

S T A T E O F N E W Y O R K

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I N A S S E M B L Y

May 30, 2014

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Weinstein)
 -- read once and referred to the Committee on Judiciary

AN ACT to amend the uniform commercial code, in relation to modernizing commercial law in New York state; and to repeal certain provisions of such code relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Article 1 of the uniform commercial code is REPEALED and a
 2 new article 1 is added to read as follows:
 3 ARTICLE 1
 4 PART 1
 5 GENERAL PROVISIONS
 6 SECTION 1--101. SHORT TITLES.
 7 (A) THIS ACT MAY BE CITED AS THE UNIFORM COMMERCIAL CODE.
 8 (B) THIS ARTICLE MAY BE CITED AS UNIFORM COMMERCIAL CODE -- GENERAL
 9 PROVISIONS.
 10 SECTION 1--102. SCOPE OF ARTICLE.
 11 THIS ARTICLE APPLIES TO A TRANSACTION TO THE EXTENT THAT IT IS
 12 GOVERNED BY ANOTHER ARTICLE OF THIS ACT.
 13 SECTION 1--103. CONSTRUCTION OF UNIFORM COMMERCIAL CODE TO PROMOTE ITS
 14 PURPOSES AND POLICIES; APPLICABILITY OF SUPPLEMENTAL
 15 PRINCIPLES OF LAW.
 16 (A) THIS ACT MUST BE LIBERALLY CONSTRUED AND APPLIED TO PROMOTE ITS
 17 UNDERLYING PURPOSES AND POLICIES, WHICH ARE:
 18 (1) TO SIMPLIFY, CLARIFY, AND MODERNIZE THE LAW GOVERNING COMMERCIAL
 19 TRANSACTIONS;
 20 (2) TO PERMIT THE CONTINUED EXPANSION OF COMMERCIAL PRACTICES THROUGH
 21 CUSTOM, USAGE, AND AGREEMENT OF THE PARTIES; AND
 22 (3) TO MAKE UNIFORM THE LAW AMONG THE VARIOUS JURISDICTIONS.
 23 (B) UNLESS DISPLACED BY THE PARTICULAR PROVISIONS OF THIS ACT, THE
 24 PRINCIPLES OF LAW AND EQUITY, INCLUDING THE LAW MERCHANT AND THE LAW
 25 RELATIVE TO CAPACITY TO CONTRACT, PRINCIPAL AND AGENT, ESTOPPEL, FRAUD,
 26 MISREPRESENTATION, DURESS, COERCION, MISTAKE, BANKRUPTCY, AND OTHER
 27 VALIDATING OR INVALIDATING CAUSE SUPPLEMENT ITS PROVISIONS.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
 [] is old law to be omitted.

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1 SECTION 1--104. CONSTRUCTION AGAINST IMPLIED REPEAL.
 2 THIS ACT BEING A GENERAL ACT INTENDED AS A UNIFIED COVERAGE OF ITS
 3 SUBJECT MATTER, NO PART OF IT SHALL BE DEEMED TO BE IMPLIEDLY REPEALED
 4 BY SUBSEQUENT LEGISLATION IF SUCH CONSTRUCTION CAN REASONABLY BE
 5 AVOIDED.
 6 SECTION 1--105. SEVERABILITY.
 7 IF ANY PROVISION OR CLAUSE OF THIS ACT OR ITS APPLICATION TO ANY
 8 PERSON OR CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY DOES NOT AFFECT
 9 OTHER PROVISIONS OR APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN EFFECT
 10 WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE
 11 PROVISIONS OF THIS ACT ARE SEVERABLE.
 12 SECTION 1--106. USE OF SINGULAR AND PLURAL; GENDER.
 13 IN THIS ACT, UNLESS THE STATUTORY CONTEXT OTHERWISE REQUIRES:
 14 (1) WORDS IN THE SINGULAR NUMBER INCLUDE THE PLURAL, AND THOSE IN THE
 15 PLURAL INCLUDE THE SINGULAR; AND
 16 (2) WORDS OF ANY GENDER ALSO REFER TO ANY OTHER GENDER.
 17 SECTION 1--107. SECTION CAPTIONS.

18 SECTION CAPTIONS ARE PART OF THIS ACT. THE SUBSECTION HEADINGS IN
 19 ARTICLE NINE ARE NOT PART OF THIS ACT FOR PURPOSES OF CONSTRUCTION.
 20 SECTION 1--108. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL
 21 COMMERCE ACT.

22 THIS ARTICLE MODIFIES, LIMITS, AND SUPERSEDES THE FEDERAL ELECTRONIC
 23 SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15 U.S.C. SECTION 7001
 24 ET SEQ., EXCEPT THAT NOTHING IN THIS ARTICLE MODIFIES, LIMITS, OR SUPER-
 25 SEDES SECTION 7001(C) OF THAT ACT OR AUTHORIZES ELECTRONIC DELIVERY OF
 26 ANY OF THE NOTICES DESCRIBED IN SECTION 7003(B) OF THAT ACT.

27 PART 2

28 GENERAL DEFINITIONS AND PRINCIPLES OF INTERPRETATION
 29 SECTION 1--201. GENERAL DEFINITIONS.

30 (A) UNLESS THE CONTEXT OTHERWISE REQUIRES, WORDS OR PHRASES DEFINED IN
 31 THIS SECTION, OR IN THE ADDITIONAL DEFINITIONS CONTAINED IN OTHER ARTI-
 32 CLES OF THIS ACT THAT APPLY TO PARTICULAR ARTICLES OR PARTS THEREOF,
 33 HAVE THE MEANINGS STATED.

34 (B) SUBJECT TO DEFINITIONS CONTAINED IN OTHER ARTICLES OF THIS ACT
 35 THAT APPLY TO PARTICULAR ARTICLES OR PARTS THEREOF:

36 (1) "ACTION", IN THE SENSE OF A JUDICIAL PROCEEDING, INCLUDES RECOUN-
 37 TMENT, COUNTERCLAIM, SET-OFF, SUIT IN EQUITY, AND ANY OTHER PROCEEDING IN
 38 WHICH RIGHTS ARE DETERMINED.

39 (2) "AGGRIEVED PARTY" MEANS A PARTY ENTITLED TO PURSUE A REMEDY.

40 (3) "AGREEMENT", AS DISTINGUISHED FROM "CONTRACT", MEANS THE BARGAIN
 41 OF THE PARTIES IN FACT, AS FOUND IN THEIR LANGUAGE OR INFERRED FROM
 42 OTHER CIRCUMSTANCES, INCLUDING COURSE OF PERFORMANCE, COURSE OF DEALING,
 43 OR USAGE OF TRADE AS PROVIDED IN SECTION 1--303.

44 (4) "BANK" MEANS A PERSON ENGAGED IN THE BUSINESS OF BANKING AND
 45 INCLUDES A SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION, AND
 46 TRUST COMPANY.

47 (5) "BEARER" MEANS A PERSON IN CONTROL OF A NEGOTIABLE ELECTRONIC
 48 DOCUMENT OF TITLE OR A PERSON IN POSSESSION OF A NEGOTIABLE INSTRUMENT,
 49 NEGOTIABLE TANGIBLE DOCUMENT OF TITLE, OR CERTIFICATED SECURITY THAT IS
 50 PAYABLE TO BEARER OR INDORSED IN BLANK.

51 (6) "BILL OF LADING" MEANS A DOCUMENT OF TITLE EVIDENCING THE RECEIPT
 52 OF GOODS FOR SHIPMENT ISSUED BY A PERSON ENGAGED IN THE BUSINESS OF
 53 DIRECTLY OR INDIRECTLY TRANSPORTING OR FORWARDING GOODS. THE TERM DOES
 54 NOT INCLUDE A WAREHOUSE RECEIPT.

55 (7) "BRANCH" INCLUDES A SEPARATELY INCORPORATED FOREIGN BRANCH OF A
 56 BANK.

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1 (8) "BURDEN OF ESTABLISHING" A FACT MEANS THE BURDEN OF PERSUADING THE
 2 TRIER OF FACT THAT THE EXISTENCE OF THE FACT IS MORE PROBABLE THAN ITS
 3 NONEXISTENCE.

4 (9) "BUYER IN ORDINARY COURSE OF BUSINESS" MEANS A PERSON THAT BUYS
 5 GOODS IN GOOD FAITH, WITHOUT KNOWLEDGE THAT THE SALE VIOLATES THE RIGHTS
 6 OF ANOTHER PERSON IN THE GOODS, AND IN THE ORDINARY COURSE FROM A
 7 PERSON, OTHER THAN A PAWNBROKER, IN THE BUSINESS OF SELLING GOODS OF
 8 THAT KIND. A PERSON BUYS GOODS IN THE ORDINARY COURSE IF THE SALE TO THE
 9 PERSON COMPORTS WITH THE USUAL OR CUSTOMARY PRACTICES IN THE KIND OF
 10 BUSINESS IN WHICH THE SELLER IS ENGAGED OR WITH THE SELLER'S OWN USUAL
 11 OR CUSTOMARY PRACTICES. A PERSON THAT SELLS OIL, GAS, OR OTHER MINERALS
 12 AT THE WELLHEAD OR MINEHEAD IS A PERSON IN THE BUSINESS OF SELLING GOODS
 13 OF THAT KIND. A BUYER IN ORDINARY COURSE OF BUSINESS MAY BUY FOR CASH,
 14 BY EXCHANGE OF OTHER PROPERTY, OR ON SECURED OR UNSECURED CREDIT, AND
 15 MAY ACQUIRE GOODS OR DOCUMENTS OF TITLE UNDER A PREEXISTING CONTRACT FOR
 16 SALE. ONLY A BUYER THAT TAKES POSSESSION OF THE GOODS OR HAS A RIGHT TO
 17 RECOVER THE GOODS FROM THE SELLER UNDER ARTICLE 2 MAY BE A BUYER IN
 18 ORDINARY COURSE OF BUSINESS. "BUYER IN ORDINARY COURSE OF BUSINESS" DOES
 19 NOT INCLUDE A PERSON THAT ACQUIRES GOODS IN A TRANSFER IN BULK OR AS
 20 SECURITY FOR OR IN TOTAL OR PARTIAL SATISFACTION OF A MONEY DEBT.

21 (10) "CONSPICUOUS", WITH REFERENCE TO A TERM, MEANS SO WRITTEN,
 22 DISPLAYED, OR PRESENTED THAT A REASONABLE PERSON AGAINST WHICH IT IS TO
 23 OPERATE OUGHT TO HAVE NOTICED IT. WHETHER A TERM IS "CONSPICUOUS" OR NOT
 24 IS A DECISION FOR THE COURT.

25 (11) "CONSUMER" MEANS AN INDIVIDUAL WHO ENTERS INTO A TRANSACTION
 26 PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES.

27 (12) "CONTRACT", AS DISTINGUISHED FROM "AGREEMENT", MEANS THE TOTAL
 28 LEGAL OBLIGATION THAT RESULTS FROM THE PARTIES' AGREEMENT AS DETERMINED
 29 BY THIS ACT AS SUPPLEMENTED BY ANY OTHER APPLICABLE LAWS.

30 (13) "CREDITOR" INCLUDES A GENERAL CREDITOR, A SECURED CREDITOR, A
 31 LIEN CREDITOR, AND ANY REPRESENTATIVE OF CREDITORS, INCLUDING AN ASSIG-

32 NEE FOR THE BENEFIT OF CREDITORS, A TRUSTEE IN BANKRUPTCY, A RECEIVER IN
33 EQUITY, AND AN EXECUTOR OR ADMINISTRATOR OF AN INSOLVENT DEBTOR'S OR
34 ASSIGNOR'S ESTATE.

35 (14) "DEFENDANT" INCLUDES A PERSON IN THE POSITION OF DEFENDANT IN A
36 COUNTERCLAIM, CROSS-CLAIM, OR THIRD-PARTY CLAIM.

37 (15) "DELIVERY", WITH RESPECT TO AN ELECTRONIC DOCUMENT OF TITLE MEANS
38 VOLUNTARY TRANSFER OF CONTROL AND WITH RESPECT TO AN INSTRUMENT, A
39 TANGIBLE DOCUMENT OF TITLE, OR CHATTEL PAPER, MEANS VOLUNTARY TRANSFER
40 OF POSSESSION.

41 (16) "DOCUMENT OF TITLE" MEANS A RECORD (A) THAT IN THE REGULAR COURSE
42 OF BUSINESS OR FINANCING IS TREATED AS ADEQUATELY EVIDENCING THAT THE
43 PERSON IN POSSESSION OR CONTROL OF THE RECORD IS ENTITLED TO RECEIVE,
44 CONTROL, HOLD, AND DISPOSE OF THE RECORD AND THE GOODS THE RECORD COVERS
45 AND (B) THAT PURPORTS TO BE ISSUED BY OR ADDRESSED TO A BAILEE AND TO
46 COVER GOODS IN THE BAILEE'S POSSESSION WHICH ARE EITHER IDENTIFIED OR
47 ARE FUNGIBLE PORTIONS OF AN IDENTIFIED MASS. THE TERM INCLUDES A BILL OF
48 LADING, TRANSPORT DOCUMENT, DOCK WARRANT, DOCK RECEIPT, WAREHOUSE
49 RECEIPT, AND ORDER FOR DELIVERY OF GOODS. AN ELECTRONIC DOCUMENT OF
50 TITLE MEANS A DOCUMENT OF TITLE EVIDENCED BY A RECORD CONSISTING OF
51 INFORMATION STORED IN AN ELECTRONIC MEDIUM. A TANGIBLE DOCUMENT OF TITLE
52 MEANS A DOCUMENT OF TITLE EVIDENCED BY A RECORD CONSISTING OF INFORMA-
53 TION THAT IS INSCRIBED ON A TANGIBLE MEDIUM.

54 (17) "FAULT" MEANS A DEFAULT, BREACH, OR WRONGFUL ACT OR OMISSION.

55 (18) "FUNGIBLE GOODS" MEANS:

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1 (A) GOODS OF WHICH ANY UNIT, BY NATURE OR USAGE OF TRADE, IS THE
2 EQUIVALENT OF ANY OTHER LIKE UNIT; OR

3 (B) GOODS THAT BY AGREEMENT ARE TREATED AS EQUIVALENT.

4 (19) "GENUINE" MEANS FREE OF FORGERY OR COUNTERFEITING.

5 (20) "GOOD FAITH" MEANS HONESTY IN FACT IN THE TRANSACTION OR CONDUCT
6 CONCERNED.

7 (21) "HOLDER" MEANS:

8 (A) THE PERSON IN POSSESSION OF A NEGOTIABLE INSTRUMENT THAT IS PAYA-
9 BLE EITHER TO BEARER OR TO AN IDENTIFIED PERSON THAT IS THE PERSON IN
10 POSSESSION; OR

11 (B) THE PERSON IN POSSESSION OF A NEGOTIABLE TANGIBLE DOCUMENT OF
12 TITLE IF THE GOODS ARE DELIVERABLE EITHER TO BEARER OR TO THE ORDER OF
13 THE PERSON IN POSSESSION; OR

14 (C) THE PERSON IN CONTROL OF A NEGOTIABLE ELECTRONIC DOCUMENT OF
15 TITLE.

16 (22) "INSOLVENCY PROCEEDING" INCLUDES AN ASSIGNMENT FOR THE BENEFIT OF
17 CREDITORS OR OTHER PROCEEDING INTENDED TO LIQUIDATE OR REHABILITATE THE
18 ESTATE OF THE PERSON INVOLVED.

19 (23) "INSOLVENT" MEANS:

20 (A) HAVING GENERALLY CEASED TO PAY DEBTS IN THE ORDINARY COURSE OF
21 BUSINESS OTHER THAN AS A RESULT OF BONA FIDE DISPUTE;

22 (B) BEING UNABLE TO PAY DEBTS AS THEY BECOME DUE; OR

23 (C) BEING INSOLVENT WITHIN THE MEANING OF FEDERAL BANKRUPTCY LAW.

24 (24) "MONEY" MEANS A MEDIUM OF EXCHANGE CURRENTLY AUTHORIZED OR
25 ADOPTED BY A DOMESTIC OR FOREIGN GOVERNMENT. THE TERM INCLUDES A MONE-
26 TARY UNIT OF ACCOUNT ESTABLISHED BY AN INTERGOVERNMENTAL ORGANIZATION OR
27 BY AGREEMENT BETWEEN TWO OR MORE COUNTRIES.

28 (25) "ORGANIZATION" MEANS A PERSON OTHER THAN AN INDIVIDUAL.

29 (26) "PARTY", AS DISTINGUISHED FROM "THIRD PARTY", MEANS A PERSON THAT
30 HAS ENGAGED IN A TRANSACTION OR MADE AN AGREEMENT SUBJECT TO THIS ACT.

31 (27) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS TRUST,
32 ESTATE, TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION,
33 JOINT VENTURE, GOVERNMENT, GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRU-
34 MENTALITY, PUBLIC CORPORATION, OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

35 (28) "PRESENT VALUE" MEANS THE AMOUNT AS OF A DATE CERTAIN OF ONE OR
36 MORE SUMS PAYABLE IN THE FUTURE, DISCOUNTED TO THE DATE CERTAIN BY USE
37 OF EITHER AN INTEREST RATE SPECIFIED BY THE PARTIES IF THAT RATE IS NOT
38 MANIFESTLY UNREASONABLE AT THE TIME THE TRANSACTION IS ENTERED INTO OR,
39 IF AN INTEREST RATE IS NOT SO SPECIFIED, A COMMERCIALY REASONABLE RATE
40 THAT TAKES INTO ACCOUNT THE FACTS AND CIRCUMSTANCES AT THE TIME THE
41 TRANSACTION IS ENTERED INTO.

42 (29) "PURCHASE" MEANS TAKING BY SALE, LEASE, DISCOUNT, NEGOTIATION,
43 MORTGAGE, PLEDGE, LIEN, SECURITY INTEREST, ISSUE OR REISSUE, GIFT, OR
44 ANY OTHER VOLUNTARY TRANSACTION CREATING AN INTEREST IN PROPERTY.

45 (30) "PURCHASER" MEANS A PERSON THAT TAKES BY PURCHASE.

46 (31) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM

47 OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN
48 PERCEIVABLE FORM.

49 (32) "REMEDY" MEANS ANY REMEDIAL RIGHT TO WHICH AN AGGRIEVED PARTY IS
50 ENTITLED WITH OR WITHOUT RESORT TO A TRIBUNAL.

51 (33) "REPRESENTATIVE" MEANS A PERSON EMPOWERED TO ACT FOR ANOTHER,
52 INCLUDING AN AGENT, AN OFFICER OF A CORPORATION OR ASSOCIATION, AND A
53 TRUSTEE, EXECUTOR, OR ADMINISTRATOR OF AN ESTATE.

54 (34) "RIGHT" INCLUDES REMEDY.

55 (35) "SECURITY INTEREST" MEANS AN INTEREST IN PERSONAL PROPERTY OR
56 FIXTURES WHICH SECURES PAYMENT OR PERFORMANCE OF AN OBLIGATION. "SECURI-
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1 TY INTEREST" INCLUDES ANY INTEREST OF A CONSIGNOR AND A BUYER OF
2 ACCOUNTS, CHATTEL PAPER, A PAYMENT INTANGIBLE, OR A PROMISSORY NOTE IN A
3 TRANSACTION THAT IS SUBJECT TO ARTICLE 9. "SECURITY INTEREST" DOES NOT
4 INCLUDE THE SPECIAL PROPERTY INTEREST OF A BUYER OF GOODS ON IDENTIFICA-
5 TION OF THOSE GOODS TO A CONTRACT FOR SALE UNDER SECTION 2--401, BUT A
6 BUYER MAY ALSO ACQUIRE A "SECURITY INTEREST" BY COMPLYING WITH ARTICLE
7 9. EXCEPT AS OTHERWISE PROVIDED IN SECTION 2--505, THE RIGHT OF A SELLER
8 OR LESSOR OF GOODS UNDER ARTICLE 2 OR 2-A TO RETAIN OR ACQUIRE
9 POSSESSION OF THE GOODS IS NOT A "SECURITY INTEREST", BUT A SELLER OR
10 LESSOR MAY ALSO ACQUIRE A "SECURITY INTEREST" BY COMPLYING WITH ARTICLE
11 9. THE RETENTION OR RESERVATION OF TITLE BY A SELLER OF GOODS NOTWITH-
12 STANDING SHIPMENT OR DELIVERY TO THE BUYER UNDER SECTION 2--401 IS
13 LIMITED IN EFFECT TO A RESERVATION OF A "SECURITY INTEREST." WHETHER A
14 TRANSACTION IN THE FORM OF A LEASE CREATES A "SECURITY INTEREST" IS
15 DETERMINED PURSUANT TO SECTION 1--203.

16 (36) "SEND" IN CONNECTION WITH A WRITING, RECORD, OR NOTICE MEANS:

17 (A) TO DEPOSIT IN THE MAIL OR DELIVER FOR TRANSMISSION BY ANY OTHER
18 USUAL MEANS OF COMMUNICATION WITH POSTAGE OR COST OF TRANSMISSION
19 PROVIDED FOR AND PROPERLY ADDRESSED AND, IN THE CASE OF AN INSTRUMENT,
20 TO AN ADDRESS SPECIFIED THEREON OR OTHERWISE AGREED, OR IF THERE BE NONE
21 TO ANY ADDRESS REASONABLE UNDER THE CIRCUMSTANCES; OR

22 (B) IN ANY OTHER WAY TO CAUSE TO BE RECEIVED ANY RECORD OR NOTICE
23 WITHIN THE TIME IT WOULD HAVE ARRIVED IF PROPERLY SENT.

24 (37) "SIGNED" INCLUDES USING ANY SYMBOL EXECUTED OR ADOPTED WITH PRES-
25 ENT INTENTION TO ADOPT OR ACCEPT A WRITING.

26 (38) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF
27 COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, OR ANY TERRITO-
28 RY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED
29 STATES.

30 (39) "SURETY" INCLUDES A GUARANTOR OR OTHER SECONDARY OBLIGOR.

31 (40) "TERM" MEANS A PORTION OF AN AGREEMENT THAT RELATES TO A PARTIC-
32 ULAR MATTER.

33 (41) "UNAUTHORIZED SIGNATURE" MEANS A SIGNATURE MADE WITHOUT ACTUAL,
34 IMPLIED, OR APPARENT AUTHORITY. THE TERM INCLUDES A FORGERY.

35 (42) "WAREHOUSE RECEIPT" MEANS A DOCUMENT OF TITLE ISSUED BY A PERSON
36 ENGAGED IN THE BUSINESS OF STORING GOODS FOR HIRE.

37 (43) "WRITING" INCLUDES PRINTING, TYPEWRITING, OR ANY OTHER INTEN-
38 TIONAL REDUCTION TO TANGIBLE FORM. "WRITTEN" HAS A CORRESPONDING MEAN-
39 ING.

40 SECTION 1--202. NOTICE; KNOWLEDGE.

41 (A) SUBJECT TO SUBSECTION (F), A PERSON HAS "NOTICE" OF A FACT IF THE
42 PERSON:

43 (1) HAS ACTUAL KNOWLEDGE OF IT;

44 (2) HAS RECEIVED A NOTICE OR NOTIFICATION OF IT; OR

45 (3) FROM ALL THE FACTS AND CIRCUMSTANCES KNOWN TO THE PERSON AT THE
46 TIME IN QUESTION, HAS REASON TO KNOW THAT IT EXISTS.

47 (B) "KNOWLEDGE" MEANS ACTUAL KNOWLEDGE. "KNOWS" HAS A CORRESPONDING
48 MEANING.

49 (C) "DISCOVER", "LEARN", OR WORDS OF SIMILAR IMPORT REFER TO KNOWLEDGE
50 RATHER THAN TO REASON TO KNOW.

51 (D) A PERSON "NOTIFIES" OR "GIVES" A NOTICE OR NOTIFICATION TO ANOTHER
52 PERSON BY TAKING SUCH STEPS AS MAY BE REASONABLY REQUIRED TO INFORM THE
53 OTHER PERSON IN ORDINARY COURSE, WHETHER OR NOT THE OTHER PERSON ACTUAL-
54 LY COMES TO KNOW OF IT.

55 (E) SUBJECT TO SUBSECTION (F), A PERSON "RECEIVES" A NOTICE OR NOTIFI-
56 CATION WHEN:

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1 (1) IT COMES TO THAT PERSON'S ATTENTION; OR

2 (2) IT IS DULY DELIVERED IN A FORM REASONABLE UNDER THE CIRCUMSTANCES

3 AT THE PLACE OF BUSINESS THROUGH WHICH THE CONTRACT WAS MADE OR AT
4 ANOTHER LOCATION HELD OUT BY THAT PERSON AS THE PLACE FOR RECEIPT OF
5 SUCH COMMUNICATIONS.

6 (F) NOTICE, KNOWLEDGE, OR A NOTICE OR NOTIFICATION RECEIVED BY AN
7 ORGANIZATION IS EFFECTIVE FOR A PARTICULAR TRANSACTION FROM THE TIME IT
8 IS BROUGHT TO THE ATTENTION OF THE INDIVIDUAL CONDUCTING THAT TRANS-
9 ACTION AND, IN ANY EVENT, FROM THE TIME IT WOULD HAVE BEEN BROUGHT TO
10 THE INDIVIDUAL'S ATTENTION IF THE ORGANIZATION HAD EXERCISED DUE DILI-
11 GENCE. AN ORGANIZATION EXERCISES DUE DILIGENCE IF IT MAINTAINS REASON-
12 ABLE ROUTINES FOR COMMUNICATING SIGNIFICANT INFORMATION TO THE PERSON
13 CONDUCTING THE TRANSACTION AND THERE IS REASONABLE COMPLIANCE WITH THE
14 ROUTINES. DUE DILIGENCE DOES NOT REQUIRE AN INDIVIDUAL ACTING FOR THE
15 ORGANIZATION TO COMMUNICATE INFORMATION UNLESS THE COMMUNICATION IS PART
16 OF THE INDIVIDUAL'S REGULAR DUTIES OR THE INDIVIDUAL HAS REASON TO KNOW
17 OF THE TRANSACTION AND THAT THE TRANSACTION WOULD BE MATERIALLY AFFECTED
18 BY THE INFORMATION.

19 SECTION 1--203. LEASE DISTINGUISHED FROM SECURITY INTEREST.

20 (A) WHETHER A TRANSACTION IN THE FORM OF A LEASE CREATES A LEASE OR
21 SECURITY INTEREST IS DETERMINED BY THE FACTS OF EACH CASE.

22 (B) A TRANSACTION IN THE FORM OF A LEASE CREATES A SECURITY INTEREST
23 IF THE CONSIDERATION THAT THE LESSEE IS TO PAY THE LESSOR FOR THE RIGHT
24 TO POSSESSION AND USE OF THE GOODS IS AN OBLIGATION FOR THE TERM OF THE
25 LEASE AND IS NOT SUBJECT TO TERMINATION BY THE LESSEE, AND:

26 (1) THE ORIGINAL TERM OF THE LEASE IS EQUAL TO OR GREATER THAN THE
27 REMAINING ECONOMIC LIFE OF THE GOODS;

28 (2) THE LESSEE IS BOUND TO RENEW THE LEASE FOR THE REMAINING ECONOMIC
29 LIFE OF THE GOODS OR IS BOUND TO BECOME THE OWNER OF THE GOODS;

30 (3) THE LESSEE HAS AN OPTION TO RENEW THE LEASE FOR THE REMAINING
31 ECONOMIC LIFE OF THE GOODS FOR NO ADDITIONAL CONSIDERATION OR FOR NOMI-
32 NAL ADDITIONAL CONSIDERATION UPON COMPLIANCE WITH THE LEASE AGREEMENT;
33 OR

34 (4) THE LESSEE HAS AN OPTION TO BECOME THE OWNER OF THE GOODS FOR NO
35 ADDITIONAL CONSIDERATION OR FOR NOMINAL ADDITIONAL CONSIDERATION UPON
36 COMPLIANCE WITH THE LEASE AGREEMENT.

37 (C) A TRANSACTION IN THE FORM OF A LEASE DOES NOT CREATE A SECURITY
38 INTEREST MERELY BECAUSE:

39 (1) THE PRESENT VALUE OF THE CONSIDERATION THE LESSEE IS OBLIGATED TO
40 PAY THE LESSOR FOR THE RIGHT TO POSSESSION AND USE OF THE GOODS IS
41 SUBSTANTIALLY EQUAL TO OR IS GREATER THAN THE FAIR MARKET VALUE OF THE
42 GOODS AT THE TIME THE LEASE IS ENTERED INTO;

43 (2) THE LESSEE ASSUMES RISK OF LOSS OF THE GOODS;

44 (3) THE LESSEE AGREES TO PAY, WITH RESPECT TO THE GOODS, TAXES, INSUR-
45 ANCE, FILING, RECORDING, OR REGISTRATION FEES, OR SERVICE OR MAINTENANCE
46 COSTS;

47 (4) THE LESSEE HAS AN OPTION TO RENEW THE LEASE OR TO BECOME THE OWNER
48 OF THE GOODS;

49 (5) THE LESSEE HAS AN OPTION TO RENEW THE LEASE FOR A FIXED RENT THAT
50 IS EQUAL TO OR GREATER THAN THE REASONABLY PREDICTABLE FAIR MARKET RENT
51 FOR THE USE OF THE GOODS FOR THE TERM OF THE RENEWAL AT THE TIME THE
52 OPTION IS TO BE PERFORMED; OR

53 (6) THE LESSEE HAS AN OPTION TO BECOME THE OWNER OF THE GOODS FOR A
54 FIXED PRICE THAT IS EQUAL TO OR GREATER THAN THE REASONABLY PREDICTABLE
55 FAIR MARKET VALUE OF THE GOODS AT THE TIME THE OPTION IS TO BE
56 PERFORMED.

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1 (D) ADDITIONAL CONSIDERATION IS NOMINAL IF IT IS LESS THAN THE
2 LESSEE'S REASONABLY PREDICTABLE COST OF PERFORMING UNDER THE LEASE
3 AGREEMENT IF THE OPTION IS NOT EXERCISED. ADDITIONAL CONSIDERATION IS
4 NOT NOMINAL IF:

5 (1) WHEN THE OPTION TO RENEW THE LEASE IS GRANTED TO THE LESSEE, THE
6 RENT IS STATED TO BE THE FAIR MARKET RENT FOR THE USE OF THE GOODS FOR
7 THE TERM OF THE RENEWAL DETERMINED AT THE TIME THE OPTION IS TO BE
8 PERFORMED; OR

9 (2) WHEN THE OPTION TO BECOME THE OWNER OF THE GOODS IS GRANTED TO THE
10 LESSEE, THE PRICE IS STATED TO BE THE FAIR MARKET VALUE OF THE GOODS
11 DETERMINED AT THE TIME THE OPTION IS TO BE PERFORMED.

12 (E) THE "REMAINING ECONOMIC LIFE OF THE GOODS" AND "REASONABLY
13 PREDICTABLE" FAIR MARKET RENT, FAIR MARKET VALUE, OR COST OF PERFORMING
14 UNDER THE LEASE AGREEMENT MUST BE DETERMINED WITH REFERENCE TO THE FACTS
15 AND CIRCUMSTANCES AT THE TIME THE TRANSACTION IS ENTERED INTO.

16 SECTION 1--204. VALUE.

17 EXCEPT AS OTHERWISE PROVIDED IN ARTICLES 3, 4, AND 5, A PERSON GIVES
18 VALUE FOR RIGHTS IF THE PERSON ACQUIRES THEM:

19 (A) IN RETURN FOR A BINDING COMMITMENT TO EXTEND CREDIT OR FOR THE
20 EXTENSION OF IMMEDIATELY AVAILABLE CREDIT, WHETHER OR NOT DRAWN UPON AND
21 WHETHER OR NOT A CHARGE-BACK IS PROVIDED FOR IN THE EVENT OF DIFFICUL-
22 TIES IN COLLECTION;

23 (B) AS SECURITY FOR, OR IN TOTAL OR PARTIAL SATISFACTION OF, A PREEX-
24 ISTING CLAIM;

25 (C) BY ACCEPTING DELIVERY UNDER A PREEXISTING CONTRACT FOR PURCHASE;
26 OR

27 (D) IN RETURN FOR ANY CONSIDERATION SUFFICIENT TO SUPPORT A SIMPLE
28 CONTRACT.

29 SECTION 1--205. REASONABLE TIME; SEASONABLENESS.

30 (A) WHETHER A TIME FOR TAKING AN ACTION REQUIRED BY THIS ACT IS
31 REASONABLE DEPENDS ON THE NATURE, PURPOSE, AND CIRCUMSTANCES OF THE
32 ACTION.

33 (B) AN ACTION IS TAKEN SEASONABLY IF IT IS TAKEN AT OR WITHIN THE TIME
34 AGREED OR, IF NO TIME IS AGREED, AT OR WITHIN A REASONABLE TIME.

35 SECTION 1--206. PRESUMPTIONS.

36 WHENEVER THIS ACT CREATES A "PRESUMPTION" WITH RESPECT TO A FACT, OR
37 PROVIDES THAT A FACT IS "PRESUMED," THE TRIER OF FACT MUST FIND THE
38 EXISTENCE OF THE FACT UNLESS AND UNTIL EVIDENCE IS INTRODUCED THAT
39 SUPPORTS A FINDING OF ITS NONEXISTENCE.

40 SECTION 1--207. STATUTE OF FRAUDS FOR KINDS OF PERSONAL PROPERTY NOT
41 OTHERWISE COVERED.

42 (A) EXCEPT IN THE CASES DESCRIBED IN SUBSECTION (B) OF THIS SECTION A
43 CONTRACT FOR THE SALE OF PERSONAL PROPERTY IS NOT ENFORCEABLE BY WAY OF
44 ACTION OR DEFENSE BEYOND FIVE THOUSAND DOLLARS IN AMOUNT OR VALUE OF
45 REMEDY UNLESS THERE IS SOME WRITING WHICH INDICATES THAT A CONTRACT FOR
46 SALE HAS BEEN MADE BETWEEN THE PARTIES AT A DEFINED OR STATED PRICE,
47 REASONABLY IDENTIFIES THE SUBJECT MATTER, AND IS SIGNED BY THE PARTY
48 AGAINST WHOM ENFORCEMENT IS SOUGHT OR BY HIS AUTHORIZED AGENT.

49 (B) SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO CONTRACTS FOR THE
50 SALE OF GOODS (SECTION 2--201) NOR OF SECURITIES (SECTION 8--113) NOR TO
51 SECURITY AGREEMENTS (SECTION 9--203).

52 (C) SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO A QUALIFIED
53 FINANCIAL CONTRACT AS THAT TERM IS DEFINED IN PARAGRAPH TWO OF SUBDIVI-
54 SION B OF SECTION 5-701 OF THE GENERAL OBLIGATIONS LAW IF EITHER (1)
55 THERE IS, AS PROVIDED IN PARAGRAPH THREE OF SUBDIVISION B OF SECTION
56 5-701 OF SUCH LAW, SUFFICIENT EVIDENCE TO INDICATE THAT A CONTRACT HAS
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1 BEEN MADE OR (2) THE PARTIES THERETO, BY MEANS OF A PRIOR OR SUBSEQUENT
2 WRITTEN CONTRACT, HAVE AGREED TO BE BOUND BY THE TERMS OF SUCH QUALIFIED
3 FINANCIAL CONTRACT FROM THE TIME THEY REACH AGREEMENT (BY TELEPHONE, BY
4 EXCHANGE OF ELECTRONIC MESSAGES, OR OTHERWISE) ON THOSE TERMS.

5 PART 3

6 TERRITORIAL APPLICABILITY AND GENERAL RULES

7 SECTION 1--301. TERRITORIAL APPLICABILITY; PARTIES' POWER TO CHOOSE
8 APPLICABLE LAW.

9 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, WHEN A TRANSACTION
10 BEARS A REASONABLE RELATION TO THIS STATE AND ALSO TO ANOTHER STATE OR
11 NATION, THE PARTIES MAY AGREE THAT THE LAW EITHER OF THIS STATE OR OF
12 SUCH OTHER STATE OR NATION SHALL GOVERN THEIR RIGHTS AND DUTIES SO LONG
13 AS NONE OF THE PARTIES TO THE TRANSACTION IS A CONSUMER AND A RESIDENT
14 OF NEW YORK. WHERE A CONSUMER IS A RESIDENT OF THE STATE OF NEW YORK,
15 NEW YORK STATE LAW SHALL APPLY.

16 (B) IN THE ABSENCE OF AN AGREEMENT EFFECTIVE UNDER SUBSECTION (A), AND
17 EXCEPT AS PROVIDED IN SUBSECTION (C), THIS ACT APPLIES TO TRANSACTIONS
18 BEARING AN APPROPRIATE RELATION TO THIS STATE.

19 (C) IF ONE OF THE FOLLOWING PROVISIONS OF THIS ACT SPECIFIES THE
20 APPLICABLE LAW, THAT PROVISION GOVERNS AND A CONTRARY AGREEMENT IS
21 EFFECTIVE ONLY TO THE EXTENT PERMITTED BY THE LAW SO SPECIFIED:

- 22 (1) SECTION 2--402;
- 23 (2) SECTIONS 2-A--105 AND 2-A--106;
- 24 (3) SECTION 4--102;
- 25 (4) SECTION 4-A--507;
- 26 (5) SECTION 5--116;
- 27 (6) SECTION 8--110; AND
- 28 (7) SECTIONS 9--301 THROUGH 9--307.

29 SECTION 1--302. VARIATION BY AGREEMENT.

30 (A) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (B) OR ELSEWHERE IN

31 THIS ACT, THE EFFECT OF PROVISIONS OF THIS ACT MAY BE VARIED BY AGREE-
32 MENT.

33 (B) THE OBLIGATIONS OF GOOD FAITH, DILIGENCE, REASONABLENESS, AND CARE
34 PRESCRIBED BY THIS ACT MAY NOT BE DISCLAIMED BY AGREEMENT. THE PARTIES,
35 BY AGREEMENT, MAY DETERMINE THE STANDARDS BY WHICH THE PERFORMANCE OF
36 THOSE OBLIGATIONS IS TO BE MEASURED IF THOSE STANDARDS ARE NOT MANIFEST-
37 LY UNREASONABLE. WHENEVER THIS ACT REQUIRES AN ACTION TO BE TAKEN WITH-
38 IN A REASONABLE TIME, A TIME THAT IS NOT MANIFESTLY UNREASONABLE MAY BE
39 FIXED BY AGREEMENT.

40 (C) THE PRESENCE IN CERTAIN PROVISIONS OF THIS ACT OF THE PHRASE
41 "UNLESS OTHERWISE AGREED", OR WORDS OF SIMILAR IMPORT, DOES NOT IMPLY
42 THAT THE EFFECT OF OTHER PROVISIONS MAY NOT BE VARIED BY AGREEMENT UNDER
43 THIS SECTION.

44 SECTION 1--303. COURSE OF PERFORMANCE, COURSE OF DEALING, AND USAGE OF
45 TRADE.

46 (A) A "COURSE OF PERFORMANCE" IS A SEQUENCE OF CONDUCT BETWEEN THE
47 PARTIES TO A PARTICULAR TRANSACTION THAT EXISTS IF:

48 (1) THE AGREEMENT OF THE PARTIES WITH RESPECT TO THE TRANSACTION
49 INVOLVES REPEATED OCCASIONS FOR PERFORMANCE BY A PARTY; AND

50 (2) THE OTHER PARTY, WITH KNOWLEDGE OF THE NATURE OF THE PERFORMANCE
51 AND OPPORTUNITY FOR OBJECTION TO IT, ACCEPTS THE PERFORMANCE OR
52 ACQUIESCES TO IT WITHOUT OBJECTION.

53 (B) A "COURSE OF DEALING" IS A SEQUENCE OF CONDUCT CONCERNING PREVIOUS
54 TRANSACTIONS BETWEEN THE PARTIES TO A PARTICULAR TRANSACTION THAT IS
55 FAIRLY TO BE REGARDED AS ESTABLISHING A COMMON BASIS OF UNDERSTANDING
56 FOR INTERPRETING THEIR EXPRESSIONS AND OTHER CONDUCT.

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1 (C) A "USAGE OF TRADE" IS ANY PRACTICE OR METHOD OF DEALING HAVING
2 SUCH REGULARITY OF OBSERVANCE IN A PLACE, VOCATION, OR TRADE AS TO
3 JUSTIFY AN EXPECTATION THAT IT WILL BE OBSERVED WITH RESPECT TO THE
4 TRANSACTION IN QUESTION. THE EXISTENCE AND SCOPE OF SUCH A USAGE MUST BE
5 PROVED AS FACTS. IF IT IS ESTABLISHED THAT SUCH A USAGE IS EMBODIED IN A
6 TRADE CODE OR SIMILAR RECORD, THE INTERPRETATION OF THE RECORD IS A
7 QUESTION OF LAW.

8 (D) A COURSE OF PERFORMANCE OR COURSE OF DEALING BETWEEN THE PARTIES
9 OR USAGE OF TRADE IN THE VOCATION OR TRADE IN WHICH THEY ARE ENGAGED OR
10 OF WHICH THEY ARE OR SHOULD BE AWARE IS RELEVANT IN ASCERTAINING THE
11 MEANING OF THE PARTIES' AGREEMENT, MAY GIVE PARTICULAR MEANING TO
12 SPECIFIC TERMS OF THE AGREEMENT, AND MAY SUPPLEMENT OR QUALIFY THE TERMS
13 OF THE AGREEMENT. A USAGE OF TRADE APPLICABLE IN THE PLACE IN WHICH PART
14 OF THE PERFORMANCE UNDER THE AGREEMENT IS TO OCCUR MAY BE SO UTILIZED AS
15 TO THAT PART OF THE PERFORMANCE.

16 (E) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (F), THE EXPRESS TERMS
17 OF AN AGREEMENT AND ANY APPLICABLE COURSE OF PERFORMANCE, COURSE OF
18 DEALING, OR USAGE OF TRADE MUST BE CONSTRUED WHENEVER REASONABLE AS
19 CONSISTENT WITH EACH OTHER. IF SUCH A CONSTRUCTION IS UNREASONABLE:

20 (1) EXPRESS TERMS PREVAIL OVER COURSE OF PERFORMANCE, COURSE OF DEAL-
21 ING, AND USAGE OF TRADE;

22 (2) COURSE OF PERFORMANCE PREVAILS OVER COURSE OF DEALING AND USAGE OF
23 TRADE; AND

24 (3) COURSE OF DEALING PREVAILS OVER USAGE OF TRADE.

25 (F) SUBJECT TO SECTION 2--209, A COURSE OF PERFORMANCE IS RELEVANT TO
26 SHOW A WAIVER OR MODIFICATION OF ANY TERM INCONSISTENT WITH THE COURSE
27 OF PERFORMANCE.

28 (G) EVIDENCE OF A RELEVANT USAGE OF TRADE OFFERED BY ONE PARTY IS NOT
29 ADMISSIBLE UNLESS THAT PARTY HAS GIVEN THE OTHER PARTY NOTICE THAT THE
30 COURT FINDS SUFFICIENT TO PREVENT UNFAIR SURPRISE TO THE OTHER PARTY.

31 SECTION 1--304. OBLIGATION OF GOOD FAITH.

32 EVERY CONTRACT OR DUTY WITHIN THIS ACT IMPOSES AN OBLIGATION OF GOOD
33 FAITH IN ITS PERFORMANCE AND ENFORCEMENT.

34 SECTION 1--305. REMEDIES TO BE LIBERALLY ADMINISTERED.

35 (A) THE REMEDIES PROVIDED BY THIS ACT MUST BE LIBERALLY ADMINISTERED
36 TO THE END THAT THE AGGRIEVED PARTY MAY BE PUT IN AS GOOD A POSITION AS
37 IF THE OTHER PARTY HAD FULLY PERFORMED BUT NEITHER CONSEQUENTIAL OR
38 SPECIAL DAMAGES NOR PENAL DAMAGES MAY BE HAD EXCEPT AS SPECIFICALLY
39 PROVIDED IN THIS ACT OR BY OTHER RULE OF LAW.

40 (B) ANY RIGHT OR OBLIGATION DECLARED BY THIS ACT IS ENFORCEABLE BY
41 ACTION UNLESS THE PROVISION DECLARING IT SPECIFIES A DIFFERENT AND
42 LIMITED EFFECT.

43 SECTION 1--306. WAIVER OR RENUNCIATION OF CLAIM OR RIGHT AFTER BREACH.

44 A CLAIM OR RIGHT ARISING OUT OF AN ALLEGED BREACH MAY BE DISCHARGED IN

45 WHOLE OR IN PART WITHOUT CONSIDERATION BY AGREEMENT OF THE AGGRIEVED
 46 PARTY IN AN AUTHENTICATED RECORD.
 47 SECTION 1--307. PRIMA FACIE EVIDENCE BY THIRD-PARTY DOCUMENTS.
 48 A DOCUMENT IN DUE FORM PURPORTING TO BE A BILL OF LADING, POLICY OR
 49 CERTIFICATE OF INSURANCE, OFFICIAL WEIGHER'S OR INSPECTOR'S CERTIFICATE,
 50 CONSULAR INVOICE, OR ANY OTHER DOCUMENT AUTHORIZED OR REQUIRED BY THE
 51 CONTRACT TO BE ISSUED BY A THIRD PARTY IS PRIMA FACIE EVIDENCE OF ITS
 52 OWN AUTHENTICITY AND GENUINENESS AND OF THE FACTS STATED IN THE DOCUMENT
 53 BY THE THIRD PARTY.
 54 SECTION 1--308. PERFORMANCE OR ACCEPTANCE UNDER RESERVATION OF RIGHTS.
 55 A PARTY THAT WITH EXPLICIT RESERVATION OF RIGHTS PERFORMS OR PROMISES
 56 PERFORMANCE OR ASSENTS TO PERFORMANCE IN A MANNER DEMANDED OR OFFERED BY
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1 THE OTHER PARTY DOES NOT THEREBY PREJUDICE THE RIGHTS RESERVED. SUCH
 2 WORDS AS "WITHOUT PREJUDICE," "UNDER PROTEST," OR THE LIKE ARE SUFFI-
 3 CIENT.

4 SECTION 1--309. OPTION TO ACCELERATE AT WILL.
 5 A TERM PROVIDING THAT ONE PARTY OR THAT PARTY'S SUCCESSOR IN INTEREST
 6 MAY ACCELERATE PAYMENT OR PERFORMANCE OR REQUIRE COLLATERAL OR ADDI-
 7 TIONAL COLLATERAL "AT WILL" OR WHEN THE PARTY "DEEMS ITSELF INSECURE,"
 8 OR WORDS OF SIMILAR IMPORT, MEANS THAT THE PARTY HAS POWER TO DO SO ONLY
 9 IF THAT PARTY IN GOOD FAITH BELIEVES THAT THE PROSPECT OF PAYMENT OR
 10 PERFORMANCE IS IMPAIRED. THE BURDEN OF ESTABLISHING LACK OF GOOD FAITH
 11 IS ON THE PARTY AGAINST WHICH THE POWER HAS BEEN EXERCISED.

12 SECTION 1--310. SUBORDINATED OBLIGATIONS.
 13 AN OBLIGATION MAY BE ISSUED AS SUBORDINATED TO PERFORMANCE OF ANOTHER
 14 OBLIGATION OF THE PERSON OBLIGATED, OR A CREDITOR MAY SUBORDINATE ITS
 15 RIGHT TO PERFORMANCE OF AN OBLIGATION BY AGREEMENT WITH EITHER THE
 16 PERSON OBLIGATED OR ANOTHER CREDITOR OF THE PERSON OBLIGATED. SUBORDI-
 17 NATION DOES NOT CREATE A SECURITY INTEREST AS AGAINST EITHER THE COMMON
 18 DEBTOR OR A SUBORDINATED CREDITOR.

19 S 2. Subsection 3 of section 2--103 of the uniform commercial code, as
 20 amended by chapter 84 of the laws of 2001, is amended to read as
 21 follows:

22 (3) The following definitions in other Articles apply to this Article:

23	"Check".	Section 3--104.
24	"Consignee".	Section 7--102.
25	"Consignor".	Section 7--102.
26	"Consumer goods".	Section 9--102.
27	"CONTROL".	SECTION 7--106.
28	"Dishonor".	Section 3--507.
29	"Draft".	Section 3--104.

30 S 3. Section 2--202 of the uniform commercial code is amended to read
 31 as follows:

32 Section 2--202. Final Written Expression: Parol or Extrinsic Evidence.
 33 Terms with respect to which the confirmatory memoranda of the parties
 34 agree or which are otherwise set forth in a writing intended by the
 35 parties as a final expression of their agreement with respect to such
 36 terms as are included therein may not be contradicted by evidence of any
 37 prior agreement or of a contemporaneous oral agreement but may be
 38 explained or supplemented

39 (a) by COURSE OF PERFORMANCE, course of dealing, or usage of trade
 40 (Section [1--205] 1--303) [or by course of performance (Section
 41 2--208)]; and

42 (b) by evidence of consistent additional terms unless the court finds
 43 the writing to have been intended also as a complete and exclusive
 44 statement of the terms of the agreement.

45 S 4. Subsection (c) of section 2--310 of the uniform commercial code
 46 is amended to read as follows:

47 (c) if delivery is authorized and made by way of documents of title
 48 otherwise than by subsection (b) then payment is due REGARDLESS OF WHERE
 49 THE GOODS ARE TO BE RECEIVED (I) at the time and place at which the
 50 buyer is to receive DELIVERY OF the TANGIBLE documents [regardless of
 51 where the goods are to be received] OR (II) AT THE TIME THE BUYER IS TO
 52 RECEIVE DELIVERY OF THE ELECTRONIC DOCUMENTS AND AT THE SELLER'S PLACE
 53 OF BUSINESS OR IF NONE, THE SELLER'S RESIDENCE; and

54 S 5. The opening paragraph of subsection 2 of section 2-323 of the
 55 uniform commercial code is amended to read as follows:

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1 Where in a case within subsection (1) a TANGIBLE bill of lading has
 2 been issued in a set of parts, unless otherwise agreed if the documents
 3 are not to be sent from abroad the buyer may demand tender of the full
 4 set; otherwise only one part of the bill of lading need be tendered.
 5 Even if the agreement expressly requires a full set:

6 S 6. Subsection 3 of section 2--401 of the uniform commercial code is
 7 amended to read as follows:

8 (3) Unless otherwise explicitly agreed where delivery is to be made
 9 without moving the goods,

10 (a) if the seller is to deliver a TANGIBLE document of title,
 11 title passes at the time when and the place where he delivers
 12 such documents AND IF THE SELLER IS TO DELIVER AN ELECTRONIC
 13 DOCUMENT OF TITLE, TITLE PASSES WHEN THE SELLER DELIVERS THE
 14 DOCUMENT; or

15 (b) if the goods are at the time of contracting already identi-
 16 fied and no documents OF TITLE are to be delivered, title
 17 passes at the time and place of contracting.

18 S 7. Paragraph (b) of subsection 4 of section 2--503 of the uniform
 19 commercial code is amended to read as follows:

20 (b) tender to the buyer of a non-negotiable document of title or
 21 of a [written direction to] RECORD DIRECTING the bailee to
 22 deliver is sufficient tender unless the buyer seasonably
 23 objects, and receipt by the bailee of notification of the
 24 buyer's rights fixes those rights as against the bailee and
 25 all third persons; but risk of loss of the goods and of any
 26 failure by the bailee to honor the non-negotiable document of
 27 title or to obey the direction remains on the seller until
 28 the buyer has had a reasonable time to present the document
 29 or direction, and a refusal by the bailee to honor the docu-
 30 ment or to obey the direction defeats the tender.

31 S 8. Section 2--505 of the uniform commercial code is amended to read
 32 as follows:

33 Section 2--505. Seller's Shipment Under Reservation.

34 (1) Where the seller has identified goods to the contract by or before
 35 shipment:

36 (a) his procurement of a negotiable bill of lading to his own
 37 order or otherwise reserves in him a security interest in the
 38 goods. His procurement of the bill to the order of a financ-
 39 ing agency or of the buyer indicates in addition only the
 40 seller's expectation of transferring that interest to the
 41 person named.

42 (b) a non-negotiable bill of lading to himself or his nominee
 43 reserves possession of the goods as security but except in a
 44 case of conditional delivery (subsection (2) of Section
 45 2--507) a non-negotiable bill of lading naming the buyer as
 46 consignee reserves no security interest even though the sell-
 47 er retains possession OR CONTROL of the bill of lading.

48 (2) When shipment by the seller with reservation of a security inter-
 49 est is in violation of the contract for sale it constitutes an improper
 50 contract for transportation within the preceding section but impairs
 51 neither the rights given to the buyer by shipment and identification of
 52 the goods to the contract nor the seller's powers as a holder of a nego-
 53 tiable document OF TITLE.

54 S 9. Subsection 2 of section 2--506 of the uniform commercial code is
 55 amended to read as follows:

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1 (2) The right to reimbursement of a financing agency which has in good
 2 faith honored or purchased the draft under commitment to or authority
 3 from the buyer is not impaired by subsequent discovery of defects with
 4 reference to any relevant document which was apparently regular [on its
 5 face].

6 S 10. Subsection 2 of section 2--509 of the uniform commercial code is
 7 amended to read as follows:

8 (2) Where the goods are held by a bailee to be delivered without being
 9 moved, the risk of loss passes to the buyer

10 (a) on his receipt of POSSESSION OR CONTROL OF a negotiable docu-
 11 ment of title covering the goods; or

12 (b) on acknowledgment by the bailee of the buyer's right to
 13 possession of the goods; or

14 (c) after his receipt of POSSESSION OR CONTROL OF a non-negotia-
 15 ble document of title or other [written] direction to deliver

16 IN A RECORD, as provided in subsection (4) (b) of Section
17 2--503.

18 S 11. Subsection 2 of section 2--605 of the uniform commercial code is
19 amended to read as follows:

20 (2) Payment against documents made without reservation of rights
21 precludes recovery of the payment for defects apparent [on the face of]
22 IN the documents.

23 S 12. Subsection 2 of section 2--705 of the uniform commercial code is
24 amended to read as follows:

25 (2) As against such buyer the seller may stop delivery until
26 (a) receipt of the goods by the buyer; or
27 (b) acknowledgment to the buyer by any bailee of the goods except
28 a carrier that the bailee holds the goods for the buyer; or
29 (c) such acknowledgment to the buyer by a carrier by reshipment
30 or as [warehouseman] A WAREHOUSE; or
31 (d) negotiation to the buyer of any negotiable document of title
32 covering the goods.

33 S 13. Paragraph (c) of subsection 3 of section 2--705 of the uniform
34 commercial code is amended to read as follows:

35 (c) If a negotiable document of title has been issued for goods the
36 bailee is not obliged to obey a notification to stop until surrender
37 OF POSSESSION OR CONTROL of the document.

38 S 14. Paragraphs (a) and (o) of subsection 1 of section 2-A--103 of
39 the uniform commercial code, as added by chapter 114 of the laws of
40 1994, are amended to read as follows:

41 (a) "Buyer in ordinary course of business" means a person who in
42 good faith and without knowledge that the sale to him [or
43 her] is in violation of the ownership rights or security
44 interest or leasehold interest of a third party in the goods,
45 buys in ordinary course from a person in the business of
46 selling goods of that kind but does not include a pawnbroker.
47 "Buying" may be for cash or by exchange of other property or
48 on secured or unsecured credit and includes [receiving]
49 ACQUIRING goods or documents of title under a preexisting
50 contract for sale but does not include a transfer in bulk or
51 as security for or in total or partial satisfaction of a
52 money debt.

53 (o) "Lessee in ordinary course of business" means a person who in
54 good faith and without knowledge that the lease to him [or
55 her] is in violation of the ownership rights or security
56 interest or leasehold interest of a third party in the goods

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1 leases in ordinary course from a person in the business of
2 selling or leasing goods of that kind but does not include a
3 pawnbroker. "Leasing" may be for cash or by exchange of
4 other property or on secured or unsecured credit and includes
5 [receiving] ACQUIRING goods or documents of title under a
6 preexisting lease contract but does not include a transfer in
7 bulk or as security for or in total or partial satisfaction
8 of a money debt.

9 S 15. Subsection 3 of section 2-A--103 of the uniform commercial code,
10 as amended by chapter 84 of the laws of 2001, is amended to read as
11 follows:

12 (3) The following definitions in other articles apply to this Article:

13	"Account".	Section 9--102(a)(2).
14	"Between merchants".	Section 2--104(3).
15	"Buyer".	Section 2--103(1)(a).
16	"Chattel paper".	Section 9--102(a)(11).
17	"Consumer goods".	Section 9--102(a)(23).
18	"Document".	Section 9--102(a)(30).
19	"Entrusting".	Section 2--403(3).
20	"General intangible".	Section 9--102(a)(42).
21	"Good faith".	Section 2--103(1)(b).
22	"Instrument".	Section 9--102(a)(47).
23	"Merchant".	Section 2--104(1).
24	"Mortgage".	Section 9--102(a)(55).
25	"Pursuant to commitment".	Section [9--102(a)(68)]
26		9--102(A)(69).
27	"Receipt".	Section 2--103(1)(c).
28	"Sale".	Section 2--106(1).
29	"Sale on approval".	Section 2--326.

30 "Sale or return". Section 2--326.
31 "Seller". Section 2--103(1)(d).
32 S 16. Section 2-A--207 of the uniform commercial code is REPEALED.
33 S 17. Subsection 4 of section 2-A--501 of the uniform commercial code,
34 as added by chapter 114 of the laws of 1994, is amended to read as
35 follows:
36 (4) Except as otherwise provided in Section [1-106(1)] 1--305(A) or
37 this Article or the lease agreement, the rights and remedies referred to
38 in subsections (2) and (3) are cumulative.
39 S 18. Subsection 2 of section 2-A--518 of the uniform commercial code,
40 as added by chapter 114 of the laws of 1994, is amended to read as
41 follows:
42 (2) Except as otherwise provided with respect to damages liquidated in
43 the lease agreement (Section 2-A-504) or otherwise determined pursuant
44 to agreement of the parties (Sections [1-102(3)] 1--302 and 2-A-503), if
45 a lessee's cover is by a lease agreement substantially similar to the
46 original lease agreement and the new lease agreement is made in good
47 faith and in a commercially reasonable manner, the lessee may recover
48 from the lessor as damages (a) the present value, as of the date of the
49 commencement of the term of the new lease agreement, of the rent under
50 the new lease agreement applicable to that period of the new lease term
51 which is comparable to the then remaining term of the original lease
52 agreement minus the present value as of the same date of the total rent
53 for the then remaining lease term of the original lease agreement, and
54 (b) any incidental or consequential damages, less expenses saved in
55 consequence of the lessor's default.
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1 S 19. Subsection 1 of section 2-A--519 of the uniform commercial code,
2 as added by chapter 114 of the laws of 1994, is amended to read as
3 follows:
4 (1) Except as otherwise provided with respect to damages liquidated in
5 the lease agreement (Section 2-A-504) or otherwise determined pursuant
6 to agreement of the parties (Section [1-102(3)] 1--302 and 2-A-503), if
7 a lessee elects not to cover or a lessee elects to cover and the cover
8 is by lease agreement, whether or not the lease agreement qualifies for
9 treatment under Section 2-A-518(2), or is by purchase or otherwise, the
10 measure of damages for non-delivery or repudiation by the lessor or for
11 rejection or revocation of acceptance by the lessee is the present
12 value, as of the date of the default, of the then market rent minus the
13 present value as of the same date of the original rent, computed for the
14 remaining lease term of the original lease agreement, together with
15 incidental and consequential damages, less expenses saved in consequence
16 of the lessor's default.
17 S 20. Paragraph (c) of subsection 2 of section 2-A--526 of the uniform
18 commercial code, as added by chapter 114 of the laws of 1994, is amended
19 to read as follows:
20 (c) such an acknowledgment to the lessee by a carrier via reship-
21 ment or as [warehouseman] A WAREHOUSE.
22 S 21. Subsection 2 of section 2-A--527 of the uniform commercial code,
23 as added by chapter 114 of the laws of 1994, is amended to read as
24 follows:
25 (2) Except as otherwise provided with respect to damages liquidated in
26 the lease agreement (Section 2-A-504) or otherwise determined pursuant
27 to agreement of the parties (Sections [1-102(3)] 1--302 and 2-A-503), if
28 the disposition is by lease agreement substantially similar to the
29 original lease agreement and the new lease agreement is made in good
30 faith and in a commercially reasonable manner, the lessor may recover
31 from the lessee as damages (a) accrued and unpaid rent as of the date of
32 the commencement of the term of the new lease agreement, (b) the present
33 value, as of the same date, of the total rent for the then remaining
34 lease term of the original lease agreement minus the present value, as
35 of the same date, of the rent under the new lease agreement applicable
36 to that period of the new lease term which is comparable to the then
37 remaining lease term of the original lease agreement, and (c) any inci-
38 dental damages allowed under Section 2-A-530, less expenses saved in
39 consequence of the lessee's default.
40 S 22. Subsection 1 of section 2-A--528 of the uniform commercial code,
41 as added by chapter 114 of the laws of 1994, is amended to read as
42 follows:
43 (1) Except as otherwise provided with respect to damages liquidated in
44 the lease agreement (Section 2-A-504) or otherwise determined pursuant

45 to agreement of the parties (Sections [1-102(3)] 1--302 and 2-A-503), if
 46 a lessor elects to retain the goods or a lessor elects to dispose of the
 47 goods and the disposition is by lease agreement whether or not the lease
 48 agreement qualifies for treatment under Section 2-A-527(2), or is by
 49 sale or otherwise, the lessor may recover from the lessee as damages for
 50 a default of the type described in Section 2-A-523(1) or 2-A-523 (3) (a),
 51 or, if agreed, for other default of the lessee, (a) accrued and unpaid
 52 rent as of the date of default if the lessee has never taken possession
 53 of the goods, or, if the lessee has taken possession of the goods, as of
 54 the date the lessor repossesses the goods or an earlier date on which
 55 the lessee makes a tender of the goods to the lessor, (b) the present
 56 value as of the date determined under clause (a) of the total rent for
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1 the then remaining lease term of the original lease agreement minus the
 2 present value as of the same date of the market rent at the place where
 3 the goods are located computed for the same lease term, and (c) any
 4 incidental damages allowed under Section 2-A-530, less expenses saved in
 5 consequence of the lessee's default.

6 S 23. Article 7 of the uniform commercial code is REPEALED and a new
 7 article 7 is added to read as follows:

8 ARTICLE 7-DOCUMENTS OF TITLE
 9 PART 1
 10 GENERAL

11 SECTION 7--101. SHORT TITLE.

12 THIS ARTICLE MAY BE CITED AS UNIFORM COMMERCIAL CODE-DOCUMENTS OF
 13 TITLE.

14 SECTION 7--102. DEFINITIONS AND INDEX OF DEFINITIONS.

15 (A) IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

16 (1) "BAILEE" MEANS A PERSON THAT BY A WAREHOUSE RECEIPT, BILL OF
 17 LADING, OR OTHER DOCUMENT OF TITLE ACKNOWLEDGES POSSESSION OF GOODS AND
 18 CONTRACTS TO DELIVER THEM.

19 (2) "CARRIER" MEANS A PERSON THAT ISSUES A BILL OF LADING.

20 (3) "CONSIGNEE" MEANS A PERSON NAMED IN A BILL OF LADING TO WHICH OR
 21 TO WHOSE ORDER THE BILL PROMISES DELIVERY.

22 (4) "CONSIGNOR" MEANS A PERSON NAMED IN A BILL OF LADING AS THE PERSON
 23 FROM WHICH THE GOODS HAVE BEEN RECEIVED FOR SHIPMENT.

24 (5) "DELIVERY ORDER" MEANS A RECORD THAT CONTAINS AN ORDER TO DELIVER
 25 GOODS DIRECTED TO A WAREHOUSE, CARRIER, OR OTHER PERSON THAT IN THE
 26 ORDINARY COURSE OF BUSINESS ISSUES WAREHOUSE RECEIPTS OR BILLS OF
 27 LADING.

28 (6) "GOOD FAITH" MEANS HONESTY IN FACT AND THE OBSERVANCE OF REASON-
 29 ABLE COMMERCIAL STANDARDS OF FAIR DEALING.

30 (7) "GOODS" MEANS ALL THINGS THAT ARE TREATED AS MOVABLE FOR THE
 31 PURPOSES OF A CONTRACT FOR STORAGE OR TRANSPORTATION.

32 (8) "ISSUER" MEANS A BAILEE THAT ISSUES A DOCUMENT OF TITLE OR, IN THE
 33 CASE OF AN UNACCEPTED DELIVERY ORDER, THE PERSON THAT ORDERS THE POSSES-
 34 SOR OF GOODS TO DELIVER. THE TERM INCLUDES A PERSON FOR WHICH AN AGENT
 35 OR EMPLOYEE PURPORTS TO ACT IN ISSUING A DOCUMENT IF THE AGENT OR
 36 EMPLOYEE HAS REAL OR APPARENT AUTHORITY TO ISSUE DOCUMENTS, EVEN IF THE
 37 ISSUER DID NOT RECEIVE ANY GOODS, THE GOODS WERE MISDESCRIBED, OR IN ANY
 38 OTHER RESPECT THE AGENT OR EMPLOYEE VIOLATED THE ISSUER'S INSTRUCTIONS.

39 (9) "PERSON ENTITLED UNDER THE DOCUMENT" MEANS THE HOLDER, IN THE CASE
 40 OF A NEGOTIABLE DOCUMENT OF TITLE, OR THE PERSON TO WHICH DELIVERY OF
 41 THE GOODS IS TO BE MADE BY THE TERMS OF, OR PURSUANT TO INSTRUCTIONS IN
 42 A RECORD UNDER, A NONNEGOTIABLE DOCUMENT OF TITLE.

43 (10) [RESERVED].

44 (11) "SIGN" MEANS, WITH PRESENT INTENT TO AUTHENTICATE OR ADOPT A
 45 RECORD:

46 (A) TO EXECUTE OR ADOPT A TANGIBLE SYMBOL; OR

47 (B) TO ATTACH TO OR LOGICALLY ASSOCIATE WITH THE RECORD AN ELECTRONIC
 48 SOUND, SYMBOL, OR PROCESS.

49 (12) "SHIPPER" MEANS A PERSON THAT ENTERS INTO A CONTRACT OF TRANSPOR-
 50 TATION WITH A CARRIER.

51 (13) "WAREHOUSE" MEANS A PERSON ENGAGED IN THE BUSINESS OF STORING
 52 GOODS FOR HIRE.

53 (B) DEFINITIONS IN OTHER ARTICLES APPLYING TO THIS ARTICLE AND THE
 54 SECTIONS IN WHICH THEY APPEAR ARE:

55 (1) "CONTRACT FOR SALE", SECTION 2--106.

56 (2) "LESSEE IN THE ORDINARY COURSE OF BUSINESS", SECTION 2A--103.

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1 (3) "RECEIPT" OF GOODS, SECTION 2--103.

2 (C) IN ADDITION, ARTICLE 1 CONTAINS GENERAL DEFINITIONS AND PRINCIPLES
3 OF CONSTRUCTION AND INTERPRETATION APPLICABLE THROUGHOUT THIS ARTICLE.

4 SECTION 7--103. RELATION OF ARTICLE TO TREATY OR STATUTE.

5 (A) THIS ARTICLE IS SUBJECT TO ANY TREATY OR STATUTE OF THE UNITED
6 STATES OR REGULATORY STATUTE OF THIS STATE TO THE EXTENT THE TREATY,
7 STATUTE, OR REGULATORY STATUTE IS APPLICABLE.

8 (B) THIS ARTICLE DOES NOT MODIFY OR REPEAL ANY LAW PRESCRIBING THE
9 FORM OR CONTENT OF A DOCUMENT OF TITLE OR THE SERVICES OR FACILITIES TO
10 BE AFFORDED BY A BAILEE, OR OTHERWISE REGULATING A BAILEE'S BUSINESS IN
11 RESPECTS NOT SPECIFICALLY TREATED IN THIS ARTICLE. HOWEVER, VIOLATION OF
12 SUCH A LAW DOES NOT AFFECT THE STATUS OF A DOCUMENT OF TITLE THAT OTHER-
13 WISE IS WITHIN THE DEFINITION OF A DOCUMENT OF TITLE.

14 (C) THIS ARTICLE MODIFIES, LIMITS, AND SUPERSEDES THE FEDERAL ELEC-
15 TRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT (15 U.S.C. SECTION
16 7001, ET. SEQ.) BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE SECTION 101(C)
17 OF THAT ACT (15 U.S.C. SECTION 7001(C)) OR AUTHORIZE ELECTRONIC DELIVERY
18 OF ANY OF THE NOTICES DESCRIBED IN SECTION 103(B) OF THAT ACT (15 U.S.C.
19 SECTION 7003(B)).

20 (D) TO THE EXTENT THERE IS A CONFLICT BETWEEN THE ELECTRONIC SIGNA-
21 TURES AND RECORDS ACT (STATE TECHNOLOGY LAW 301 ET. SEQ.) AND THIS ARTI-
22 CLE, THIS ARTICLE GOVERNS.

23 SECTION 7--104. NEGOTIABLE AND NONNEGOTIABLE DOCUMENT OF TITLE.

24 (A) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C), A DOCUMENT OF
25 TITLE IS NEGOTIABLE IF BY ITS TERMS THE GOODS ARE TO BE DELIVERED TO
26 BEARER OR TO THE ORDER OF A NAMED PERSON.

27 (B) A DOCUMENT OF TITLE OTHER THAN ONE DESCRIBED IN SUBSECTION (A) IS
28 NONNEGOTIABLE. A BILL OF LADING THAT STATES THAT THE GOODS ARE CONSIGNED
29 TO A NAMED PERSON IS NOT MADE NEGOTIABLE BY A PROVISION THAT THE GOODS
30 ARE TO BE DELIVERED ONLY AGAINST AN ORDER IN A RECORD SIGNED BY THE SAME
31 OR ANOTHER NAMED PERSON.

32 (C) A DOCUMENT OF TITLE IS NONNEGOTIABLE IF, AT THE TIME IT IS ISSUED,
33 THE DOCUMENT HAS A CONSPICUOUS LEGEND, HOWEVER EXPRESSED, THAT IT IS
34 NONNEGOTIABLE.

35 SECTION 7--105. REISSUANCE IN ALTERNATIVE MEDIUM.

36 (A) UPON REQUEST OF A PERSON ENTITLED UNDER AN ELECTRONIC DOCUMENT OF
37 TITLE, THE ISSUER OF THE ELECTRONIC DOCUMENT MAY ISSUE A TANGIBLE DOCU-
38 MENT OF TITLE AS A SUBSTITUTE FOR THE ELECTRONIC DOCUMENT IF:

39 (1) THE PERSON ENTITLED UNDER THE ELECTRONIC DOCUMENT SURRENDERS
40 CONTROL OF THE DOCUMENT TO THE ISSUER; AND

41 (2) THE TANGIBLE DOCUMENT WHEN ISSUED CONTAINS A STATEMENT THAT IT IS
42 ISSUED IN SUBSTITUTION FOR THE ELECTRONIC DOCUMENT.

43 (B) UPON ISSUANCE OF A TANGIBLE DOCUMENT OF TITLE IN SUBSTITUTION FOR
44 AN ELECTRONIC DOCUMENT OF TITLE IN ACCORDANCE WITH SUBSECTION (A):

45 (1) THE ELECTRONIC DOCUMENT CEASES TO HAVE ANY EFFECT OR VALIDITY; AND

46 (2) THE PERSON THAT PROCURED ISSUANCE OF THE TANGIBLE DOCUMENT
47 WARRANTS TO ALL SUBSEQUENT PERSONS ENTITLED UNDER THE TANGIBLE DOCUMENT
48 THAT THE WARRANTOR WAS A PERSON ENTITLED UNDER THE ELECTRONIC DOCUMENT
49 WHEN THE WARRANTOR SURRENDERED CONTROL OF THE ELECTRONIC DOCUMENT TO THE
50 ISSUER.

51 (C) UPON REQUEST OF A PERSON ENTITLED UNDER A TANGIBLE DOCUMENT OF
52 TITLE, THE ISSUER OF THE TANGIBLE DOCUMENT MAY ISSUE AN ELECTRONIC DOCU-
53 MENT OF TITLE AS A SUBSTITUTE FOR THE TANGIBLE DOCUMENT IF:

54 (1) THE PERSON ENTITLED UNDER THE TANGIBLE DOCUMENT SURRENDERS
55 POSSESSION OF THE DOCUMENT TO THE ISSUER; AND

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1 (2) THE ELECTRONIC DOCUMENT WHEN ISSUED CONTAINS A STATEMENT THAT IT
2 IS ISSUED IN SUBSTITUTION FOR THE TANGIBLE DOCUMENT.

3 (D) UPON ISSUANCE OF AN ELECTRONIC DOCUMENT OF TITLE IN SUBSTITUTION
4 FOR A TANGIBLE DOCUMENT OF TITLE IN ACCORDANCE WITH SUBSECTION (C):

5 (1) THE TANGIBLE DOCUMENT CEASES TO HAVE ANY EFFECT OR VALIDITY; AND

6 (2) THE PERSON THAT PROCURED ISSUANCE OF THE ELECTRONIC DOCUMENT
7 WARRANTS TO ALL SUBSEQUENT PERSONS ENTITLED UNDER THE ELECTRONIC DOCU-
8 MENT THAT THE WARRANTOR WAS A PERSON ENTITLED UNDER THE TANGIBLE DOCU-
9 MENT WHEN THE WARRANTOR SURRENDERED POSSESSION OF THE TANGIBLE DOCUMENT
10 TO THE ISSUER.

11 SECTION 7--106. CONTROL OF ELECTRONIC DOCUMENT OF TITLE.

12 (A) A PERSON HAS CONTROL OF AN ELECTRONIC DOCUMENT OF TITLE IF A
13 SYSTEM EMPLOYED FOR EVIDENCING THE TRANSFER OF INTERESTS IN THE ELEC-
14 TRONIC DOCUMENT RELIABLY ESTABLISHES THAT PERSON AS THE PERSON TO WHICH
15 THE ELECTRONIC DOCUMENT WAS ISSUED OR TRANSFERRED.

16 (B) A SYSTEM SATISFIES SUBSECTION (A), AND A PERSON IS DEEMED TO HAVE
 17 CONTROL OF AN ELECTRONIC DOCUMENT OF TITLE, IF THE DOCUMENT IS CREATED,
 18 STORED AND ASSIGNED IN SUCH A MANNER THAT:
 19 (1) A SINGLE AUTHORITATIVE COPY OF THE DOCUMENT EXISTS WHICH IS
 20 UNIQUE, IDENTIFIABLE, AND, EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPHS
 21 (4), (5), AND (6), UNALTERABLE;
 22 (2) THE AUTHORITATIVE COPY IDENTIFIES THE PERSON ASSERTING CONTROL AS:
 23 (A) THE PERSON TO WHICH THE DOCUMENT WAS ISSUED; OR
 24 (B) IF THE AUTHORITATIVE COPY INDICATES THAT THE DOCUMENT HAS BEEN
 25 TRANSFERRED, THE PERSON TO WHICH THE DOCUMENT WAS MOST RECENTLY TRANS-
 26 FERRED;
 27 (3) THE AUTHORITATIVE COPY IS COMMUNICATED TO AND MAINTAINED BY THE
 28 PERSON ASSERTING CONTROL OR ITS DESIGNATED CUSTODIAN;
 29 (4) COPIES OR AMENDMENTS THAT ADD OR CHANGE AN IDENTIFIED ASSIGNEE OF
 30 THE AUTHORITATIVE COPY CAN BE MADE ONLY WITH THE CONSENT OF THE PERSON
 31 ASSERTING CONTROL;
 32 (5) EACH COPY OF THE AUTHORITATIVE COPY AND ANY COPY OF A COPY IS
 33 READILY IDENTIFIABLE AS A COPY THAT IS NOT THE AUTHORITATIVE COPY; AND
 34 (6) ANY AMENDMENT OF THE AUTHORITATIVE COPY IS READILY IDENTIFIABLE AS
 35 AUTHORIZED OR UNAUTHORIZED.

PART 2

WAREHOUSE RECEIPTS: SPECIAL PROVISIONS

36
 37
 38 SECTION 7--201. PERSON THAT MAY ISSUE A WAREHOUSE RECEIPT; STORAGE UNDER
 39 BOND.

40 (A) A WAREHOUSE RECEIPT MAY BE ISSUED BY ANY WAREHOUSE.
 41 (B) IF GOODS, INCLUDING DISTILLED SPIRITS AND AGRICULTURAL COMMOD-
 42 ITIES, ARE STORED UNDER A STATUTE REQUIRING A BOND AGAINST WITHDRAWAL OR
 43 A LICENSE FOR THE ISSUANCE OF RECEIPTS IN THE NATURE OF WAREHOUSE
 44 RECEIPTS, A RECEIPT ISSUED FOR THE GOODS IS DEEMED TO BE A WAREHOUSE
 45 RECEIPT EVEN IF ISSUED BY A PERSON THAT IS THE OWNER OF THE GOODS AND IS
 46 NOT A WAREHOUSE.

47 SECTION 7--202. FORM OF WAREHOUSE RECEIPT; EFFECT OF OMISSION.

48 (A) A WAREHOUSE RECEIPT NEED NOT BE IN ANY PARTICULAR FORM.
 49 (B) UNLESS A WAREHOUSE RECEIPT PROVIDES FOR EACH OF THE FOLLOWING, THE
 50 WAREHOUSE IS LIABLE FOR DAMAGES CAUSED TO A PERSON INJURED BY ITS OMISS-
 51 SION:
 52 (1) A STATEMENT OF THE LOCATION OF THE WAREHOUSE FACILITY WHERE THE
 53 GOODS ARE STORED;
 54 (2) THE DATE OF ISSUE OF THE RECEIPT;
 55 (3) THE UNIQUE IDENTIFICATION CODE OF THE RECEIPT;
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1 (4) A STATEMENT WHETHER THE GOODS RECEIVED WILL BE DELIVERED TO THE
 2 BEARER, TO A NAMED PERSON, OR TO A NAMED PERSON OR ITS ORDER;

3 (5) THE RATE OF STORAGE AND HANDLING CHARGES, UNLESS GOODS ARE STORED
 4 UNDER A FIELD WAREHOUSING ARRANGEMENT, IN WHICH CASE A STATEMENT OF THAT
 5 FACT IS SUFFICIENT ON A NONNEGOTIABLE RECEIPT;

6 (6) A DESCRIPTION OF THE GOODS OR THE PACKAGES CONTAINING THEM;

7 (7) THE SIGNATURE OF THE WAREHOUSE OR ITS AGENT;

8 (8) IF THE RECEIPT IS ISSUED FOR GOODS THAT THE WAREHOUSE OWNS, EITHER
 9 SOLELY, JOINTLY, OR IN COMMON WITH OTHERS, A STATEMENT OF THE FACT OF
 10 THAT OWNERSHIP; AND

11 (9) A STATEMENT OF THE AMOUNT OF ADVANCES MADE AND OF LIABILITIES
 12 INCURRED FOR WHICH THE WAREHOUSE CLAIMS A LIEN OR SECURITY INTEREST,
 13 UNLESS THE PRECISE AMOUNT OF ADVANCES MADE OR LIABILITIES INCURRED, AT
 14 THE TIME OF THE ISSUE OF THE RECEIPT, IS UNKNOWN TO THE WAREHOUSE OR TO
 15 ITS AGENT THAT ISSUED THE RECEIPT, IN WHICH CASE A STATEMENT OF THE FACT
 16 THAT ADVANCES HAVE BEEN MADE OR LIABILITIES INCURRED AND THE PURPOSE OF
 17 THE ADVANCES OR LIABILITIES IS SUFFICIENT.

18 (C) A WAREHOUSE MAY INSERT IN ITS RECEIPT ANY TERMS THAT ARE NOT
 19 CONTRARY TO THIS ACT AND DO NOT IMPAIR ITS OBLIGATION OF DELIVERY UNDER
 20 SECTION 7--403 OR ITS DUTY OF CARE UNDER SECTION 7--204. ANY CONTRARY
 21 PROVISION IS INEFFECTIVE.

22 SECTION 7--203. LIABILITY FOR NONRECEIPT OR MISDESCRIPTION.

23 A PARTY TO, OR PURCHASER FOR, VALUE IN GOOD FAITH OF A DOCUMENT OF
 24 TITLE, OTHER THAN A BILL OF LADING, THAT RELIES UPON THE DESCRIPTION OF
 25 THE GOODS IN THE DOCUMENT MAY RECOVER FROM THE ISSUER DAMAGES CAUSED BY
 26 THE NONRECEIPT OR MISDESCRIPTION OF THE GOODS, EXCEPT TO THE EXTENT
 27 THAT:

28 (1) THE DOCUMENT CONSPICUOUSLY INDICATES THAT THE ISSUER DOES NOT KNOW
 29 WHETHER ALL OR PART OF THE GOODS IN FACT WERE RECEIVED OR CONFORM TO THE
 30 DESCRIPTION, SUCH AS A CASE IN WHICH THE DESCRIPTION IS IN TERMS OF

31 MARKS OR LABELS OR KIND, QUANTITY, OR CONDITION, OR THE RECEIPT OR
 32 DESCRIPTION IS QUALIFIED BY "CONTENTS, CONDITION, AND QUALITY UNKNOWN",
 33 "SAID TO CONTAIN", OR WORDS OF SIMILAR IMPORT, IF THE INDICATION IS
 34 TRUE; OR

35 (2) THE PARTY OR PURCHASER OTHERWISE HAS NOTICE OF THE NONRECEIPT OR
 36 MISDESCRIPTION.

37 SECTION 7--204. DUTY OF CARE; CONTRACTUAL LIMITATION OF WAREHOUSE'S
 38 LIABILITY.

39 (A) A WAREHOUSE IS LIABLE FOR DAMAGES FOR LOSS OF OR INJURY TO THE
 40 GOODS CAUSED BY ITS FAILURE TO EXERCISE CARE WITH REGARD TO THE GOODS
 41 THAT A REASONABLY CAREFUL PERSON WOULD EXERCISE UNDER SIMILAR CIRCUM-
 42 STANCES. UNLESS OTHERWISE AGREED, THE WAREHOUSE IS NOT LIABLE FOR
 43 DAMAGES THAT COULD NOT HAVE BEEN AVOIDED BY THE EXERCISE OF THAT CARE.

44 (B) DAMAGES MAY BE LIMITED BY A TERM IN THE WAREHOUSE RECEIPT OR STOR-
 45 AGE AGREEMENT LIMITING THE AMOUNT OF LIABILITY IN CASE OF LOSS OR DAMAGE
 46 BEYOND WHICH THE WAREHOUSE IS NOT LIABLE. SUCH A LIMITATION IS NOT
 47 EFFECTIVE WITH RESPECT TO THE WAREHOUSE'S LIABILITY FOR CONVERSION TO
 48 ITS OWN USE. ON REQUEST OF THE BAILOR IN A RECORD AT THE TIME OF SIGNING
 49 THE STORAGE AGREEMENT OR WITHIN A REASONABLE TIME AFTER RECEIPT OF THE
 50 WAREHOUSE RECEIPT, THE WAREHOUSE'S LIABILITY MAY BE INCREASED ON PART OR
 51 ALL OF THE GOODS COVERED BY THE STORAGE AGREEMENT OR THE WAREHOUSE
 52 RECEIPT. IN THIS EVENT, INCREASED RATES MAY BE CHARGED BASED ON AN
 53 INCREASED VALUATION OF THE GOODS.

54 (C) REASONABLE PROVISIONS AS TO THE TIME AND MANNER OF PRESENTING
 55 CLAIMS AND COMMENCING ACTIONS BASED ON THE BAILMENT MAY BE INCLUDED IN
 56 THE WAREHOUSE RECEIPT OR STORAGE AGREEMENT.

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1 SECTION 7--205. TITLE UNDER WAREHOUSE RECEIPT DEFEATED IN CERTAIN CASES.

2 A BUYER IN ORDINARY COURSE OF BUSINESS OF FUNGIBLE GOODS SOLD AND
 3 DELIVERED BY A WAREHOUSE THAT IS ALSO IN THE BUSINESS OF BUYING AND
 4 SELLING SUCH GOODS TAKES THE GOODS FREE OF ANY CLAIM UNDER A WAREHOUSE
 5 RECEIPT EVEN IF THE RECEIPT IS NEGOTIABLE AND HAS BEEN DULY NEGOTIATED.

6 SECTION 7--206. TERMINATION OF STORAGE AT WAREHOUSE'S OPTION.

7 (A) A WAREHOUSE, BY GIVING NOTICE TO THE PERSON ON WHOSE ACCOUNT THE
 8 GOODS ARE HELD AND ANY OTHER PERSON KNOWN TO CLAIM AN INTEREST IN THE
 9 GOODS, MAY REQUIRE PAYMENT OF ANY CHARGES AND REMOVAL OF THE GOODS FROM
 10 THE WAREHOUSE AT THE TERMINATION OF THE PERIOD OF STORAGE FIXED BY THE
 11 DOCUMENT OF TITLE OR, IF A PERIOD IS NOT FIXED, WITHIN A STATED PERIOD
 12 NOT LESS THAN 30 DAYS AFTER THE WAREHOUSE GIVES NOTICE. IF THE GOODS ARE
 13 NOT REMOVED BEFORE THE DATE SPECIFIED IN THE NOTICE, THE WAREHOUSE MAY
 14 SELL THEM PURSUANT TO SECTION 7--210.

15 (B) IF A WAREHOUSE IN GOOD FAITH BELIEVES THAT GOODS ARE ABOUT TO
 16 DETERIORATE OR DECLINE IN VALUE TO LESS THAN THE AMOUNT OF ITS LIEN
 17 WITHIN THE TIME PROVIDED IN SUBSECTION (A) AND SECTION 7--210, THE WARE-
 18 HOUSE MAY SPECIFY IN THE NOTICE GIVEN UNDER SUBSECTION (A) ANY REASON-
 19 ABLE SHORTER TIME FOR REMOVAL OF THE GOODS AND, IF THE GOODS ARE NOT
 20 REMOVED, MAY SELL THEM AT PUBLIC SALE HELD NOT LESS THAN ONE WEEK AFTER
 21 A SINGLE ADVERTISEMENT OR POSTING.

22 (C) IF, AS A RESULT OF A QUALITY OR CONDITION OF THE GOODS OF WHICH
 23 THE WAREHOUSE DID NOT HAVE NOTICE AT THE TIME OF DEPOSIT, THE GOODS ARE
 24 A HAZARD TO OTHER PROPERTY, THE WAREHOUSE FACILITIES, OR OTHER PERSONS,
 25 THE WAREHOUSE MAY SELL THE GOODS AT PUBLIC OR PRIVATE SALE WITHOUT
 26 ADVERTISEMENT OR POSTING ON REASONABLE NOTIFICATION TO ALL PERSONS KNOWN
 27 TO CLAIM AN INTEREST IN THE GOODS. IF THE WAREHOUSE, AFTER A REASONABLE
 28 EFFORT, IS UNABLE TO SELL THE GOODS, IT MAY DISPOSE OF THEM IN ANY
 29 LAWFUL MANNER AND DOES NOT INCUR LIABILITY BY REASON OF THAT DISPOSI-
 30 TION.

31 (D) A WAREHOUSE SHALL DELIVER THE GOODS TO ANY PERSON ENTITLED TO THEM
 32 UNDER THIS ARTICLE UPON DUE DEMAND MADE AT ANY TIME BEFORE SALE OR OTHER
 33 DISPOSITION UNDER THIS SECTION.

34 (E) A WAREHOUSE MAY SATISFY ITS LIEN FROM THE PROCEEDS OF ANY SALE OR
 35 DISPOSITION UNDER THIS SECTION BUT SHALL HOLD THE BALANCE FOR DELIVERY
 36 ON THE DEMAND OF ANY PERSON TO WHICH THE WAREHOUSE WOULD HAVE BEEN BOUND
 37 TO DELIVER THE GOODS.

38 SECTION 7--207. GOODS MUST BE KEPT SEPARATE; FUNGIBLE GOODS.

39 (A) UNLESS THE WAREHOUSE RECEIPT PROVIDES OTHERWISE, A WAREHOUSE SHALL
 40 KEEP SEPARATE THE GOODS COVERED BY EACH RECEIPT SO AS TO PERMIT AT ALL
 41 TIMES IDENTIFICATION AND DELIVERY OF THOSE GOODS. HOWEVER, DIFFERENT
 42 LOTS OF FUNGIBLE GOODS MAY BE COMMINGLED.

43 (B) IF DIFFERENT LOTS OF FUNGIBLE GOODS ARE COMMINGLED, THE GOODS ARE
 44 OWNED IN COMMON BY THE PERSONS ENTITLED THERETO AND THE WAREHOUSE IS

45 SEVERALLY LIABLE TO EACH OWNER FOR THAT OWNER'S SHARE. IF, BECAUSE OF
 46 OVERISSUE, A MASS OF FUNGIBLE GOODS IS INSUFFICIENT TO MEET ALL THE
 47 RECEIPTS THE WAREHOUSE HAS ISSUED AGAINST IT, THE PERSONS ENTITLED
 48 INCLUDE ALL HOLDERS TO WHICH OVERISSUED RECEIPTS HAVE BEEN DULY NEGOTI-
 49 ATED.

50 SECTION 7--208. ALTERED WAREHOUSE RECEIPTS.

51 IF A BLANK IN A NEGOTIABLE TANGIBLE WAREHOUSE RECEIPT HAS BEEN FILLED
 52 IN WITHOUT AUTHORITY, A GOOD-FAITH PURCHASER FOR VALUE AND WITHOUT
 53 NOTICE OF THE LACK OF AUTHORITY MAY TREAT THE INSERTION AS AUTHORIZED.
 54 ANY OTHER UNAUTHORIZED ALTERATION LEAVES ANY TANGIBLE OR ELECTRONIC
 55 WAREHOUSE RECEIPT ENFORCEABLE AGAINST THE ISSUER ACCORDING TO ITS
 56 ORIGINAL TENOR.

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1 SECTION 7--209. LIEN OF WAREHOUSE.

2 (A) A WAREHOUSE HAS A LIEN AGAINST THE BAILOR ON THE GOODS COVERED BY
 3 A WAREHOUSE RECEIPT OR STORAGE AGREEMENT OR ON THE PROCEEDS THEREOF IN
 4 ITS POSSESSION FOR CHARGES FOR STORAGE OR TRANSPORTATION, INCLUDING
 5 DEMURRAGE AND TERMINAL CHARGES, INSURANCE, LABOR, OR OTHER CHARGES,
 6 PRESENT OR FUTURE, IN RELATION TO THE GOODS, AND FOR EXPENSES NECESSARY
 7 FOR PRESERVATION OF THE GOODS OR REASONABLY INCURRED IN THEIR SALE
 8 PURSUANT TO LAW. IF THE PERSON ON WHOSE ACCOUNT THE GOODS ARE HELD IS
 9 LIABLE FOR SIMILAR CHARGES OR EXPENSES IN RELATION TO OTHER GOODS WHEN-
 10 EVER DEPOSITED AND IT IS STATED IN THE WAREHOUSE RECEIPT OR STORAGE
 11 AGREEMENT THAT A LIEN IS CLAIMED FOR CHARGES AND EXPENSES IN RELATION TO
 12 OTHER GOODS, THE WAREHOUSE ALSO HAS A LIEN AGAINST THE GOODS COVERED BY
 13 THE WAREHOUSE RECEIPT OR STORAGE AGREEMENT OR ON THE PROCEEDS THEREOF IN
 14 ITS POSSESSION FOR THOSE CHARGES AND EXPENSES, WHETHER OR NOT THE OTHER
 15 GOODS HAVE BEEN DELIVERED BY THE WAREHOUSE. HOWEVER, AS AGAINST A PERSON
 16 TO WHICH A NEGOTIABLE WAREHOUSE RECEIPT IS DULY NEGOTIATED, A WARE-
 17 HOUSE'S LIEN IS LIMITED TO CHARGES IN AN AMOUNT OR AT A RATE SPECIFIED
 18 IN THE WAREHOUSE RECEIPT OR, IF NO CHARGES ARE SO SPECIFIED, TO A
 19 REASONABLE CHARGE FOR STORAGE OF THE SPECIFIC GOODS COVERED BY THE
 20 RECEIPT SUBSEQUENT TO THE DATE OF THE RECEIPT.

21 (B) A WAREHOUSE MAY ALSO RESERVE A SECURITY INTEREST AGAINST THE
 22 BAILOR FOR THE MAXIMUM AMOUNT SPECIFIED ON THE RECEIPT FOR CHARGES OTHER
 23 THAN THOSE SPECIFIED IN SUBSECTION (A), SUCH AS FOR MONEY ADVANCED AND
 24 INTEREST. THE SECURITY INTEREST IS GOVERNED BY ARTICLE 9.

25 (C) A WAREHOUSE'S LIEN FOR CHARGES AND EXPENSES UNDER SUBSECTION (A)
 26 OR A SECURITY INTEREST UNDER SUBSECTION (B) IS ALSO EFFECTIVE AGAINST
 27 ANY PERSON THAT SO ENTRUSTED THE BAILOR WITH POSSESSION OF THE GOODS
 28 THAT A PLEDGE OF THEM BY THE BAILOR TO A GOOD-FAITH PURCHASER FOR VALUE
 29 WOULD HAVE BEEN VALID. HOWEVER, THE LIEN OR SECURITY INTEREST IS NOT
 30 EFFECTIVE AGAINST A PERSON THAT BEFORE ISSUANCE OF A DOCUMENT OF TITLE
 31 HAD A LEGAL INTEREST OR A PERFECTED SECURITY INTEREST IN THE GOODS AND
 32 THAT DID NOT:

33 (1) DELIVER OR ENTRUST THE GOODS OR ANY DOCUMENT OF TITLE COVERING THE
 34 GOODS TO THE BAILOR OR THE BAILOR'S NOMINEE WITH:

35 (A) ACTUAL OR APPARENT AUTHORITY TO SHIP, STORE, OR SELL;

36 (B) POWER TO OBTAIN DELIVERY UNDER SECTION 7--403; OR

37 (C) POWER OF DISPOSITION UNDER SECTIONS 2--403, 2A--304(2),
 38 2A--305(2), 9--320, OR 9--321(C) OR OTHER STATUTE OR RULE OF LAW; OR

39 (2) ACQUIESCE IN THE PROCUREMENT BY THE BAILOR OR ITS NOMINEE OF ANY
 40 DOCUMENT.

41 (D) A WAREHOUSE'S LIEN ON HOUSEHOLD GOODS FOR CHARGES AND EXPENSES IN
 42 RELATION TO THE GOODS UNDER SUBSECTION (A) IS ALSO EFFECTIVE AGAINST ALL
 43 PERSONS IF THE DEPOSITOR WAS THE LEGAL POSSESSOR OF THE GOODS AT THE
 44 TIME OF DEPOSIT. IN THIS SUBSECTION, "HOUSEHOLD GOODS" MEANS FURNITURE,
 45 FURNISHINGS, OR PERSONAL EFFECTS USED BY THE DEPOSITOR IN A DWELLING.

46 (E) A WAREHOUSE LOSES ITS LIEN ON ANY GOODS THAT IT VOLUNTARILY DELIV-
 47 ERS OR UNJUSTIFIABLY REFUSES TO DELIVER.

48 SECTION 7--210. ENFORCEMENT OF WAREHOUSE'S LIEN.

49 (A) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (B), A WAREHOUSE'S LIEN
 50 MAY BE ENFORCED BY PUBLIC OR PRIVATE SALE OF THE GOODS, IN BULK OR IN
 51 PACKAGES, AT ANY TIME OR PLACE AND ON ANY TERMS THAT ARE COMMERCIALY
 52 REASONABLE, AFTER NOTIFYING ALL PERSONS KNOWN TO CLAIM AN INTEREST IN
 53 THE GOODS. THE NOTIFICATION MUST INCLUDE A STATEMENT OF THE AMOUNT DUE,
 54 THE NATURE OF THE PROPOSED SALE, AND THE TIME AND PLACE OF ANY PUBLIC
 55 SALE. THE FACT THAT A BETTER PRICE COULD HAVE BEEN OBTAINED BY A SALE AT
 56 A DIFFERENT TIME OR IN A METHOD DIFFERENT FROM THAT SELECTED BY THE

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1 WAREHOUSE IS NOT OF ITSELF SUFFICIENT TO ESTABLISH THAT THE SALE WAS NOT
2 MADE IN A COMMERCIALY REASONABLE MANNER. THE WAREHOUSE SELLS IN A
3 COMMERCIALY REASONABLE MANNER IF THE WAREHOUSE SELLS THE GOODS IN THE
4 USUAL MANNER IN ANY RECOGNIZED MARKET THEREFORE, SELLS AT THE PRICE
5 CURRENT IN THAT MARKET AT THE TIME OF THE SALE, OR OTHERWISE SELLS IN
6 CONFORMITY WITH COMMERCIALY REASONABLE PRACTICES AMONG DEALERS IN THE
7 TYPE OF GOODS SOLD. A SALE OF MORE GOODS THAN APPARENTLY NECESSARY TO BE
8 OFFERED TO ENSURE SATISFACTION OF THE OBLIGATION IS NOT COMMERCIALY
9 REASONABLE, EXCEPT IN CASES COVERED BY THE PRECEDING SENTENCE.

10 (B) A WAREHOUSE MAY ENFORCE ITS LIEN ON GOODS, OTHER THAN GOODS STORED
11 BY A MERCHANT IN THE COURSE OF ITS BUSINESS, ONLY IF THE FOLLOWING
12 REQUIREMENTS ARE SATISFIED:

13 (1) ALL PERSONS KNOWN TO CLAIM AN INTEREST IN THE GOODS MUST BE NOTI-
14 FIED.

15 (2) THE NOTIFICATION MUST INCLUDE AN ITEMIZED STATEMENT OF THE CLAIM,
16 A DESCRIPTION OF THE GOODS SUBJECT TO THE LIEN, A DEMAND FOR PAYMENT
17 WITHIN A SPECIFIED TIME NOT LESS THAN TEN DAYS AFTER RECEIPT OF THE
18 NOTIFICATION, AND A CONSPICUOUS STATEMENT THAT UNLESS THE CLAIM IS PAID
19 WITHIN THAT TIME THE GOODS WILL BE ADVERTISED FOR SALE AND SOLD BY
20 AUCTION AT A SPECIFIED TIME AND PLACE.

21 (3) THE SALE MUST CONFORM TO THE TERMS OF THE NOTIFICATION.

22 (4) THE SALE MUST BE HELD AT THE NEAREST SUITABLE PLACE TO WHERE THE
23 GOODS ARE HELD OR STORED.

24 (5) AFTER THE EXPIRATION OF THE TIME GIVEN IN THE NOTIFICATION, AN
25 ADVERTISEMENT OF THE SALE MUST BE PUBLISHED ONCE A WEEK FOR TWO WEEKS
26 CONSECUTIVELY IN A NEWSPAPER OF GENERAL CIRCULATION WHERE THE SALE IS TO
27 BE HELD. THE ADVERTISEMENT MUST INCLUDE A DESCRIPTION OF THE GOODS, THE
28 NAME OF THE PERSON ON WHOSE ACCOUNT THE GOODS ARE BEING HELD, AND THE
29 TIME AND PLACE OF THE SALE. THE SALE MUST TAKE PLACE AT LEAST FIFTEEN
30 DAYS AFTER THE FIRST PUBLICATION. IF THERE IS NO NEWSPAPER OF GENERAL
31 CIRCULATION WHERE THE SALE IS TO BE HELD, THE ADVERTISEMENT MUST BE
32 POSTED AT LEAST TEN DAYS BEFORE THE SALE IN NOT FEWER THAN SIX CONSPICU-
33 OUS PLACES IN THE NEIGHBORHOOD OF THE PROPOSED SALE.

34 (C) BEFORE ANY SALE PURSUANT TO THIS SECTION, ANY PERSON CLAIMING A
35 RIGHT IN THE GOODS MAY PAY THE AMOUNT NECESSARY TO SATISFY THE LIEN AND
36 THE REASONABLE EXPENSES INCURRED IN COMPLYING WITH THIS SECTION. IN THAT
37 EVENT, THE GOODS MAY NOT BE SOLD BUT MUST BE RETAINED BY THE WAREHOUSE
38 SUBJECT TO THE TERMS OF THE RECEIPT AND THIS ARTICLE.

39 (D) A WAREHOUSE MAY BUY AT ANY PUBLIC SALE HELD PURSUANT TO THIS
40 SECTION.

41 (E) A PURCHASER IN GOOD FAITH OF GOODS SOLD TO ENFORCE A WAREHOUSE'S
42 LIEN TAKES THE GOODS FREE OF ANY RIGHTS OF PERSONS AGAINST WHICH THE
43 LIEN WAS VALID, DESPITE THE WAREHOUSE'S NONCOMPLIANCE WITH THIS SECTION.

44 (F) A WAREHOUSE MAY SATISFY ITS LIEN FROM THE PROCEEDS OF ANY SALE
45 PURSUANT TO THIS SECTION BUT SHALL HOLD THE BALANCE, IF ANY, FOR DELIV-
46 ERY ON DEMAND TO ANY PERSON TO WHICH THE WAREHOUSE WOULD HAVE BEEN BOUND
47 TO DELIVER THE GOODS.

48 (G) THE RIGHTS PROVIDED BY THIS SECTION ARE IN ADDITION TO ALL OTHER
49 RIGHTS ALLOWED BY LAW TO A CREDITOR AGAINST A DEBTOR.

50 (H) IF A LIEN IS ON GOODS STORED BY A MERCHANT IN THE COURSE OF ITS
51 BUSINESS, THE LIEN MAY BE ENFORCED IN ACCORDANCE WITH SUBSECTION (A) OR
52 (B).

53 (I) A WAREHOUSE IS LIABLE FOR DAMAGES CAUSED BY FAILURE TO COMPLY WITH
54 THE REQUIREMENTS FOR SALE UNDER THIS SECTION AND, IN CASE OF WILLFUL
55 VIOLATION, IS LIABLE FOR CONVERSION.

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1 PART 3
2 BILLS OF LADING: SPECIAL PROVISIONS
3 SECTION 7--301. LIABILITY FOR NONRECEIPT OR MISDESCRIPTION; "SAID TO
4 CONTAIN"; "SHIPPER'S WEIGHT, LOAD, AND COUNT"; IMPROPER
5 HANDLING.

6 (A) A CONSIGNEE OF A NONNEGOTIABLE BILL OF LADING WHICH HAS GIVEN
7 VALUE IN GOOD FAITH, OR A HOLDER TO WHICH A NEGOTIABLE BILL HAS BEEN
8 DULY NEGOTIATED, RELYING UPON THE DESCRIPTION OF THE GOODS IN THE BILL
9 OR UPON THE DATE SHOWN IN THE BILL, MAY RECOVER FROM THE ISSUER DAMAGES
10 CAUSED BY THE MISDATING OF THE BILL OR THE NONRECEIPT OR MISDESCRIPTION
11 OF THE GOODS, EXCEPT TO THE EXTENT THAT THE BILL INDICATES THAT THE
12 ISSUER DOES NOT KNOW WHETHER ANY PART OR ALL OF THE GOODS IN FACT WERE
13 RECEIVED OR CONFORM TO THE DESCRIPTION, SUCH AS IN A CASE IN WHICH THE
14 DESCRIPTION IS IN TERMS OF MARKS OR LABELS OR KIND, QUANTITY, OR CONDI-
15 TION OR THE RECEIPT OR DESCRIPTION IS QUALIFIED BY "CONTENTS OR CONDI-

16 TION OF CONTENTS OF PACKAGES UNKNOWN", "SAID TO CONTAIN", "SHIPPER'S
17 WEIGHT, LOAD, AND COUNT," OR WORDS OF SIMILAR IMPORT, IF THAT INDICATION
18 IS TRUE.

19 (B) IF GOODS ARE LOADED BY THE ISSUER OF A BILL OF LADING:

20 (1) THE ISSUER SHALL COUNT THE PACKAGES OF GOODS IF SHIPPED IN PACK-
21 AGES AND ASCERTAIN THE KIND AND QUANTITY IF SHIPPED IN BULK; AND

22 (2) WORDS SUCH AS "SHIPPER'S WEIGHT, LOAD, AND COUNT," OR WORDS OF
23 SIMILAR IMPORT INDICATING THAT THE DESCRIPTION WAS MADE BY THE SHIPPER
24 ARE INEFFECTIVE EXCEPT AS TO GOODS CONCEALED IN PACKAGES.

25 (C) IF BULK GOODS ARE LOADED BY A SHIPPER THAT MAKES AVAILABLE TO THE
26 ISSUER OF A BILL OF LADING ADEQUATE FACILITIES FOR WEIGHING THOSE GOODS,
27 THE ISSUER SHALL ASCERTAIN THE KIND AND QUANTITY WITHIN A REASONABLE
28 TIME AFTER RECEIVING THE SHIPPER'S REQUEST IN A RECORD TO DO SO. IN THAT
29 CASE, "SHIPPER'S WEIGHT" OR WORDS OF SIMILAR IMPORT ARE INEFFECTIVE.

30 (D) THE ISSUER OF A BILL OF LADING, BY INCLUDING IN THE BILL THE WORDS
31 "SHIPPER'S WEIGHT, LOAD, AND COUNT," OR WORDS OF SIMILAR IMPORT, MAY
32 INDICATE THAT THE GOODS WERE LOADED BY THE SHIPPER, AND, IF THAT STATE-
33 MENT IS TRUE, THE ISSUER IS NOT LIABLE FOR DAMAGES CAUSED BY THE IMPROP-
34 ER LOADING. HOWEVER, OMISSION OF SUCH WORDS DOES NOT IMPLY LIABILITY FOR
35 DAMAGES CAUSED BY IMPROPER LOADING.

36 (E) A SHIPPER GUARANTEES TO AN ISSUER THE ACCURACY AT THE TIME OF
37 SHIPMENT OF THE DESCRIPTION, MARKS, LABELS, NUMBER, KIND, QUANTITY,
38 CONDITION, AND WEIGHT, AS FURNISHED BY THE SHIPPER, AND THE SHIPPER
39 SHALL INDEMNIFY THE ISSUER AGAINST DAMAGE CAUSED BY INACCURACIES IN
40 THOSE PARTICULARS. THIS RIGHT OF INDEMNITY DOES NOT LIMIT THE ISSUER'S
41 RESPONSIBILITY OR LIABILITY UNDER THE CONTRACT OF CARRIAGE TO ANY PERSON
42 OTHER THAN THE SHIPPER.

43 SECTION 7--302. THROUGH BILLS OF LADING AND SIMILAR DOCUMENTS OF TITLE.

44 (A) THE ISSUER OF A THROUGH BILL OF LADING, OR OTHER DOCUMENT OF TITLE
45 EMBODYING AN UNDERTAKING TO BE PERFORMED IN PART BY A PERSON ACTING AS
46 ITS AGENT OR BY A PERFORMING CARRIER, IS LIABLE TO ANY PERSON ENTITLED
47 TO RECOVER ON THE BILL OR OTHER DOCUMENT FOR ANY BREACH BY THE OTHER
48 PERSON OR THE PERFORMING CARRIER OF ITS OBLIGATION UNDER THE BILL OR
49 OTHER DOCUMENT. HOWEVER, TO THE EXTENT THAT THE BILL OR OTHER DOCUMENT
50 COVERS AN UNDERTAKING TO BE PERFORMED OVERSEAS OR IN TERRITORY NOT
51 CONTIGUOUS TO THE CONTINENTAL UNITED STATES OR AN UNDERTAKING INCLUDING
52 MATTERS OTHER THAN TRANSPORTATION, THIS LIABILITY FOR BREACH BY THE
53 OTHER PERSON OR THE PERFORMING CARRIER MAY BE VARIED BY AGREEMENT OF THE
54 PARTIES.

55 (B) IF GOODS COVERED BY A THROUGH BILL OF LADING OR OTHER DOCUMENT OF
56 TITLE EMBODYING AN UNDERTAKING TO BE PERFORMED IN PART BY A PERSON OTHER
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1 THAN THE ISSUER ARE RECEIVED BY THAT PERSON, THE PERSON IS SUBJECT, WITH
2 RESPECT TO ITS OWN PERFORMANCE WHILE THE GOODS ARE IN ITS POSSESSION, TO
3 THE OBLIGATION OF THE ISSUER. THE PERSON'S OBLIGATION IS DISCHARGED BY
4 DELIVERY OF THE GOODS TO ANOTHER PERSON PURSUANT TO THE BILL OR OTHER
5 DOCUMENT AND DOES NOT INCLUDE LIABILITY FOR BREACH BY ANY OTHER PERSON
6 OR BY THE ISSUER.

7 (C) THE ISSUER OF A THROUGH BILL OF LADING OR OTHER DOCUMENT OF TITLE
8 DESCRIBED IN SUBSECTION (A) IS ENTITLED TO RECOVER FROM THE PERFORMING
9 CARRIER, OR OTHER PERSON IN POSSESSION OF THE GOODS WHEN THE BREACH OF
10 THE OBLIGATION UNDER THE BILL OR OTHER DOCUMENT OCCURRED:

11 (1) THE AMOUNT IT MAY BE REQUIRED TO PAY TO ANY PERSON ENTITLED TO
12 RECOVER ON THE BILL OR OTHER DOCUMENT FOR THE BREACH, AS MAY BE
13 EVIDENCED BY ANY RECEIPT, JUDGMENT, OR TRANSCRIPT OF JUDGMENT; AND

14 (2) THE AMOUNT OF ANY EXPENSE REASONABLY INCURRED BY THE ISSUER IN
15 DEFENDING ANY ACTION COMMENCED BY ANY PERSON ENTITLED TO RECOVER ON THE
16 BILL OR OTHER DOCUMENT FOR THE BREACH.

17 SECTION 7--303. DIVERSION; RECONSIGNMENT; CHANGE OF INSTRUCTIONS.

18 (A) UNLESS THE BILL OF LADING OTHERWISE PROVIDES, A CARRIER MAY DELIV-
19 ER THE GOODS TO A PERSON OR DESTINATION OTHER THAN THAT STATED IN THE
20 BILL OR MAY OTHERWISE DISPOSE OF THE GOODS, WITHOUT LIABILITY FOR MISDE-
21 LIVERY, ON INSTRUCTIONS FROM:

22 (1) THE HOLDER OF A NEGOTIABLE BILL;

23 (2) THE CONSIGNOR ON A NONNEGOTIABLE BILL, EVEN IF THE CONSIGNEE HAS
24 GIVEN CONTRARY INSTRUCTIONS;

25 (3) THE CONSIGNEE ON A NONNEGOTIABLE BILL IN THE ABSENCE OF CONTRARY
26 INSTRUCTIONS FROM THE CONSIGNOR, IF THE GOODS HAVE ARRIVED AT THE BILLED
27 DESTINATION OR IF THE CONSIGNEE IS IN POSSESSION OF THE TANGIBLE BILL OR
28 IN CONTROL OF THE ELECTRONIC BILL; OR

29 (4) THE CONSIGNEE ON A NONNEGOTIABLE BILL, IF THE CONSIGNEE IS ENTI-

30 TLED AS AGAINST THE CONSIGNOR TO DISPOSE OF THE GOODS.
 31 (B) UNLESS INSTRUCTIONS DESCRIBED IN SUBSECTION (A) ARE INCLUDED IN A
 32 NEGOTIABLE BILL OF LADING, A PERSON TO WHICH THE BILL IS DULY NEGOTIATED
 33 MAY HOLD THE BAILEE ACCORDING TO THE ORIGINAL TERMS.
 34 SECTION 7--304. TANGIBLE BILLS OF LADING IN A SET.
 35 (A) EXCEPT AS CUSTOMARY IN INTERNATIONAL TRANSPORTATION, A TANGIBLE
 36 BILL OF LADING MAY NOT BE ISSUED IN A SET OF PARTS. THE ISSUER IS LIABLE
 37 FOR DAMAGES CAUSED BY VIOLATION OF THIS SUBSECTION.
 38 (B) IF A TANGIBLE BILL OF LADING IS LAWFULLY ISSUED IN A SET OF PARTS,
 39 EACH OF WHICH CONTAINS AN IDENTIFICATION CODE AND IS EXPRESSED TO BE
 40 VALID ONLY IF THE GOODS HAVE NOT BEEN DELIVERED AGAINST ANY OTHER PART,
 41 THE WHOLE OF THE PARTS CONSTITUTES ONE BILL.
 42 (C) IF A TANGIBLE NEGOTIABLE BILL OF LADING IS LAWFULLY ISSUED IN A
 43 SET OF PARTS AND DIFFERENT PARTS ARE NEGOTIATED TO DIFFERENT PERSONS,
 44 THE TITLE OF THE HOLDER TO WHICH THE FIRST DUE NEGOTIATION IS MADE
 45 PREVAILS AS TO BOTH THE DOCUMENT OF TITLE AND THE GOODS EVEN IF ANY
 46 LATER HOLDER MAY HAVE RECEIVED THE GOODS FROM THE CARRIER IN GOOD FAITH
 47 AND DISCHARGED THE CARRIER'S OBLIGATION BY SURRENDERING ITS PART.
 48 (D) A PERSON THAT NEGOTIATES OR TRANSFERS A SINGLE PART OF A TANGIBLE
 49 BILL OF LADING ISSUED IN A SET IS LIABLE TO HOLDERS OF THAT PART AS IF
 50 IT WERE THE WHOLE SET.
 51 (E) THE BAILEE SHALL DELIVER IN ACCORDANCE WITH PART 4 OF THIS ARTICLE
 52 AGAINST THE FIRST PRESENTED PART OF A TANGIBLE BILL OF LADING LAWFULLY
 53 ISSUED IN A SET. DELIVERY IN THIS MANNER DISCHARGES THE BAILEE'S OBLI-
 54 GATION ON THE WHOLE BILL.
 55 SECTION 7--305. DESTINATION BILLS.
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1 (A) INSTEAD OF ISSUING A BILL OF LADING TO THE CONSIGNOR AT THE PLACE
 2 OF SHIPMENT, A CARRIER, AT THE REQUEST OF THE CONSIGNOR, MAY PROCURE THE
 3 BILL TO BE ISSUED AT DESTINATION OR AT ANY OTHER PLACE DESIGNATED IN THE
 4 REQUEST.
 5 (B) UPON REQUEST OF ANY PERSON ENTITLED AS AGAINST A CARRIER TO
 6 CONTROL THE GOODS WHILE IN TRANSIT AND ON SURRENDER OF POSSESSION OR
 7 CONTROL OF ANY OUTSTANDING BILL OF LADING OR OTHER RECEIPT COVERING THE
 8 GOODS, THE ISSUER, SUBJECT TO SECTION 7--105, MAY PROCURE A SUBSTITUTE
 9 BILL TO BE ISSUED AT ANY PLACE DESIGNATED IN THE REQUEST.
 10 SECTION 7--306. ALTERED BILLS OF LADING.
 11 AN UNAUTHORIZED ALTERATION OR FILLING IN OF A BLANK IN A BILL OF
 12 LADING LEAVES THE BILL ENFORCEABLE ACCORDING TO ITS ORIGINAL TENOR.
 13 SECTION 7--307. LIEN OF CARRIER.
 14 (A) A CARRIER HAS A LIEN ON THE GOODS COVERED BY A BILL OF LADING OR
 15 ON THE PROCEEDS THEREOF IN ITS POSSESSION FOR CHARGES AFTER THE DATE OF
 16 THE CARRIER'S RECEIPT OF THE GOODS FOR STORAGE OR TRANSPORTATION,
 17 INCLUDING DEMURRAGE AND TERMINAL CHARGES, AND FOR EXPENSES NECESSARY FOR
 18 PRESERVATION OF THE GOODS INCIDENT TO THEIR TRANSPORTATION OR REASONABLY
 19 INCURRED IN THEIR SALE PURSUANT TO LAW. HOWEVER, AGAINST A PURCHASER FOR
 20 VALUE OF A NEGOTIABLE BILL OF LADING, A CARRIER'S LIEN IS LIMITED TO
 21 CHARGES STATED IN THE BILL OR THE APPLICABLE TARIFFS OR, IF NO CHARGES
 22 ARE STATED, A REASONABLE CHARGE.
 23 (B) A LIEN FOR CHARGES AND EXPENSES UNDER SUBSECTION (A) ON GOODS THAT
 24 THE CARRIER WAS REQUIRED BY LAW TO RECEIVE FOR TRANSPORTATION IS EFFEC-
 25 TIVE AGAINST THE CONSIGNOR OR ANY PERSON ENTITLED TO THE GOODS UNLESS
 26 THE CARRIER HAD NOTICE THAT THE CONSIGNOR LACKED AUTHORITY TO SUBJECT
 27 THE GOODS TO THOSE CHARGES AND EXPENSES. ANY OTHER LIEN UNDER
 28 SUBSECTION (A) IS EFFECTIVE AGAINST THE CONSIGNOR AND ANY PERSON THAT
 29 PERMITTED THE BAILOR TO HAVE CONTROL OR POSSESSION OF THE GOODS UNLESS
 30 THE CARRIER HAD NOTICE THAT THE BAILOR LACKED AUTHORITY.
 31 (C) A CARRIER LOSES ITS LIEN ON ANY GOODS THAT IT VOLUNTARILY DELIVERS
 32 OR UNJUSTIFIABLY REFUSES TO DELIVER.
 33 SECTION 7--308. ENFORCEMENT OF CARRIER'S LIEN.
 34 (A) A CARRIER'S LIEN ON GOODS MAY BE ENFORCED BY PUBLIC OR PRIVATE
 35 SALE OF THE GOODS, IN BULK OR IN PACKAGES, AT ANY TIME OR PLACE AND ON
 36 ANY TERMS THAT ARE COMMERCIALY REASONABLE, AFTER NOTIFYING ALL PERSONS
 37 KNOWN TO CLAIM AN INTEREST IN THE GOODS. THE NOTIFICATION MUST INCLUDE A
 38 STATEMENT OF THE AMOUNT DUE, THE NATURE OF THE PROPOSED SALE, AND THE
 39 TIME AND PLACE OF ANY PUBLIC SALE. THE FACT THAT A BETTER PRICE COULD
 40 HAVE BEEN OBTAINED BY A SALE AT A DIFFERENT TIME OR IN A METHOD DIFFER-
 41 ENT FROM THAT SELECTED BY THE CARRIER IS NOT OF ITSELF SUFFICIENT TO
 42 ESTABLISH THAT THE SALE WAS NOT MADE IN A COMMERCIALY REASONABLE
 43 MANNER. THE CARRIER SELLS GOODS IN A COMMERCIALY REASONABLE MANNER IF
 44 THE CARRIER SELLS THE GOODS IN THE USUAL MANNER IN ANY RECOGNIZED MARKET

45 THEREFOR, SELLS AT THE PRICE CURRENT IN THAT MARKET AT THE TIME OF THE
 46 SALE, OR OTHERWISE SELLS IN CONFORMITY WITH COMMERCIALY REASONABLE
 47 PRACTICES AMONG DEALERS IN THE TYPE OF GOODS SOLD. A SALE OF MORE GOODS
 48 THAN APPARENTLY NECESSARY TO BE OFFERED TO ENSURE SATISFACTION OF THE
 49 OBLIGATION IS NOT COMMERCIALY REASONABLE, EXCEPT IN CASES COVERED BY
 50 THE PRECEDING SENTENCE.

51 (B) BEFORE ANY SALE PURSUANT TO THIS SECTION, ANY PERSON CLAIMING A
 52 RIGHT IN THE GOODS MAY PAY THE AMOUNT NECESSARY TO SATISFY THE LIEN AND
 53 THE REASONABLE EXPENSES INCURRED IN COMPLYING WITH THIS SECTION. IN THAT
 54 EVENT, THE GOODS MAY NOT BE SOLD BUT MUST BE RETAINED BY THE CARRIER,
 55 SUBJECT TO THE TERMS OF THE BILL OF LADING AND THIS ARTICLE.

56 (C) A CARRIER MAY BUY AT ANY PUBLIC SALE PURSUANT TO THIS SECTION.
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1 (D) A PURCHASER IN GOOD FAITH OF GOODS SOLD TO ENFORCE A CARRIER'S
 2 LIEN TAKES THE GOODS FREE OF ANY RIGHTS OF PERSONS AGAINST WHICH THE
 3 LIEN WAS VALID, DESPITE THE CARRIER'S NONCOMPLIANCE WITH THIS SECTION.

4 (E) A CARRIER MAY SATISFY ITS LIEN FROM THE PROCEEDS OF ANY SALE
 5 PURSUANT TO THIS SECTION BUT SHALL HOLD THE BALANCE, IF ANY, FOR DELIV-
 6 ERY ON DEMAND TO ANY PERSON TO WHICH THE CARRIER WOULD HAVE BEEN BOUND
 7 TO DELIVER THE GOODS.

8 (F) THE RIGHTS PROVIDED BY THIS SECTION ARE IN ADDITION TO ALL OTHER
 9 RIGHTS ALLOWED BY LAW TO A CREDITOR AGAINST A DEBTOR.

10 (G) A CARRIER'S LIEN MAY BE ENFORCED PURSUANT TO EITHER SUBSECTION (A)
 11 OR THE PROCEDURE SET FORTH IN SECTION 7--210(B).

12 (H) A CARRIER IS LIABLE FOR DAMAGES CAUSED BY FAILURE TO COMPLY WITH
 13 THE REQUIREMENTS FOR SALE UNDER THIS SECTION AND, IN CASE OF WILLFUL
 14 VIOLATION, IS LIABLE FOR CONVERSION.

15 SECTION 7--309. DUTY OF CARE; CONTRACTUAL LIMITATION OF CARRIER'S
 16 LIABILITY.

17 (A) A CARRIER THAT ISSUES A BILL OF LADING, WHETHER NEGOTIABLE OR
 18 NONNEGOTIABLE, SHALL EXERCISE THE DEGREE OF CARE IN RELATION TO THE
 19 GOODS WHICH A REASONABLY CAREFUL PERSON WOULD EXERCISE UNDER SIMILAR
 20 CIRCUMSTANCES. THIS SUBSECTION DOES NOT AFFECT ANY STATUTE, REGULATION,
 21 OR RULE OF LAW THAT IMPOSES LIABILITY UPON A COMMON CARRIER FOR DAMAGES
 22 NOT CAUSED BY ITS NEGLIGENCE.

23 (B) DAMAGES MAY BE LIMITED BY A TERM IN THE BILL OF LADING OR IN A
 24 TRANSPORTATION AGREEMENT THAT THE CARRIER'S LIABILITY MAY NOT EXCEED A
 25 VALUE STATED IN THE BILL OR TRANSPORTATION AGREEMENT IF THE CARRIER'S
 26 RATES ARE DEPENDENT UPON VALUE AND THE CONSIGNOR IS AFFORDED AN OPPORTU-
 27 NITY TO DECLARE A HIGHER VALUE AND THE CONSIGNOR IS ADVISED OF THE
 28 OPPORTUNITY. HOWEVER, SUCH A LIMITATION IS NOT EFFECTIVE WITH RESPECT TO
 29 THE CARRIER'S LIABILITY FOR CONVERSION TO ITS OWN USE.

30 (C) REASONABLE PROVISIONS AS TO THE TIME AND MANNER OF PRESENTING
 31 CLAIMS AND COMMENCING ACTIONS BASED ON THE SHIPMENT MAY BE INCLUDED IN A
 32 BILL OF LADING OR A TRANSPORTATION AGREEMENT.

33 PART 4

34 WAREHOUSE RECEIPTS AND BILLS OF LADING: GENERAL OBLIGATIONS
 35 SECTION 7--401. IRREGULARITIES IN ISSUE OF RECEIPT OR BILL OR CONDUCT OF
 36 ISSUER.

37 THE OBLIGATIONS IMPOSED BY THIS ARTICLE ON AN ISSUER APPLY TO A DOCU-
 38 MENT OF TITLE EVEN IF:

39 (1) THE DOCUMENT DOES NOT COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE
 40 OR OF ANY OTHER STATUTE, RULE, OR REGULATION REGARDING ITS ISSUANCE,
 41 FORM, OR CONTENT;

42 (2) THE ISSUER VIOLATED LAWS REGULATING THE CONDUCT OF ITS BUSINESS;

43 (3) THE GOODS COVERED BY THE DOCUMENT WERE OWNED BY THE BAILEE WHEN
 44 THE DOCUMENT WAS ISSUED; OR

45 (4) THE PERSON ISSUING THE DOCUMENT IS NOT A WAREHOUSE BUT THE DOCU-
 46 MENT PURPORTS TO BE A WAREHOUSE RECEIPT.

47 SECTION 7--402. DUPLICATE DOCUMENT OF TITLE; OVERISSUE.

48 A DUPLICATE OR ANY OTHER DOCUMENT OF TITLE PURPORTING TO COVER GOODS
 49 ALREADY REPRESENTED BY AN OUTSTANDING DOCUMENT OF THE SAME ISSUER DOES
 50 NOT CONFER ANY RIGHT IN THE GOODS, EXCEPT AS PROVIDED IN THE CASE OF
 51 TANGIBLE BILLS OF LADING IN A SET OF PARTS, OVERISSUE OF DOCUMENTS FOR
 52 FUNGIBLE GOODS, SUBSTITUTES FOR LOST, STOLEN, OR DESTROYED DOCUMENTS, OR
 53 SUBSTITUTE DOCUMENTS ISSUED PURSUANT TO SECTION 7--105. THE ISSUER IS
 54 LIABLE FOR DAMAGES CAUSED BY ITS OVERISSUE OR FAILURE TO IDENTIFY A
 55 DUPLICATE DOCUMENT BY A CONSPICUOUS NOTATION.

56 SECTION 7--403. OBLIGATION OF BAILEE TO DELIVER; EXCUSE.

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1 (A) A BAILEE SHALL DELIVER THE GOODS TO A PERSON ENTITLED UNDER A
2 DOCUMENT OF TITLE IF THE PERSON COMPLIES WITH SUBSECTIONS (B) AND (C),
3 UNLESS AND TO THE EXTENT THAT THE BAILEE ESTABLISHES ANY OF THE FOLLOW-
4 ING:

5 (1) DELIVERY OF THE GOODS TO A PERSON WHOSE RECEIPT WAS RIGHTFUL AS
6 AGAINST THE CLAIMANT;

7 (2) DAMAGE TO OR DELAY, LOSS, OR DESTRUCTION OF THE GOODS FOR WHICH
8 THE BAILEE IS NOT LIABLE;

9 (3) PREVIOUS SALE OR OTHER DISPOSITION OF THE GOODS IN LAWFUL ENFORCE-
10 MENT OF A LIEN OR ON A WAREHOUSE'S LAWFUL TERMINATION OF STORAGE;

11 (4) THE EXERCISE BY A SELLER OF ITS RIGHT TO STOP DELIVERY PURSUANT TO
12 SECTION 2--705 OR BY A LESSOR OF ITS RIGHT TO STOP DELIVERY PURSUANT TO
13 SECTION 2-A--526;

14 (5) A DIVERSION, RECONSIGNMENT, OR OTHER DISPOSITION PURSUANT TO
15 SECTION 7--303;

16 (6) RELEASE, SATISFACTION, OR ANY OTHER PERSONAL DEFENSE AGAINST THE
17 CLAIMANT; OR

18 (7) ANY OTHER LAWFUL EXCUSE.

19 (B) A PERSON CLAIMING GOODS COVERED BY A DOCUMENT OF TITLE SHALL
20 SATISFY THE BAILEE'S LIEN IF THE BAILEE SO REQUESTS OR IF THE BAILEE IS
21 PROHIBITED BY LAW FROM DELIVERING THE GOODS UNTIL THE CHARGES ARE PAID.

22 (C) UNLESS A PERSON CLAIMING THE GOODS IS A PERSON AGAINST WHICH THE
23 DOCUMENT OF TITLE DOES NOT CONFER A RIGHT UNDER SECTION 7--503(A):

24 (1) THE PERSON CLAIMING UNDER A DOCUMENT SHALL SURRENDER POSSESSION OR
25 CONTROL OF ANY OUTSTANDING NEGOTIABLE DOCUMENT COVERING THE GOODS FOR
26 CANCELLATION OR INDICATION OF PARTIAL DELIVERIES; AND

27 (2) THE BAILEE SHALL CANCEL THE DOCUMENT OR CONSPICUOUSLY INDICATE IN
28 THE DOCUMENT THE PARTIAL DELIVERY OR THE BAILEE IS LIABLE TO ANY PERSON
29 TO WHICH THE DOCUMENT IS DULY NEGOTIATED.

30 SECTION 7--404. NO LIABILITY FOR GOOD-FAITH DELIVERY PURSUANT TO DOCU-
31 MENT OF TITLE.

32 A BAILEE THAT IN GOOD FAITH HAS RECEIVED GOODS AND DELIVERED OR OTHER-
33 WISE DISPOSED OF THE GOODS ACCORDING TO THE TERMS OF A DOCUMENT OF TITLE
34 OR PURSUANT TO THIS ARTICLE IS NOT LIABLE FOR THE GOODS EVEN IF:

35 (1) THE PERSON FROM WHICH THE BAILEE RECEIVED THE GOODS DID NOT HAVE
36 AUTHORITY TO PROCURE THE DOCUMENT OR TO DISPOSE OF THE GOODS; OR

37 (2) THE PERSON TO WHICH THE BAILEE DELIVERED THE GOODS DID NOT HAVE
38 AUTHORITY TO RECEIVE THE GOODS.

39 PART 5

40 WAREHOUSE RECEIPTS AND BILLS OF LADING: NEGOTIATION AND TRANSFER
41 SECTION 7--501. FORM OF NEGOTIATION AND REQUIREMENTS OF DUE NEGOTIATION.

42 (A) THE FOLLOWING RULES APPLY TO A NEGOTIABLE TANGIBLE DOCUMENT OF
43 TITLE:

44 (1) IF THE DOCUMENT'S ORIGINAL TERMS RUN TO THE ORDER OF A NAMED
45 PERSON, THE DOCUMENT IS NEGOTIATED BY THE NAMED PERSON'S INDORSEMENT AND
46 DELIVERY. AFTER THE NAMED PERSON'S INDORSEMENT IN BLANK OR TO BEARER,
47 ANY PERSON MAY NEGOTIATE THE DOCUMENT BY DELIVERY ALONE.

48 (2) IF THE DOCUMENT'S ORIGINAL TERMS RUN TO BEARER, IT IS NEGOTIATED
49 BY DELIVERY ALONE.

50 (3) IF THE DOCUMENT'S ORIGINAL TERMS RUN TO THE ORDER OF A NAMED
51 PERSON AND IT IS DELIVERED TO THE NAMED PERSON, THE EFFECT IS THE SAME
52 AS IF THE DOCUMENT HAD BEEN NEGOTIATED.

53 (4) NEGOTIATION OF THE DOCUMENT AFTER IT HAS BEEN INDORSED TO A NAMED
54 PERSON REQUIRES INDORSEMENT BY THE NAMED PERSON AND DELIVERY.

55 (5) A DOCUMENT IS DULY NEGOTIATED IF IT IS NEGOTIATED IN THE MANNER
56 STATED IN THIS SUBSECTION TO A HOLDER THAT PURCHASES IT IN GOOD FAITH,
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1 WITHOUT NOTICE OF ANY DEFENSE AGAINST OR CLAIM TO IT ON THE PART OF ANY
2 PERSON, AND FOR VALUE, UNLESS IT IS ESTABLISHED THAT THE NEGOTIATION IS
3 NOT IN THE REGULAR COURSE OF BUSINESS OR FINANCING OR INVOLVES RECEIVING
4 THE DOCUMENT IN SETTLEMENT OR PAYMENT OF A MONETARY OBLIGATION.

5 (B) THE FOLLOWING RULES APPLY TO A NEGOTIABLE ELECTRONIC DOCUMENT OF
6 TITLE:

7 (1) IF THE DOCUMENT'S ORIGINAL TERMS RUN TO THE ORDER OF A NAMED
8 PERSON OR TO BEARER, THE DOCUMENT IS NEGOTIATED BY DELIVERY OF THE DOCU-
9 MENT TO ANOTHER PERSON. INDORSEMENT BY THE NAMED PERSON IS NOT REQUIRED
10 TO NEGOTIATE THE DOCUMENT.

11 (2) IF THE DOCUMENT'S ORIGINAL TERMS RUN TO THE ORDER OF A NAMED
12 PERSON AND THE NAMED PERSON HAS CONTROL OF THE DOCUMENT, THE EFFECT IS
13 THE SAME AS IF THE DOCUMENT HAD BEEN NEGOTIATED.

14 (3) A DOCUMENT IS DULY NEGOTIATED IF IT IS NEGOTIATED IN THE MANNER

15 STATED IN THIS SUBSECTION TO A HOLDER THAT PURCHASES IT IN GOOD FAITH,
 16 WITHOUT NOTICE OF ANY DEFENSE AGAINST OR CLAIM TO IT ON THE PART OF ANY
 17 PERSON, AND FOR VALUE, UNLESS IT IS ESTABLISHED THAT THE NEGOTIATION IS
 18 NOT IN THE REGULAR COURSE OF BUSINESS OR FINANCING OR INVOLVES TAKING
 19 DELIVERY OF THE DOCUMENT IN SETTLEMENT OR PAYMENT OF A MONETARY OBLI-
 20 GATION.

21 (C) INDORSEMENT OF A NONNEGOTIABLE DOCUMENT OF TITLE NEITHER MAKES IT
 22 NEGOTIABLE NOR ADDS TO THE TRANSFEREE'S RIGHTS.

23 (D) THE NAMING IN A NEGOTIABLE BILL OF LADING OF A PERSON TO BE NOTI-
 24 FIED OF THE ARRIVAL OF THE GOODS DOES NOT LIMIT THE NEGOTIABILITY OF THE
 25 BILL OR CONSTITUTE NOTICE TO A PURCHASER OF THE BILL OF ANY INTEREST OF
 26 THAT PERSON IN THE GOODS.

27 SECTION 7--502. RIGHTS ACQUIRED BY DUE NEGOTIATION.

28 (A) SUBJECT TO SECTIONS 7--205 AND 7--503, A HOLDER TO WHICH A NEGOTI-
 29 ABLE DOCUMENT OF TITLE HAS BEEN DULY NEGOTIATED ACQUIRES THEREBY:

30 (1) TITLE TO THE DOCUMENT;

31 (2) TITLE TO THE GOODS;

32 (3) ALL RIGHTS ACCRUING UNDER THE LAW OF AGENCY OR ESTOPPEL, INCLUDING
 33 RIGHTS TO GOODS DELIVERED TO THE BAILEE AFTER THE DOCUMENT WAS ISSUED;
 34 AND

35 (4) THE DIRECT OBLIGATION OF THE ISSUER TO HOLD OR DELIVER THE GOODS
 36 ACCORDING TO THE TERMS OF THE DOCUMENT FREE OF ANY DEFENSE OR CLAIM BY
 37 THE ISSUER EXCEPT THOSE ARISING UNDER THE TERMS OF THE DOCUMENT OR UNDER
 38 THIS ARTICLE, BUT IN THE CASE OF A DELIVERY ORDER, THE BAILEE'S OBLI-
 39 GATION ACCRUES ONLY UPON THE BAILEE'S ACCEPTANCE OF THE DELIVERY ORDER
 40 AND THE OBLIGATION ACQUIRED BY THE HOLDER IS THAT THE ISSUER AND ANY
 41 INDORSER WILL PROCURE THE ACCEPTANCE OF THE BAILEE.

42 (B) SUBJECT TO SECTION 7--503, TITLE AND RIGHTS ACQUIRED BY DUE NEGO-
 43 TIATION ARE NOT DEFEATED BY ANY STOPPAGE OF THE GOODS REPRESENTED BY THE
 44 DOCUMENT OF TITLE OR BY SURRENDER OF THE GOODS BY THE BAILEE AND ARE NOT
 45 IMPAIRED EVEN IF:

46 (1) THE DUE NEGOTIATION OR ANY PRIOR DUE NEGOTIATION CONSTITUTED A
 47 BREACH OF DUTY;

48 (2) ANY PERSON HAS BEEN DEPRIVED OF POSSESSION OF A NEGOTIABLE TANGI-
 49 BLE DOCUMENT OR CONTROL OF A NEGOTIABLE ELECTRONIC DOCUMENT BY MISREPRE-
 50 SENTATION, FRAUD, ACCIDENT, MISTAKE, DURESS, LOSS, THEFT, OR CONVERSION;
 51 OR

52 (3) A PREVIOUS SALE OR OTHER TRANSFER OF THE GOODS OR DOCUMENT HAS
 53 BEEN MADE TO A THIRD PERSON.

54 SECTION 7--503. DOCUMENT OF TITLE TO GOODS DEFEATED IN CERTAIN CASES.

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1 (A) A DOCUMENT OF TITLE CONFERS NO RIGHT IN GOODS AGAINST A PERSON
 2 THAT BEFORE ISSUANCE OF THE DOCUMENT HAD A LEGAL INTEREST OR A PERFECTED
 3 SECURITY INTEREST IN THE GOODS AND THAT DID NOT:

4 (1) DELIVER OR ENTRUST THE GOODS OR ANY DOCUMENT OF TITLE COVERING THE
 5 GOODS TO THE BAILOR OR THE BAILOR'S NOMINEE WITH:

6 (A) ACTUAL OR APPARENT AUTHORITY TO SHIP, STORE, OR SELL;

7 (B) POWER TO OBTAIN DELIVERY UNDER SECTION 7--403; OR

8 (C) POWER OF DISPOSITION UNDER SECTION 2--403, 2-A--304(2),
 9 2-A--305(2), 9--320, OR 9--321(C) OR OTHER STATUTE OR RULE OF LAW; OR

10 (2) ACQUIESCE IN THE PROCUREMENT BY THE BAILOR OR ITS NOMINEE OF ANY
 11 DOCUMENT.

12 (B) TITLE TO GOODS BASED UPON AN UNACCEPTED DELIVERY ORDER IS SUBJECT
 13 TO THE RIGHTS OF ANY PERSON TO WHICH A NEGOTIABLE WAREHOUSE RECEIPT OR
 14 BILL OF LADING COVERING THE GOODS HAS BEEN DULY NEGOTIATED. THAT TITLE
 15 MAY BE DEFEATED UNDER SECTION 7--504 TO THE SAME EXTENT AS THE RIGHTS OF
 16 THE ISSUER OR A TRANSFEREE FROM THE ISSUER.

17 (C) TITLE TO GOODS BASED UPON A BILL OF LADING ISSUED TO A FREIGHT
 18 FORWARDER IS SUBJECT TO THE RIGHTS OF ANY PERSON TO WHICH A BILL ISSUED
 19 BY THE FREIGHT FORWARDER IS DULY NEGOTIATED. HOWEVER, DELIVERY BY THE
 20 CARRIER IN ACCORDANCE WITH PART 4 OF THIS ARTICLE PURSUANT TO ITS OWN
 21 BILL OF LADING DISCHARGES THE CARRIER'S OBLIGATION TO DELIVER.

22 SECTION 7--504. RIGHTS ACQUIRED IN ABSENCE OF DUE NEGOTIATION; EFFECT OF
 23 DIVERSION; STOPPAGE OF DELIVERY.

24 (A) A TRANSFEREE OF A DOCUMENT OF TITLE, WHETHER NEGOTIABLE OR NONNE-
 25 GOTIABLE, TO WHICH THE DOCUMENT HAS BEEN DELIVERED BUT NOT DULY NEGOTI-
 26 ATED, ACQUIRES THE TITLE AND RIGHTS THAT ITS TRANSFEROR HAD OR HAD ACTU-
 27 AL AUTHORITY TO CONVEY.

28 (B) IN THE CASE OF A TRANSFER OF A NONNEGOTIABLE DOCUMENT OF TITLE,
 29 UNTIL BUT NOT AFTER THE BAILEE RECEIVES NOTICE OF THE TRANSFER, THE
 30 RIGHTS OF THE TRANSFEREE MAY BE DEFEATED:

31 (1) BY THOSE CREDITORS OF THE TRANSFEROR WHICH COULD TREAT THE TRANS-
 32 FER AS VOID UNDER SECTION 2--402 OR 2-A--308;
 33 (2) BY A BUYER FROM THE TRANSFEROR IN ORDINARY COURSE OF BUSINESS IF
 34 THE BAILEE HAS DELIVERED THE GOODS TO THE BUYER OR RECEIVED NOTIFICATION
 35 OF THE BUYER'S RIGHTS;
 36 (3) BY A LESSEE FROM THE TRANSFEROR IN ORDINARY COURSE OF BUSINESS IF
 37 THE BAILEE HAS DELIVERED THE GOODS TO THE LESSEE OR RECEIVED NOTIFICA-
 38 TION OF THE LESSEE'S RIGHTS; OR
 39 (4) AS AGAINST THE BAILEE, BY GOOD-FAITH DEALINGS OF THE BAILEE WITH
 40 THE TRANSFEROR.
 41 (C) A DIVERSION OR OTHER CHANGE OF SHIPPING INSTRUCTIONS BY THE
 42 CONSIGNOR IN A NONNEGOTIABLE BILL OF LADING WHICH CAUSES THE BAILEE NOT
 43 TO DELIVER THE GOODS TO THE CONSIGNEE DEFEATS THE CONSIGNEE'S TITLE TO
 44 THE GOODS IF THE GOODS HAVE BEEN DELIVERED TO A BUYER IN ORDINARY COURSE
 45 OF BUSINESS OR A LESSEE IN ORDINARY COURSE OF BUSINESS AND, IN ANY
 46 EVENT, DEFEATS THE CONSIGNEE'S RIGHTS AGAINST THE BAILEE.
 47 (D) DELIVERY OF THE GOODS PURSUANT TO A NONNEGOTIABLE DOCUMENT OF
 48 TITLE MAY BE STOPPED BY A SELLER UNDER SECTION 2--705 OR A LESSOR UNDER
 49 SECTION 2-A--526, SUBJECT TO THE REQUIREMENTS OF DUE NOTIFICATION IN
 50 THOSE SECTIONS. A BAILEE THAT HONORS THE SELLER'S OR LESSOR'S
 51 INSTRUCTIONS IS ENTITLED TO BE INDEMNIFIED BY THE SELLER OR LESSOR
 52 AGAINST ANY RESULTING LOSS OR EXPENSE.
 53 SECTION 7--505. INDORSER NOT GUARANTOR FOR OTHER PARTIES.
 54 THE INDORSEMENT OF A TANGIBLE DOCUMENT OF TITLE ISSUED BY A BAILEE
 55 DOES NOT MAKE THE INDORSER LIABLE FOR ANY DEFAULT BY THE BAILEE OR
 56 PREVIOUS INDORSERS.
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1 SECTION 7--506. DELIVERY WITHOUT INDORSEMENT: RIGHT TO COMPEL INDORSE-
 2 MENT.
 3 THE TRANSFEREE OF A NEGOTIABLE TANGIBLE DOCUMENT OF TITLE HAS A
 4 SPECIFICALLY ENFORCEABLE RIGHT TO HAVE ITS TRANSFEROR SUPPLY ANY NECES-
 5 SARY INDORSEMENT, BUT THE TRANSFER BECOMES A NEGOTIATION ONLY AS OF THE
 6 TIME THE INDORSEMENT IS SUPPLIED.
 7 SECTION 7--507. WARRANTIES ON NEGOTIATION OR DELIVERY OF DOCUMENT OF
 8 TITLE.
 9 IF A PERSON NEGOTIATES OR DELIVERS A DOCUMENT OF TITLE FOR VALUE,
 10 OTHERWISE THAN AS A MERE INTERMEDIARY UNDER SECTION 7--508, UNLESS
 11 OTHERWISE AGREED, THE TRANSFEROR, IN ADDITION TO ANY WARRANTY MADE IN
 12 SELLING OR LEASING THE GOODS, WARRANTS TO ITS IMMEDIATE PURCHASER ONLY
 13 THAT:
 14 (1) THE DOCUMENT IS GENUINE;
 15 (2) THE TRANSFEROR DOES NOT HAVE KNOWLEDGE OF ANY FACT THAT WOULD
 16 IMPAIR THE DOCUMENT'S VALIDITY OR WORTH; AND
 17 (3) THE NEGOTIATION OR DELIVERY IS RIGHTFUL AND FULLY EFFECTIVE WITH
 18 RESPECT TO THE TITLE TO THE DOCUMENT AND THE GOODS IT REPRESENTS.
 19 SECTION 7--508. WARRANTIES OF COLLECTING BANK AS TO DOCUMENTS OF TITLE.
 20 A COLLECTING BANK OR OTHER INTERMEDIARY KNOWN TO BE ENTRUSTED WITH
 21 DOCUMENTS OF TITLE ON BEHALF OF ANOTHER OR WITH COLLECTION OF A DRAFT OR
 22 OTHER CLAIM AGAINST DELIVERY OF DOCUMENTS WARRANTS BY THE DELIVERY OF
 23 THE DOCUMENTS ONLY ITS OWN GOOD FAITH AND AUTHORITY EVEN IF THE COLLECT-
 24 ING BANK OR OTHER INTERMEDIARY HAS PURCHASED OR MADE ADVANCES AGAINST
 25 THE CLAIM OR DRAFT TO BE COLLECTED.
 26 SECTION 7--509. ADEQUATE COMPLIANCE WITH COMMERCIAL CONTRACT.
 27 WHETHER A DOCUMENT OF TITLE IS ADEQUATE TO FULFILL THE OBLIGATIONS OF
 28 A CONTRACT FOR SALE, A CONTRACT FOR LEASE, OR THE CONDITIONS OF A LETTER
 29 OF CREDIT IS DETERMINED BY ARTICLE 2, 2-A, OR 5.

PART 6

31 WAREHOUSE RECEIPTS AND BILLS OF LADING:
 32 MISCELLANEOUS PROVISIONS
 33 SECTION 7--601. LOST, STOLEN, OR DESTROYED DOCUMENTS OF TITLE.
 34 (A) IF A DOCUMENT OF TITLE IS LOST, STOLEN, OR DESTROYED, A COURT MAY
 35 ORDER DELIVERY OF THE GOODS OR ISSUANCE OF A SUBSTITUTE DOCUMENT AND THE
 36 BAILEE MAY WITHOUT LIABILITY TO ANY PERSON COMPLY WITH THE ORDER. IF
 37 THE DOCUMENT WAS NEGOTIABLE, A COURT MAY NOT ORDER DELIVERY OF THE GOODS
 38 OR ISSUANCE OF A SUBSTITUTE DOCUMENT WITHOUT THE CLAIMANT'S POSTING
 39 SECURITY UNLESS IT FINDS THAT ANY PERSON THAT MAY SUFFER LOSS AS A
 40 RESULT OF NONSURRENDER OF POSSESSION OR CONTROL OF THE DOCUMENT IS
 41 ADEQUATELY PROTECTED AGAINST THE LOSS. IF THE DOCUMENT WAS NONNEGOTI-
 42 ABLE, THE COURT MAY REQUIRE SECURITY. THE COURT MAY ALSO ORDER PAYMENT
 43 OF THE BAILEE'S REASONABLE COSTS AND ATTORNEY'S FEES IN ANY ACTION UNDER
 44 THIS SUBSECTION.

45 (B) A BAILEE THAT, WITHOUT A COURT ORDER, DELIVERS GOODS TO A PERSON
 46 CLAIMING UNDER A MISSING NEGOTIABLE DOCUMENT OF TITLE IS LIABLE TO ANY
 47 PERSON INJURED THEREBY. IF THE DELIVERY IS NOT IN GOOD FAITH, THE BAILEE
 48 IS LIABLE FOR CONVERSION. DELIVERY IN GOOD FAITH IS NOT CONVERSION IF
 49 THE CLAIMANT POSTS SECURITY WITH THE BAILEE IN AN AMOUNT AT LEAST DOUBLE
 50 THE VALUE OF THE GOODS AT THE TIME OF POSTING TO INDEMNIFY ANY PERSON
 51 INJURED BY THE DELIVERY WHICH FILES A NOTICE OF CLAIM WITHIN ONE YEAR
 52 AFTER THE DELIVERY.

53 SECTION 7--602. JUDICIAL PROCESS AGAINST GOODS COVERED BY NEGOTIABLE
 54 DOCUMENT OF TITLE.

55 UNLESS A DOCUMENT OF TITLE WAS ORIGINALLY ISSUED UPON DELIVERY OF THE
 56 GOODS BY A PERSON THAT DID NOT HAVE POWER TO DISPOSE OF THEM, A LIEN
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1 DOES NOT ATTACH BY VIRTUE OF ANY JUDICIAL PROCESS TO GOODS IN THE
 2 POSSESSION OF A BAILEE FOR WHICH A NEGOTIABLE DOCUMENT OF TITLE IS
 3 OUTSTANDING UNLESS POSSESSION OR CONTROL OF THE DOCUMENT IS FIRST
 4 SURRENDERED TO THE BAILEE OR THE DOCUMENT'S NEGOTIATION IS ENJOINED. THE
 5 BAILEE MAY NOT BE COMPELLED TO DELIVER THE GOODS PURSUANT TO PROCESS
 6 UNTIL POSSESSION OR CONTROL OF THE DOCUMENT IS SURRENDERED TO THE BAILEE
 7 OR TO THE COURT. A PURCHASER OF THE DOCUMENT FOR VALUE WITHOUT NOTICE OF
 8 THE PROCESS OR INJUNCTION TAKES FREE OF THE LIEN IMPOSED BY JUDICIAL
 9 PROCESS.

10 SECTION 7--603. CONFLICTING CLAIMS; INTERPLEADER.

11 IF MORE THAN ONE PERSON CLAIMS TITLE TO OR POSSESSION OF THE GOODS,
 12 THE BAILEE IS EXCUSED FROM DELIVERY UNTIL THE BAILEE HAS A REASONABLE
 13 TIME TO ASCERTAIN THE VALIDITY OF THE ADVERSE CLAIMS OR TO COMMENCE AN
 14 ACTION FOR INTERPLEADER. THE BAILEE MAY ASSERT AN INTERPLEADER EITHER IN
 15 DEFENDING AN ACTION FOR NONDELIVERY OF THE GOODS OR BY ORIGINAL ACTION.

16 S 24. Section 8--103 of the uniform commercial code is amended by
 17 adding two new subsections (g) and (h) to read as follows:

18 (G) A DOCUMENT OF TITLE IS NOT A FINANCIAL ASSET UNLESS SECTION
 19 8--102(A)(9)(III) APPLIES.

20 (H) AN OBLIGATION, SHARE, PARTICIPATION, OR INTEREST DOES NOT SATISFY
 21 SECTION 8--102(A)(13)(II) OR 8--102(A)(15)(I) MERELY BECAUSE THE ISSUER
 22 OR A PERSON ACTING ON ITS BEHALF:

23 (1) MAINTAINS RECORDS OF THE OWNER THEREOF FOR A PURPOSE OTHER THAN
 24 REGISTRATION OF TRANSFER; OR

25 (2) COULD, BUT DOES NOT, MAINTAIN BOOKS FOR THE PURPOSE OF REGISTRA-
 26 TION OF TRANSFER.

27 S 25. Section 8--106 of the uniform commercial code is amended by
 28 adding two new subsections (h) and (i) to read as follows:

29 (H) UNDER SUBSECTION (C)(2) OR (D)(2), AUTHENTICATION OF A RECORD DOES
 30 NOT IMPOSE UPON THE ISSUER OR SECURITIES INTERMEDIARY ANY DUTY NOT
 31 EXPRESSLY AGREED TO BY THE ISSUER OR SECURITIES INTERMEDIARY IN THE
 32 RECORD.

33 (I) A PURCHASER HAS "CONTROL" UNDER SUBSECTION (C)(2) OR (D)(2) EVEN
 34 IF ANY DUTY OF THE ISSUER OR THE SECURITIES INTERMEDIARY TO COMPLY WITH
 35 INSTRUCTIONS OR ENTITLEMENT ORDERS ORIGINATED BY THE PURCHASER IS
 36 SUBJECT TO ANY CONDITION OR CONDITIONS (OTHER THAN FURTHER CONSENT BY
 37 THE REGISTERED OWNER OR THE ENTITLEMENT HOLDER).

38 S 26. Section 9--102 of the uniform commercial code, as added by chap-
 39 ter 84 of the laws of 2001, is amended to read as follows:
 40 Section 9--102. Definitions And Index of Definitions.

41 (a) Article 9 definitions. In this article:

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

45 (2) "Account", except as used in "account for", means a right to
 46 payment of a monetary obligation, whether or not earned by
 47 performance, (i) for property that has been or is to be sold,
 48 leased, licensed, assigned, or otherwise disposed of, (ii)
 49 for services rendered or to be rendered, (iii) for a policy
 50 of insurance issued or to be issued, (iv) for a secondary
 51 obligation incurred or to be incurred, (v) for energy
 52 provided or to be provided, (vi) for the use or hire of a
 53 vessel under a charter or other contract, (vii) arising out
 54 of the use of a credit or charge card or information
 55 contained on or for use with the card, or (viii) as winnings
 56 in a lottery or other game of chance operated or sponsored by

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- 1 a state, governmental unit of a State, or person licensed or
 2 authorized to operate the game by a State or governmental
 3 unit of a State. The term includes health-care-insurance
 4 receivables. The term does not include (i) rights to payment
 5 evidenced by chattel paper or an instrument, (ii) commercial
 6 tort claims, (iii) deposit accounts, (iv) investment proper-
 7 ty, (v) letter-of-credit rights or letters of credit, or (vi)
 8 rights to payment for money or funds advanced or sold, other
 9 than rights arising out of the use of a credit or charge card
 10 or information contained on or for use with the card.
- 11 (3) "Account debtor" means a person obligated on an account,
 12 chattel paper, or general intangible. The term does not
 13 include persons obligated to pay a negotiable instrument,
 14 even if the instrument constitutes part of chattel paper.
- 15 (4) "Accounting", except as used in "accounting for", means a
 16 record:
 17 (A) authenticated by a secured party;
 18 (B) indicating the aggregate unpaid secured obligations as of
 19 a date not more than 35 days earlier or 35 days later
 20 than the date of the record; and
 21 (C) identifying the components of the obligations in reason-
 22 able detail.
- 23 (5) "Agricultural lien" means an interest[, other than a security
 24 interest,] in farm products:
 25 (A) which secures payment or performance of an obligation
 26 for:
 27 (i) goods or services furnished in connection with a
 28 debtor's farming operation; or
 29 (ii) rent on real property leased by a debtor in
 30 connection with its farming operation; and
 31 (B) which is created by statute in favor of a person that:
 32 (i) in the ordinary course of its business furnished
 33 goods or services to a debtor in connection with a
 34 debtor's farming operation; or
 35 (ii) leased real property to a debtor in connection with
 36 the debtor's farming operation; and
 37 (C) whose effectiveness does not depend on the person's
 38 possession of the personal property.
- 39 (6) "As-extracted collateral" means:
 40 (A) oil, gas, or other minerals that are subject to a securi-
 41 ty interest that:
 42 (i) is created by a debtor having an interest in the
 43 minerals before extraction; and
 44 (ii) attaches to the minerals as extracted; or
 45 (B) accounts arising out of the sale at the wellhead or mine-
 46 head of oil, gas, or other minerals in which the debtor
 47 had an interest before extraction.
- 48 (7) "Authenticate" means:
 49 (A) to sign; or
 50 (B) [to execute or otherwise adopt a symbol, or encrypt or
 51 similarly process a record in whole or in part, with the
 52 present intent of the authenticating person to identify
 53 the person and adopt or accept a record] WITH PRESENT
 54 INTENT TO ADOPT OR ACCEPT A RECORD, TO ATTACH TO OR
 55 LOGICALLY ASSOCIATE WITH THE RECORD AN ELECTRONIC SOUND,
 56 SYMBOL, OR PROCESS.

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- 1 (8) "Bank" means an organization that is engaged in the business
 2 of banking. The term includes savings banks, savings and loan
 3 associations, credit unions, and trust companies.
- 4 (9) "Cash proceeds" means proceeds that are money, checks, depos-
 5 it accounts, or the like.
- 6 (10) "Certificate of title" means a certificate of title with
 7 respect to which a statute provides for the security inter-
 8 est in question to be indicated on the certificate as a
 9 condition or result of the security interest's obtaining
 10 priority over the rights of a lien creditor with respect to
 11 the collateral. SUCH TERM INCLUDES ANOTHER RECORD MAIN-
 12 TAINED AS AN ALTERNATIVE TO A CERTIFICATE OF TITLE BY THE
 13 GOVERNMENTAL UNIT THAT ISSUES CERTIFICATES OF TITLE IF A
 14 STATUTE PERMITS THE SECURITY INTEREST IN QUESTION TO BE

- 15 INDICATED ON THE RECORD AS A CONDITION OR RESULT OF THE
 16 SECURITY INTEREST'S OBTAINING PRIORITY OVER THE RIGHTS OF A
 17 LIEN CREDITOR WITH RESPECT TO THE COLLATERAL.
- 18 (11) "Chattel paper" means a record or records that evidence both
 19 a monetary obligation and a security interest in specific
 20 goods, a security interest in specific goods and software
 21 used in the goods, a security interest in specific goods and
 22 license of software used in the goods, a lease of specific
 23 goods, or a lease of specific goods and license of software
 24 used in the goods. In this paragraph, "monetary obligation"
 25 means a monetary obligation secured by the goods or owed
 26 under a lease of the goods and includes a monetary obli-
 27 gation with respect to software used in the goods. The term
 28 does not include (i) charters or other contracts involving
 29 the use or hire of a vessel or (ii) records that evidence a
 30 right to payment arising out of the use of a credit or
 31 charge card or information contained on or for use with the
 32 card. If a transaction is evidenced by records that include
 33 an instrument or series of instruments, the group of records
 34 taken together constitutes chattel paper.
- 35 (11-a) "Check" means (i) a draft, other than a documentary draft,
 36 payable on demand and drawn on a bank or (ii) a cashier's
 37 check or a teller's check. An instrument may be a check
 38 even though it is described on its face by another term,
 39 such as "money order". An instrument that (i) meets all of
 40 the requirements stated in Article 3 of this chapter to be
 41 a negotiable instrument other than stating that it is
 42 payable to order or bearer and (ii) otherwise qualifies as
 43 a check is a negotiable instrument and a check.
- 44 (12) "Collateral" means the property subject to a security inter-
 45 est or agricultural lien. The term includes:
 46 (A) proceeds to which a security interest attaches;
 47 (B) accounts, chattel paper, payment intangibles, and promis-
 48 sory notes that have been sold; and
 49 (C) goods that are the subject of a consignment.
- 50 (13) "Commercial tort claim" means a claim arising in tort with
 51 respect to which:
 52 (A) the claimant is an organization; or
 53 (B) the claimant is an individual and the claim:
 54 (i) arose in the course of the claimant's business or
 55 profession; and

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- 1 (ii) does not include damages arising out of personal
 2 injury to or the death of an individual.
- 3 (14) "Commodity account" means an account maintained by a commod-
 4 ity intermediary in which a commodity contract is carried
 5 for a commodity customer.
- 6 (15) "Commodity contract" means a commodity futures contract, an
 7 option on a commodity futures contract, a commodity option,
 8 or another contract if the contract or option is:
 9 (A) traded on or subject to the rules of a board of trade
 10 that has been designated as a contract market for such a
 11 contract pursuant to federal commodities laws; or
 12 (B) traded on a foreign commodity board of trade, exchange,
 13 or market, and is carried on the books of a commodity
 14 intermediary for a commodity customer.
- 15 (16) "Commodity customer" means a person for which a commodity
 16 intermediary carries a commodity contract on its books.
- 17 (17) "Commodity intermediary" means a person that:
 18 (A) is registered as a futures commission merchant under
 19 federal commodities law; or
 20 (B) in the ordinary course of its business provides clearance
 21 or settlement services for a board of trade that has been
 22 designated as a contract market pursuant to federal
 23 commodities law.
- 24 (18) "Communicate" means:
 25 (A) to send a written or other tangible record;
 26 (B) to transmit a record by any means agreed upon by the
 27 persons sending and receiving the record; or
 28 (C) in the case of transmission of a record to or by a filing
 29 office, to transmit a record by any means prescribed by

- 30 filing-office rule.
- 31 (19) "Consignee" means a merchant to which goods are delivered in
32 a consignment.
- 33 (20) "Consignment" means a transaction, regardless of its form,
34 in which a person delivers goods to a merchant for the
35 purpose of sale and:
- 36 (A) the merchant:
- 37 (i) deals in goods of that kind under a name other than
38 the name of the person making delivery;
- 39 (ii) is not an auctioneer; and
- 40 (iii) is not generally known by its creditors to be
41 substantially engaged in selling the goods of
42 others;
- 43 (B) with respect to each delivery, the aggregate value of the
44 goods is \$1,000 or more at the time of delivery;
- 45 (C) the goods are not consumer goods immediately before
46 delivery; and
- 47 (D) the transaction does not create a security interest that
48 secures an obligation.
- 49 (21) "Consignor" means a person that delivers goods to a
50 consignee in a consignment.
- 51 (22) "Consumer debtor" means a debtor in a consumer transaction.
- 52 (23) "Consumer goods" means goods that are used or bought for use
53 primarily for personal, family, or household purposes.
- 54 (24) "Consumer-goods transaction" means a consumer transaction in
55 which:

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- 1 (A) an individual incurs an obligation primarily for
2 personal, family, or household purposes; and
- 3 (B) a security interest in consumer goods secures the obli-
4 gation.
- 5 (25) "Consumer obligor" means an obligor who is an individual and
6 who incurred the obligation as part of a transaction entered
7 into primarily for personal, family, or household purposes.
- 8 (26) "Consumer transaction" means a transaction in which (i) an
9 individual incurs an obligation primarily for personal,
10 family, or household purposes, (ii) a security interest
11 secures the obligation, and (iii) the collateral is held or
12 acquired primarily for personal, family, or household
13 purposes. The term includes consumer-goods transactions.
- 14 (27) "Continuation statement" means an amendment of a financing
15 statement which:
- 16 (A) identifies, by its file number, the initial financing
17 statement to which it relates; and
- 18 (B) indicates that it is a continuation statement for, or
19 that it is filed to continue the effectiveness of, the
20 identified financing statement.
- 21 (27-a) "Cooperative addendum" means a record that satisfies
22 Section 9--502(e).
- 23 (27-b) "Cooperative interest" means an ownership interest in a
24 cooperative organization, which interest, when created, is
25 coupled with possessory rights of a proprietary nature in
26 identified physical space belonging to the cooperative
27 organization. A subsequent termination of the possessory
28 rights shall not cause an ownership interest to cease
29 being a cooperative interest.
- 30 (27-c) "Cooperative organization" means an organization which has
31 as its principal asset an interest in real property in
32 this state and in which organization all ownership inter-
33 ests are cooperative interests.
- 34 (27-d) "Cooperative organization security interest" means a secu-
35 rity interest which is in a cooperative interest, is in
36 favor of the cooperative organization, is created by the
37 cooperative record, and secures only obligations incident
38 to ownership of that cooperative interest.
- 39 (27-e) "Cooperative record" means those records which, as a
40 whole, evidence cooperative interests and define the mutu-
41 al rights and obligations of the owners of the cooperative
42 interests and the cooperative organization.
- 43 (27-f) "Cooperative unit" means the physical space associated
44 with a cooperative interest.

- 45 (28) "Debtor" means:
 46 (A) a person having an interest, other than a security inter-
 47 est or other lien, in the collateral, whether or not the
 48 person is an obligor;
 49 (B) a seller of accounts, chattel paper, payment intangibles,
 50 or promissory notes; or
 51 (C) a consignee.
 52 (29) "Deposit account" means a demand, time, savings, passbook,
 53 or similar account maintained with a bank. The term does not
 54 include investment property or accounts evidenced by an
 55 instrument.

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- 1 (30) "Document" means a document of title or a receipt of the
 2 type described in Section 7--201[(2)] (B).
 3 (31) "Electronic chattel paper" means chattel paper evidenced by
 4 a record or records consisting of information stored in an
 5 electronic medium.
 6 (32) "Encumbrance" means a right, other than an ownership inter-
 7 est, in real property. The term includes mortgages and other
 8 liens on real property.
 9 (33) "Equipment" means goods other than inventory, farm products,
 10 or consumer goods.
 11 (34) "Farm products" means goods, other than standing timber,
 12 with respect to which the debtor is engaged in a farming
 13 operation and which are:
 14 (A) crops grown, growing, or to be grown, including:
 15 (i) crops produced on trees, vines, and bushes; and
 16 (ii) aquatic goods produced in aquacultural operations;
 17 (B) livestock, born or unborn, including aquatic goods
 18 produced in aquacultural operations;
 19 (C) supplies used or produced in a farming operation; or
 20 (D) products of crops or livestock in their unmanufactured
 21 states.
 22 (35) "Farming operation" means raising, cultivating, propagating,
 23 fattening, grazing, or any other farming, livestock, or
 24 aquacultural operation.
 25 (36) "File number" means the number assigned to an initial
 26 financing statement pursuant to Section 9--519(a).
 27 (37) "Filing office" means an office designated in Section 9--501
 28 as the place to file a financing statement.
 29 (38) "Filing-office rule" means a rule adopted pursuant to
 30 Section 9--526.
 31 (39) "Financing statement" means a record or records composed of
 32 an initial financing statement and any filed record relating
 33 to the initial financing statement.
 34 (40) "Fixture filing" means the filing of a financing statement
 35 covering goods that are or are to become fixtures and satis-
 36 fying Section 9--502(a) and (b). The term includes the
 37 filing of a financing statement covering goods of a trans-
 38 mitting utility which are or are to become fixtures.
 39 (41) "Fixtures" means goods that have become so related to
 40 particular real property that an interest in them arises
 41 under real property law.
 42 (42) "General intangible" means any personal property, including
 43 things in action, other than accounts, chattel paper,
 44 commercial tort claims, deposit accounts, documents, goods,
 45 instruments, investment property, letter-of-credit rights,
 46 letters of credit, money, and oil, gas, or other minerals
 47 before extraction. The term includes payment intangibles and
 48 software.
 49 (43) "Good faith" means honesty in fact and the observance of
 50 reasonable commercial standards of fair dealing.
 51 (44) "Goods" means all things that are movable when a security
 52 interest attaches. The term includes (i) fixtures, (ii)
 53 standing timber that is to be cut and removed under a
 54 conveyance or contract for sale, (iii) the unborn young of
 55 animals, (iv) crops grown, growing, or to be grown, even if
 56 the crops are produced on trees, vines, or bushes, and (v)

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1 manufactured homes. The term also includes a computer

- 2 program embedded in goods and any supporting information
 3 provided in connection with a transaction relating to the
 4 program if (i) the program is associated with the goods in
 5 such a manner that it customarily is considered part of the
 6 goods, or (ii) by becoming the owner of the goods, a person
 7 acquires a right to use the program in connection with the
 8 goods. The term does not include a computer program embedded
 9 in goods that consists solely of the medium in which the
 10 program is embedded. The term also does not include
 11 accounts, chattel paper, commercial tort claims, deposit
 12 accounts, documents, general intangibles, instruments,
 13 investment property, letter-of-credit rights, letters of
 14 credit, money, or oil, gas, or other minerals before
 15 extraction.
- 16 (45) "Governmental unit" means a subdivision, agency, department,
 17 county, parish, municipality, or other unit of the govern-
 18 ment of the United States, a state, or a foreign country.
 19 The term includes an organization having a separate corpo-
 20 rate existence if the organization is eligible to issue debt
 21 on which interest is exempt from income taxation under the
 22 laws of the United States.
- 23 (46) "Health-care-insurance receivable" means an interest in or
 24 claim under a policy of insurance which is a right to
 25 payment of a monetary obligation for health-care goods or
 26 services provided OR TO BE PROVIDED.
- 27 (47) "Instrument" means a negotiable instrument or any other
 28 writing that evidences a right to the payment of a monetary
 29 obligation, is not itself a security agreement or lease, and
 30 is of a type that in ordinary course of business is trans-
 31 ferred by delivery with any necessary indorsement or assign-
 32 ment. The term does not include (i) investment property,
 33 (ii) letters of credit, or (iii) writings that evidence a
 34 right to payment arising out of the use of a credit or
 35 charge card or information contained on or for use with the
 36 card.
- 37 (48) "Inventory" means goods, other than farm products, which:
 38 (A) are leased by a person as lessor;
 39 (B) are held by a person for sale or lease or to be furnished
 40 under a contract of service;
 41 (C) are furnished by a person under a contract of service; or
 42 (D) consist of raw materials, work in process, or materials
 43 used or consumed in a business.
- 44 (49) "Investment property" means a security, whether certificated
 45 or uncertificated, security entitlement, securities account,
 46 commodity contract, or commodity account.
- 47 (50) "Jurisdiction of organization", with respect to a registered
 48 organization, means the jurisdiction under whose law the
 49 organization is FORMED OR organized.
- 50 (51) "Letter-of-credit right" means a right to payment or
 51 performance under a letter of credit, whether or not the
 52 beneficiary has demanded or is at the time entitled to
 53 demand payment or performance. The term does not include the
 54 right of a beneficiary to demand payment or performance
 55 under a letter of credit.
- 56 (52) "Lien creditor" means:

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- 1 (A) a creditor that has acquired a lien on the property
 2 involved by attachment, levy, or the like;
 3 (B) an assignee for benefit of creditors from the time of
 4 assignment;
 5 (C) a trustee in bankruptcy from the date of the filing of
 6 the petition; or
 7 (D) a receiver in equity from the time of appointment.
- 8 (53) "Manufactured home" means a structure, transportable in one
 9 or more sections, which, in the traveling mode, is eight
 10 body feet or more in width or 40 body feet or more in
 11 length, or, when erected on site, is 320 or more square
 12 feet, and which is built on a permanent chassis and designed
 13 to be used as a dwelling with or without a permanent founda-
 14 tion when connected to the required utilities, and includes
 15 the plumbing, heating, air-conditioning, and electrical

- 16 systems contained therein. The term includes any structure
 17 that meets all of the requirements of this paragraph except
 18 the size requirements and with respect to which the manufac-
 19 turer voluntarily files a certification required by the
 20 United States Secretary of Housing and Urban Development and
 21 complies with the standards established under Title 42 of
 22 the United States Code.
- 23 (54) "Manufactured-home transaction" means a secured transaction:
 24 (A) that creates a purchase-money security interest in a
 25 manufactured home, other than a manufactured home held as
 26 inventory; or
 27 (B) in which a manufactured home, other than a manufactured
 28 home held as inventory, is the primary collateral.
- 29 (55) "Mortgage" means a consensual interest in real property,
 30 including fixtures, which secures payment or performance of
 31 an obligation.
- 32 (56) "New debtor" means a person that becomes bound as debtor
 33 under Section 9--203(d) by a security agreement previously
 34 entered into by another person.
- 35 (57) "New value" means (i) money, (ii) money's worth in property,
 36 services, or new credit, or (iii) release by a transferee of
 37 an interest in property previously transferred to the trans-
 38 feree. The term does not include an obligation substituted
 39 for another obligation.
- 40 (58) "Noncash proceeds" means proceeds other than cash proceeds.
- 41 (59) "Obligor" means a person that, with respect to an obligation
 42 secured by a security interest in or an agricultural lien on
 43 the collateral, (i) owes payment or other performance of the
 44 obligation, (ii) has provided property other than the colla-
 45 teral to secure payment or other performance of the obli-
 46 gation, or (iii) is otherwise accountable in whole or in
 47 part for payment or other performance of the obligation. The
 48 term does not include issuers or nominated persons under a
 49 letter of credit.
- 50 (60) "Original debtor", except as used in Section 9--310(c),
 51 means a person that, as debtor, entered into a security
 52 agreement to which a new debtor has become bound under
 53 Section 9--203(d).
- 54 (61) "Payment intangible" means a general intangible under which
 55 the account debtor's principal obligation is a monetary
 56 obligation.

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- 1 (62) "Person related to", with respect to an individual, means:
 2 (A) the spouse of the individual;
 3 (B) a brother, brother-in-law, sister, or sister-in-law of
 4 the individual;
 5 (C) an ancestor or lineal descendant of the individual or the
 6 individual's spouse; or
 7 (D) any other relative, by blood or marriage, of the individ-
 8 ual or the individual's spouse who shares the same home
 9 with the individual.
- 10 (63) "Person related to", with respect to an organization, means:
 11 (A) a person directly or indirectly controlling, controlled
 12 by, or under common control with the organization;
 13 (B) an officer or director of, or a person performing similar
 14 functions with respect to, the organization;
 15 (C) an officer or director of, or a person performing similar
 16 functions with respect to, a person described in subpara-
 17 graph (A);
 18 (D) the spouse of an individual described in subparagraph
 19 (A), (B), or (C); or
 20 (E) an individual who is related by blood or marriage to an
 21 individual described in subparagraph (A), (B), (C), or
 22 (D) and shares the same home with the individual.
- 23 (64) "Proceeds", except as used in Section 9--609(b), means the
 24 following property:
 25 (A) whatever is acquired upon the sale, lease, license,
 26 exchange, or other disposition of collateral;
 27 (B) whatever is collected on, or distributed on account of,
 28 collateral;
 29 (C) rights arising out of collateral;

- 30 (D) to the extent of the value of collateral, claims arising
 31 out of the loss, nonconformity, or interference with the
 32 use of, defects or infringement of rights in, or damage
 33 to, the collateral; or
 34 (E) to the extent of the value of collateral and to the
 35 extent payable to the debtor or the secured party, insur-
 36 ance payable by reason of the loss or nonconformity of,
 37 defects or infringement of rights in, or damage to, the
 38 collateral.
- 39 (65) "Promissory note" means an instrument that evidences a prom-
 40 ise to pay a monetary obligation, does not evidence an order
 41 to pay, and does not contain an acknowledgment by a bank
 42 that the bank has received for deposit a sum of money or
 43 funds.
- 44 (66) "Proposal" means a record authenticated by a secured party
 45 which includes the terms on which the secured party is will-
 46 ing to accept collateral in full or partial satisfaction of
 47 the obligation it secures pursuant to Sections 9--620,
 48 9--621, and 9--622.
- 49 (66-a) "Prove" with respect to a fact means to meet the burden of
 50 establishing the fact (Section 1-201(8)).
- 51 (67) "Public-finance transaction" means a secured transaction in
 52 connection with which:
 53 (A) debt securities are issued;
 54 (B) all or a portion of the securities issued have an initial
 55 stated maturity of at least 20 years; and

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- 1 (C) the debtor, obligor, secured party, account debtor or
 2 other person obligated on collateral, assignor or assign-
 3 nee of a secured obligation, or assignor or assignee of a
 4 security interest is a state or a governmental unit of a
 5 state.
- 6 (68) "PUBLIC ORGANIC RECORD" MEANS A RECORD THAT IS AVAILABLE TO
 7 THE PUBLIC FOR INSPECTION AND IS:
 8 (A) A RECORD CONSISTING OF THE RECORD INITIALLY FILED WITH OR
 9 ISSUED BY A STATE OR THE UNITED STATES TO FORM OR ORGAN-
 10 IZE AN ORGANIZATION AND ANY RECORD FILED WITH OR ISSUED
 11 BY THE STATE OR THE UNITED STATES WHICH AMENDS OR
 12 RESTATES THE INITIAL RECORD;
 13 (B) AN ORGANIC RECORD OF A BUSINESS TRUST CONSISTING OF THE
 14 RECORD INITIALLY FILED WITH A STATE AND ANY RECORD FILED
 15 WITH THE STATE WHICH AMENDS OR RESTATES THE INITIAL
 16 RECORD, IF A STATUTE OF THE STATE GOVERNING BUSINESS
 17 TRUSTS REQUIRES THAT THE RECORD BE FILED WITH THE STATE;
 18 OR
 19 (C) A RECORD CONSISTING OF LEGISLATION ENACTED BY THE LEGIS-
 20 LATURE OF A STATE OR THE CONGRESS OF THE UNITED STATES
 21 WHICH FORMS OR ORGANIZES AN ORGANIZATION, ANY RECORD
 22 AMENDING THE LEGISLATION, AND ANY RECORD FILED WITH OR
 23 ISSUED BY THE STATE OR THE UNITED STATES WHICH AMENDS OR
 24 RESTATES THE NAME OF THE ORGANIZATION.
- 25 (69) "Pursuant to commitment", with respect to an advance made or
 26 other value given by a secured party, means pursuant to the
 27 secured party's obligation, whether or not a subsequent
 28 event of default or other event not within the secured
 29 party's control has relieved or may relieve the secured
 30 party from its obligation.
- 31 [(69)] (70) "Record", except as used in "for record", "of
 32 record", "record or legal title", and "record owner", means
 33 information that is inscribed on a tangible medium or which
 34 is stored in an electronic or other medium and is retrieva-
 35 ble in perceivable form.
- 36 [(70)] (71) "Registered organization" means an organization
 37 FORMED OR organized solely under the law of a single state
 38 or the United States [and as to which the state or the
 39 United States must maintain a public record showing the
 40 organization to have been organized] BY THE FILING OF A
 41 PUBLIC ORGANIC RECORD WITH, THE ISSUANCE OF A PUBLIC ORGANIC
 42 RECORD BY, OR THE ENACTMENT OF LEGISLATION BY THE STATE OR
 43 THE UNITED STATES. THE TERM INCLUDES A BUSINESS TRUST THAT
 44 IS FORMED OR ORGANIZED UNDER THE LAW OF A SINGLE STATE IF A

45 STATUTE OF THE STATE GOVERNING BUSINESS TRUSTS REQUIRES THAT
 46 THE BUSINESS TRUST'S ORGANIC RECORD BE FILED WITH THE STATE.
 47 [(71)] (72) "Secondary obligor" means an obligor to the extent
 48 that:
 49 (A) the obligor's obligation is secondary; or
 50 (B) the obligor has a right of recourse with respect to an
 51 obligation secured by collateral against the debtor,
 52 another obligor, or property of either.
 53 [(72)] (73) "Secured party" means:
 54 (A) a person in whose favor a security interest is created or
 55 provided for under a security agreement, whether or not
 56 any obligation to be secured is outstanding;

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1 (B) a person that holds an agricultural lien;
 2 (C) a consignor;
 3 (D) a person to which accounts, chattel paper, payment intan-
 4 gibles, or promissory notes have been sold;
 5 (E) a trustee, indenture trustee, agent, collateral agent, or
 6 other representative in whose favor a security interest
 7 or agricultural lien is created or provided for; or
 8 (F) a person that holds a security interest arising under
 9 Section 2--401, 2--505, 2--711(3), 2-A-508(5), 4--210, or
 10 5--118.
 11 [(73)] (74) "Security agreement" means an agreement that creates
 12 or provides for a security interest. A cooperative record
 13 that provides that the owner of a cooperative interest has
 14 an obligation to pay amounts to the cooperative organization
 15 incident to ownership of that cooperative interest and which
 16 states that the cooperative organization has a direct remedy
 17 against that cooperative interest if such amounts are not
 18 paid is a security agreement creating a cooperative organ-
 19 ization security interest.
 20 [(74)] (75) "Send", in connection with a record or notification,
 21 means:
 22 (A) to deposit in the mail, deliver for transmission, or
 23 transmit by any other usual means of communication, with
 24 postage or cost of transmission provided for, addressed
 25 to any address reasonable under the circumstances; or
 26 (B) to cause the record or notification to be received within
 27 the time that it would have been received if properly
 28 sent under subparagraph (A).
 29 [(75)] (76) "Software" means a computer program and any support-
 30 ing information provided in connection with a transaction
 31 relating to the program. The term does not include a comput-
 32 er program that is included in the definition of goods.
 33 [(76)] (77) "State" means a state of the United States, the
 34 District of Columbia, Puerto Rico, the United States Virgin
 35 Islands, or any territory or insular possession subject to
 36 the jurisdiction of the United States.
 37 [(77)] (78) "Supporting obligation" means a letter-of-credit
 38 right or secondary obligation that supports the payment or
 39 performance of an account, chattel paper, a document, a
 40 general intangible, an instrument, or investment property.
 41 [(78)] (79) "Tangible chattel paper" means chattel paper
 42 evidenced by a record or records consisting of information
 43 that is inscribed on a tangible medium.
 44 [(79)] (80) "Termination statement" means an amendment of a
 45 financing statement which:
 46 (A) identifies, by its file number, the initial financing
 47 statement to which it relates; and
 48 (B) indicates either that it is a termination statement or
 49 that the identified financing statement is no longer
 50 effective.
 51 [(80)] (81) "Transmitting utility" means a person primarily
 52 engaged in the business of:
 53 (A) operating a railroad, subway, street railway, or trolley
 54 bus;
 55 (B) transmitting communications electrically, electromagneti-
 56 cally, or by light;

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1 (C) transmitting goods by pipeline or sewer; or
 2 (D) transmitting or producing and transmitting electricity,
 3 steam, gas, or water.
 4 (b) Definitions in other articles. The following definitions in other
 5 articles apply to this article:

6	"Applicant"	Section 5--102.
7	"Beneficiary"	Section 5--102.
8	"Broker"	Section 8--102.
9	"Certificated security"	Section 8--102.
10	"Clearing corporation"	Section 8--102.
11	"Contract for sale"	Section 2--106.
12	"CONTROL" (WITH RESPECT TO A DOCUMENT 13 OF TITLE)	SECTION 7--106.
14	"Customer"	Section 4--104.
15	"Entitlement holder"	Section 8--102.
16	"Financial asset"	Section 8--102.
17	"Holder in due course"	Section 3--302.
18	"Issuer" (with respect to a letter of 19 credit or letter-of-credit right)	Section 5--102.
20	"Issuer" (with respect to a security)	Section 8--201.
21	"ISSUER" (WITH RESPECT TO DOCUMENT OF TITLE)	SECTION 7--102.
22	"Lease"	Section 2-A-103.
23	"Lease agreement"	Section 2-A-103.
24	"Lease contract"	Section 2-A-103.
25	"Leasehold interest"	Section 2-A-103.
26	"Lessee"	Section 2-A-103.
27	"Lessee in ordinary course of business"	Section 2-A-103.
28	"Lessor"	Section 2-A-103.
29	"Lessor's residual interest"	Section 2-A-103.
30	"Letter of credit"	Section 5--102.
31	"Merchant"	Section 2--104.
32	"Negotiable instrument"	Section 3--104.
33	"Nominated person"	Section 5--102.
34	"Note"	Section 3--104.
35	"Proceeds of a letter of credit"	Section 5--114.
36	"PROVE"	SECTION 4-A-105.
37	"Sale"	Section 2--106.
38	"Securities account"	Section 8--501.
39	"Securities intermediary"	Section 8--102.
40	"Security"	Section 8--102.
41	"Security certificate"	Section 8--102.
42	"Security entitlement"	Section 8--102.
43	"Uncertificated security"	Section 8--102.

44 (c) Article 1 definitions and principles. Article 1 contains general
 45 definitions and principles of construction and interpretation applicable
 46 throughout this article.

47 S 27. Section 9--104 of the uniform commercial code, as added by chap-
 48 ter 84 of the laws of 2001, is amended to read as follows:
 49 Section 9--104. Control of Deposit Account.

50 (a) Requirements for control. A secured party has control of a deposit
 51 account if:

- 52 (1) the secured party is the bank with which the deposit account
53 is maintained;
- 54 (2) the debtor, secured party, and bank have agreed in an authen-
55 ticated record that the bank will comply with instructions

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- 1 originated by the secured party directing disposition of the
2 funds in the deposit account without further consent by the
3 debtor; [or]
- 4 (3) the secured party becomes the bank's customer with respect to
5 the deposit account;
- 6 (4) THE NAME ON THE DEPOSIT ACCOUNT IS THE NAME OF THE SECURED
7 PARTY OR INDICATES THAT THE SECURED PARTY HAS A SECURITY
8 INTEREST IN THE DEPOSIT ACCOUNT; OR
- 9 (5) ANOTHER PERSON HAS CONTROL OF THE DEPOSIT ACCOUNT ON BEHALF
10 OF THE SECURED PARTY OR, HAVING PREVIOUSLY ACQUIRED CONTROL
11 OF THE DEPOSIT ACCOUNT, ACKNOWLEDGES THAT IT HAS CONTROL ON
12 BEHALF OF THE SECURED PARTY.

13 (b) Debtor's right to direct disposition. A secured party that has
 14 satisfied subsection (a) has control, even if the debtor retains the

15 right to direct the disposition of funds from the deposit account.
 16 (C) NO IMPLIED DUTIES OF BANK. THE AUTHENTICATION OF A RECORD BY THE
 17 BANK UNDER SUBSECTION (A) (2) DOES NOT IMPOSE UPON THE BANK ANY DUTY NOT
 18 EXPRESSLY AGREED TO BY THE BANK IN THE RECORD. THE NAMING OF THE DEPOSIT
 19 ACCOUNT IN THE NAME OF THE SECURED PARTY OR WITH AN INDICATION THAT THE
 20 SECURED PARTY HAS A SECURITY INTEREST IN THE DEPOSIT ACCOUNT UNDER
 21 SUBSECTION (A) (4) DOES NOT IMPOSE UPON THE BANK ANY DUTY NOT EXPRESSLY
 22 AGREED TO BY THE BANK.

23 (D) CONDITIONS NOT RELEVANT. A SECURED PARTY HAS CONTROL UNDER
 24 SUBSECTION (A) (2) EVEN IF ANY DUTY OF THE BANK TO COMPLY WITH
 25 INSTRUCTIONS ORIGINATED BY THE SECURED PARTY DIRECTING DISPOSITION OF
 26 THE FUNDS IN THE DEPOSIT ACCOUNT IS SUBJECT TO ANY CONDITION OR CONDI-
 27 TIONS (OTHER THAN FURTHER CONSENT BY THE DEBTOR).

28 (E) NO INFERENCES. THE PROCEDURES AND REQUIREMENTS OF SUBSECTION
 29 (A) (4) AVAILABLE TO OBTAIN CONTROL SHALL NOT BE USED IN INTERPRETING THE
 30 SUFFICIENCY OF A SECURED PARTY'S COMPLIANCE WITH THE PROCEDURES AND
 31 REQUIREMENTS OF SUBSECTION (A) (1), (A) (2) OR (A) (3) TO OBTAIN CONTROL.
 32 THE PROVISIONS OF SUBSECTION (A) (4) SHALL CREATE NO INFERENCE REGARDING
 33 THE REQUIREMENTS FOR COMPLIANCE WITH SUBSECTION (A) (1), (A) (2) OR
 34 (A) (3).

35 S 28. Subparagraph (D) of paragraph 3 of subsection (b) of section
 36 9--203 of the uniform commercial code, as added by chapter 84 of the
 37 laws of 2001, is amended to read as follows:

38 (D) the collateral is deposit accounts, electronic chattel
 39 paper, investment property, [or] letter-of-credit rights,
 40 OR ELECTRONIC DOCUMENTS, and the secured party has
 41 control under Section 7--106, 9--104, 9--105, 9--106, or
 42 9--107 pursuant to the debtor's security agreement.

43 S 29. Subsection (c) of section 9--207 of the uniform commercial code,
 44 as added by chapter 84 of the laws of 2001, is amended to read as
 45 follows:

46 (c) Duties and rights when secured party in possession or control.
 47 Except as otherwise provided in subsection (d), a secured party having
 48 possession of collateral or control of collateral under Section 7--106,
 49 9--104, 9--105, 9--106, or 9--107:

- 50 (1) may hold as additional security any proceeds, except money or
- 51 funds, received from the collateral;
- 52 (2) shall apply money or funds received from the collateral to
- 53 reduce the secured obligation, unless remitted to the debtor;
- 54 and
- 55 (3) may create a security interest in the collateral.

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1 S 30. Paragraphs 4 and 5 of subsection (b) of section 9--208 of the
 2 uniform commercial code, as added by chapter 84 of the laws of 2001, are
 3 amended and a new paragraph 6 is added to read as follows:

4 (4) a secured party having control of investment property under
 5 Section 8--106(d) (2) or 9--106(b) shall send to the securi-
 6 ties intermediary or commodity intermediary with which the
 7 security entitlement or commodity contract is maintained an
 8 authenticated record that releases the securities interme-
 9 diary or commodity intermediary from any further obligation
 10 to comply with entitlement orders or directions originated by
 11 the secured party; [and]

12 (5) a secured party having control of a letter-of-credit right
 13 under Section 9--107 shall send to each person having an
 14 unfulfilled obligation to pay or deliver proceeds of the
 15 letter-of-credit to the secured party an authenticated
 16 release from any further obligation to pay or deliver
 17 proceeds of the letter-of-credit to the secured party; AND

18 (6) A SECURED PARTY HAVING CONTROL OF AN ELECTRONIC DOCUMENT
 19 SHALL:

20 (A) GIVE CONTROL OF THE ELECTRONIC DOCUMENT TO THE DEBTOR OR
 21 ITS DESIGNATED CUSTODIAN;

22 (B) IF THE DEBTOR DESIGNATES A CUSTODIAN THAT IS THE DESIG-
 23 NATED CUSTODIAN WITH WHICH THE AUTHORITATIVE COPY OF THE
 24 ELECTRONIC DOCUMENT IS MAINTAINED FOR THE SECURED PARTY,
 25 COMMUNICATE TO THE CUSTODIAN AN AUTHENTICATED RECORD
 26 RELEASING THE DESIGNATED CUSTODIAN FROM ANY FURTHER OBLI-
 27 GATION TO COMPLY WITH INSTRUCTIONS ORIGINATED BY THE
 28 SECURED PARTY AND INSTRUCTING THE CUSTODIAN TO COMPLY
 29 WITH INSTRUCTIONS ORIGINATED BY THE DEBTOR; AND

30 (C) TAKE APPROPRIATE ACTION TO ENABLE THE DEBTOR OR ITS
 31 DESIGNATED CUSTODIAN TO MAKE COPIES OF OR REVISIONS TO
 32 THE AUTHORITATIVE COPY WHICH ADD OR CHANGE AN IDENTIFIED
 33 ASSIGNEE OF THE AUTHORITATIVE COPY WITHOUT THE CONSENT OF
 34 THE SECURED PARTY.

35 S 31. Subsection (c) of section 9--301 of of the uniform commercial
 36 code, as added by chapter 84 of the laws of 2001, is amended to read as
 37 follows:

38 (c) Except as otherwise provided in [paragraph] SUBSECTION (d), while
 39 TANGIBLE negotiable documents, goods, instruments, money, or tangible
 40 chattel paper is located in a jurisdiction, the local law of that juris-
 41 diction governs:

- 42 (1) perfection of a security interest in the goods by filing a
- 43 fixture filing;
- 44 (2) perfection of a security interest in timber to be cut; and
- 45 (3) the effect of perfection or nonperfection and the priority of
- 46 a nonpossessory security interest in the collateral.

47 S 32. Paragraph 1 of subsection (b) of Section 9--304 of the uniform
 48 commercial code, as added by chapter 84 of the laws of 2001, is amended
 49 to read as follows:

- 50 (1) If an agreement between the bank and [the debtor] ITS CUSTOM-
 51 ER governing the deposit account expressly provides that a
 52 particular jurisdiction is the bank's jurisdiction for
 53 purposes of this part, this article, or this chapter, that
 54 jurisdiction is the bank's jurisdiction.

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1 S 33. Paragraph 2 of subsection (f) of section 9--307 of the uniform
 2 commercial code, as added by chapter 84 of the laws of 2001, is amended
 3 to read as follows:

- 4 (2) in the state that the registered organization, branch, or
 5 agency designates, if the law of the United States authorizes
 6 the registered organization, branch, or agency to designate
 7 its state of location, INCLUDING BY DESIGNATING ITS MAIN
 8 OFFICE, HOME OFFICE, OR OTHER COMPARABLE OFFICE; or

9 S 34. Subsections 12 and 13 of section 9--309 of the uniform commer-
 10 cial code, as added by chapter 84 of the laws of 2001, are amended and a
 11 new subsection 14 is added to read as follows:

- 12 (12) an assignment for the benefit of all creditors of the transferor
 13 and subsequent transfers by the assignee thereunder; [and]
- 14 (13) a security interest created by an assignment of a beneficial
 15 interest in a decedent's estate; AND
- 16 (14) A SALE BY AN INDIVIDUAL OF AN ACCOUNT THAT IS A RIGHT TO PAYMENT
 17 OF WINNINGS IN A LOTTERY OR OTHER GAME OF CHANCE.

18 S 35. Subsection (b) of section 9--310 of the uniform commercial code,
 19 as added by chapter 84 of the laws of 2001, is amended to read as
 20 follows:

21 (b) Exceptions: filing not necessary. Except as provided in subsection
 22 (d), the filing of a financing statement is not necessary to perfect a
 23 security interest:

- 24 (1) that is perfected under Section 9--308(d), (e), (f), or (g);
- 25 (2) that is perfected under Section 9--309 when it attaches;
- 26 (3) in property subject to a statute, regulation, or treaty
 27 described in Section 9--311(a);
- 28 (4) in goods in possession of a bailee which is perfected under
 29 Section 9--312(d)(1) or (2);
- 30 (5) in certificated securities, documents, goods, or instruments
 31 which is perfected without filing, CONTROL, or possession
 32 under Section 9--312(e), (f), or (g);
- 33 (6) in collateral in the secured party's possession under Section
 34 9--313;
- 35 (7) in a certificated security which is perfected by delivery of
 36 the security certificate to the secured party under Section
 37 9--313;
- 38 (8) in deposit accounts, electronic chattel paper, ELECTRONIC
 39 DOCUMENTS, investment property, or letter-of-credit rights
 40 which is perfected by control under Section 9--314;
- 41 (9) in proceeds which is perfected under Section 9--315;
- 42 (10) that is perfected under Section 9--316; or
- 43 (11) that is a cooperative organization security interest.

44 S 36. Paragraph 3 of subsection (a) of section 9--311 of the uniform
 45 commercial code, as added by chapter 84 of the laws of 2001, is amended

46 to read as follows:

47 (3) a [certificate-of-title] statute of another jurisdiction
 48 which provides for a security interest to be indicated on
 49 [the] A certificate OF TITLE as a condition or result of
 50 the security interest's obtaining priority over the
 51 rights of a lien creditor with respect to the property.

52 S 37. Subsection (e) of section 9--312 of the uniform commercial code,
 53 as added by chapter 84 of the laws of 2001, is amended to read as
 54 follows:

55 (e) Temporary perfection: new value. A security interest in certif-
 56 icated securities, negotiable documents, or instruments is perfected
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1 without filing or the taking of possession OR CONTROL for a period of 20
 2 days from the time it attaches to the extent that it arises for new
 3 value given under an authenticated security agreement.

4 S 38. Subsection (a) of section 9--313 of the uniform commercial code,
 5 as added by chapter 84 of the laws of 2001, is amended to read as
 6 follows:

7 (a) Perfection by possession or delivery. Except as otherwise provided
 8 in subsection (b), a secured party may perfect a security interest in
 9 TANGIBLE negotiable documents, goods, instruments, money, or tangible
 10 chattel paper by taking possession of the collateral. A secured party
 11 may perfect a security interest in certificated securities by taking
 12 delivery of the certificated securities under Section 8--301.

13 S 39. Subsections (a) and (b) of section 9--314 of the uniform commer-
 14 cial code, as added by chapter 84 of the laws of 2001, are amended to
 15 read as follows:

16 (a) Perfection by control. A security interest in investment property,
 17 deposit accounts, letter-of-credit rights, [or] electronic chattel
 18 paper, OR ELECTRONIC DOCUMENTS may be perfected by control of the colla-
 19 teral under Section 7--106, 9--104, 9--105, 9--106, or 9--107.

20 (b) Specified collateral: time of perfection by control; continuation
 21 of perfection. A security interest in deposit accounts, electronic chat-
 22 tel paper, [or] letter-of-credit rights, OR ELECTRONIC DOCUMENTS is
 23 perfected by control under Section 7--106, 9--104, 9--105, or 9--107
 24 when the secured party obtains control and remains perfected by control
 25 only while the secured party retains control.

26 S 40. The section heading of section 9--316 of the uniform commercial
 27 code, as added by chapter 84 of the laws of 2001, is amended and two new
 28 subsections (h) and (i) are added to read as follows:

29 Section 9--316. [Continued Perfection of Security Interest Following]
 30 EFFECT OF Change in Governing Law.

31 (H) EFFECT ON FILED FINANCING STATEMENT OF CHANGE IN GOVERNING LAW.
 32 THE FOLLOWING RULES APPLY TO COLLATERAL TO WHICH A SECURITY INTEREST
 33 ATTACHES WITHIN FOUR MONTHS AFTER THE DEBTOR CHANGES ITS LOCATION TO
 34 ANOTHER JURISDICTION:

35 (1) A FINANCING STATEMENT FILED BEFORE THE CHANGE PURSUANT TO THE
 36 LAW OF THE JURISDICTION DESIGNATED IN SECTION 9--301(A) OR
 37 9--305(C) IS EFFECTIVE TO PERFECT A SECURITY INTEREST IN THE
 38 COLLATERAL IF THE FINANCING STATEMENT WOULD HAVE BEEN EFFEC-
 39 TIVE TO PERFECT A SECURITY INTEREST IN THE COLLATERAL HAD THE
 40 DEBTOR NOT CHANGED ITS LOCATION.

41 (2) IF A SECURITY INTEREST PERFECTED BY A FINANCING STATEMENT
 42 THAT IS EFFECTIVE UNDER PARAGRAPH (1) BECOMES PERFECTED UNDER
 43 THE LAW OF THE OTHER JURISDICTION BEFORE THE EARLIER OF THE
 44 TIME THE FINANCING STATEMENT WOULD HAVE BECOME INEFFECTIVE
 45 UNDER THE LAW OF THE JURISDICTION DESIGNATED IN SECTION
 46 9--301(A) OR 9--305(C) OR THE EXPIRATION OF THE FOUR-MONTH
 47 PERIOD, IT REMAINS PERFECTED THEREAFTER. IF THE SECURITY
 48 INTEREST DOES NOT BECOME PERFECTED UNDER THE LAW OF THE OTHER
 49 JURISDICTION BEFORE THE EARLIER TIME OR EVENT, IT BECOMES
 50 UNPERFECTED AND IS DEEMED NEVER TO HAVE BEEN PERFECTED AS
 51 AGAINST A PURCHASER OF THE COLLATERAL FOR VALUE.

52 (I) EFFECT OF CHANGE IN GOVERNING LAW ON FINANCING STATE-
 53 MENT FILED AGAINST ORIGINAL DEBTOR. IF A FINANCING STATEMENT
 54 NAMING AN ORIGINAL DEBTOR IS FILED PURSUANT TO THE LAW OF THE
 55 JURISDICTION DESIGNATED IN SECTION 9--301(A) OR 9--305(C) AND
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1 THE NEW DEBTOR IS LOCATED IN ANOTHER JURISDICTION, THE
 2 FOLLOWING RULES APPLY:

- 3 (1) THE FINANCING STATEMENT IS EFFECTIVE TO PERFECT A SECURITY
 4 INTEREST IN COLLATERAL IN WHICH THE NEW DEBTOR HAS OR
 5 ACQUIRES RIGHTS BEFORE OR WITHIN FOUR MONTHS AFTER THE NEW
 6 DEBTOR BECOMES BOUND UNDER SECTION 9--203(D), IF THE FINANC-
 7 ING STATEMENT WOULD HAVE BEEN EFFECTIVE TO PERFECT A SECURITY
 8 INTEREST IN THE COLLATERAL HAD THE COLLATERAL BEEN ACQUIRED
 9 BY THE ORIGINAL DEBTOR.
- 10 (2) A SECURITY INTEREST THAT IS PERFECTED BY THE FINANCING STATE-
 11 MENT AND WHICH BECOMES PERFECTED UNDER THE LAW OF THE OTHER
 12 JURISDICTION BEFORE THE EARLIER OF THE EXPIRATION OF THE FOUR
 13 MONTH PERIOD OR THE TIME THE FINANCING STATEMENT WOULD HAVE
 14 BECOME INEFFECTIVE UNDER THE LAW OF THE JURISDICTION DESIG-
 15 NATED IN SECTION 9--301(A) OR 9--305(C) REMAINS PERFECTED
 16 THEREAFTER. A SECURITY INTEREST THAT IS PERFECTED BY THE
 17 FINANCING STATEMENT BUT WHICH DOES NOT BECOME PERFECTED UNDER
 18 THE LAW OF THE OTHER JURISDICTION BEFORE THE EARLIER TIME OR
 19 EVENT BECOMES UNPERFECTED AND IS DEEMED NEVER TO HAVE BEEN
 20 PERFECTED AS AGAINST A PURCHASER OF THE COLLATERAL FOR VALUE.

21 S 41. Subsections (b) and (d) of section 9--317 of the uniform commer-
 22 cial code, as added by chapter 84 of the laws of 2001, are amended to
 23 read as follows:

24 (b) Buyers that receive delivery. Except as otherwise provided in
 25 subsection (e), a buyer, other than a secured party, of tangible chattel
 26 paper, TANGIBLE documents, goods, instruments, or a [security certif-
 27 icate] CERTIFICATED SECURITY takes free of a security interest or agri-
 28 cultural lien if the buyer gives value and receives delivery of the
 29 collateral without knowledge of the security interest or agricultural
 30 lien and before it is perfected.

31 (d) Licensees and buyers of certain collateral. A licensee of a gener-
 32 al intangible or a buyer, other than a secured party, of accounts, elec-
 33 tronic chattel paper, ELECTRONIC DOCUMENTS, general intangibles, or
 34 investment property other than a certificated security takes free of a
 35 security interest if the licensee or buyer gives value without knowledge
 36 of the security interest and before it is perfected.

37 S 42. Section 9--326 of the uniform commercial code, as added by chap-
 38 ter 84 of the laws of 2001, is amended to read as follows:

39 Section 9--326. Priority of Security Interests Created by New Debtor.
 40 (a) Subordination of security interest created by new debtor. Subject
 41 to subsection (b), a security interest THAT IS created by a new debtor
 42 [which is] IN COLLATERAL IN WHICH THE NEW DEBTOR HAS OR ACQUIRES RIGHTS
 43 AND IS perfected SOLELY by a filed financing statement that [is effec-
 44 tive solely under Section 9--508 in collateral in which a new debtor has
 45 or acquires rights] WOULD BE INEFFECTIVE TO PERFECT THE SECURITY INTER-
 46 EST BUT FOR THE APPLICATION OF SECTION 9--316(I)(1) OR 9--508 is subor-
 47 dinate to a security interest in the same collateral which is perfected
 48 other than by SUCH a filed financing statement [that is effective solely
 49 under Section 9--508].

50 (b) Priority under other provisions; multiple original debtors. The
 51 other provisions of this part determine the priority among conflicting
 52 security interests in the same collateral perfected by filed financing
 53 statements [that are effective solely under Section 9--508] DESCRIBED IN
 54 SUBSECTION (A). However, if the security agreements to which a new
 55 debtor became bound as debtor were not entered into by the same original
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1 debtor, the conflicting security interests rank according to priority in
 2 time of the new debtor's having become bound.

3 S 43. Section 9--338 of the uniform commercial code, as added by chap-
 4 ter 84 of the laws of 2001, is amended to read as follows:

5 Section 9--338. Priority of Security Interest or Agricultural Lien
 6 Perfected by Filed Financing Statement Providing
 7 Certain Incorrect Information.

8 If a security interest or agricultural lien is perfected by a filed
 9 financing statement providing information described in Section
 10 9--516(b)(5) which is incorrect at the time the financing statement is
 11 filed:

12 [(a)](1) the security interest or agricultural lien is subordinate to
 13 a conflicting perfected security interest in the collateral to the
 14 extent that the holder of the conflicting security interest gives value
 15 in reasonable reliance upon the incorrect information; and

16 [(b)](2) a purchaser, other than a secured party, of the collateral
 17 takes free of the security interest or agricultural lien to the extent

18 that, in reasonable reliance upon the incorrect information, the
 19 purchaser gives value and, in the case of TANGIBLE chattel paper, TANGI-
 20 BLE documents, goods, instruments, or a security certificate, receives
 21 delivery of the collateral.

22 S 44. Subsection (c) of section 9--502 of the uniform commercial code,
 23 as added by chapter 84 of the laws of 2001, is amended to read as
 24 follows:

25 (c) Record of mortgage as financing statement. A record of a mortgage
 26 is effective, from the date of recording, as a financing statement filed
 27 as a fixture filing or as a financing statement covering as-extracted
 28 collateral or timber to be cut only if:

- 29 (1) the record indicates the goods or accounts that it covers;
 30 (2) the goods are or are to become fixtures related to the real
 31 property described in the record or the collateral is related
 32 to the real property described in the record and is as-ex-
 33 tracted collateral or timber to be cut;
 34 (3) the record satisfies the requirements for a financing state-
 35 ment in this section [other than an indication], BUT:
 36 (A) THE RECORD NEED NOT INDICATE that it is to be filed in
 37 the real property records; and
 38 (B) THE RECORD SUFFICIENTLY PROVIDES THE NAME OF A DEBTOR WHO
 39 IS AN INDIVIDUAL IF IT PROVIDES THE INDIVIDUAL NAME OF
 40 THE DEBTOR OR THE SURNAME AND FIRST PERSONAL NAME OF THE
 41 DEBTOR, EVEN IF THE DEBTOR IS AN INDIVIDUAL TO WHOM
 42 SECTION 9--503(A) (4) APPLIES; AND
 43 (4) the record is duly recorded.

44 S 45. Section 9--503 of the uniform commercial code, as added by chap-
 45 ter 84 of the laws of 2001, is amended to read as follows:
 46 Section 9--503. Name of Debtor and Secured Party.

47 (a) Sufficiency of debtor's name. A financing statement sufficiently
 48 provides the name of the debtor:

- 49 (1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (3), if the debtor
 50 is a registered organization OR THE COLLATERAL IS HELD IN A
 51 TRUST THAT IS A REGISTERED ORGANIZATION, only if the financ-
 52 ing statement provides the name [of the debtor indicated]
 53 THAT IS STATED TO BE THE REGISTERED ORGANIZATION'S NAME on
 54 the public ORGANIC record [of] MOST RECENTLY FILED WITH OR
 55 ISSUED OR ENACTED BY the [debtor's] REGISTERED ORGANIZATION'S
 56 jurisdiction of organization which [shows the debtor to have

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1 been organized] PURPORTS TO STATE, AMEND, OR RESTATE THE
 2 REGISTERED ORGANIZATION'S NAME;

- 3 (2) SUBJECT TO SUBSECTION (F), if the [debtor is a decedent's
 4 estate] COLLATERAL IS BEING ADMINISTERED BY THE PERSONAL
 5 REPRESENTATIVE OF A DECEDENT, only if the financing statement
 6 provides, AS THE NAME OF THE DEBTOR, the name of the decedent
 7 and, IN A SEPARATE PART OF THE FINANCING STATEMENT, indicates
 8 that the [debtor is an estate] COLLATERAL IS BEING ADMINIS-
 9 TERED BY A PERSONAL REPRESENTATIVE;
 10 (3) if the [debtor is a trust or a trustee acting with respect to
 11 property held in trust, only if the financing statement]
 12 COLLATERAL IS HELD IN A TRUST THAT IS NOT A REGISTERED ORGAN-
 13 IZATION, ONLY IF THE FINANCING STATEMENT:
 14 (A) [provides the name specified for the trust in its organic
 15 documents or, if no name is specified, provides the name
 16 of the settlor and additional information sufficient to
 17 distinguish the debtor from other trusts having one or
 18 more of the same settlors; and] PROVIDES, AS THE NAME OF
 19 THE DEBTOR:
 20 (I) IF THE ORGANIC RECORD OF THE TRUST SPECIFIES A NAME
 21 FOR THE TRUST, THE NAME SPECIFIED; OR
 22 (II) IF THE ORGANIC RECORD OF THE TRUST DOES NOT SPECIFY
 23 A NAME FOR THE TRUST, THE NAME OF THE SETTLOR OR
 24 TESTATOR; AND
 25 (B) [indicates, in the debtor's name or otherwise, that the
 26 debtor is a trust or is a trustee acting with respect to
 27 property held in trust;] IN A SEPARATE PART OF THE
 28 FINANCING STATEMENT:
 29 (I) IF THE NAME IS PROVIDED IN ACCORDANCE WITH SUBPARA-
 30 GRAPH (A)(I), INDICATES THAT THE COLLATERAL IS HELD
 31 IN A TRUST; OR

32 (II) IF THE NAME IS PROVIDED IN ACCORDANCE WITH SUBPARA-
 33 GRAPH (A)(II), PROVIDES ADDITIONAL INFORMATION
 34 SUFFICIENT TO DISTINGUISH THE TRUST FROM OTHER
 35 TRUSTS HAVING ONE OR MORE OF THE SAME SETTLORS OR
 36 THE SAME TESTATOR AND INDICATES THAT THE COLLATERAL
 37 IS HELD IN A TRUST, UNLESS THE ADDITIONAL INFORMA-
 38 TION SO INDICATES;

39 (4) SUBJECT TO SUBSECTION (G), IF THE DEBTOR IS AN INDIVIDUAL TO
 40 WHOM THIS STATE HAS ISSUED A DRIVER'S LICENSE OR NON-DRIVER
 41 PHOTO IDENTIFICATION CARD THAT HAS NOT EXPIRED, ONLY IF THE
 42 FINANCING STATEMENT PROVIDES THE NAME OF THE INDIVIDUAL WHICH
 43 IS INDICATED ON THE DRIVER'S LICENSE OR NON-DRIVER PHOTO
 44 IDENTIFICATION CARD;

45 (5) IF THE DEBTOR IS AN INDIVIDUAL TO WHOM PARAGRAPH (4) DOES NOT
 46 APPLY, ONLY IF THE FINANCING STATEMENT PROVIDES THE INDIVID-
 47 UAL NAME OF THE DEBTOR OR THE SURNAME AND FIRST PERSONAL NAME
 48 OF THE DEBTOR; AND

49 (6) in other cases:
 50 (A) if the debtor has a name, only if [it] THE FINANCING
 51 STATEMENT provides the [individual or] organizational
 52 name of the debtor; and
 53 (B) if the debtor does not have a name, only if it provides
 54 the names of the partners, members, associates, or other
 55 persons comprising the debtor, IN A MANNER THAT EACH NAME

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1 PROVIDED WOULD BE SUFFICIENT IF THE PERSON NAMED WERE THE
 2 DEBTOR.

3 (b) Additional debtor-related information. A financing statement that
 4 provides the name of the debtor in accordance with subsection (a) is not
 5 rendered ineffective by the absence of:
 6 (1) a trade name or other name of the debtor; or
 7 (2) unless required under subsection [(a)(4)(B)] (A)(6)(B), names
 8 of partners, members, associates, or other persons comprising
 9 the debtor.

10 (c) Debtor's trade name insufficient. A financing statement that
 11 provides only the debtor's trade name does not sufficiently provide the
 12 name of the debtor.

13 (d) Representative capacity. Failure to indicate the representative
 14 capacity of a secured party or representative of a secured party does
 15 not affect the sufficiency of a financing statement.

16 (e) Multiple debtors and secured parties. A financing statement may
 17 provide the name of more than one debtor and the name of more than one
 18 secured party.

19 (F) NAME OF DECEDENT. THE NAME OF THE DECEDENT INDICATED ON THE ORDER
 20 APPOINTING THE PERSONAL REPRESENTATIVE OF THE DECEDENT ISSUED BY THE
 21 COURT HAVING JURISDICTION OVER THE COLLATERAL IS SUFFICIENT AS THE "NAME
 22 OF THE DECEDENT" UNDER SUBSECTION (A)(2).

23 (G) MULTIPLE DRIVER'S LICENSES. IF THIS STATE HAS ISSUED TO AN INDI-
 24 VIDUAL MORE THAN ONE DRIVER'S LICENSE OR NON-DRIVER PHOTO IDENTIFICATION
 25 CARD OF A KIND DESCRIBED IN SUBSECTION (A)(4), THE ONE THAT WAS ISSUED
 26 MOST RECENTLY IS THE ONE TO WHICH SUBSECTION (A)(4) REFERS.

27 (H) DEFINITION. IN THIS SECTION, THE "NAME OF THE SETTLOR OR TESTATOR"
 28 MEANS:
 29 (1) IF THE SETTLOR IS A REGISTERED ORGANIZATION, THE NAME THAT IS
 30 STATED TO BE THE SETTLOR'S NAME ON THE PUBLIC ORGANIC RECORD
 31 MOST RECENTLY FILED WITH OR ISSUED OR ENACTED BY THE
 32 SETTLOR'S JURISDICTION OF ORGANIZATION WHICH PURPORTS TO
 33 STATE, AMEND, OR RESTATE THE SETTLOR'S NAME; OR
 34 (2) IN OTHER CASES, THE NAME OF THE SETTLOR OR TESTATOR INDICATED
 35 IN THE TRUST'S ORGANIC RECORD.

36 S 46. Subsection (c) of section 9--507 of the uniform commercial code,
 37 as added by chapter 84 of the laws of 2001, is amended to read as
 38 follows:
 39 (c) Change in debtor's name. If [a debtor so changes its] THE name
 40 that a filed financing statement PROVIDES FOR A DEBTOR becomes INSUFFI-
 41 CIENT AS THE NAME OF THE DEBTOR UNDER SECTION 9--503(A) SO THAT THE
 42 FINANCING STATEMENT BECOMES seriously misleading under Section 9--506:
 43 (1) the financing statement is effective to perfect a security
 44 interest in collateral acquired by the debtor before, or
 45 within four months after, the [change] FILED FINANCING STATE-
 46 MENT BECOMES SERIOUSLY MISLEADING; and

47 (2) the financing statement is not effective to perfect a securi-
48 ty interest in collateral acquired by the debtor more than
49 four months after the [change] FILED FINANCING STATEMENT
50 BECOMES SERIOUSLY MISLEADING, unless an amendment to the
51 financing statement which renders the financing statement not
52 seriously misleading is filed within four months after [the
53 change] THE FINANCING STATEMENT BECAME SERIOUSLY MISLEADING.

54 S 47. Subsection (f) of section 9--515 of the uniform commercial code,
55 as added by chapter 84 of the laws of 2001, is amended to read as
56 follows:

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1 (f) Transmitting utility financing statement. If a debtor is a trans-
2 mitting utility and a filed INITIAL financing statement so indicates,
3 the financing statement is effective until a termination statement is
4 filed.

5 S 48. Subsection (b) of section 9--601 of the uniform commercial code,
6 as added by chapter 84 of the laws of 2001, is amended to read as
7 follows:

8 (b) Rights and duties of secured party in possession or control. A
9 secured party in possession of collateral or control of collateral under
10 Section 7--106, 9--104, 9--105, 9--106, or 9--107 has the rights and
11 duties provided in Section 9--207.

12 S 49. Subparagraph (A) of paragraph 2 of subsection (b) of section
13 9--607 of the uniform commercial code, as added by chapter 84 of the
14 laws of 2001, is amended to read as follows:

15 (A) a default has occurred WITH RESPECT TO THE OBLIGATION
16 SECURED BY THE MORTGAGE; and

17 S 50. Subsection (c) of section 9--625 of the uniform commercial code,
18 as added by chapter 84 of the laws of 2001, is amended to read as
19 follows:

20 (c) Persons entitled to recover damages; statutory damages [in consum-
21 er-goods transaction] IF COLLATERAL IS CONSUMER GOODS. Except as other-
22 wise provided in Section 9--628:

23 (1) a person that, at the time of the failure, was a debtor, was
24 an obligor, or held a security interest in or other lien on
25 the collateral may recover damages under subsection (b) for
26 its loss; and

27 (2) if the collateral is consumer goods, a person that was a
28 debtor or a secondary obligor at the time a secured party
29 failed to comply with this part may recover for that failure
30 in any event an amount not less than the credit service
31 charge plus 10 percent of the principal amount of the obli-
32 gation or the time-price differential plus 10 percent of the
33 cash price.

34 S 51. This act shall take effect immediately and shall apply to trans-
35 actions entered into on or after such date.