in goods
3777 that are fixtures or may continue in goods that become
3778 fixtures. A security interest does not exist under this
3779 article in ordinary building materials incorporated into an
3780 improvement on land.



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3781 (b) Security interest in fixtures under real-property
3782 law. This article does not prevent creation of an encumbrance
3783 upon fixtures under real property law.

3784 (c) General rule: Subordination of security interest in
3785 fixtures. In cases not governed by subsections (d) through
3786 (h), a security interest in fixtures is subordinate to a
3787 conflicting interest of an encumbrancer or owner of the
3788 related real property other than the debtor.

3789 (d) Fixtures purchase-money priority. Except as
3790 otherwise provided in subsection (h), a perfected security
3791 interest in fixtures has priority over a conflicting interest
3792 of an encumbrancer or owner of the real property if the debtor
3793 has an interest of record in or is in possession of the real
3794 property and:

3795 (1) the security interest is a purchase-money security
3796 interest;

3797 (2) the interest of the encumbrancer or owner arises
3798 before the goods become fixtures; and

3799 (3) the security interest is perfected by a fixture
3800 filing before the goods become fixtures or within 20 days
3801 thereafter.

3802 (e) Priority of security interest in fixtures over
3803 interests in real property. A perfected security interest in
3804 fixtures has priority over a conflicting interest of an
3805 encumbrancer or owner of the real property if:

3806 (1) the debtor has an interest of record in the real
3807 property or is in possession of the real property and the
3808 security interest:



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3809 (A) is perfected by a fixture filing before the
3810 interest of the encumbrancer or owner is of record; and
3811 (B) has priority over any conflicting interest of a
3812 predecessor in title of the encumbrancer or owner;
3813 (2) before the goods become fixtures, the security
3814 interest is perfected by any method permitted by this article
3815 and the fixtures are readily removable:
3816 (A) factory or office machines;
3817 (B) equipment that is not primarily used or leased for
3818 use in the operation of the real property; or
3819 (C) replacements of domestic appliances that are
3820 consumer goods;
3821 (3) the conflicting interest is a lien on the real
3822 property obtained by legal or equitable proceedings after the
3823 security interest was perfected by any method permitted by
3824 this article; or
3825 (4) the security interest is:
3826 (A) created in a manufactured home in a
3827 manufactured-home transaction; and
3828 (B) perfected pursuant to a statute described in
3829 Section 7-9A-311(a)(2).
3830 (f) Priority based on consent, disclaimer, or right to
3831 remove. A security interest in fixtures, whether or not
3832 perfected, has priority over a conflicting interest of an
3833 encumbrancer or owner of the real property if:
3834 (1) the encumbrancer or owner has, in ~~an authenticated~~
3835 a signed record, consented to the security interest or
3836 disclaimed an interest in the goods as fixtures; or



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3837 (2) the debtor has a right to remove the goods as
3838 against the encumbrancer or owner.

3839 (g) Continuation of paragraph (f) (2) priority. The
3840 priority of the security interest under paragraph (f) (2)
3841 continues for a reasonable time if the debtor's right to
3842 remove the goods as against the encumbrancer or owner
3843 terminates.

3844 (h) Priority of construction mortgage. A mortgage is a
3845 construction mortgage to the extent that it secures an
3846 obligation incurred for the construction of an improvement on
3847 land, including the acquisition cost of the land, if a
3848 recorded record of the mortgage so indicates. Except as
3849 otherwise provided in subsections (e) and (f), a security
3850 interest in fixtures is subordinate to a construction mortgage
3851 if a record of the mortgage is recorded before the goods
3852 become fixtures and the goods become fixtures before the
3853 completion of the construction. A mortgage has this priority
3854 to the same extent as a construction mortgage to the extent
3855 that it is given to refinance a construction mortgage.

3856 (i) Priority of security interest in crops. A perfected
3857 security interest in crops growing on real property has
3858 priority over a conflicting interest of an encumbrancer or
3859 owner of the real property if the debtor has an interest of
3860 record in or is in possession of the real property.

3861 (j) Subsection (i) prevails over inconsistent law.
3862 Subsection (i) prevails over any inconsistent provision of an
3863 existing or future statute, rule, or regulation of this State
3864 unless the provision is contained in a statute of this State,



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3865 refers expressly to subsection (i), and states that the
3866 provision prevails over subsection (i)."

3867 "§7-9A-341. Bank's rights and duties with respect to
3868 deposit account.

3869 Except as otherwise provided in Section 7-9A-340(c),
3870 and unless the bank otherwise agrees in ~~an authenticated~~ a
3871 signed record, a bank's rights and duties with respect to a
3872 deposit account maintained with the bank are not terminated,
3873 suspended, or modified by:

3874 (1) the creation, attachment, or perfection of a
3875 security interest in the deposit account;

3876 (2) the bank's knowledge of the security interest; or

3877 (3) the bank's receipt of instructions from the secured
3878 party."

3879 "§7-9A-404. Rights acquired by assignee; claims and
3880 defenses against assignee.

3881 (a) Assignee's rights subject to terms, claims, and
3882 defenses; exceptions. Unless an account debtor has made an
3883 enforceable agreement not to assert defenses or claims, and
3884 subject to subsections (b) through (e), the rights of an
3885 assignee are subject to:

3886 (1) all terms of the agreement between the account
3887 debtor and assignor and any defense or claim in recoupment
3888 arising from the transaction that gave rise to the contract;
3889 and

3890 (2) any other defense or claim of the account debtor
3891 against the assignor which accrues before the account debtor
3892 receives a notification of the assignment ~~authenticated~~ signed



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3893 by the assignor or the assignee.

3894 (b) Account debtor's claim reduces amount owed to
3895 assignee. Subject to subsection (c) and except as otherwise
3896 provided in subsection (d), the claim of an account debtor
3897 against an assignor may be asserted against an assignee under
3898 subsection (a) only to reduce the amount the account debtor
3899 owes.

3900 (c) Rule for individual under other law. This section
3901 is subject to law other than this article which establishes a
3902 different rule for an account debtor who is an individual and
3903 who incurred the obligation primarily for personal, family, or
3904 household purposes.

3905 (d) Omission of required statement in consumer
3906 transaction. In a consumer transaction, if a record evidences
3907 the account debtor's obligation, if law other than this
3908 article requires that the record include a statement to the
3909 effect that the account debtor's recovery against an assignee
3910 with respect to claims and defenses against the assignor may
3911 not exceed amounts paid by the account debtor under the
3912 record, and if the record does not include such a statement,
3913 the extent to which a claim of an account debtor against the
3914 assignor may be asserted against an assignee is determined as
3915 if the record included such a statement.

3916 (e) Inapplicability to health-care-insurance
3917 receivable. This section does not apply to an assignment of a
3918 health-care-insurance receivable."

3919 "§7-9A-406. Discharge of account debtor; notification
3920 of assignment; identification and proof of assignment;



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3921 restrictions on assignment of accounts, chattel paper, payment
3922 intangibles, and promissory notes ineffective.

3923 (a) Discharge of account debtor; effect of
3924 notification. Subject to subsections (b) through (i) and
3925 subsection (1), an account debtor on an account, chattel
3926 paper, or a payment intangible may discharge its obligation by
3927 paying the assignor until, but not after, the account debtor
3928 receives a notification, ~~authenticated~~ signed by the assignor
3929 or the assignee, that the amount due or to become due has been
3930 assigned and that payment is to be made to the assignee. After
3931 receipt of the notification, the account debtor may discharge
3932 its obligation by paying the assignee and may not discharge
3933 the obligation by paying the assignor.

3934 (b) When notification ineffective. Subject to
3935 ~~subsection~~ subsections (h) and (1), notification is
3936 ineffective under subsection (a):

3937 (1) if it does not reasonably identify the rights
3938 assigned;

3939 (2) to the extent that an agreement between an account
3940 debtor and a seller of a payment intangible limits the account
3941 debtor's duty to pay a person other than the seller and the
3942 limitation is effective under law other than this article; or

3943 (3) at the option of an account debtor, if the
3944 notification notifies the account debtor to make less than the
3945 full amount of any installment or other periodic payment to
3946 the assignee, even if:

3947 (A) only a portion of the account, chattel paper, or
3948 payment intangible has been assigned to that assignee;



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3949 (B) a portion has been assigned to another assignee; or

3950 (C) the account debtor knows that the assignment to
3951 that assignee is limited.

3952 (c) Proof of assignment. Subject to ~~subsection~~
3953 subsections (h) and (l), if requested by the account debtor,
3954 an assignee shall seasonably furnish reasonable proof that the
3955 assignment has been made. Unless the assignee complies, the
3956 account debtor may discharge its obligation by paying the
3957 assignor, even if the account debtor has received a
3958 notification under subsection (a).

3959 (d) Term restricting assignment generally ineffective.
3960 In this subsection, "promissory note" includes a negotiable
3961 instrument that evidences chattel paper. Except as otherwise
3962 provided in subsection (e) and Sections 7-2A-303 and 7-9A-407,
3963 and subject to subsection (h), a term in an agreement between
3964 an account debtor and an assignor or in a promissory note is
3965 ineffective to the extent that it:

3966 (1) prohibits, restricts, or requires the consent of
3967 the account debtor or person obligated on the promissory note
3968 to the assignment or transfer of, or the creation, attachment,
3969 perfection, or enforcement of a security interest in, the
3970 account, chattel paper, payment intangible, or promissory
3971 note; or

3972 (2) provides that the assignment or transfer or the
3973 creation, attachment, perfection, or enforcement of the
3974 security interest may give rise to a default, breach, right of
3975 recoupment, claim, defense, termination, right of termination,
3976 or remedy under the account, chattel paper, payment



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3977 intangible, or promissory note.

3978 (e) Inapplicability of subsection (d) to certain sales.
3979 Subsection (d) does not apply to the sale of a payment
3980 intangible or promissory note, other than a sale pursuant to a
3981 disposition under Section 7-9A-610 or an acceptance of
3982 collateral under Section 7-9A-620.

3983 (f) Legal restrictions on assignment generally
3984 ineffective. Except as otherwise provided in Sections 7-2A-303
3985 and 7-9A-407 and subject to subsections (h) and (i), a rule of
3986 law, statute, or regulation that prohibits, restricts, or
3987 requires the consent of a government, governmental body or
3988 official, or account debtor to the assignment or transfer of,
3989 or creation of a security interest in, an account or chattel
3990 paper is ineffective to the extent that the rule of law,
3991 statute, or regulation:

3992 (1) prohibits, restricts, or requires the consent of
3993 the government, governmental body or official, or account
3994 debtor to the assignment or transfer of, or the creation,
3995 attachment, perfection, or enforcement of a security interest
3996 in the account or chattel paper; or

3997 (2) provides that the assignment or transfer or the
3998 creation, attachment, perfection, or enforcement of the
3999 security interest may give rise to a default, breach, right of
4000 recoupment, claim, defense, termination, right of termination,
4001 or remedy under the account or chattel paper.

4002 (g) Subsection (b)(3) not waivable. Subject to
4003 ~~subsection~~ subsections (h) and (1), an account debtor may not
4004 waive or vary its option under subsection (b)(3).



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4005 (h) Rule for individual under other law. This section
4006 is subject to law other than this article which establishes a
4007 different rule for an account debtor who is an individual and
4008 who incurred the obligation primarily for personal, family, or
4009 household purposes.

4010 (i) Inapplicability to health-care-insurance
4011 receivable. This section does not apply to an assignment of a
4012 health-care-insurance receivable.

4013 (j) Section prevails over inconsistent law. This
4014 section prevails over any inconsistent provision of an
4015 existing or future statute, rule, or regulation of this State
4016 unless the provision is contained in a statute of this State,
4017 refers expressly to this section, and states that the
4018 provision prevails over this section.

4019 (k) [Reserved].

4020 (l) Inapplicability of certain subsections. Subsections
4021 (a), (b), (c), and (g) do not apply to a controllable account
4022 or controllable payment intangible.

4023 "§7-9A-408. Restrictions on assignment of promissory
4024 notes, health-care-insurance receivables, and certain general
4025 intangibles ineffective.

4026 (a) Term restricting assignment generally ineffective.
4027 Except as otherwise provided in subsection (b), a term in a
4028 promissory note or in an agreement between an account debtor
4029 and a debtor which relates to a health-care-insurance
4030 receivable or a general intangible, including a contract,
4031 permit, license, or franchise, and which term prohibits,
4032 restricts, or requires the consent of the person obligated on



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4033 the promissory note or the account debtor to, the assignment
4034 or transfer of, or creation, attachment, or perfection of a
4035 security interest in, the promissory note,
4036 health-care-insurance receivable, or general intangible, is
4037 ineffective to the extent that the term:

4038 (1) would impair the creation, attachment, or
4039 perfection of a security interest; or

4040 (2) provides that the assignment or transfer or the
4041 creation, attachment, or perfection of the security interest
4042 may give rise to a default, breach, right of recoupment,
4043 claim, defense, termination, right of termination, or remedy
4044 under the promissory note, health-care-insurance receivable,
4045 or general intangible.

4046 (b) Applicability of subsection (a) to sales of certain
4047 rights to payment. Subsection (a) applies to a security
4048 interest in a payment intangible or promissory note only if
4049 the security interest arises out of a sale of the payment
4050 intangible or promissory note, other than a sale pursuant to a
4051 disposition under Section 7-9A-610 or an acceptance of
4052 collateral under Section 7-9A-620.

4053 (c) Legal restrictions on assignment generally
4054 ineffective. A rule of law, statute, or regulation that
4055 prohibits, restricts, or requires the consent of a government,
4056 governmental body or official, person obligated on a
4057 promissory note, or account debtor to the assignment or
4058 transfer of, or creation of a security interest in, a
4059 promissory note, health-care-insurance receivable, or general
4060 intangible, including a contract, permit, license, or



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4061 franchise between an account debtor and a debtor, is
4062 ineffective to the extent that the rule of law, statute, or
4063 regulation:

4064 (1) would impair the creation, attachment, or
4065 perfection of a security interest; or

4066 (2) provides that the assignment or transfer or the
4067 creation, attachment, or perfection of the security interest
4068 may give rise to a default, breach, right of recoupment,
4069 claim, defense, termination, right of termination, or remedy
4070 under the promissory note, health-care-insurance receivable,
4071 or general intangible.

4072 (d) Limitation on ineffectiveness under subsections (a)
4073 and (c). To the extent that a term in a promissory note or in
4074 an agreement between an account debtor and a debtor which
4075 relates to a health-care-insurance receivable or general
4076 intangible or a rule of law, statute, or regulation described
4077 in subsection (c) would be effective under law other than this
4078 article but is ineffective under subsection (a) or (c), the
4079 creation, attachment, or perfection of a security interest in
4080 the promissory note, health-care-insurance receivable, or
4081 general intangible:

4082 (1) is not enforceable against the person obligated on
4083 the promissory note or the account debtor;

4084 (2) does not impose a duty or obligation on the person
4085 obligated on the promissory note or the account debtor;

4086 (3) does not require the person obligated on the
4087 promissory note or the account debtor to recognize the
4088 security interest, pay or render performance to the secured



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4089 party, or accept payment or performance from the secured
4090 party;

4091 (4) does not entitle the secured party to use or assign
4092 the debtor's rights under the promissory note,
4093 health-care-insurance receivable, or general intangible,
4094 including any related information or materials furnished to
4095 the debtor in the transaction giving rise to the promissory
4096 note, health-care-insurance receivable, or general intangible;

4097 (5) does not entitle the secured party to use, assign,
4098 possess, or have access to any trade secrets or confidential
4099 information of the person obligated on the promissory note or
4100 the account debtor; and

4101 (6) does not entitle the secured party to enforce the
4102 security interest in the promissory note,
4103 health-care-insurance receivable, or general intangible.

4104 (e) Section prevails over inconsistent law. This
4105 section prevails over any inconsistent provision of an
4106 existing or future statute, rule, or regulation of this State
4107 unless the provision is contained in a statute of this State,
4108 refers expressly to this section, and states that the
4109 provision prevails over this section.

4110 (f) [Reserved.]

4111 (g) "Promissory note." In this section, "promissory
4112 note" includes a negotiable instrument that evidences chattel
4113 paper.

4114 "§7-9A-509. Persons entitled to file a record.

4115 (a) Person entitled to file record. A person may file
4116 an initial financing statement, amendment that adds collateral



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4117 covered by a financing statement, or amendment that adds a
4118 debtor to a financing statement only if:

4119 (1) the debtor authorizes the filing in ~~an~~
4120 ~~authenticated~~ a signed record or pursuant to subsection (b) or
4121 (c); or

4122 (2) the person holds an agricultural lien that has
4123 become effective at the time of filing and the financing
4124 statement covers only collateral in which the person holds an
4125 agricultural lien.

4126 (b) Security agreement as authorization. By
4127 ~~authenticating~~ signing or becoming bound as debtor by a
4128 security agreement, a debtor or new debtor authorizes the
4129 filing of an initial financing statement, and an amendment,
4130 covering:

4131 (1) the collateral described in the security agreement;
4132 and

4133 (2) property that becomes collateral under Section
4134 7-9A-315(a)(2), whether or not the security agreement
4135 expressly covers proceeds.

4136 (c) Acquisition of collateral as authorization. By
4137 acquiring collateral in which a security interest or
4138 agricultural lien continues under Section 7-9A-315(a)(1), a
4139 debtor authorizes the filing of an initial financing
4140 statement, and an amendment, covering the collateral and
4141 property that becomes collateral under Section 7-9A-315(a)(2).

4142 (d) Person entitled to file certain amendments. A
4143 person may file an amendment other than an amendment that adds
4144 collateral covered by a financing statement or an amendment



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4145 that adds a debtor to a financing statement only if:

4146 (1) the secured party of record authorizes the filing;

4147 or

4148 (2) the amendment is a termination statement for a
4149 financing statement as to which the secured party of record
4150 has failed to file or send a termination statement as required
4151 by Section 7-9A-513(a) or (c), the debtor authorizes the
4152 filing, and the termination statement indicates that the
4153 debtor authorized it to be filed.

4154 (e) Multiple secured parties of record. If there is
4155 more than one secured party of record for a financing
4156 statement, each secured party of record may authorize the
4157 filing of an amendment under subsection (d)."

4158 "§7-9A-513. Termination statement.

4159 (a) Consumer goods. A secured party shall cause the
4160 secured party of record for a financing statement to file a
4161 termination statement for the financing statement if the
4162 financing statement covers consumer goods and:

4163 (1) there is no obligation secured by the collateral
4164 covered by the financing statement and no commitment to make
4165 an advance, incur an obligation, or otherwise give value; or

4166 (2) the debtor did not authorize the filing of the
4167 initial financing statement.

4168 (b) Time for compliance with subsection (a). To comply
4169 with subsection (a), a secured party shall cause the secured
4170 party of record to file the termination statement:

4171 (1) within one month after there is no obligation
4172 secured by the collateral covered by the financing statement



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4173 and no commitment to make an advance, incur an obligation, or
4174 otherwise give value; or

4175 (2) if earlier, within 20 days after the secured party
4176 receives ~~an authenticated~~ a signed demand from a debtor.

4177 (c) Other collateral. In cases not governed by
4178 subsection (a), within 20 days after a secured party receives
4179 ~~an authenticated~~ a signed demand from a debtor, the secured
4180 party shall cause the secured party of record for a financing
4181 statement to send to the debtor a termination statement for
4182 the financing statement or file the termination statement in
4183 the filing office if:

4184 (1) except in the case of a financing statement
4185 covering accounts or chattel paper that has been sold or goods
4186 that are the subject of a consignment, there is no obligation
4187 secured by the collateral covered by the financing statement
4188 and no commitment to make an advance, incur an obligation, or
4189 otherwise give value;

4190 (2) the financing statement covers accounts or chattel
4191 paper that has been sold but as to which the account debtor or
4192 other person obligated has discharged its obligation;

4193 (3) the financing statement covers goods that were the
4194 subject of a consignment to the debtor but are not in the
4195 debtor's possession; or

4196 (4) the debtor did not authorize the filing of the
4197 initial financing statement.

4198 (d) Effect of filing termination statement. Except as
4199 otherwise provided in Section 7-9A-510, upon the filing of a
4200 termination statement with the filing office, the financing



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4201 statement to which the termination statement relates ceases to
4202 be effective. Except as otherwise provided in Section
4203 7-9A-510, for purposes of Sections 7-9A-519(g), 7-9A-522(a),
4204 and 7-9A-523(c), the filing with the filing office of a
4205 termination statement relating to a financing statement that
4206 indicates that the debtor is a transmitting utility also
4207 causes the effectiveness of the financing statement to lapse."

4208 "§7-9A-601. Rights after default; judicial enforcement;
4209 consignor or buyer of accounts, chattel paper, payment
4210 intangibles, or promissory notes.

4211 (a) Rights of secured party after default. After
4212 default, a secured party has the rights provided in this part
4213 and, except as otherwise provided in Section 7-9A-602, those
4214 provided by agreement of the parties. A secured party:

4215 (1) may reduce a claim to judgment, foreclose, or
4216 otherwise enforce the claim, security interest, or
4217 agricultural lien by any available judicial procedure; and

4218 (2) if the collateral is documents, may proceed either
4219 as to the documents or as to the goods they cover.

4220 (b) Rights and duties of secured party in possession or
4221 control. A secured party in possession of collateral or
4222 control of collateral under Section 7-7-106, 7-9A-104,
4223 7-9A-105, 7-9A-106, ~~or~~ 7-9A-107, or 7-9A-107A has the rights
4224 and duties provided in Section 7-9A-207.

4225 (c) Rights cumulative; simultaneous exercise. The
4226 rights under subsections (a) and (b) are cumulative and may be
4227 exercised simultaneously.

4228 (d) Rights of debtor and obligor. Except as otherwise



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4229 provided in subsection (g) and Section 7-9A-605, after
4230 default, a debtor and an obligor have the rights provided in
4231 this part and by agreement of the parties.

4232 (e) Lien of levy after judgment. If a secured party has
4233 reduced its claim to judgment, the lien of any levy that may
4234 be made upon the collateral by virtue of an execution based
4235 upon the judgment relates back to the earliest of:

4236 (1) the date of perfection of the security interest or
4237 agricultural lien in the collateral;

4238 (2) the date of filing a financing statement covering
4239 the collateral; or

4240 (3) any date specified in a statute under which the
4241 agricultural lien was created.

4242 (f) Execution sale. A sale pursuant to an execution is
4243 a foreclosure of the security interest or agricultural lien by
4244 judicial procedure within the meaning of this section. A
4245 secured party may purchase at the sale and thereafter hold the
4246 collateral free of any other requirements of this article.

4247 (g) Consignor or buyer of certain rights to payment.
4248 Except as otherwise provided in Section 7-9A-607(c), this part
4249 imposes no duties upon a secured party that is a consignor or
4250 is a buyer of accounts, chattel paper, payment intangibles, or
4251 promissory notes."

4252 "§7-9A-605. Unknown debtor or secondary obligor.

4253 A(a) In general: No duty owed by secured party. Except
4254 as provided in subsection (b), a secured party does not owe a
4255 duty based on its status as secured party:

4256 (1) to a person that is a debtor or obligor, unless the



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4257 secured party knows:

4258 (A) that the person is a debtor or obligor;

4259 (B) the identity of the person; and

4260 (C) how to communicate with the person; or

4261 (2) to a secured party or lienholder that has filed a

4262 financing statement against a person, unless the secured party

4263 knows:

4264 (A) that the person is a debtor; and

4265 (B) the identity of the person.

4266 (b) Exception: Secured party owes duty to debtor or

4267 obligor. A secured party owes a duty based on its status as a

4268 secured party to a person if, at the time the secured party

4269 obtains control of collateral that is a controllable account,

4270 controllable electronic record, or controllable payment

4271 intangible or at the time the security interest attaches to

4272 the collateral, whichever is later:

4273 (1) the person is a debtor or obligor; and

4274 (2) the secured party knows that the information in

4275 subsection (a)(1)(A), (B), or (C) relating to the person is

4276 not provided by the collateral, a record attached to or

4277 logically associated with the collateral, or the system in

4278 which the collateral is recorded."

4279 "§7-9A-608. Application of proceeds of collection or

4280 enforcement; liability for deficiency and right to surplus.

4281 (a) Application of proceeds, surplus, and deficiency if

4282 obligation secured. If a security interest or agricultural

4283 lien secures payment or performance of an obligation, the

4284 following rules apply:



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4285 (1) A secured party shall apply or pay over for
4286 application the cash proceeds of collection or enforcement
4287 under Section 7-9A-607 in the following order to:

4288 (A) the reasonable expenses of collection and
4289 enforcement and, to the extent provided for by agreement and
4290 not prohibited by law, reasonable attorney's fees and legal
4291 expenses incurred by the secured party;

4292 (B) the satisfaction of obligations secured by the
4293 security interest or agricultural lien under which the
4294 collection or enforcement is made; and

4295 (C) the satisfaction of obligations secured by any
4296 subordinate security interest in or other lien on the
4297 collateral subject to the security interest or agricultural
4298 lien under which the collection or enforcement is made if the
4299 secured party receives ~~an authenticated~~ a signed demand for
4300 proceeds before distribution of the proceeds is completed.

4301 (2) If requested by a secured party, a holder of a
4302 subordinate security interest or other lien shall furnish
4303 reasonable proof of the interest or lien within a reasonable
4304 time. Unless the holder complies, the secured party need not
4305 comply with the holder's demand under paragraph (1)(C).

4306 (3) A secured party need not apply or pay over for
4307 application noncash proceeds of collection and enforcement
4308 under Section 7-9A-607 unless the failure to do so would be
4309 commercially unreasonable. A secured party that applies or
4310 pays over for application noncash proceeds shall do so in a
4311 commercially reasonable manner.

4312 (4) A secured party shall account to and pay a debtor



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4313 for any surplus, and the obligor is liable for any deficiency.

4314 (b) No surplus or deficiency in sales of certain rights
4315 to payment. If the underlying transaction is a sale of
4316 accounts, chattel paper, payment intangibles, or promissory
4317 notes, the debtor is not entitled to any surplus, and the
4318 obligor is not liable for any deficiency."

4319 "§7-9A-611. Notification before disposition of
4320 collateral.

4321 (a) "Notification date." In this section, "notification
4322 date" means the earlier of the date on which:

4323 (1) a secured party sends to the debtor and any
4324 secondary obligor ~~an authenticated~~ a signed notification of
4325 disposition; or

4326 (2) the debtor and any secondary obligor waive the
4327 right to notification.

4328 (b) Notification of disposition required. Except as
4329 otherwise provided in subsection (d), a secured party that
4330 disposes of collateral under Section 7-9A-610 shall send to
4331 the persons specified in subsection (c) a reasonable
4332 ~~authenticated~~ signed notification of disposition.

4333 (c) Persons to be notified. To comply with subsection
4334 (b), the secured party shall send ~~an authenticated~~ a signed
4335 notification of disposition to:

4336 (1) the debtor;

4337 (2) any secondary obligor; and

4338 (3) if the collateral is other than consumer goods:

4339 (A) any other person from which the secured party has
4340 received, before the notification date, ~~an authenticated~~ a



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4341 signed notification of a claim of an interest in the
4342 collateral;

4343 (B) any other secured party or lienholder that, 10 days
4344 before the notification date, held a security interest in or
4345 other lien on the collateral perfected by the filing of a
4346 financing statement that:

4347 (i) identified the collateral;

4348 (ii) was indexed under the debtor's name as of that
4349 date; and

4350 (iii) was filed in the office in which to file a
4351 financing statement against the debtor covering the collateral
4352 as of that date; and

4353 (C) any other secured party that, 10 days before the
4354 notification date, held a security interest in the collateral
4355 perfected by compliance with a statute, regulation, or treaty
4356 described in Section 7-9A-311(a).

4357 (d) Subsection (b) inapplicable: Perishable collateral;
4358 recognized market. Subsection (b) does not apply if the
4359 collateral is perishable or threatens to decline speedily in
4360 value or is of a type customarily sold on a recognized market.

4361 (e) Compliance with subsection (c)(3)(B). A secured
4362 party complies with the requirement for notification
4363 prescribed by subsection (c)(3)(B) if:

4364 (1) not later than 20 days or earlier than 30 days
4365 before the notification date, the secured party requests, in a
4366 commercially reasonable manner, information concerning
4367 financing statements indexed under the debtor's name in the
4368 office indicated in subsection (c)(3)(B); and



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4369 (2) before the notification date, the secured party:

4370 (A) did not receive a response to the request for
4371 information; or

4372 (B) received a response to the request for information
4373 and sent ~~an authenticated~~ a signed notification of disposition
4374 to each secured party or other lienholder named in that
4375 response whose financing statement covered the collateral."

4376 "§7-9A-613. Contents and form of notification before
4377 disposition of collateral: general.

4378 (a) Content and form of notification. Except in a
4379 consumer-goods transaction, the following rules apply:

4380 (1) The contents of a notification of disposition are
4381 sufficient if the notification:

4382 (A) describes the debtor and the secured party;

4383 (B) describes the collateral that is the subject of the
4384 intended disposition;

4385 (C) states the method of intended disposition;

4386 (D) states that the debtor is entitled to an accounting
4387 of the unpaid indebtedness and states the charge, if any, for
4388 an accounting; and

4389 (E) states the time and place of a public disposition
4390 or the time after which any other disposition is to be made.

4391 (2) Whether the contents of a notification that lacks
4392 any of the information specified in paragraph (1) are
4393 nevertheless sufficient is a question of fact.

4394 (3) The contents of a notification providing
4395 substantially the information specified in paragraph (1) are
4396 sufficient, even if the notification includes:



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4397 (A) information not specified by that paragraph; or
4398 (B) minor errors that are not seriously misleading.

4399 (4) A particular phrasing of the notification is not
4400 required.

4401 (5) The following form of notification and the form
4402 appearing in Section 7-9A-614 (a) (3), when completed in
4403 accordance with the instructions in subsection (b) and Section
4404 7-9A-614 (b), each provides sufficient information:

~~NOTIFICATION OF DISPOSITION OF COLLATERAL~~

~~To: _____ (Name of debtor, obligor, or other
4407 person to which the notification is sent)~~

~~From: _____ (Name, address, and telephone number
4409 of secured party)~~

~~Name of Debtor(s): _____ (Include only if debtor(s)
4411 are not an addressee)~~

~~For a public disposition:~~

~~We will sell or lease or license, as applicable, the
4414 _____ (describe collateral) to the highest qualified bidder
4415 in public as follows:~~

~~Day and Date:~~

~~Time:~~

~~Place:~~

~~For a private disposition:~~

~~We will sell or lease or license, as applicable, the
4421 _____ (describe collateral) privately some time after
4422 _____ (day and date).~~

~~You are entitled to an accounting of the unpaid
4424 indebtedness secured by the property that we intend to sell or~~



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4425 ~~lease or license, as applicable, for a charge of \$ _____. You~~
4426 ~~may request an accounting by calling us at _____ (telephone~~
4427 ~~number).~~

4428 ~~[End of Form]~~

4429 NOTIFICATION OF DISPOSITION OF COLLATERAL

4430 To: (Name of debtor, obligor, or other person to which
4431 the notification is sent)

4432 From: (Name, address, and telephone number of secured
4433 party)

4434 {1} Name of any debtor that is not an addressee: (name
4435 of each debtor)

4436 {2} We will sell (describe collateral) (to the highest
4437 qualified bidder) at public sale. A sale could include a lease
4438 or license. The sale will be held as follows:

4439 (Date)

4440 (Time)

4441 (Place)

4442 {3} We will sell (describe collateral) at private sale
4443 sometime after (date). A sale could include a lease or
4444 license.

4445 {4} You are entitled to an accounting of the unpaid
4446 indebtedness secured by the property that we intend to sell
4447 or, as applicable, lease or license.

4448 {5} If you request an accounting you must pay a charge
4449 of \$ (amount).

4450 {6} You may request an accounting by calling us at
4451 (telephone number).

4452 [End of Form]



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4453 (b) Instructions for form of notification. The
4454 following instructions apply to the form of notification in
4455 subsection (a) (5):

4456 (1) The instructions in this subsection refer to the
4457 numbers in braces before items in the form of notification in
4458 subsection (a) (5). Do not include the numbers or braces in the
4459 notification. The numbers and braces are used only for the
4460 purpose of these instructions.

4461 (2) Include and complete item {1} only if there is a
4462 debtor that is not an addressee of the notification and list
4463 the name or names.

4464 (3) Include and complete either item {2}, if the
4465 notification relates to a public disposition of the
4466 collateral, or item {3}, if the notification relates to a
4467 private disposition of the collateral. If item {2} is
4468 included, include the words "to the highest qualified bidder"
4469 only if applicable.

4470 (4) Include and complete items {4} and {6}.

4471 (5) Include and complete item {5} only if the sender
4472 will charge the recipient for an accounting."

4473 "§7-9A-614. Contents and form of notification before
4474 disposition of collateral: consumer-goods transaction.

4475 (a) Content and form of notification. In a
4476 consumer-goods transaction, the following rules apply:

4477 (1) A notification of disposition must provide the
4478 following information:

4479 (A) the information specified in Section
4480 7-9A-613 (a) (1);



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4481 (B) a description of any liability for a deficiency of
4482 the person to which the notification is sent;

4483 (C) a telephone number from which the amount that must
4484 be paid to the secured party to redeem the collateral under
4485 Section 7-9A-623 is available; and

4486 (D) a telephone number or mailing address from which
4487 additional information concerning the disposition and the
4488 obligation secured is available.

4489 (2) A particular phrasing of the notification is not
4490 required.

4491 (3) The following form of notification, when completed
4492 in accordance with instructions in subsection (b), provides
4493 sufficient information:

4494 ~~Name and address of secured party~~

4495 ~~Date~~

4496 ~~NOTICE OF OUR PLAN TO SELL PROPERTY~~

4497 ~~Name and address of any obligor who is also a debtor~~

4498 ~~Subject: _____ (Identification of Transaction)~~

4499 ~~We have your _____ (describe collateral), because~~
4500 ~~you broke promises in our agreement.~~

4501 ~~For a public disposition:~~

4502 ~~We will sell _____ (describe collateral) at~~

4503 ~~public sale. A sale could include a lease or license. The sale~~
4504 ~~will be held as follows:~~

4505 ~~Date:~~

4506 ~~Time:~~

4507 ~~Place:~~

4508 ~~You may attend the sale and bring bidders if you want.~~



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4509 ~~For a private disposition:~~

4510 ~~We will sell _____ (describe collateral) at private~~
4511 ~~sale some time after _____ (date). A sale could include a~~
4512 ~~lease or license.~~

4513 ~~The money that we get from the sale (after paying our~~
4514 ~~costs) will reduce the amount you owe. If we get less money~~
4515 ~~than you owe, you _____ (will or will not, as~~
4516 ~~applicable) still owe us the difference. If we get more money~~
4517 ~~than you owe, you will get the extra money, unless we must pay~~
4518 ~~it to someone else.~~

4519 ~~You can get the property back at any time before we~~
4520 ~~sell it by paying us the full amount you owe (not just the~~
4521 ~~past due payments), including our expenses. To learn the exact~~
4522 ~~amount you must pay, call us at _____ (telephone number).~~

4523 ~~If you want us to explain to you in writing how we have~~
4524 ~~figured the amount that you owe us, you may call us at~~
4525 ~~_____ (telephone number) or write us at _____~~
4526 ~~(secured party's address) and request a written explanation.~~
4527 ~~We will charge you \$ _____ for the explanation if we sent you~~
4528 ~~another written explanation of the amount you owe us within~~
4529 ~~the last six months.~~

4530 ~~If you need more information about the sale call us at~~
4531 ~~_____ (telephone number) or write us at _____~~
4532 ~~(secured party's address).~~

4533 ~~We are sending this notice to the following other~~
4534 ~~people who have an interest in _____ (describe collateral)~~
4535 ~~or who owe money under your agreement:~~

4536 ~~_____ (Names of all other debtors and~~



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4537 ~~obligors, if any)~~

4538 ~~[End of Form]~~

4539 (Name and address of secured party)

4540 (Date)

4541 NOTICE OF OUR PLAN TO SELL PROPERTY

4542 (Name and address of any obligor who is also a debtor)

4543 Subject: (Identify transaction)

4544 We have your (describe collateral) because you broke
4545 promises in our agreement.

4546 {1} We will sell (describe collateral) at public sale.

4547 A sale could include a lease or license. The sale will be held
4548 as follows:

4549 (Date)

4550 (Time)

4551 (Place)

4552 You may attend the sale and bring bidders if you want.

4553 {2} We will sell (describe collateral) at private sale
4554 sometime after (date). A sale could include a lease or
4555 license.

4556 {3} The money that we get from the sale, after paying
4557 our costs, will reduce the amount you owe. If we get less
4558 money than you owe, you (will or will not, as applicable) owe
4559 us the difference. If we get more money than you owe, you will
4560 get the extra money, unless we must pay it to someone else.

4561 {4} You can get the property back at any time before we
4562 sell it by paying us the full amount you owe, not just the
4563 past due payments, including our expenses. To learn the exact
4564 amount you must pay, call us at (telephone number).



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4593 (6) If a notification under this section is not in the
4594 form of paragraph (3), law other than this article determines
4595 the effect of including information not required by paragraph
4596 (1).

4597 (b) Instructions for form of notification. The
4598 following instructions apply to the form of notification in
4599 subsection (a) (3):

4600 (1) The instructions in this subsection refer to the
4601 numbers in braces before items in the form of notification in
4602 subsection (a) (3). Do not include the numbers or braces in the
4603 notification. The numbers and braces are used only for the
4604 purpose of these instructions.

4605 (2) Include and complete either item {1}, if the
4606 notification relates to a public disposition of the
4607 collateral, or item {2}, if the notification relates to a
4608 private disposition of the collateral.

4609 (3) Include and complete items {3}, {4}, {5}, {6}, and
4610 {7}.

4611 (4) In item {5}, include and complete any one of the
4612 three alternative methods for the explanation: writing,
4613 writing or electronic record, or electronic record.

4614 (5) In item {6}, include the telephone number. In
4615 addition, the sender may include and complete either or both
4616 of the two additional alternative methods of communication,
4617 writing or electronic communication, for the recipient of the
4618 notification to communicate with the sender. Neither of the
4619 two additional methods of communication are required to be
4620 included.



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4621 (6) In item {7}, include and complete the method or
4622 methods for the explanation, writing, writing or electronic
4623 record, or electronic record, which are included in item {5}.

4624 (7) Include and complete item {8} only if a written
4625 explanation is included in item {5} as a method for
4626 communicating the explanation and the sender will charge the
4627 recipient for another written explanation.

4628 (8) In item {9}, include either the telephone number or
4629 the address or both the telephone number and the address. In
4630 addition, the sender may include and complete the additional
4631 method of communication--electronic communication--for the
4632 recipient of the notification to communicate with the sender.
4633 The additional method of electronic communication is not
4634 required to be included.

4635 (9) If item {10} does not apply, insert "None" after
4636 "agreement:". "

4637 "§7-9A-615. Application of proceeds of disposition;
4638 liability for deficiency and right to surplus.

4639 (a) Application of proceeds. A secured party shall
4640 apply or pay over for application the cash proceeds of
4641 disposition under Section 7-9A-610 in the following order to:

4642 (1) the reasonable expenses of retaking, holding,
4643 preparing for disposition, processing, and disposing, and, to
4644 the extent provided for by agreement and not prohibited by
4645 law, reasonable attorney's fees and legal expenses incurred by
4646 the secured party;

4647 (2) the satisfaction of obligations secured by the
4648 security interest or agricultural lien under which the



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4649 disposition is made;

4650 (3) the satisfaction of obligations secured by any
4651 subordinate security interest in or other subordinate lien on
4652 the collateral if:

4653 (A) the secured party receives from the holder of the
4654 subordinate security interest or other lien ~~an authenticated~~ a
4655 signed demand for proceeds before distribution of the proceeds
4656 is completed; and

4657 (B) in a case in which a consignor has an interest in
4658 the collateral, the subordinate security interest or other
4659 lien is senior to the interest of the consignor; and

4660 (4) a secured party that is a consignor of the
4661 collateral if the secured party receives from the consignor ~~an~~
4662 ~~authenticated~~ a signed demand for proceeds before distribution
4663 of the proceeds is completed.

4664 (b) Proof of subordinate interest. If requested by a
4665 secured party, a holder of a subordinate security interest or
4666 other lien shall furnish reasonable proof of the interest or
4667 lien within a reasonable time. Unless the holder does so, the
4668 secured party need not comply with the holder's demand under
4669 subsection (a) (3).

4670 (c) Application of noncash proceeds. A secured party
4671 need not apply or pay over for application noncash proceeds of
4672 disposition under Section 7-9A-610 unless the failure to do so
4673 would be commercially unreasonable. A secured party that
4674 applies or pays over for application noncash proceeds shall do
4675 so in a commercially reasonable manner.

4676 (d) Surplus or deficiency if obligation secured. If the



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4677 security interest under which a disposition is made secures
4678 payment or performance of an obligation, after making the
4679 payments and applications required by subsection (a) and
4680 permitted by subsection (c):

4681 (1) unless subsection (a)(4) requires the secured party
4682 to apply or pay over cash proceeds to a consignor, the secured
4683 party shall account to and pay a debtor for any surplus; and

4684 (2) the obligor is liable for any deficiency.

4685 (e) No surplus or deficiency in sales of certain rights
4686 to payment. If the underlying transaction is a sale of
4687 accounts, chattel paper, payment intangibles, or promissory
4688 notes:

4689 (1) the debtor is not entitled to any surplus; and

4690 (2) the obligor is not liable for any deficiency.

4691 (f) Calculation of surplus or deficiency in disposition
4692 to person related to secured party. The surplus or deficiency
4693 following a disposition is calculated based on the amount of
4694 proceeds that would have been realized in a disposition
4695 complying with this part to a transferee other than the
4696 secured party, a person related to the secured party, or a
4697 secondary obligor if:

4698 (1) the transferee in the disposition is the secured
4699 party, a person related to the secured party, or a secondary
4700 obligor; and

4701 (2) the amount of proceeds of the disposition is
4702 significantly below the range of proceeds that a complying
4703 disposition to a person other than the secured party, a person
4704 related to the secured party, or a secondary obligor would



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4705 have brought.

4706 (g) Cash proceeds received by junior secured party. A
4707 secured party that receives cash proceeds of a disposition in
4708 good faith and without knowledge that the receipt violates the
4709 rights of the holder of a security interest or other lien that
4710 is not subordinate to the security interest or agricultural
4711 lien under which the disposition is made:

4712 (1) takes the cash proceeds free of the security
4713 interest or other lien;

4714 (2) is not obligated to apply the proceeds of the
4715 disposition to the satisfaction of obligations secured by the
4716 security interest or other lien; and

4717 (3) is not obligated to account to or pay the holder of
4718 the security interest or other lien for any surplus."

4719 "§7-9A-616. Explanation of calculation of surplus or
4720 deficiency.

4721 (a) Definitions. In this section:

4722 (1) "Explanation" means a ~~writing~~ record that:

4723 (A) states the amount of the surplus or deficiency;

4724 (B) provides an explanation in accordance with
4725 subsection (c) of how the secured party calculated the surplus
4726 or deficiency;

4727 (C) states, if applicable, that future debits, credits,
4728 charges, including additional credit service charges or
4729 interest, rebates, and expenses may affect the amount of the
4730 surplus or deficiency; and

4731 (D) provides a telephone number or mailing address from
4732 which additional information concerning the transaction is



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4733 available.

4734 (2) "Request" means a record:

4735 (A) ~~authenticated~~signed by a debtor or consumer
4736 obligor;

4737 (B) requesting that the recipient provide an
4738 explanation; and

4739 (C) sent after disposition of the collateral under
4740 Section 7-9A-610.

4741 (b) Explanation of calculation. In a consumer-goods
4742 transaction in which the debtor is entitled to a surplus or a
4743 consumer obligor is liable for a deficiency under Section
4744 7-9A-615, the secured party shall:

4745 (1) send an explanation to the debtor or consumer
4746 obligor, as applicable, after the disposition and:

4747 (A) before or when the secured party accounts to the
4748 debtor and pays any surplus or first makes ~~written~~ demand in a
4749 record on the consumer obligor after the disposition for
4750 payment of the deficiency; and

4751 (B) within 14 days after receipt of a request; or

4752 (2) in the case of a consumer obligor who is liable for
4753 a deficiency, within 14 days after receipt of a request, send
4754 to the consumer obligor a record waiving the secured party's
4755 right to a deficiency.

4756 (c) Required information. To comply with subsection

4757 (a) (1) (B), ~~a writing~~ an explanation must provide the following
4758 information in the following order:

4759 (1) the aggregate amount of obligations secured by the
4760 security interest under which the disposition was made, and,



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4761 if the amount reflects a rebate of unearned interest or credit
4762 service charge, an indication of that fact, calculated as of a
4763 specified date:

4764 (A) if the secured party takes or receives possession
4765 of the collateral after default, not more than 35 days before
4766 the secured party takes or receives possession; or

4767 (B) if the secured party takes or receives possession
4768 of the collateral before default or does not take possession
4769 of the collateral, not more than 35 days before the
4770 disposition;

4771 (2) the amount of proceeds of the disposition;

4772 (3) the aggregate amount of the obligations after
4773 deducting the amount of proceeds;

4774 (4) the amount, in the aggregate or by type, and types
4775 of expenses, including expenses of retaking, holding,
4776 preparing for disposition, processing, and disposing of the
4777 collateral, and attorney's fees secured by the collateral
4778 which are known to the secured party and relate to the current
4779 disposition;

4780 (5) the amount, in the aggregate or by type, and types
4781 of credits, including rebates of interest or credit service
4782 charges, to which the obligor is known to be entitled and
4783 which are not reflected in the amount in paragraph (1); and

4784 (6) the amount of the surplus or deficiency.

4785 (d) Substantial compliance. A particular phrasing of
4786 the explanation is not required. An explanation complying
4787 substantially with the requirements of subsection (a) is
4788 sufficient, even if it includes minor errors that are not



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4789 seriously misleading.

4790 (e) Charges for responses. A debtor or consumer obligor
4791 is entitled without charge to one response to a request under
4792 this section during any six-month period in which the secured
4793 party did not send to the debtor or consumer obligor an
4794 explanation pursuant to subsection (b)(1). The secured party
4795 may require payment of a charge not exceeding ~~\$25~~twenty-five
4796 dollars (\$25) for each additional response."

4797 "§7-9A-619. Transfer of record or legal title.

4798 (a) "Transfer statement." In this section, "transfer
4799 statement" means a record ~~authenticated~~ signed by a secured
4800 party stating:

4801 (1) that the debtor has defaulted in connection with an
4802 obligation secured by specified collateral;

4803 (2) that the secured party has exercised its
4804 post-default remedies with respect to the collateral;

4805 (3) that, by reason of the exercise, a transferee has
4806 acquired the rights of the debtor in the collateral; and

4807 (4) the name and mailing address of the secured party,
4808 debtor, and transferee.

4809 (b) Effect of transfer statement. A transfer statement
4810 entitles the transferee to the transfer of record of all
4811 rights of the debtor in the collateral specified in the
4812 statement in any official filing, recording, registration, or
4813 certificate-of-title system covering the collateral. If a
4814 transfer statement is presented with the applicable fee and
4815 request form to the official or office responsible for
4816 maintaining the system, the official or office shall:



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4817 (1) accept the transfer statement;
4818 (2) promptly amend its records to reflect the transfer;
4819 and
4820 (3) if applicable, issue a new appropriate certificate
4821 of title in the name of the transferee.

4822 (c) Transfer not a disposition; no relief of secured
4823 party's duties. A transfer of the record or legal title to
4824 collateral to a secured party under subsection (b) or
4825 otherwise is not of itself a disposition of collateral under
4826 this article and does not of itself relieve the secured party
4827 of its duties under this article."

4828 "§7-9A-620. Acceptance of collateral in full or partial
4829 satisfaction of obligation; compulsory disposition of
4830 collateral.

4831 (a) Conditions to acceptance in satisfaction. Except as
4832 otherwise provided in subsection (g), a secured party may
4833 accept collateral in full or partial satisfaction of the
4834 obligation it secures only if:

4835 (1) the debtor consents to the acceptance under
4836 subsection (c);

4837 (2) the secured party does not receive, within the time
4838 set forth in subsection (d), a notification of objection to
4839 the proposal ~~authenticated~~ signed by:

4840 (A) a person to which the secured party was required to
4841 send a proposal under Section 7-9A-621; or

4842 (B) any other person, other than the debtor, holding an
4843 interest in the collateral subordinate to the security
4844 interest that is the subject of the proposal;



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4845 (3) if the collateral is consumer goods, the collateral
4846 is not in the possession of the debtor when the debtor
4847 consents to the acceptance; and

4848 (4) subsection (e) does not require the secured party
4849 to dispose of the collateral or the debtor waives the
4850 requirement pursuant to Section 7-9A-624.

4851 (b) Purported acceptance ineffective. A purported or
4852 apparent acceptance of collateral under this section is
4853 ineffective unless:

4854 (1) the secured party consents to the acceptance in ~~an~~
4855 ~~authenticated~~ a signed record or sends a proposal to the
4856 debtor; and

4857 (2) the conditions of subsection (a) are met.

4858 (c) Debtor's consent. For purposes of this section:

4859 (1) a debtor consents to an acceptance of collateral in
4860 partial satisfaction of the obligation it secures only if the
4861 debtor agrees to the terms of the acceptance in a record
4862 ~~authenticated~~ signed after default; and

4863 (2) a debtor consents to an acceptance of collateral in
4864 full satisfaction of the obligation it secures only if the
4865 debtor agrees to the terms of the acceptance in a record
4866 ~~authenticated~~ signed after default or the secured party:

4867 (A) sends to the debtor after default a proposal that
4868 is unconditional or subject only to a condition that
4869 collateral not in the possession of the secured party be
4870 preserved or maintained;

4871 (B) in the proposal, proposes to accept collateral in
4872 full satisfaction of the obligation it secures; and



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4873 (C) does not receive a notification of objection
4874 ~~authenticated~~ signed by the debtor within 20 days after the
4875 proposal is sent.

4876 (d) Effectiveness of notification. To be effective
4877 under subsection (a)(2), a notification of objection must be
4878 received by the secured party:

4879 (1) in the case of a person to which the proposal was
4880 sent pursuant to Section 7-9A-621, within 20 days after
4881 notification was sent to that person; and

4882 (2) in other cases:

4883 (A) within 20 days after the last notification was sent
4884 pursuant to Section 7-9A-621; or

4885 (B) if a notification was not sent, before the debtor
4886 consents to the acceptance under subsection (c).

4887 (e) Mandatory disposition of consumer goods. A secured
4888 party that has taken possession of collateral shall dispose of
4889 the collateral pursuant to Section 7-9A-610 within the time
4890 specified in subsection (f) if:

4891 (1) 60 percent of the cash price has been paid in the
4892 case of a purchase-money security interest in consumer goods;

4893 or

4894 (2) 60 percent of the principal amount of the
4895 obligation secured has been paid in the case of a
4896 non-purchase-money security interest in consumer goods.

4897 (f) Compliance with mandatory disposition requirement.
4898 To comply with subsection (e), the secured party shall dispose
4899 of the collateral:

4900 (1) within 90 days after taking possession; or



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4901 (2) within any longer period to which the debtor and
4902 all secondary obligors have agreed in an agreement to that
4903 effect entered into and ~~authenticated~~ signed after default.

4904 (g) No partial satisfaction in consumer transaction. In
4905 a consumer transaction, a secured party may not accept
4906 collateral in partial satisfaction of the obligation it
4907 secures."

4908 "§7-9A-621. Notification of proposal to accept
4909 collateral.

4910 (a) Persons to which proposal to be sent. A secured
4911 party that desires to accept collateral in full or partial
4912 satisfaction of the obligation it secures shall send its
4913 proposal to:

4914 (1) any person from which the secured party has
4915 received, before the debtor consented to the acceptance, ~~an~~
4916 ~~authenticated~~ a signed notification of a claim of an interest
4917 in the collateral;

4918 (2) any other secured party or lienholder that, 10 days
4919 before the debtor consented to the acceptance, held a security
4920 interest in or other lien on the collateral perfected by the
4921 filing of a financing statement that:

4922 (A) identified the collateral;

4923 (B) was indexed under the debtor's name as of that
4924 date; and

4925 (C) was filed in the office or offices in which to file
4926 a financing statement against the debtor covering the
4927 collateral as of that date; and

4928 (3) any other secured party that, 10 days before the



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4929 debtor consented to the acceptance, held a security interest
4930 in the collateral perfected by compliance with a statute,
4931 regulation, or treaty described in Section 7-9A-311(a).

4932 (b) Proposal to be sent to secondary obligor in partial
4933 satisfaction. A secured party that desires to accept
4934 collateral in partial satisfaction of the obligation it
4935 secures shall send its proposal to any secondary obligor in
4936 addition to the persons described in subsection (a)."

4937 "§7-9A-624. Waiver.

4938 (a) Waiver of disposition notification. A debtor or
4939 secondary obligor may waive the right to notification of
4940 disposition of collateral under Section 7-9A-611 only by an
4941 agreement to that effect entered into and ~~authenticated~~ signed
4942 after default.

4943 (b) Waiver of mandatory disposition. A debtor may waive
4944 the right to require disposition of collateral under Section
4945 7-9A-620(e) only by an agreement to that effect entered into
4946 and ~~authenticated~~ signed after default.

4947 (c) Waiver of redemption right. Except in a
4948 consumer-goods transaction, a debtor or secondary obligor may
4949 waive the right to redeem collateral under Section 7-9A-623
4950 only by an agreement to that effect entered into and
4951 ~~authenticated~~ signed after default."

4952 "§7-9A-628. Nonliability and limitation on liability of
4953 secured party; liability of secondary obligor.

4954 (a) Limitation of liability of secured party for
4955 noncompliance with article. ~~Unless~~ Subject to subsection (f),
4956 unless a secured party knows that a person is a debtor or



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4957 obligor, knows the identity of the person, and knows how to
4958 communicate with the person:

4959 (1) the secured party is not liable to the person, or
4960 to a secured party or lienholder that has filed a financing
4961 statement against the person, for failure to comply with this
4962 article; and

4963 (2) the secured party's failure to comply with this
4964 article does not affect the liability of the person for a
4965 deficiency.

4966 (b) Limitation of liability based on status as secured
4967 party. Subject to subsection (f), a ~~A~~-secured party is not
4968 liable because of its status as secured party:

4969 (1) to a person that is a debtor or obligor, unless the
4970 secured party knows:

4971 (A) that the person is a debtor or obligor;

4972 (B) the identity of the person; and

4973 (C) how to communicate with the person; or

4974 (2) to a secured party or lienholder that has filed a
4975 financing statement against a person, unless the secured party
4976 knows:

4977 (A) that the person is a debtor; and

4978 (B) the identity of the person.

4979 (c) Limitation of liability if reasonable belief that
4980 transaction not a consumer-goods transaction or consumer
4981 transaction. A secured party is not liable to any person, and
4982 a person's liability for a deficiency is not affected, because
4983 of any act or omission arising out of the secured party's
4984 reasonable belief that a transaction is not a consumer-goods



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4985 transaction or a consumer transaction or that goods are not
4986 consumer goods, if the secured party's belief is based on its
4987 reasonable reliance on:

4988 (1) a debtor's representation concerning the purpose
4989 for which collateral was to be used, acquired, or held; or

4990 (2) an obligor's representation concerning the purpose
4991 for which a secured obligation was incurred.

4992 (d) Limitation of liability for statutory damages. A
4993 secured party is not liable to any person under Section
4994 7-9A-625(c) (2) for its failure to comply with Section
4995 7-9A-616.

4996 (e) Limitation of multiple liability for statutory
4997 damages. A secured party is not liable under Section
4998 7-9A-625(c) (2) more than once with respect to any one secured
4999 obligation.

5000 (f) Exception: Limitation of liability under
5001 subsections (a) and (b) does not apply. Subsections (a) and
5002 (b) do not apply to limit the liability of a secured party to
5003 a person if, at the time the secured party obtains control of
5004 collateral that is a controllable account, controllable
5005 electronic record, or controllable payment intangible or at
5006 the time the security interest attaches to the collateral,
5007 whichever is later:

5008 (1) the person is a debtor or obligor; and

5009 (2) the secured party knows that the information in
5010 subsection (b) (1) (A), (B), or (C) relating to the person is
5011 not provided by the collateral, a record attached to or
5012 logically associated with the collateral, or the system in



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5013 [which the collateral is recorded.](#)

5014 Section 2. Sections 7-9A-107A, 7-9A-107B, 7-9A-306A,
5015 7-9A-306B, 7-9A-314A, and 7-9A-326A are added to the Code of
5016 Alabama 1975, to read as follows:

5017 §7-9A-107A. Control of controllable electronic record,
5018 controllable account, or controllable payment intangible.

5019 (a) Control under Section 7-12-105. A secured party has
5020 control of a controllable electronic record as provided in
5021 Section 7-12-105.

5022 (b) Control of controllable account and controllable
5023 payment intangible. A secured party has control of a
5024 controllable account or controllable payment intangible if the
5025 secured party has control of the controllable electronic
5026 record that evidences the controllable account or controllable
5027 payment intangible.

5028 §7-9A-107B. No requirement to acknowledge or confirm;
5029 no duties.

5030 (a) No requirement to acknowledge. A person that has
5031 control under Section 7-9A-104, or 7-9A-105, is not required
5032 to acknowledge that it has control on behalf of another
5033 person.

5034 (b) No duties or confirmation. If a person acknowledges
5035 that it has or will obtain control on behalf of another
5036 person, unless the person otherwise agrees or law other than
5037 this article otherwise provides, the person does not owe any
5038 duty to the other person and is not required to confirm the
5039 acknowledgment to any other person.

5040 §7-9A-306A. Law governing perfection and priority of



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5041 security interests in chattel paper.

5042 (a) Chattel paper evidenced by authoritative electronic
5043 copy. Except as provided in subsection (d), if chattel paper
5044 is evidenced only by an authoritative electronic copy of the
5045 chattel paper or is evidenced by an authoritative electronic
5046 copy and an authoritative tangible copy, the local law of the
5047 chattel paper's jurisdiction governs perfection, the effect of
5048 perfection or nonperfection, and the priority of a security
5049 interest in the chattel paper, even if the transaction does
5050 not bear any relation to the chattel paper's jurisdiction.

5051 (b) Chattel paper's jurisdiction. The following rules
5052 determine the chattel paper's jurisdiction under this section:

5053 (1) If the authoritative electronic copy of the record
5054 evidencing chattel paper, or a record attached to or logically
5055 associated with the electronic copy and readily available for
5056 review, expressly provides that a particular jurisdiction is
5057 the chattel paper's jurisdiction for purposes of this part,
5058 this article, or the Uniform Commercial Code, that
5059 jurisdiction is the chattel paper's jurisdiction.

5060 (2) If paragraph (1) does not apply and the rules of
5061 the system in which the authoritative electronic copy is
5062 recorded are readily available for review and expressly
5063 provide that a particular jurisdiction is the chattel paper's
5064 jurisdiction for purposes of this part, this article, or the
5065 Uniform Commercial Code, that jurisdiction is the chattel
5066 paper's jurisdiction.

5067 (3) If paragraphs (1) and (2) do not apply and the
5068 authoritative electronic copy, or a record attached to or



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5069 logically associated with the electronic copy and readily
5070 available for review, expressly provides that the chattel
5071 paper is governed by the law of a particular jurisdiction,
5072 that jurisdiction is the chattel paper's jurisdiction.

5073 (4) If paragraphs (1), (2), and (3) do not apply and
5074 the rules of the system in which the authoritative electronic
5075 copy is recorded are readily available for review and
5076 expressly provide that the chattel paper or the system is
5077 governed by the law of a particular jurisdiction, that
5078 jurisdiction is the chattel paper's jurisdiction.

5079 (5) If paragraphs (1) through (4) do not apply, the
5080 chattel paper's jurisdiction is the jurisdiction in which the
5081 debtor is located.

5082 (c) Chattel paper evidenced by authoritative tangible
5083 copy. If an authoritative tangible copy of a record evidences
5084 chattel paper and the chattel paper is not evidenced by an
5085 authoritative electronic copy, while the authoritative
5086 tangible copy of the record evidencing chattel paper is
5087 located in a jurisdiction, the local law of that jurisdiction
5088 governs:

5089 (1) perfection of a security interest in the chattel
5090 paper by possession under Section 7-9A-314A; and

5091 (2) the effect of perfection or nonperfection and the
5092 priority of a security interest in the chattel paper.

5093 (d) When perfection governed by law of jurisdiction
5094 where debtor located. The local law of the jurisdiction in
5095 which the debtor is located governs perfection of a security
5096 interest in chattel paper by filing."



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5097 §7-9A-306B. Law governing perfection and priority of
5098 security interests in controllable accounts, controllable
5099 electronic records, and controllable payment intangibles.

5100 (a) Governing law: general rules. Except as provided in
5101 subsection (b), the local law of the controllable electronic
5102 record's jurisdiction specified in Section 7-12-107(c) and (d)
5103 governs perfection, the effect of perfection or nonperfection,
5104 and the priority of a security interest in a controllable
5105 electronic record and a security interest in a controllable
5106 account or controllable payment intangible evidenced by the
5107 controllable electronic record.

5108 (b) When perfection governed by law of jurisdiction
5109 where the debtor is located. The local law of the jurisdiction
5110 in which the debtor is located governs:

5111 (1) perfection of a security interest in a controllable
5112 account, controllable electronic record, or controllable
5113 payment intangible by filing; and

5114 (2) automatic perfection of a security interest in a
5115 controllable payment intangible created by a sale of the
5116 controllable payment intangible.

5117 §7-9A-314A. Perfection by possession and control of
5118 chattel paper.

5119 (a) Perfection by possession and control. A secured
5120 party may perfect a security interest in chattel paper by
5121 taking possession of each authoritative tangible copy of the
5122 record evidencing the chattel paper and obtaining control of
5123 each authoritative electronic copy of the electronic record
5124 evidencing the chattel paper.



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5125 (b) Time of perfection; continuation of perfection. A
5126 security interest is perfected under subsection (a) not
5127 earlier than the time the secured party takes possession and
5128 obtains control and remains perfected under subsection (a)
5129 only while the secured party retains possession and control.

5130 (c) Application of Section 7-9A-313 to perfection by
5131 possession of chattel paper. Subsections (c) and (f) through
5132 (i) of Section 7-9A-313 apply to perfection by possession of
5133 an authoritative tangible copy of a record evidencing chattel
5134 paper.

5135 §7-9A-326A. Priority of security interest in
5136 controllable account, controllable electronic record, and
5137 controllable payment intangible.

5138 A security interest in a controllable account,
5139 controllable electronic record, or controllable payment
5140 intangible held by a secured party having control of the
5141 account, electronic record, or payment intangible has priority
5142 over a conflicting security interest held by a secured party
5143 that does not have control.

5144 Section 3. Article 12 is added to Title 7 of the Code
5145 of Alabama 1975, to read as follows:

5146 ARTICLE 12

5147 CONTROLLABLE ELECTRONIC RECORDS

5148 §7-12-101. Short title.

5149 This article may be cited as Uniform Commercial
5150 Code—Controllable Electronic Records.

5151 §7-12-102. Definitions.

5152 (a) Article 12 definitions. In this article:



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5153 (1) "Controllable electronic record" means a record
5154 stored in an electronic medium that can be subjected to
5155 control under Section 7-12-105. The term does not include a
5156 controllable account, a controllable payment intangible, a
5157 deposit account, an electronic copy of a record evidencing
5158 chattel paper, an electronic document of title, investment
5159 property, a transferable record, or an electronic record that
5160 is currently authorized or adopted by a domestic or foreign
5161 government and is not a medium of exchange that was recorded
5162 and transferable in a system that existed and operated for the
5163 medium of exchange before the medium of exchange was
5164 authorized or adopted by a government.

5165 (2) "Qualifying purchaser" means a purchaser of a
5166 controllable electronic record or an interest in a
5167 controllable electronic record that obtains control of the
5168 controllable electronic record for value, in good faith, and
5169 without notice of a claim of a property right in the
5170 controllable electronic record.

5171 (3) "Transferable record" has the meaning provided for
5172 that term in:

5173 (A) Section 201(a)(1) of the Electronic Signatures in
5174 Global and National Commerce Act, 15 U.S.C. § 7021(a)(1), as
5175 amended; or

5176 (B) Section 8-1A-16(a).

5177 (4) "Value" has the meaning provided in Section
5178 7-3-303(a), as if references in that subsection to an
5179 "instrument" were references to a controllable account,
5180 controllable electronic record, or controllable payment



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5181 intangible.

5182 (b) Definitions in Article 9A. The definitions in
5183 Article 9A of "account debtor," "controllable account,"
5184 "controllable payment intangible," "chattel paper," "deposit
5185 account," and "investment property" apply to this article.

5186 (c) Article 1 definitions and principles. Article 1
5187 contains general definitions and principles of construction
5188 and interpretation applicable throughout this article.

5189 §7-12-103. Relation to Article 9A and consumer laws.

5190 (a) Article 9A governs in case of conflict. If there is
5191 conflict between this article and Article 9A, Article 9A
5192 governs.

5193 (b) Applicable consumer law and other laws. A
5194 transaction subject to this article is subject to any
5195 applicable rule of law that establishes a different rule for
5196 consumers and to (i) any other statute or regulation that
5197 regulates the rates, charges, agreements, and practices for
5198 loans, credit sales, or other extensions of credit and (ii)
5199 any consumer-protection statute or regulation.

5200 §7-12-104. Rights in controllable account, controllable
5201 electronic record, and controllable payment intangible.

5202 (a) Applicability of section to controllable account
5203 and controllable payment intangible. This section applies to
5204 the acquisition and purchase of rights in a controllable
5205 account or controllable payment intangible, including the
5206 rights and benefits under subsections (c), (d), (e), (g), and
5207 (h) of a purchaser and qualifying purchaser, in the same
5208 manner this section applies to a controllable electronic



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5209 record.

5210 (b) Control of controllable account and controllable
5211 payment intangible. To determine whether a purchaser of a
5212 controllable account or a controllable payment intangible is a
5213 qualifying purchaser, the purchaser obtains control of the
5214 account or payment intangible if it obtains control of the
5215 controllable electronic record that evidences the account or
5216 payment intangible.

5217 (c) Applicability of other law to acquisition of
5218 rights. Except as provided in this section, law other than
5219 this article determines whether a person acquires a right in a
5220 controllable electronic record and the right the person
5221 acquires.

5222 (d) Shelter principle and purchase of limited interest.
5223 A purchaser of a controllable electronic record acquires all
5224 rights in the controllable electronic record that the
5225 transferor had or had power to transfer, except that a
5226 purchaser of a limited interest in a controllable electronic
5227 record acquires rights only to the extent of the interest
5228 purchased.

5229 (e) Rights of qualifying purchaser. A qualifying
5230 purchaser acquires its rights in the controllable electronic
5231 record free of a claim of a property right in the controllable
5232 electronic record.

5233 (f) Limitation of rights of qualifying purchaser in
5234 other property. Except as provided in subsections (a) and (e)
5235 for a controllable account and a controllable payment
5236 intangible or law other than this article, a qualifying



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5237 purchaser takes a right to payment, right to performance, or
5238 other interest in property evidenced by the controllable
5239 electronic record subject to a claim of a property right in
5240 the right to payment, right to performance, or other interest
5241 in property.

5242 (g) No-action protection for qualifying purchaser. An
5243 action may not be asserted against a qualifying purchaser
5244 based on both a purchase by the qualifying purchaser of a
5245 controllable electronic record and a claim of a property right
5246 in another controllable electronic record, whether the action
5247 is framed in conversion, replevin, constructive trust,
5248 equitable lien, or other theory.

5249 (h) Filing not notice. Filing of a financing statement
5250 under Article 9A is not notice of a claim of a property right
5251 in a controllable electronic record.

5252 §7-12-105. Control of controllable electronic record.

5253 (a) General rule: control of controllable electronic
5254 record. A person has control of a controllable electronic
5255 record if the electronic record, a record attached to or
5256 logically associated with the electronic record, or a system
5257 in which the electronic record is recorded:

5258 (1) gives the person:

5259 (A) power to avail itself of substantially all the
5260 benefits from the electronic record; and

5261 (B) exclusive power, subject to subsection (b), to:

5262 (i) prevent others from availing themselves of
5263 substantially all the benefits from the electronic record; and

5264 (ii) transfer control of the electronic record to



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5265 another person or cause another person to obtain control of
5266 another controllable electronic record as a result of the
5267 transfer of the electronic record; and

5268 (2) enables the person readily to identify itself in
5269 any way, including by name, identifying number, cryptographic
5270 key, office, or account number, as having the powers specified
5271 in paragraph (1).

5272 (b) Meaning of exclusive. Subject to subsection (c), a
5273 power is exclusive under subsection (a)(1)(B)(i) and (ii) even
5274 if:

5275 (1) the controllable electronic record, a record
5276 attached to or logically associated with the electronic
5277 record, or a system in which the electronic record is recorded
5278 limits the use of the electronic record or has a protocol
5279 programmed to cause a change, including a transfer or loss of
5280 control or a modification of benefits afforded by the
5281 electronic record; or

5282 (2) the power is shared with another person.

5283 (c) When power not shared with another person. A power
5284 of a person is not shared with another person under subsection
5285 (b)(2) and the person's power is not exclusive if:

5286 (1) the person can exercise the power only if the power
5287 also is exercised by the other person; and

5288 (2) the other person:

5289 (A) can exercise the power without exercise of the
5290 power by the person; or

5291 (B) is the transferor to the person of an interest in
5292 the controllable electronic record or a controllable account



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5293 or controllable payment intangible evidenced by the
5294 controllable electronic record.

5295 (d) Presumption of exclusivity of certain powers. If a
5296 person has the powers specified in subsection (a)(1)(B)(i) and
5297 (ii), the powers are presumed to be exclusive.

5298 (e) Control through another person. A person has
5299 control of a controllable electronic record if another person,
5300 other than the transferor to the person of an interest in the
5301 controllable electronic record or a controllable account or
5302 controllable payment intangible evidenced by the controllable
5303 electronic record:

5304 (1) has control of the electronic record and
5305 acknowledges that it has control on behalf of the person; or

5306 (2) obtains control of the electronic record after
5307 having acknowledged that it will obtain control of the
5308 electronic record on behalf of the person.

5309 (f) No requirement to acknowledge. A person that has
5310 control under this section is not required to acknowledge that
5311 it has control on behalf of another person.

5312 (g) No duties or confirmation. If a person acknowledges
5313 that it has or will obtain control on behalf of another
5314 person, unless the person otherwise agrees or law other than
5315 this article or Article 9A otherwise provides, the person does
5316 not owe any duty to the other person and is not required to
5317 confirm the acknowledgment to any other person.

5318 §7-12-106. Discharge of account debtor on controllable
5319 account or controllable payment intangible.

5320 (a) Discharge of account debtor. An account debtor on a



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5321 controllable account or controllable payment intangible may
5322 discharge its obligation by paying:

5323 (1) the person having control of the controllable
5324 electronic record that evidences the controllable account or
5325 controllable payment intangible; or

5326 (2) except as provided in subsection (b), a person that
5327 formerly had control of the controllable electronic record.

5328 (b) Content and effect of notification. Subject to
5329 subsection (d), the account debtor may not discharge its
5330 obligation by paying a person that formerly had control of the
5331 controllable electronic record if the account debtor receives
5332 a notification that:

5333 (1) is signed by a person that formerly had control or
5334 the person to which control was transferred;

5335 (2) reasonably identifies the controllable account or
5336 controllable payment intangible;

5337 (3) notifies the account debtor that control of the
5338 controllable electronic record that evidences the controllable
5339 account or controllable payment intangible was transferred;

5340 (4) identifies the transferee, in any reasonable way,
5341 including by name, identifying number, cryptographic key,
5342 office, or account number; and

5343 (5) provides a commercially reasonable method by which
5344 the account debtor is to pay the transferee.

5345 (c) Discharge following effective notification. After
5346 receipt of a notification that complies with subsection (b),
5347 the account debtor may discharge its obligation by paying in
5348 accordance with the notification and may not discharge the



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5349 obligation by paying a person that formerly had control.

5350 (d) When notification ineffective. Subject to
5351 subsection (h), notification is ineffective under subsection
5352 (b):

5353 (1) unless, before the notification is sent, the
5354 account debtor and the person that, at that time, had control
5355 of the controllable electronic record that evidences the
5356 controllable account or controllable payment intangible agree
5357 in a signed record to a commercially reasonable method by
5358 which a person may furnish reasonable proof that control has
5359 been transferred;

5360 (2) to the extent an agreement between the account
5361 debtor and seller of a payment intangible limits the account
5362 debtor's duty to pay a person other than the seller and the
5363 limitation is effective under law other than this article; or

5364 (3) at the option of the account debtor, if the
5365 notification notifies the account debtor to:

5366 (A) divide a payment;

5367 (B) make less than the full amount of an installment or
5368 other periodic payment; or

5369 (C) pay any part of a payment by more than one method
5370 or to more than one person.

5371 (e) Proof of transfer of control. Subject to subsection
5372 (h), if requested by the account debtor, the person giving the
5373 notification under subsection (b) seasonably shall furnish
5374 reasonable proof, using the method in the agreement referred
5375 to in subsection (d)(1), that control of the controllable
5376 electronic record has been transferred. Unless the person



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5377 complies with the request, the account debtor may discharge
5378 its obligation by paying a person that formerly had control,
5379 even if the account debtor has received a notification under
5380 subsection (b).

5381 (f) What constitutes reasonable proof. A person
5382 furnishes reasonable proof under subsection (e) that control
5383 has been transferred if the person demonstrates, using the
5384 method in the agreement referred to in subsection (d)(1), that
5385 the transferee has the power to:

5386 (1) avail itself of substantially all the benefits from
5387 the controllable electronic record;

5388 (2) prevent others from availing themselves of
5389 substantially all the benefits from the controllable
5390 electronic record; and

5391 (3) transfer the powers specified in paragraphs (1) and
5392 (2) to another person.

5393 (g) Rights not waivable. Subject to subsection (h), an
5394 account debtor may not waive or vary its rights under
5395 subsections (d)(1) and (e) or its option under subsection
5396 (d)(3).

5397 (h) Rule for individual under other law. This section
5398 is subject to law other than this article which establishes a
5399 different rule for an account debtor who is an individual and
5400 who incurred the obligation primarily for personal, family, or
5401 household purposes.

5402 §7-12-107. Governing law.

5403 (a) Governing law: general rule. Except as provided in
5404 subsection (b), the local law of a controllable electronic



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5405 record's jurisdiction governs a matter covered by this
5406 article.

5407 (b) Governing law: Section 7-12-106. For a controllable
5408 electronic record that evidences a controllable account or
5409 controllable payment intangible, the local law of the
5410 controllable electronic record's jurisdiction governs a matter
5411 covered by Section 7-12-106 unless an effective agreement
5412 determines that the local law of another jurisdiction governs.

5413 (c) Controllable electronic record's jurisdiction. The
5414 following rules determine a controllable electronic record's
5415 jurisdiction under this section:

5416 (1) If the controllable electronic record, or a record
5417 attached to or logically associated with the controllable
5418 electronic record and readily available for review, expressly
5419 provides that a particular jurisdiction is the controllable
5420 electronic record's jurisdiction for purposes of this article
5421 or the Uniform Commercial Code, that jurisdiction is the
5422 controllable electronic record's jurisdiction.

5423 (2) If paragraph (1) does not apply and the rules of
5424 the system in which the controllable electronic record is
5425 recorded are readily available for review and expressly
5426 provide that a particular jurisdiction is the controllable
5427 electronic record's jurisdiction for purposes of this article
5428 or the Uniform Commercial Code, that jurisdiction is the
5429 controllable electronic record's jurisdiction.

5430 (3) If paragraphs (1) and (2) do not apply and the
5431 controllable electronic record, or a record attached to or
5432 logically associated with the controllable electronic record



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5433 and readily available for review, expressly provides that the
5434 controllable electronic record is governed by the law of a
5435 particular jurisdiction, that jurisdiction is the controllable
5436 electronic record's jurisdiction.

5437 (4) If paragraphs (1), (2), and (3) do not apply and
5438 the rules of the system in which the controllable electronic
5439 record is recorded are readily available for review and
5440 expressly provide that the controllable electronic record or
5441 the system is governed by the law of a particular
5442 jurisdiction, that jurisdiction is the controllable electronic
5443 record's jurisdiction.

5444 (5) If paragraphs (1) through (4) do not apply, the
5445 controllable electronic record's jurisdiction is the District
5446 of Columbia.

5447 (d) Applicability of Article 12. If subsection (c) (5)
5448 applies and Article 12 is not in effect in the District of
5449 Columbia without material modification, the governing law for
5450 a matter covered by this article is the law of the District of
5451 Columbia as though Article 12 were in effect in the District
5452 of Columbia without material modification. In this subsection,
5453 "Article 12" means Article 12 of Uniform Commercial Code
5454 Amendments (2022).

5455 (e) Relation of matter or transaction to controllable
5456 electronic record's jurisdiction not necessary. To the extent
5457 subsections (a) and (b) provide that the local law of the
5458 controllable electronic record's jurisdiction governs a matter
5459 covered by this article, that law governs even if the matter
5460 or a transaction to which the matter relates does not bear any



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5461 relation to the controllable electronic record's jurisdiction.

5462 (f) Rights of purchasers determined at time of
5463 purchase. The rights acquired under Section 7-12-104 by a
5464 purchaser or qualifying purchaser are governed by the law
5465 applicable under this section at the time of purchase.

5466 Section 4. Article 12A is added to Title 7, Code of
5467 Alabama 1975, to read as follows:

5468 Article 12A. Transitional Provisions for Uniform
5469 Commercial Code Amendments (2022).

5470 Part 1. General Provisions and Definitions.

5471 Section 7-12A-101. Short Title.

5472 This article may be cited as Transitional Provisions
5473 for Uniform Commercial Code Amendments (2022).

5474 Section 7-12A-102. Definitions.

5475 (a) Article 12A Definitions. In this article:

5476 (1) "Adjustment date" means July 1, 2025, or the date
5477 that is one year after the effective date of this act,
5478 whichever is later.

5479 (2) "Article 12" means Article 12 of the Uniform
5480 Commercial Code.

5481 (3) "Article 12 property" means a controllable account,
5482 controllable electronic record, or controllable payment
5483 intangible.

5484 (4) "Article 9A" means Article 9A of the Uniform
5485 Commercial Code.

5486 (b) Definitions in other articles. The following
5487 definitions in other articles of the Uniform Commercial Code
5488 apply to this article:



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5489 "Controllable account." Section 7-9A-102.

5490 "Controllable electronic record." Section 7-12-102.

5491 "Controllable payment intangible." Section 7-9A-102.

5492 "Financing statement." Section 7-9A-102.

5493 (c) Article 1 definitions and principles. Article 1 of
5494 the Uniform Commercial Code contains general definitions and
5495 principles of construction and interpretation applicable
5496 throughout this article.

5497 Part 2. General Transitional Provision.

5498 Section 7-12A-201. Saving Clause.

5499 Except as provided in Part 3, a transaction validly
5500 entered into before the effective date of this act and the
5501 rights, duties, and interests flowing from the transaction
5502 remain valid thereafter and may be terminated, completed,
5503 consummated, or enforced as required or permitted by law other
5504 than the Uniform Commercial Code or, if applicable, the
5505 Uniform Commercial Code, as though this act had not taken
5506 effect.

5507 Part 3. Transitional Provisions for Articles 9A and 12.

5508 Section 7-12A-301. Saving Clause.

5509 (a) Pre-effective date transaction, lien, or interest.

5510 Except as provided in this part, Article 9A as amended by this
5511 act and Article 12 apply to a transaction, lien, or other
5512 interest in property, even if the transaction, lien, or
5513 interest was entered into, created, or acquired before the
5514 effective date of this act.

5515 (b) Continuing validity. Except as provided in
5516 subsection (c) and Sections 7-12A-302 through 7-12A-306:



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5517 (1) a transaction, lien, or interest in property that
5518 was validly entered into, created, or transferred before the
5519 effective date of this act and was not governed by the Uniform
5520 Commercial Code, but would be subject to Article 9A as amended
5521 by this act or Article 12 if it had been entered into,
5522 created, or transferred on or after the effective date of this
5523 act, including the rights, duties, and interests flowing from
5524 the transaction, lien, or interest, remains valid on and after
5525 the effective date of this act; and

5526 (2) the transaction, lien, or interest may be
5527 terminated, completed, consummated, and enforced as required
5528 or permitted by this act or by the law that would apply if
5529 this act had not taken effect.

5530 (c) Pre-effective date proceeding. This act does not
5531 affect an action, case, or proceeding commenced before the
5532 effective date of this act.

5533 Section 7-12A-302. Security Interest Perfected Before
5534 Effective Date.

5535 (a) Continuing perfection: perfection requirements
5536 satisfied. A security interest that is enforceable and
5537 perfected immediately before the effective date of this act is
5538 a perfected security interest under this act if, on the
5539 effective date of this act, the requirements for
5540 enforceability and perfection under this act are satisfied
5541 without further action.

5542 (b) Continuing perfection: enforceability or perfection
5543 requirements not satisfied. If a security interest is
5544 enforceable and perfected immediately before the effective



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5545 date of this act, but the requirements for enforceability or
5546 perfection under this act are not satisfied on the effective
5547 date of this act, the security interest:

5548 (1) is a perfected security interest until the earlier
5549 of the time perfection would have ceased under the law in
5550 effect immediately before the effective date of this act or
5551 the adjustment date;

5552 (2) remains enforceable thereafter only if the security
5553 interest satisfies the requirements for enforceability under
5554 Section 7-9A-203, as amended by this act, before the
5555 adjustment date; and

5556 (3) remains perfected thereafter only if the
5557 requirements for perfection under this act are satisfied
5558 before the time specified in paragraph (1).

5559 Section 7-12A-303. Security Interest Unperfected Before
5560 Effective Date.

5561 A security interest that is enforceable immediately
5562 before the effective date of this act but is unperfected at
5563 that time:

5564 (1) remains an enforceable security interest until the
5565 adjustment date;

5566 (2) remains enforceable thereafter if the security
5567 interest becomes enforceable under Section 7-9A-203, as
5568 amended by this act, on the effective date of this act or
5569 before the adjustment date; and

5570 (3) becomes perfected:

5571 (A) without further action, on the effective date of
5572 this act if the requirements for perfection under this act are



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5573 satisfied before or at that time; or

5574 (B) when the requirements for perfection are satisfied
5575 if the requirements are satisfied after that time.

5576 Section 7-12A-304. Effectiveness of Actions Taken
5577 Before Effective Date.

5578 (a) Pre-effective-date action; attachment and
5579 perfection before adjustment date. If action, other than the
5580 filing of a financing statement, is taken before the effective
5581 date of this act and the action would have resulted in
5582 perfection of the security interest had the security interest
5583 become enforceable before the effective date of this act, the
5584 action is effective to perfect a security interest that
5585 attaches under this act before the adjustment date. An
5586 attached security interest becomes unperfected on the
5587 adjustment date unless the security interest becomes a
5588 perfected security interest under this act before the
5589 adjustment date.

5590 (b) Pre-effective-date filing. The filing of a
5591 financing statement before the effective date of this act is
5592 effective to perfect a security interest on the effective date
5593 of this act to the extent the filing would satisfy the
5594 requirements for perfection under this act.

5595 (c) Pre-effective-date enforceability action. The
5596 taking of an action before the effective date of this act is
5597 sufficient for the enforceability of a security interest on
5598 the effective date of this act if the action would satisfy the
5599 requirements for enforceability under this act.

5600 Section 7-12A-305. Priority.



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5601 (a) Determination of priority. Subject to subsections
5602 (b) and (c), this act determines the priority of conflicting
5603 claims to collateral.

5604 (b) Established priorities. Subject to subsection (c),
5605 if the priorities of claims to collateral were established
5606 before the effective date of this act, Article 9A as in effect
5607 before the effective date of this act determines priority.

5608 (c) Determination of certain priorities on adjustment
5609 date. On the adjustment date, to the extent the priorities
5610 determined by Article 9A as amended by this act modify the
5611 priorities established before the effective date of this act,
5612 the priorities of claims to Article 12 property established
5613 before the effective date of this act cease to apply.

5614 Section 7-12A-306. Priority of Claims When Priority
5615 Rules of Article 9A Do Not Apply.

5616 (a) Determination of priority. Subject to subsections
5617 (b) and (c), Article 12 determines the priority of conflicting
5618 claims to Article 12 property when the priority rules of
5619 Article 9A as amended by this act do not apply.

5620 (b) Established priorities. Subject to subsection (c),
5621 when the priority rules of Article 9A as amended by this act
5622 do not apply and the priorities of claims to Article 12
5623 property were established before the effective date of this
5624 act, law other than Article 12 determines priority.

5625 (c) Determination of certain priorities on adjustment
5626 date. When the priority rules of Article 9A as amended by this
5627 act do not apply, to the extent the priorities determined by
5628 this act modify the priorities established before the



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5629 effective date of this act, the priorities of claims to
5630 Article 12 property established before the effective date of
5631 this act cease to apply on the adjustment date.

5632 Section 5. This act shall become effective January 1,
5633 2024, following its passage and approval by the Governor, or
5634 its otherwise becoming law.