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

9933

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:

Section 1. Article 1 of the uniform commercial code is REPEALED and a new article 1 is added to read as follows:

ARTICLE 1

PART 1

GENERAL PROVISIONS

SECTION 1--101. SHORT TITLES.

(A) THIS ACT MAY BE CITED AS THE UNIFORM COMMERCIAL CODE.

(B) THIS ARTICLE MAY BE CITED AS UNIFORM COMMERCIAL CODE -- GENERAL PROVISIONS.

SECTION 1--102. SCOPE OF ARTICLE.

THIS ARTICLE APPLIES TO A TRANSACTION TO THE EXTENT THAT IT IS GOVERNED BY ANOTHER ARTICLE OF THIS ACT.

SECTION 1--103. CONSTRUCTION OF UNIFORM COMMERCIAL CODE TO PROMOTE ITS PURPOSES AND POLICIES; APPLICABILITY OF SUPPLEMENTAL PRINCIPLES OF LAW.

(A) THIS ACT MUST BE LIBERALLY CONSTRUED AND APPLIED TO PROMOTE ITS UNDERLYING PURPOSES AND POLICIES, WHICH ARE:

(1) TO SIMPLIFY, CLARIFY, AND MODERNIZE THE LAW GOVERNING COMMERCIAL TRANSACTIONS;

(2) TO PERMIT THE CONTINUED EXPANSION OF COMMERCIAL PRACTICES THROUGH CUSTOM, USAGE, AND AGREEMENT OF THE PARTIES; AND

(3) TO MAKE UNIFORM THE LAW AMONG THE VARIOUS JURISDICTIONS.

(B) UNLESS DISPLACED BY THE PARTICULAR PROVISIONS OF THIS ACT, THE PRINCIPLES OF LAW AND EQUITY, INCLUDING THE LAW MERCHANT AND THE LAW RELATIVE TO CAPACITY TO CONTRACT, PRINCIPAL AND AGENT, ESTOPPEL, FRAUD, MISREPRESENTATION, DURESS, COERCION, MISTAKE, BANKRUPTCY, AND OTHER VALIDATING OR INVALIDATING CAUSE SUPPLEMENT ITS PROVISIONS.

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

LBD11480-04-4

SECTION 1--104. CONSTRUCTION AGAINST IMPLIED REPEAL.
THIS ACT BEING A GENERAL ACT INTENDED AS A UNIFIED COVERAGE OF ITS SUBJECT MATTER, NO PART OF IT SHALL BE DEEMED TO BE IMPLIEDLY REPEALED BY SUBSEQUENT LEGISLATION IF SUCH CONSTRUCTION CAN REASONABLY BE AVOIDED.
SECTION 1--105. SEVERABILITY.
IF ANY PROVISION OR CLAUSE OF THIS ACT OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS ACT ARE SEVERABLE.
SECTION 1--106. USE OF SINGULAR AND PLURAL; GENDER.
IN THIS ACT, UNLESS THE STATUTORY CONTEXT OTHERWISE REQUIRES:
(1) WORDS IN THE SINGULAR NUMBER INCLUDE THE PLURAL, AND THOSE IN THE PLURAL INCLUDE THE SINGULAR; AND
(2) WORDS OF ANY GENDER ALSO REFER TO ANY OTHER GENDER.
SECTION 1--107. SECTION CAPTIONS.
SECTION CAPTIONS ARE PART OF THIS ACT. THE SUBSECTION HEADINGS IN ARTICLE NINE ARE NOT PART OF THIS ACT FOR PURPOSES OF CONSTRUCTION.
SECTION 1--108. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.
THIS ARTICLE MODIFIES, LIMITS, AND SUPERSEDES THE FEDERAL ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15 U.S.C. SECTION 7001 ET SEQ., EXCEPT THAT NOTHING IN THIS ARTICLE MODIFIES, LIMITS, OR SUPERSEDES SECTION 7001(C) OF THAT ACT OR AUTHORIZES ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN SECTION 7003(B) OF THAT ACT.

PART 2

GENERAL DEFINITIONS AND PRINCIPLES OF INTERPRETATION

SECTION 1--201. GENERAL DEFINITIONS.
(A) UNLESS THE CONTEXT OTHERWISE REQUIRES, WORDS OR PHRASES DEFINED IN THIS SECTION, OR IN THE ADDITIONAL DEFINITIONS CONTAINED IN OTHER ARTICLES OF THIS ACT THAT APPLY TO PARTICULAR ARTICLES OR PARTS THEREOF, HAVE THE MEANINGS STATED.
(B) SUBJECT TO DEFINITIONS CONTAINED IN OTHER ARTICLES OF THIS ACT THAT APPLY TO PARTICULAR ARTICLES OR PARTS THEREOF:
(1) "ACTION", IN THE SENSE OF A JUDICIAL PROCEEDING, INCLUDES RECOUPMENT, COUNTERCLAIM, SET-OFF, SUIT IN EQUITY, AND ANY OTHER PROCEEDING IN WHICH RIGHTS ARE DETERMINED.
(2) "AGGRIEVED PARTY" MEANS A PARTY ENTITLED TO PURSUE A REMEDY.
(3) "AGREEMENT", AS DISTINGUISHED FROM "CONTRACT", MEANS THE BARGAIN OF THE PARTIES IN FACT, AS FOUND IN THEIR LANGUAGE OR INFERRED FROM OTHER CIRCUMSTANCES, INCLUDING COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE AS PROVIDED IN SECTION 1--303.
(4) "BANK" MEANS A PERSON ENGAGED IN THE BUSINESS OF BANKING AND INCLUDES A SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION, AND TRUST COMPANY.
(5) "BEARER" MEANS A PERSON IN CONTROL OF A NEGOTIABLE ELECTRONIC DOCUMENT OF TITLE OR A PERSON IN POSSESSION OF A NEGOTIABLE INSTRUMENT, NEGOTIABLE TANGIBLE DOCUMENT OF TITLE, OR CERTIFICATED SECURITY THAT IS PAYABLE TO BEARER OR INDORSED IN BLANK.
(6) "BILL OF LADING" MEANS A DOCUMENT OF TITLE EVIDENCING THE RECEIPT OF GOODS FOR SHIPMENT ISSUED BY A PERSON ENGAGED IN THE BUSINESS OF DIRECTLY OR INDIRECTLY TRANSPORTING OR FORWARDING GOODS. THE TERM DOES NOT INCLUDE A WAREHOUSE RECEIPT.
(7) "BRANCH" INCLUDES A SEPARATELY INCORPORATED FOREIGN BRANCH OF A BANK.

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

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

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

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

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

(13) "CREDITOR" INCLUDES A GENERAL CREDITOR, A SECURED CREDITOR, A LIEN CREDITOR, AND ANY REPRESENTATIVE OF CREDITORS, INCLUDING AN ASSIGNEE FOR THE BENEFIT OF CREDITORS, A TRUSTEE IN BANKRUPTCY, A RECEIVER IN EQUITY, AND AN EXECUTOR OR ADMINISTRATOR OF AN INSOLVENT DEBTOR'S OR ASSIGNOR'S ESTATE.

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

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

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

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

(18) "FUNGIBLE GOODS" MEANS:

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

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

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

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

(21) "HOLDER" MEANS:

(A) THE PERSON IN POSSESSION OF A NEGOTIABLE INSTRUMENT THAT IS PAYABLE EITHER TO BEARER OR TO AN IDENTIFIED PERSON THAT IS THE PERSON IN POSSESSION; OR

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

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

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

(23) "INSOLVENT" MEANS:

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

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

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

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

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

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

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

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

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

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

(31) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

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

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

(34) "RIGHT" INCLUDES REMEDY.

(35) "SECURITY INTEREST" MEANS AN INTEREST IN PERSONAL PROPERTY OR FIXTURES WHICH SECURES PAYMENT OR PERFORMANCE OF AN OBLIGATION. "SECURI-

TY INTEREST" INCLUDES ANY INTEREST OF A CONSIGNOR AND A BUYER OF ACCOUNTS, CHATTEL PAPER, A PAYMENT INTANGIBLE, OR A PROMISSORY NOTE IN A TRANSACTION THAT IS SUBJECT TO ARTICLE 9. "SECURITY INTEREST" DOES NOT INCLUDE THE SPECIAL PROPERTY INTEREST OF A BUYER OF GOODS ON IDENTIFICATION OF THOSE GOODS TO A CONTRACT FOR SALE UNDER SECTION 2--401, BUT A BUYER MAY ALSO ACQUIRE A "SECURITY INTEREST" BY COMPLYING WITH ARTICLE 9. EXCEPT AS OTHERWISE PROVIDED IN SECTION 2--505, THE RIGHT OF A SELLER OR LESSOR OF GOODS UNDER ARTICLE 2 OR 2-A TO RETAIN OR ACQUIRE POSSESSION OF THE GOODS IS NOT A "SECURITY INTEREST", BUT A SELLER OR LESSOR MAY ALSO ACQUIRE A "SECURITY INTEREST" BY COMPLYING WITH ARTICLE 9. THE RETENTION OR RESERVATION OF TITLE BY A SELLER OF GOODS NOTWITHSTANDING SHIPMENT OR DELIVERY TO THE BUYER UNDER SECTION 2--401 IS LIMITED IN EFFECT TO A RESERVATION OF A "SECURITY INTEREST." WHETHER A TRANSACTION IN THE FORM OF A LEASE CREATES A "SECURITY INTEREST" IS DETERMINED PURSUANT TO SECTION 1--203.

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

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

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

(37) "SIGNED" INCLUDES USING ANY SYMBOL EXECUTED OR ADOPTED WITH PRESENT INTENTION TO ADOPT OR ACCEPT A WRITING.

(38) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

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

(40) "TERM" MEANS A PORTION OF AN AGREEMENT THAT RELATES TO A PARTICULAR MATTER.

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

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

(43) "WRITING" INCLUDES PRINTING, TYPEWRITING, OR ANY OTHER INTENTIONAL REDUCTION TO TANGIBLE FORM. "WRITTEN" HAS A CORRESPONDING MEANING.

SECTION 1--202. NOTICE; KNOWLEDGE.

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

(1) HAS ACTUAL KNOWLEDGE OF IT;

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

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

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

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

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

(E) SUBJECT TO SUBSECTION (F), A PERSON "RECEIVES" A NOTICE OR NOTIFICATION WHEN:

(1) IT COMES TO THAT PERSON'S ATTENTION; OR
(2) IT IS DULY DELIVERED IN A FORM REASONABLE UNDER THE CIRCUMSTANCES AT THE PLACE OF BUSINESS THROUGH WHICH THE CONTRACT WAS MADE OR AT ANOTHER LOCATION HELD OUT BY THAT PERSON AS THE PLACE FOR RECEIPT OF SUCH COMMUNICATIONS.
(F) NOTICE, KNOWLEDGE, OR A NOTICE OR NOTIFICATION RECEIVED BY AN ORGANIZATION IS EFFECTIVE FOR A PARTICULAR TRANSACTION FROM THE TIME IT IS BROUGHT TO THE ATTENTION OF THE INDIVIDUAL CONDUCTING THAT TRANSACTION AND, IN ANY EVENT, FROM THE TIME IT WOULD HAVE BEEN BROUGHT TO THE INDIVIDUAL'S ATTENTION IF THE ORGANIZATION HAD EXERCISED DUE DILIGENCE. AN ORGANIZATION EXERCISES DUE DILIGENCE IF IT MAINTAINS REASONABLE ROUTINES FOR COMMUNICATING SIGNIFICANT INFORMATION TO THE PERSON CONDUCTING THE TRANSACTION AND THERE IS REASONABLE COMPLIANCE WITH THE ROUTINES. DUE DILIGENCE DOES NOT REQUIRE AN INDIVIDUAL ACTING FOR THE ORGANIZATION TO COMMUNICATE INFORMATION UNLESS THE COMMUNICATION IS PART OF THE INDIVIDUAL'S REGULAR DUTIES OR THE INDIVIDUAL HAS REASON TO KNOW OF THE TRANSACTION AND THAT THE TRANSACTION WOULD BE MATERIALLY AFFECTED BY THE INFORMATION.
SECTION 1--203. LEASE DISTINGUISHED FROM SECURITY INTEREST.
(A) WHETHER A TRANSACTION IN THE FORM OF A LEASE CREATES A LEASE OR SECURITY INTEREST IS DETERMINED BY THE FACTS OF EACH CASE.
(B) A TRANSACTION IN THE FORM OF A LEASE CREATES A SECURITY INTEREST IF THE CONSIDERATION THAT THE LESSEE IS TO PAY THE LESSOR FOR THE RIGHT TO POSSESSION AND USE OF THE GOODS IS AN OBLIGATION FOR THE TERM OF THE LEASE AND IS NOT SUBJECT TO TERMINATION BY THE LESSEE, AND:
(1) THE ORIGINAL TERM OF THE LEASE IS EQUAL TO OR GREATER THAN THE REMAINING ECONOMIC LIFE OF THE GOODS;
(2) THE LESSEE IS BOUND TO RENEW THE LEASE FOR THE REMAINING ECONOMIC LIFE OF THE GOODS OR IS BOUND TO BECOME THE OWNER OF THE GOODS;
(3) THE LESSEE HAS AN OPTION TO RENEW THE LEASE FOR THE REMAINING ECONOMIC LIFE OF THE GOODS FOR NO ADDITIONAL CONSIDERATION OR FOR NOMINAL ADDITIONAL CONSIDERATION UPON COMPLIANCE WITH THE LEASE AGREEMENT; OR
(4) THE LESSEE HAS AN OPTION TO BECOME THE OWNER OF THE GOODS FOR NO ADDITIONAL CONSIDERATION OR FOR NOMINAL ADDITIONAL CONSIDERATION UPON COMPLIANCE WITH THE LEASE AGREEMENT.
(C) A TRANSACTION IN THE FORM OF A LEASE DOES NOT CREATE A SECURITY INTEREST MERELY BECAUSE:
(1) THE PRESENT VALUE OF THE CONSIDERATION THE LESSEE IS OBLIGATED TO PAY THE LESSOR FOR THE RIGHT TO POSSESSION AND USE OF THE GOODS IS SUBSTANTIALLY EQUAL TO OR IS GREATER THAN THE FAIR MARKET VALUE OF THE GOODS AT THE TIME THE LEASE IS ENTERED INTO;
(2) THE LESSEE ASSUMES RISK OF LOSS OF THE GOODS;
(3) THE LESSEE AGREES TO PAY, WITH RESPECT TO THE GOODS, TAXES, INSURANCE, FILING, RECORDING, OR REGISTRATION FEES, OR SERVICE OR MAINTENANCE COSTS;
(4) THE LESSEE HAS AN OPTION TO RENEW THE LEASE OR TO BECOME THE OWNER OF THE GOODS;
(5) THE LESSEE HAS AN OPTION TO RENEW THE LEASE FOR A FIXED RENT THAT IS EQUAL TO OR GREATER THAN THE REASONABLY PREDICTABLE FAIR MARKET RENT FOR THE USE OF THE GOODS FOR THE TERM OF THE RENEWAL AT THE TIME THE OPTION IS TO BE PERFORMED; OR
(6) THE LESSEE HAS AN OPTION TO BECOME THE OWNER OF THE GOODS FOR A FIXED PRICE THAT IS EQUAL TO OR GREATER THAN THE REASONABLY PREDICTABLE FAIR MARKET VALUE OF THE GOODS AT THE TIME THE OPTION IS TO BE PERFORMED.

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

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

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

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

SECTION 1--204. VALUE.

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

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

(B) AS SECURITY FOR, OR IN TOTAL OR PARTIAL SATISFACTION OF, A PREEXISTING CLAIM;

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

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

SECTION 1--205. REASONABLE TIME; SEASONABLENESS.

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

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

SECTION 1--206. PRESUMPTIONS.

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

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

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

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

(C) SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO A QUALIFIED FINANCIAL CONTRACT AS THAT TERM IS DEFINED IN PARAGRAPH TWO OF SUBDIVISION B OF SECTION 5-701 OF THE GENERAL OBLIGATIONS LAW IF EITHER (1) THERE IS, AS PROVIDED IN PARAGRAPH THREE OF SUBDIVISION B OF SECTION 5-701 OF SUCH LAW, SUFFICIENT EVIDENCE TO INDICATE THAT A CONTRACT HAS

BEEN MADE OR (2) THE PARTIES THERETO, BY MEANS OF A PRIOR OR SUBSEQUENT WRITTEN CONTRACT, HAVE AGREED TO BE BOUND BY THE TERMS OF SUCH QUALIFIED FINANCIAL CONTRACT FROM THE TIME THEY REACH AGREEMENT (BY TELEPHONE, BY EXCHANGE OF ELECTRONIC MESSAGES, OR OTHERWISE) ON THOSE TERMS.

PART 3

TERRITORIAL APPLICABILITY AND GENERAL RULES

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

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

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

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

(1) SECTION 2--402;

(2) SECTIONS 2-A--105 AND 2-A--106;

(3) SECTION 4--102;

(4) SECTION 4-A--507;

(5) SECTION 5--116;

(6) SECTION 8--110; AND

(7) SECTIONS 9--301 THROUGH 9--307.

SECTION 1--302. VARIATION BY AGREEMENT.

(A) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (B) OR ELSEWHERE IN THIS ACT, THE EFFECT OF PROVISIONS OF THIS ACT MAY BE VARIED BY AGREEMENT.

(B) THE OBLIGATIONS OF GOOD FAITH, DILIGENCE, REASONABLENESS, AND CARE PRESCRIBED BY THIS ACT MAY NOT BE DISCLAIMED BY AGREEMENT. THE PARTIES, BY AGREEMENT, MAY DETERMINE THE STANDARDS BY WHICH THE PERFORMANCE OF THOSE OBLIGATIONS IS TO BE MEASURED IF THOSE STANDARDS ARE NOT MANIFESTLY UNREASONABLE. WHENEVER THIS ACT REQUIRES AN ACTION TO BE TAKEN WITHIN A REASONABLE TIME, A TIME THAT IS NOT MANIFESTLY UNREASONABLE MAY BE FIXED BY AGREEMENT.

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

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

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

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

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

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

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

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

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

(1) EXPRESS TERMS PREVAIL OVER COURSE OF PERFORMANCE, COURSE OF DEALING, AND USAGE OF TRADE;

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

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

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

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

SECTION 1--304. OBLIGATION OF GOOD FAITH.

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

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

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

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

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

A CLAIM OR RIGHT ARISING OUT OF AN ALLEGED BREACH MAY BE DISCHARGED IN WHOLE OR IN PART WITHOUT CONSIDERATION BY AGREEMENT OF THE AGGRIEVED PARTY IN AN AUTHENTICATED RECORD.

SECTION 1--307. PRIMA FACIE EVIDENCE BY THIRD-PARTY DOCUMENTS.

A DOCUMENT IN DUE FORM PURPORTING TO BE A BILL OF LADING, POLICY OR CERTIFICATE OF INSURANCE, OFFICIAL WEIGHER'S OR INSPECTOR'S CERTIFICATE, CONSULAR INVOICE, OR ANY OTHER DOCUMENT AUTHORIZED OR REQUIRED BY THE CONTRACT TO BE ISSUED BY A THIRD PARTY IS PRIMA FACIE EVIDENCE OF ITS OWN AUTHENTICITY AND GENUINENESS AND OF THE FACTS STATED IN THE DOCUMENT BY THE THIRD PARTY.

SECTION 1--308. PERFORMANCE OR ACCEPTANCE UNDER RESERVATION OF RIGHTS.

A PARTY THAT WITH EXPLICIT RESERVATION OF RIGHTS PERFORMS OR PROMISES PERFORMANCE OR ASSENTS TO PERFORMANCE IN A MANNER DEMANDED OR OFFERED BY

THE OTHER PARTY DOES NOT THEREBY PREJUDICE THE RIGHTS RESERVED. SUCH WORDS AS "WITHOUT PREJUDICE," "UNDER PROTEST," OR THE LIKE ARE SUFFICIENT.

SECTION 1--309. OPTION TO ACCELERATE AT WILL.

A TERM PROVIDING THAT ONE PARTY OR THAT PARTY'S SUCCESSOR IN INTEREST MAY ACCELERATE PAYMENT OR PERFORMANCE OR REQUIRE COLLATERAL OR ADDITIONAL COLLATERAL "AT WILL" OR WHEN THE PARTY "DEEMS ITSELF INSECURE," OR WORDS OF SIMILAR IMPORT, MEANS THAT THE PARTY HAS POWER TO DO SO ONLY IF THAT PARTY IN GOOD FAITH BELIEVES THAT THE PROSPECT OF PAYMENT OR PERFORMANCE IS IMPAIRED. THE BURDEN OF ESTABLISHING LACK OF GOOD FAITH IS ON THE PARTY AGAINST WHICH THE POWER HAS BEEN EXERCISED.

SECTION 1--310. SUBORDINATED OBLIGATIONS.

AN OBLIGATION MAY BE ISSUED AS SUBORDINATED TO PERFORMANCE OF ANOTHER OBLIGATION OF THE PERSON OBLIGATED, OR A CREDITOR MAY SUBORDINATE ITS RIGHT TO PERFORMANCE OF AN OBLIGATION BY AGREEMENT WITH EITHER THE PERSON OBLIGATED OR ANOTHER CREDITOR OF THE PERSON OBLIGATED. SUBORDINATION DOES NOT CREATE A SECURITY INTEREST AS AGAINST EITHER THE COMMON DEBTOR OR A SUBORDINATED CREDITOR.

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

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

"Check".	Section 3--104.
"Consignee".	Section 7--102.
"Consignor".	Section 7--102.
"Consumer goods".	Section 9--102.
"CONTROL".	SECTION 7--106.
"Dishonor".	Section 3--507.
"Draft".	Section 3--104.

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

Section 2--202. Final Written Expression: Parol or Extrinsic Evidence.

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

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

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

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

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

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

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

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

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

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

(b) if the goods are at the time of contracting already identified and no documents OF TITLE are to be delivered, title passes at the time and place of contracting.

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

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

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

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

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

(a) his procurement of a negotiable bill of lading to his own order or otherwise reserves in him a security interest in the goods. His procurement of the bill to the order of a financing agency or of the buyer indicates in addition only the seller's expectation of transferring that interest to the person named.

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

(2) When shipment by the seller with reservation of a security interest is in violation of the contract for sale it constitutes an improper contract for transportation within the preceding section but impairs neither the rights given to the buyer by shipment and identification of the goods to the contract nor the seller's powers as a holder of a negotiable document OF TITLE.

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

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

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

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

(a) on his receipt of POSSESSION OR CONTROL OF a negotiable document of title covering the goods; or

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

(c) after his receipt of POSSESSION OR CONTROL OF a non-negotiable document of title or other [written] direction to deliver IN A RECORD, as provided in subsection (4) (b) of Section 2--503.

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

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

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

(2) As against such buyer the seller may stop delivery until

(a) receipt of the goods by the buyer; or

(b) acknowledgment to the buyer by any bailee of the goods except a carrier that the bailee holds the goods for the buyer; or

(c) such acknowledgment to the buyer by a carrier by reshipment or as [warehouseman] A WAREHOUSE; or

(d) negotiation to the buyer of any negotiable document of title covering the goods.

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

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

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

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

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

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

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

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

"Account".	Section 9--102(a)(2).
"Between merchants".	Section 2--104(3).
"Buyer".	Section 2--103(1)(a).
"Chattel paper".	Section 9--102(a)(11).
"Consumer goods".	Section 9--102(a)(23).
"Document".	Section 9--102(a)(30).
"Entrusting".	Section 2--403(3).
"General intangible".	Section 9--102(a)(42).
"Good faith".	Section 2--103(1)(b).
"Instrument".	Section 9--102(a)(47).
"Merchant".	Section 2--104(1).
"Mortgage".	Section 9--102(a)(55).
"Pursuant to commitment".	Section [9--102(a)(68)] 9--102(A)(69).
"Receipt".	Section 2--103(1)(c).
"Sale".	Section 2--106(1).
"Sale on approval".	Section 2--326.
"Sale or return".	Section 2--326.
"Seller".	Section 2--103(1)(d).

S 16. Section 2-A--207 of the uniform commercial code is REPEALED.

S 17. Subsection 4 of section 2-A--501 of the uniform commercial code, as added by chapter 114 of the laws of 1994, is amended to read as follows:

(4) Except as otherwise provided in Section [1-106(1)] 1--305(A) or this Article or the lease agreement, the rights and remedies referred to in subsections (2) and (3) are cumulative.

S 18. Subsection 2 of section 2-A--518 of the uniform commercial code, as added by chapter 114 of the laws of 1994, is amended to read as follows:

(2) Except as otherwise provided with respect to damages liquidated in the lease agreement (Section 2-A-504) or otherwise determined pursuant to agreement of the parties (Sections [1-102(3)] 1--302 and 2-A-503), if a lessee's cover is by a lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessee may recover from the lessor as damages (a) the present value, as of the date of the commencement of the term of the new lease agreement, of the rent under the new lease agreement applicable to that period of the new lease term which is comparable to the then remaining term of the original lease agreement minus the present value as of the same date of the total rent for the then remaining lease term of the original lease agreement, and (b) any incidental or consequential damages, less expenses saved in consequence of the lessor's default.

S 19. Subsection 1 of section 2-A--519 of the uniform commercial code, as added by chapter 114 of the laws of 1994, is amended to read as follows:

(1) Except as otherwise provided with respect to damages liquidated in the lease agreement (Section 2-A-504) or otherwise determined pursuant to agreement of the parties (Section [1-102(3)] 1--302 and 2-A-503), if a lessee elects not to cover or a lessee elects to cover and the cover is by lease agreement, whether or not the lease agreement qualifies for treatment under Section 2-A-518(2), or is by purchase or otherwise, the measure of damages for non-delivery or repudiation by the lessor or for rejection or revocation of acceptance by the lessee is the present value, as of the date of the default, of the then market rent minus the present value as of the same date of the original rent, computed for the remaining lease term of the original lease agreement, together with incidental and consequential damages, less expenses saved in consequence of the lessor's default.

S 20. Paragraph (c) of subsection 2 of section 2-A--526 of the uniform commercial code, as added by chapter 114 of the laws of 1994, is amended to read as follows:

(c) such an acknowledgment to the lessee by a carrier via reshipment or as [warehouseman] A WAREHOUSE.

S 21. Subsection 2 of section 2-A--527 of the uniform commercial code, as added by chapter 114 of the laws of 1994, is amended to read as follows:

(2) Except as otherwise provided with respect to damages liquidated in the lease agreement (Section 2-A-504) or otherwise determined pursuant to agreement of the parties (Sections [1-102(3)] 1--302 and 2-A-503), if the disposition is by lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessor may recover from the lessee as damages (a) accrued and unpaid rent as of the date of the commencement of the term of the new lease agreement, (b) the present value, as of the same date, of the total rent for the then remaining lease term of the original lease agreement minus the present value, as of the same date, of the rent under the new lease agreement applicable to that period of the new lease term which is comparable to the then remaining lease term of the original lease agreement, and (c) any incidental damages allowed under Section 2-A-530, less expenses saved in consequence of the lessee's default.

S 22. Subsection 1 of section 2-A--528 of the uniform commercial code, as added by chapter 114 of the laws of 1994, is amended to read as follows:

(1) Except as otherwise provided with respect to damages liquidated in the lease agreement (Section 2-A-504) or otherwise determined pursuant to agreement of the parties (Sections [1-102(3)] 1--302 and 2-A-503), if a lessor elects to retain the goods or a lessor elects to dispose of the goods and the disposition is by lease agreement whether or not the lease agreement qualifies for treatment under Section 2-A-527(2), or is by sale or otherwise, the lessor may recover from the lessee as damages for a default of the type described in Section 2-A-523(1) or 2-A-523 (3)(a), or, if agreed, for other default of the lessee, (a) accrued and unpaid rent as of the date of default if the lessee has never taken possession of the goods, or, if the lessee has taken possession of the goods, as of the date the lessor repossesses the goods or an earlier date on which the lessee makes a tender of the goods to the lessor, (b) the present value as of the date determined under clause (a) of the total rent for

the then remaining lease term of the original lease agreement minus the present value as of the same date of the market rent at the place where the goods are located computed for the same lease term, and (c) any incidental damages allowed under Section 2-A-530, less expenses saved in consequence of the lessee's default.

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

ARTICLE 7-DOCUMENTS OF TITLE

PART 1

GENERAL

SECTION 7--101. SHORT TITLE.

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

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

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

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

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

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

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

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

(6) "GOOD FAITH" MEANS HONESTY IN FACT AND THE OBSERVANCE OF REASONABLE COMMERCIAL STANDARDS OF FAIR DEALING.

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

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

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

(10) [RESERVED].

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

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

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

(12) "SHIPPER" MEANS A PERSON THAT ENTERS INTO A CONTRACT OF TRANSPORTATION WITH A CARRIER.

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

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

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

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

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

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

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

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

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

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

(D) TO THE EXTENT THERE IS A CONFLICT BETWEEN THE ELECTRONIC SIGNATURES AND RECORDS ACT (STATE TECHNOLOGY LAW 301 ET. SEQ.) AND THIS ARTICLE, THIS ARTICLE GOVERNS.

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

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

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

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

SECTION 7--105. REISSUANCE IN ALTERNATIVE MEDIUM.

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

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

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

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

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

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

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

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

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

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

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

(2) THE PERSON THAT PROCURED ISSUANCE OF THE ELECTRONIC DOCUMENT WARRANTS TO ALL SUBSEQUENT PERSONS ENTITLED UNDER THE ELECTRONIC DOCUMENT THAT THE WARRANTOR WAS A PERSON ENTITLED UNDER THE TANGIBLE DOCUMENT WHEN THE WARRANTOR SURRENDERED POSSESSION OF THE TANGIBLE DOCUMENT TO THE ISSUER.

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

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

(B) A SYSTEM SATISFIES SUBSECTION (A), AND A PERSON IS DEEMED TO HAVE CONTROL OF AN ELECTRONIC DOCUMENT OF TITLE, IF THE DOCUMENT IS CREATED, STORED AND ASSIGNED IN SUCH A MANNER THAT:

(1) A SINGLE AUTHORITATIVE COPY OF THE DOCUMENT EXISTS WHICH IS UNIQUE, IDENTIFIABLE, AND, EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPHS (4), (5), AND (6), UNALTERABLE;

(2) THE AUTHORITATIVE COPY IDENTIFIES THE PERSON ASSERTING CONTROL AS:

(A) THE PERSON TO WHICH THE DOCUMENT WAS ISSUED; OR

(B) IF THE AUTHORITATIVE COPY INDICATES THAT THE DOCUMENT HAS BEEN TRANSFERRED, THE PERSON TO WHICH THE DOCUMENT WAS MOST RECENTLY TRANSFERRED;

(3) THE AUTHORITATIVE COPY IS COMMUNICATED TO AND MAINTAINED BY THE PERSON ASSERTING CONTROL OR ITS DESIGNATED CUSTODIAN;

(4) COPIES OR AMENDMENTS THAT ADD OR CHANGE AN IDENTIFIED ASSIGNEE OF THE AUTHORITATIVE COPY CAN BE MADE ONLY WITH THE CONSENT OF THE PERSON ASSERTING CONTROL;

(5) EACH COPY OF THE AUTHORITATIVE COPY AND ANY COPY OF A COPY IS READILY IDENTIFIABLE AS A COPY THAT IS NOT THE AUTHORITATIVE COPY; AND

(6) ANY AMENDMENT OF THE AUTHORITATIVE COPY IS READILY IDENTIFIABLE AS AUTHORIZED OR UNAUTHORIZED.

PART 2
WAREHOUSE RECEIPTS: SPECIAL PROVISIONS

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

(A) A WAREHOUSE RECEIPT MAY BE ISSUED BY ANY WAREHOUSE.

(B) IF GOODS, INCLUDING DISTILLED SPIRITS AND AGRICULTURAL COMMODITIES, ARE STORED UNDER A STATUTE REQUIRING A BOND AGAINST WITHDRAWAL OR A LICENSE FOR THE ISSUANCE OF RECEIPTS IN THE NATURE OF WAREHOUSE RECEIPTS, A RECEIPT ISSUED FOR THE GOODS IS DEEMED TO BE A WAREHOUSE RECEIPT EVEN IF ISSUED BY A PERSON THAT IS THE OWNER OF THE GOODS AND IS NOT A WAREHOUSE.

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

(A) A WAREHOUSE RECEIPT NEED NOT BE IN ANY PARTICULAR FORM.

(B) UNLESS A WAREHOUSE RECEIPT PROVIDES FOR EACH OF THE FOLLOWING, THE WAREHOUSE IS LIABLE FOR DAMAGES CAUSED TO A PERSON INJURED BY ITS OMISSION:

(1) A STATEMENT OF THE LOCATION OF THE WAREHOUSE FACILITY WHERE THE GOODS ARE STORED;

(2) THE DATE OF ISSUE OF THE RECEIPT;

(3) THE UNIQUE IDENTIFICATION CODE OF THE RECEIPT;

(4) A STATEMENT WHETHER THE GOODS RECEIVED WILL BE DELIVERED TO THE BEARER, TO A NAMED PERSON, OR TO A NAMED PERSON OR ITS ORDER;

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

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

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

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

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

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

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

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

(1) THE DOCUMENT CONSPICUOUSLY INDICATES THAT THE ISSUER DOES NOT KNOW WHETHER ALL OR PART OF THE GOODS IN FACT WERE RECEIVED OR CONFORM TO THE DESCRIPTION, SUCH AS A CASE IN WHICH THE DESCRIPTION IS IN TERMS OF MARKS OR LABELS OR KIND, QUANTITY, OR CONDITION, OR THE RECEIPT OR DESCRIPTION IS QUALIFIED BY "CONTENTS, CONDITION, AND QUALITY UNKNOWN", "SAID TO CONTAIN", OR WORDS OF SIMILAR IMPORT, IF THE INDICATION IS TRUE; OR

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

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

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

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

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

SECTION 7--205. TITLE UNDER WAREHOUSE RECEIPT DEFEATED IN CERTAIN CASES.
A BUYER IN ORDINARY COURSE OF BUSINESS OF FUNGIBLE GOODS SOLD AND DELIVERED BY A WAREHOUSE THAT IS ALSO IN THE BUSINESS OF BUYING AND SELLING SUCH GOODS TAKES THE GOODS FREE OF ANY CLAIM UNDER A WAREHOUSE RECEIPT EVEN IF THE RECEIPT IS NEGOTIABLE AND HAS BEEN DULY NEGOTIATED.
SECTION 7--206. TERMINATION OF STORAGE AT WAREHOUSE'S OPTION.
(A) A WAREHOUSE, BY GIVING NOTICE TO THE PERSON ON WHOSE ACCOUNT THE GOODS ARE HELD AND ANY OTHER PERSON KNOWN TO CLAIM AN INTEREST IN THE GOODS, MAY REQUIRE PAYMENT OF ANY CHARGES AND REMOVAL OF THE GOODS FROM THE WAREHOUSE AT THE TERMINATION OF THE PERIOD OF STORAGE FIXED BY THE DOCUMENT OF TITLE OR, IF A PERIOD IS NOT FIXED, WITHIN A STATED PERIOD NOT LESS THAN 30 DAYS AFTER THE WAREHOUSE GIVES NOTICE. IF THE GOODS ARE NOT REMOVED BEFORE THE DATE SPECIFIED IN THE NOTICE, THE WAREHOUSE MAY SELL THEM PURSUANT TO SECTION 7--210.
(B) IF A WAREHOUSE IN GOOD FAITH BELIEVES THAT GOODS ARE ABOUT TO DETERIORATE OR DECLINE IN VALUE TO LESS THAN THE AMOUNT OF ITS LIEN WITHIN THE TIME PROVIDED IN SUBSECTION (A) AND SECTION 7--210, THE WAREHOUSE MAY SPECIFY IN THE NOTICE GIVEN UNDER SUBSECTION (A) ANY REASONABLE SHORTER TIME FOR REMOVAL OF THE GOODS AND, IF THE GOODS ARE NOT REMOVED, MAY SELL THEM AT PUBLIC SALE HELD NOT LESS THAN ONE WEEK AFTER A SINGLE ADVERTISEMENT OR POSTING.
(C) IF, AS A RESULT OF A QUALITY OR CONDITION OF THE GOODS OF WHICH THE WAREHOUSE DID NOT HAVE NOTICE AT THE TIME OF DEPOSIT, THE GOODS ARE A HAZARD TO OTHER PROPERTY, THE WAREHOUSE FACILITIES, OR OTHER PERSONS, THE WAREHOUSE MAY SELL THE GOODS AT PUBLIC OR PRIVATE SALE WITHOUT ADVERTISEMENT OR POSTING ON REASONABLE NOTIFICATION TO ALL PERSONS KNOWN TO CLAIM AN INTEREST IN THE GOODS. IF THE WAREHOUSE, AFTER A REASONABLE EFFORT, IS UNABLE TO SELL THE GOODS, IT MAY DISPOSE OF THEM IN ANY LAWFUL MANNER AND DOES NOT INCUR LIABILITY BY REASON OF THAT DISPOSITION.
(D) A WAREHOUSE SHALL DELIVER THE GOODS TO ANY PERSON ENTITLED TO THEM UNDER THIS ARTICLE UPON DUE DEMAND MADE AT ANY TIME BEFORE SALE OR OTHER DISPOSITION UNDER THIS SECTION.
(E) A WAREHOUSE MAY SATISFY ITS LIEN FROM THE PROCEEDS OF ANY SALE OR DISPOSITION UNDER THIS SECTION BUT SHALL HOLD THE BALANCE FOR DELIVERY ON THE DEMAND OF ANY PERSON TO WHICH THE WAREHOUSE WOULD HAVE BEEN BOUND TO DELIVER THE GOODS.
SECTION 7--207. GOODS MUST BE KEPT SEPARATE; FUNGIBLE GOODS.
(A) UNLESS THE WAREHOUSE RECEIPT PROVIDES OTHERWISE, A WAREHOUSE SHALL KEEP SEPARATE THE GOODS COVERED BY EACH RECEIPT SO AS TO PERMIT AT ALL TIMES IDENTIFICATION AND DELIVERY OF THOSE GOODS. HOWEVER, DIFFERENT LOTS OF FUNGIBLE GOODS MAY BE COMMINGLED.
(B) IF DIFFERENT LOTS OF FUNGIBLE GOODS ARE COMMINGLED, THE GOODS ARE OWNED IN COMMON BY THE PERSONS ENTITLED THERETO AND THE WAREHOUSE IS SEVERALLY LIABLE TO EACH OWNER FOR THAT OWNER'S SHARE. IF, BECAUSE OF OVERISSUE, A MASS OF FUNGIBLE GOODS IS INSUFFICIENT TO MEET ALL THE RECEIPTS THE WAREHOUSE HAS ISSUED AGAINST IT, THE PERSONS ENTITLED INCLUDE ALL HOLDERS TO WHICH OVERISSUED RECEIPTS HAVE BEEN DULY NEGOTIATED.
SECTION 7--208. ALTERED WAREHOUSE RECEIPTS.
IF A BLANK IN A NEGOTIABLE TANGIBLE WAREHOUSE RECEIPT HAS BEEN FILLED IN WITHOUT AUTHORITY, A GOOD-FAITH PURCHASER FOR VALUE AND WITHOUT NOTICE OF THE LACK OF AUTHORITY MAY TREAT THE INSERTION AS AUTHORIZED. ANY OTHER UNAUTHORIZED ALTERATION LEAVES ANY TANGIBLE OR ELECTRONIC WAREHOUSE RECEIPT ENFORCEABLE AGAINST THE ISSUER ACCORDING TO ITS ORIGINAL TENOR.

SECTION 7--209. LIEN OF WAREHOUSE.

(A) A WAREHOUSE HAS A LIEN AGAINST THE BAILOR ON THE GOODS COVERED BY A WAREHOUSE RECEIPT OR STORAGE AGREEMENT OR ON THE PROCEEDS THEREOF IN ITS POSSESSION FOR CHARGES FOR STORAGE OR TRANSPORTATION, INCLUDING DEMURRAGE AND TERMINAL CHARGES, INSURANCE, LABOR, OR OTHER CHARGES, PRESENT OR FUTURE, IN RELATION TO THE GOODS, AND FOR EXPENSES NECESSARY FOR PRESERVATION OF THE GOODS OR REASONABLY INCURRED IN THEIR SALE PURSUANT TO LAW. IF THE PERSON ON WHOSE ACCOUNT THE GOODS ARE HELD IS LIABLE FOR SIMILAR CHARGES OR EXPENSES IN RELATION TO OTHER GOODS WHENEVER DEPOSITED AND IT IS STATED IN THE WAREHOUSE RECEIPT OR STORAGE AGREEMENT THAT A LIEN IS CLAIMED FOR CHARGES AND EXPENSES IN RELATION TO OTHER GOODS, THE WAREHOUSE ALSO HAS A LIEN AGAINST THE GOODS COVERED BY THE WAREHOUSE RECEIPT OR STORAGE AGREEMENT OR ON THE PROCEEDS THEREOF IN ITS POSSESSION FOR THOSE CHARGES AND EXPENSES, WHETHER OR NOT THE OTHER GOODS HAVE BEEN DELIVERED BY THE WAREHOUSE. HOWEVER, AS AGAINST A PERSON TO WHICH A NEGOTIABLE WAREHOUSE RECEIPT IS DULY NEGOTIATED, A WAREHOUSE'S LIEN IS LIMITED TO CHARGES IN AN AMOUNT OR AT A RATE SPECIFIED IN THE WAREHOUSE RECEIPT OR, IF NO CHARGES ARE SO SPECIFIED, TO A REASONABLE CHARGE FOR STORAGE OF THE SPECIFIC GOODS COVERED BY THE RECEIPT SUBSEQUENT TO THE DATE OF THE RECEIPT.

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

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

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

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

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

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

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

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

(E) A WAREHOUSE LOSES ITS LIEN ON ANY GOODS THAT IT VOLUNTARILY DELIVERS OR UNJUSTIFIABLY REFUSES TO DELIVER.

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

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

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

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

(1) ALL PERSONS KNOWN TO CLAIM AN INTEREST IN THE GOODS MUST BE NOTIFIED.

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

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

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

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

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

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

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

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

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

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

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

PART 3

BILLS OF LADING: SPECIAL PROVISIONS

SECTION 7--301. LIABILITY FOR NONRECEIPT OR MISDESCRIPTION; "SAID TO CONTAIN"; "SHIPPER'S WEIGHT, LOAD, AND COUNT"; IMPROPER HANDLING.

(A) A CONSIGNEE OF A NONNEGOTIABLE BILL OF LADING WHICH HAS GIVEN VALUE IN GOOD FAITH, OR A HOLDER TO WHICH A NEGOTIABLE BILL HAS BEEN DULY NEGOTIATED, RELYING UPON THE DESCRIPTION OF THE GOODS IN THE BILL OR UPON THE DATE SHOWN IN THE BILL, MAY RECOVER FROM THE ISSUER DAMAGES CAUSED BY THE MISDATING OF THE BILL OR THE NONRECEIPT OR MISDESCRIPTION OF THE GOODS, EXCEPT TO THE EXTENT THAT THE BILL INDICATES THAT THE ISSUER DOES NOT KNOW WHETHER ANY PART OR ALL OF THE GOODS IN FACT WERE RECEIVED OR CONFORM TO THE DESCRIPTION, SUCH AS IN A CASE IN WHICH THE DESCRIPTION IS IN TERMS OF MARKS OR LABELS OR KIND, QUANTITY, OR CONDITION OR THE RECEIPT OR DESCRIPTION IS QUALIFIED BY "CONTENTS OR CONDITION OF CONTENTS OF PACKAGES UNKNOWN", "SAID TO CONTAIN", "SHIPPER'S WEIGHT, LOAD, AND COUNT," OR WORDS OF SIMILAR IMPORT, IF THAT INDICATION IS TRUE.

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

(1) THE ISSUER SHALL COUNT THE PACKAGES OF GOODS IF SHIPPED IN PACKAGES AND ASCERTAIN THE KIND AND QUANTITY IF SHIPPED IN BULK; AND

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

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

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

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

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

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

(B) IF GOODS COVERED BY A THROUGH BILL OF LADING OR OTHER DOCUMENT OF TITLE EMBODYING AN UNDERTAKING TO BE PERFORMED IN PART BY A PERSON OTHER

THAN THE ISSUER ARE RECEIVED BY THAT PERSON, THE PERSON IS SUBJECT, WITH RESPECT TO ITS OWN PERFORMANCE WHILE THE GOODS ARE IN ITS POSSESSION, TO THE OBLIGATION OF THE ISSUER. THE PERSON'S OBLIGATION IS DISCHARGED BY DELIVERY OF THE GOODS TO ANOTHER PERSON PURSUANT TO THE BILL OR OTHER DOCUMENT AND DOES NOT INCLUDE LIABILITY FOR BREACH BY ANY OTHER PERSON OR BY THE ISSUER.

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

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

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

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

(A) UNLESS THE BILL OF LADING OTHERWISE PROVIDES, A CARRIER MAY DELIVER THE GOODS TO A PERSON OR DESTINATION OTHER THAN THAT STATED IN THE BILL OR MAY OTHERWISE DISPOSE OF THE GOODS, WITHOUT LIABILITY FOR MISDELIVERY, ON INSTRUCTIONS FROM:

(1) THE HOLDER OF A NEGOTIABLE BILL;

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

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

(4) THE CONSIGNEE ON A NONNEGOTIABLE BILL, IF THE CONSIGNEE IS ENTITLED AS AGAINST THE CONSIGNOR TO DISPOSE OF THE GOODS.

(B) UNLESS INSTRUCTIONS DESCRIBED IN SUBSECTION (A) ARE INCLUDED IN A NEGOTIABLE BILL OF LADING, A PERSON TO WHICH THE BILL IS DULY NEGOTIATED MAY HOLD THE BAILEE ACCORDING TO THE ORIGINAL TERMS.

SECTION 7--304. TANGIBLE BILLS OF LADING IN A SET.

(A) EXCEPT AS CUSTOMARY IN INTERNATIONAL TRANSPORTATION, A TANGIBLE BILL OF LADING MAY NOT BE ISSUED IN A SET OF PARTS. THE ISSUER IS LIABLE FOR DAMAGES CAUSED BY VIOLATION OF THIS SUBSECTION.

(B) IF A TANGIBLE BILL OF LADING IS LAWFULLY ISSUED IN A SET OF PARTS, EACH OF WHICH CONTAINS AN IDENTIFICATION CODE AND IS EXPRESSED TO BE VALID ONLY IF THE GOODS HAVE NOT BEEN DELIVERED AGAINST ANY OTHER PART, THE WHOLE OF THE PARTS CONSTITUTES ONE BILL.

(C) IF A TANGIBLE NEGOTIABLE BILL OF LADING IS LAWFULLY ISSUED IN A SET OF PARTS AND DIFFERENT PARTS ARE NEGOTIATED TO DIFFERENT PERSONS, THE TITLE OF THE HOLDER TO WHICH THE FIRST DUE NEGOTIATION IS MADE PREVAILS AS TO BOTH THE DOCUMENT OF TITLE AND THE GOODS EVEN IF ANY LATER HOLDER MAY HAVE RECEIVED THE GOODS FROM THE CARRIER IN GOOD FAITH AND DISCHARGED THE CARRIER'S OBLIGATION BY SURRENDERING ITS PART.

(D) A PERSON THAT NEGOTIATES OR TRANSFERS A SINGLE PART OF A TANGIBLE BILL OF LADING ISSUED IN A SET IS LIABLE TO HOLDERS OF THAT PART AS IF IT WERE THE WHOLE SET.

(E) THE BAILEE SHALL DELIVER IN ACCORDANCE WITH PART 4 OF THIS ARTICLE AGAINST THE FIRST PRESENTED PART OF A TANGIBLE BILL OF LADING LAWFULLY ISSUED IN A SET. DELIVERY IN THIS MANNER DISCHARGES THE BAILEE'S OBLIGATION ON THE WHOLE BILL.

SECTION 7--305. DESTINATION BILLS.

(A) INSTEAD OF ISSUING A BILL OF LADING TO THE CONSIGNOR AT THE PLACE OF SHIPMENT, A CARRIER, AT THE REQUEST OF THE CONSIGNOR, MAY PROCURE THE BILL TO BE ISSUED AT DESTINATION OR AT ANY OTHER PLACE DESIGNATED IN THE REQUEST.

(B) UPON REQUEST OF ANY PERSON ENTITLED AS AGAINST A CARRIER TO CONTROL THE GOODS WHILE IN TRANSIT AND ON SURRENDER OF POSSESSION OR CONTROL OF ANY OUTSTANDING BILL OF LADING OR OTHER RECEIPT COVERING THE GOODS, THE ISSUER, SUBJECT TO SECTION 7--105, MAY PROCURE A SUBSTITUTE BILL TO BE ISSUED AT ANY PLACE DESIGNATED IN THE REQUEST.

SECTION 7--306. ALTERED BILLS OF LADING.

AN UNAUTHORIZED ALTERATION OR FILLING IN OF A BLANK IN A BILL OF LADING LEAVES THE BILL ENFORCEABLE ACCORDING TO ITS ORIGINAL TENOR.

SECTION 7--307. LIEN OF CARRIER.

(A) A CARRIER HAS A LIEN ON THE GOODS COVERED BY A BILL OF LADING OR ON THE PROCEEDS THEREOF IN ITS POSSESSION FOR CHARGES AFTER THE DATE OF THE CARRIER'S RECEIPT OF THE GOODS FOR STORAGE OR TRANSPORTATION, INCLUDING DEMURRAGE AND TERMINAL CHARGES, AND FOR EXPENSES NECESSARY FOR PRESERVATION OF THE GOODS INCIDENT TO THEIR TRANSPORTATION OR REASONABLY INCURRED IN THEIR SALE PURSUANT TO LAW. HOWEVER, AGAINST A PURCHASER FOR VALUE OF A NEGOTIABLE BILL OF LADING, A CARRIER'S LIEN IS LIMITED TO CHARGES STATED IN THE BILL OR THE APPLICABLE TARIFFS OR, IF NO CHARGES ARE STATED, A REASONABLE CHARGE.

(B) A LIEN FOR CHARGES AND EXPENSES UNDER SUBSECTION (A) ON GOODS THAT THE CARRIER WAS REQUIRED BY LAW TO RECEIVE FOR TRANSPORTATION IS EFFECTIVE AGAINST THE CONSIGNOR OR ANY PERSON ENTITLED TO THE GOODS UNLESS THE CARRIER HAD NOTICE THAT THE CONSIGNOR LACKED AUTHORITY TO SUBJECT THE GOODS TO THOSE CHARGES AND EXPENSES. ANY OTHER LIEN UNDER SUBSECTION (A) IS EFFECTIVE AGAINST THE CONSIGNOR AND ANY PERSON THAT PERMITTED THE BAILOR TO HAVE CONTROL OR POSSESSION OF THE GOODS UNLESS THE CARRIER HAD NOTICE THAT THE BAILOR LACKED AUTHORITY.

(C) A CARRIER LOSES ITS LIEN ON ANY GOODS THAT IT VOLUNTARILY DELIVERS OR UNJUSTIFIABLY REFUSES TO DELIVER.

SECTION 7--308. ENFORCEMENT OF CARRIER'S LIEN.

(A) A CARRIER'S LIEN ON GOODS MAY BE ENFORCED BY PUBLIC OR PRIVATE SALE OF THE GOODS, IN BULK OR IN PACKAGES, AT ANY TIME OR PLACE AND ON ANY TERMS THAT ARE COMMERCIALLY REASONABLE, AFTER NOTIFYING ALL PERSONS KNOWN TO CLAIM AN INTEREST IN THE GOODS. THE NOTIFICATION MUST INCLUDE A STATEMENT OF THE AMOUNT DUE, THE NATURE OF THE PROPOSED SALE, AND THE TIME AND PLACE OF ANY PUBLIC SALE. THE FACT THAT A BETTER PRICE COULD HAVE BEEN OBTAINED BY A SALE AT A DIFFERENT TIME OR IN A METHOD DIFFERENT FROM THAT SELECTED BY THE CARRIER IS NOT OF ITSELF SUFFICIENT TO ESTABLISH THAT THE SALE WAS NOT MADE IN A COMMERCIALLY REASONABLE MANNER. THE CARRIER SELLS GOODS IN A COMMERCIALLY REASONABLE MANNER IF THE CARRIER SELLS THE GOODS IN THE USUAL MANNER IN ANY RECOGNIZED MARKET THEREFOR, SELLS AT THE PRICE CURRENT IN THAT MARKET AT THE TIME OF THE SALE, OR OTHERWISE SELLS IN CONFORMITY WITH COMMERCIALLY REASONABLE PRACTICES AMONG DEALERS IN THE TYPE OF GOODS SOLD. A SALE OF MORE GOODS THAN APPARENTLY NECESSARY TO BE OFFERED TO ENSURE SATISFACTION OF THE OBLIGATION IS NOT COMMERCIALLY REASONABLE, EXCEPT IN CASES COVERED BY THE PRECEDING SENTENCE.

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

(C) A CARRIER MAY BUY AT ANY PUBLIC SALE PURSUANT TO THIS SECTION.

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

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

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

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

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

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

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

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

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

PART 4

WAREHOUSE RECEIPTS AND BILLS OF LADING: GENERAL OBLIGATIONS

SECTION 7--401. IRREGULARITIES IN ISSUE OF RECEIPT OR BILL OR CONDUCT OF ISSUER.

THE OBLIGATIONS IMPOSED BY THIS ARTICLE ON AN ISSUER APPLY TO A DOCUMENT OF TITLE EVEN IF:

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

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

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

(4) THE PERSON ISSUING THE DOCUMENT IS NOT A WAREHOUSE BUT THE DOCUMENT PURPORTS TO BE A WAREHOUSE RECEIPT.

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

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

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

(A) A BAILEE SHALL DELIVER THE GOODS TO A PERSON ENTITLED UNDER A DOCUMENT OF TITLE IF THE PERSON COMPLIES WITH SUBSECTIONS (B) AND (C), UNLESS AND TO THE EXTENT THAT THE BAILEE ESTABLISHES ANY OF THE FOLLOWING:

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

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

(3) PREVIOUS SALE OR OTHER DISPOSITION OF THE GOODS IN LAWFUL ENFORCEMENT OF A LIEN OR ON A WAREHOUSE'S LAWFUL TERMINATION OF STORAGE;

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

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

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

(7) ANY OTHER LAWFUL EXCUSE.

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

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

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

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

SECTION 7--404. NO LIABILITY FOR GOOD-FAITH DELIVERY PURSUANT TO DOCUMENT OF TITLE.

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

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

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

PART 5
WAREHOUSE RECEIPTS AND BILLS OF LADING: NEGOTIATION AND TRANSFER

SECTION 7--501. FORM OF NEGOTIATION AND REQUIREMENTS OF DUE NEGOTIATION.

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

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

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

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

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

(5) A DOCUMENT IS DULY NEGOTIATED IF IT IS NEGOTIATED IN THE MANNER STATED IN THIS SUBSECTION TO A HOLDER THAT PURCHASES IT IN GOOD FAITH,

WITHOUT NOTICE OF ANY DEFENSE AGAINST OR CLAIM TO IT ON THE PART OF ANY PERSON, AND FOR VALUE, UNLESS IT IS ESTABLISHED THAT THE NEGOTIATION IS NOT IN THE REGULAR COURSE OF BUSINESS OR FINANCING OR INVOLVES RECEIVING THE DOCUMENT IN SETTLEMENT OR PAYMENT OF A MONETARY OBLIGATION.

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

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

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

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

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

(D) THE NAMING IN A NEGOTIABLE BILL OF LADING OF A PERSON TO BE NOTIFIED OF THE ARRIVAL OF THE GOODS DOES NOT LIMIT THE NEGOTIABILITY OF THE BILL OR CONSTITUTE NOTICE TO A PURCHASER OF THE BILL OF ANY INTEREST OF THAT PERSON IN THE GOODS.

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

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

(1) TITLE TO THE DOCUMENT;

(2) TITLE TO THE GOODS;

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

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

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

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

(2) ANY PERSON HAS BEEN DEPRIVED OF POSSESSION OF A NEGOTIABLE TANGIBLE DOCUMENT OR CONTROL OF A NEGOTIABLE ELECTRONIC DOCUMENT BY MISREPRESENTATION, FRAUD, ACCIDENT, MISTAKE, DURESS, LOSS, THEFT, OR CONVERSION; OR

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

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

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

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

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

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

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

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

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

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

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

(A) A TRANSFEREE OF A DOCUMENT OF TITLE, WHETHER NEGOTIABLE OR NONNEGOTIABLE, TO WHICH THE DOCUMENT HAS BEEN DELIVERED BUT NOT DULY NEGOTIATED, ACQUIRES THE TITLE AND RIGHTS THAT ITS TRANSFEROR HAD OR HAD ACTUAL AUTHORITY TO CONVEY.

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

(1) BY THOSE CREDITORS OF THE TRANSFEROR WHICH COULD TREAT THE TRANSFER AS VOID UNDER SECTION 2--402 OR 2-A--308;

(2) BY A BUYER FROM THE TRANSFEROR IN ORDINARY COURSE OF BUSINESS IF THE BAILEE HAS DELIVERED THE GOODS TO THE BUYER OR RECEIVED NOTIFICATION OF THE BUYER'S RIGHTS;

(3) BY A LESSEE FROM THE TRANSFEROR IN ORDINARY COURSE OF BUSINESS IF THE BAILEE HAS DELIVERED THE GOODS TO THE LESSEE OR RECEIVED NOTIFICATION OF THE LESSEE'S RIGHTS; OR

(4) AS AGAINST THE BAILEE, BY GOOD-FAITH DEALINGS OF THE BAILEE WITH THE TRANSFEROR.

(C) A DIVERSION OR OTHER CHANGE OF SHIPPING INSTRUCTIONS BY THE CONSIGNOR IN A NONNEGOTIABLE BILL OF LADING WHICH CAUSES THE BAILEE NOT TO DELIVER THE GOODS TO THE CONSIGNEE DEFEATS THE CONSIGNEE'S TITLE TO THE GOODS IF THE GOODS HAVE BEEN DELIVERED TO A BUYER IN ORDINARY COURSE OF BUSINESS OR A LESSEE IN ORDINARY COURSE OF BUSINESS AND, IN ANY EVENT, DEFEATS THE CONSIGNEE'S RIGHTS AGAINST THE BAILEE.

(D) DELIVERY OF THE GOODS PURSUANT TO A NONNEGOTIABLE DOCUMENT OF TITLE MAY BE STOPPED BY A SELLER UNDER SECTION 2--705 OR A LESSOR UNDER SECTION 2-A--526, SUBJECT TO THE REQUIREMENTS OF DUE NOTIFICATION IN THOSE SECTIONS. A BAILEE THAT HONORS THE SELLER'S OR LESSOR'S INSTRUCTIONS IS ENTITLED TO BE INDEMNIFIED BY THE SELLER OR LESSOR AGAINST ANY RESULTING LOSS OR EXPENSE.

SECTION 7--505. INDORSER NOT GUARANTOR FOR OTHER PARTIES.

THE INDORSEMENT OF A TANGIBLE DOCUMENT OF TITLE ISSUED BY A BAILEE DOES NOT MAKE THE INDORSER LIABLE FOR ANY DEFAULT BY THE BAILEE OR PREVIOUS INDORSERS.

SECTION 7--506. DELIVERY WITHOUT INDORSEMENT: RIGHT TO COMPEL INDORSEMENT.

THE TRANSFEREE OF A NEGOTIABLE TANGIBLE DOCUMENT OF TITLE HAS A SPECIFICALLY ENFORCEABLE RIGHT TO HAVE ITS TRANSFEROR SUPPLY ANY NECESSARY INDORSEMENT, BUT THE TRANSFER BECOMES A NEGOTIATION ONLY AS OF THE TIME THE INDORSEMENT IS SUPPLIED.

SECTION 7--507. WARRANTIES ON NEGOTIATION OR DELIVERY OF DOCUMENT OF TITLE.

IF A PERSON NEGOTIATES OR DELIVERS A DOCUMENT OF TITLE FOR VALUE, OTHERWISE THAN AS A MERE INTERMEDIARY UNDER SECTION 7--508, UNLESS OTHERWISE AGREED, THE TRANSFEROR, IN ADDITION TO ANY WARRANTY MADE IN SELLING OR LEASING THE GOODS, WARRANTS TO ITS IMMEDIATE PURCHASER ONLY THAT:

(1) THE DOCUMENT IS GENUINE;

(2) THE TRANSFEROR DOES NOT HAVE KNOWLEDGE OF ANY FACT THAT WOULD IMPAIR THE DOCUMENT'S VALIDITY OR WORTH; AND

(3) THE NEGOTIATION OR DELIVERY IS RIGHTFUL AND FULLY EFFECTIVE WITH RESPECT TO THE TITLE TO THE DOCUMENT AND THE GOODS IT REPRESENTS.

SECTION 7--508. WARRANTIES OF COLLECTING BANK AS TO DOCUMENTS OF TITLE.

A COLLECTING BANK OR OTHER INTERMEDIARY KNOWN TO BE ENTRUSTED WITH DOCUMENTS OF TITLE ON BEHALF OF ANOTHER OR WITH COLLECTION OF A DRAFT OR OTHER CLAIM AGAINST DELIVERY OF DOCUMENTS WARRANTS BY THE DELIVERY OF THE DOCUMENTS ONLY ITS OWN GOOD FAITH AND AUTHORITY EVEN IF THE COLLECTING BANK OR OTHER INTERMEDIARY HAS PURCHASED OR MADE ADVANCES AGAINST THE CLAIM OR DRAFT TO BE COLLECTED.

SECTION 7--509. ADEQUATE COMPLIANCE WITH COMMERCIAL CONTRACT.

WHETHER A DOCUMENT OF TITLE IS ADEQUATE TO FULFILL THE OBLIGATIONS OF A CONTRACT FOR SALE, A CONTRACT FOR LEASE, OR THE CONDITIONS OF A LETTER OF CREDIT IS DETERMINED BY ARTICLE 2, 2-A, OR 5.

PART 6

WAREHOUSE RECEIPTS AND BILLS OF LADING: MISCELLANEOUS PROVISIONS

SECTION 7--601. LOST, STOLEN, OR DESTROYED DOCUMENTS OF TITLE.

(A) IF A DOCUMENT OF TITLE IS LOST, STOLEN, OR DESTROYED, A COURT MAY ORDER DELIVERY OF THE GOODS OR ISSUANCE OF A SUBSTITUTE DOCUMENT AND THE BAILEE MAY WITHOUT LIABILITY TO ANY PERSON COMPLY WITH THE ORDER. IF THE DOCUMENT WAS NEGOTIABLE, A COURT MAY NOT ORDER DELIVERY OF THE GOODS OR ISSUANCE OF A SUBSTITUTE DOCUMENT WITHOUT THE CLAIMANT'S POSTING SECURITY UNLESS IT FINDS THAT ANY PERSON THAT MAY SUFFER LOSS AS A RESULT OF NONSURRENDER OF POSSESSION OR CONTROL OF THE DOCUMENT IS ADEQUATELY PROTECTED AGAINST THE LOSS. IF THE DOCUMENT WAS NONNEGOTIABLE, THE COURT MAY REQUIRE SECURITY. THE COURT MAY ALSO ORDER PAYMENT OF THE BAILEE'S REASONABLE COSTS AND ATTORNEY'S FEES IN ANY ACTION UNDER THIS SUBSECTION.

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

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

UNLESS A DOCUMENT OF TITLE WAS ORIGINALLY ISSUED UPON DELIVERY OF THE GOODS BY A PERSON THAT DID NOT HAVE POWER TO DISPOSE OF THEM, A LIEN

DOES NOT ATTACH BY VIRTUE OF ANY JUDICIAL PROCESS TO GOODS IN THE POSSESSION OF A BAILEE FOR WHICH A NEGOTIABLE DOCUMENT OF TITLE IS OUTSTANDING UNLESS POSSESSION OR CONTROL OF THE DOCUMENT IS FIRST SURRENDERED TO THE BAILEE OR THE DOCUMENT'S NEGOTIATION IS ENJOINED. THE BAILEE MAY NOT BE COMPELLED TO DELIVER THE GOODS PURSUANT TO PROCESS UNTIL POSSESSION OR CONTROL OF THE DOCUMENT IS SURRENDERED TO THE BAILEE OR TO THE COURT. A PURCHASER OF THE DOCUMENT FOR VALUE WITHOUT NOTICE OF THE PROCESS OR INJUNCTION TAKES FREE OF THE LIEN IMPOSED BY JUDICIAL PROCESS.

SECTION 7--603. CONFLICTING CLAIMS; INTERPLEADER.

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

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

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

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

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

(2) COULD, BUT DOES NOT, MAINTAIN BOOKS FOR THE PURPOSE OF REGISTRATION OF TRANSFER.

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

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

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

S 26. Section 9--102 of the uniform commercial code, as added by chapter 84 of the laws of 2001, is amended to read as follows:

Section 9--102. Definitions And Index of Definitions.

(a) Article 9 definitions. In this article:

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

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

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

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

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

(A) authenticated by a secured party;

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

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

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

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

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

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

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

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

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

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

(6) "As-extracted collateral" means:

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

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

(ii) attaches to the minerals as extracted; or

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

(7) "Authenticate" means:

(A) to sign; or

(B) [to execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record] WITH PRESENT INTENT TO ADOPT OR ACCEPT A RECORD, TO ATTACH TO OR LOGICALLY ASSOCIATE WITH THE RECORD AN ELECTRONIC SOUND, SYMBOL, OR PROCESS.

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

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

(10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. SUCH TERM INCLUDES ANOTHER RECORD MAINTAINED AS AN ALTERNATIVE TO A CERTIFICATE OF TITLE BY THE GOVERNMENTAL UNIT THAT ISSUES CERTIFICATES OF TITLE IF A STATUTE PERMITS THE SECURITY INTEREST IN QUESTION TO BE INDICATED ON THE RECORD AS A CONDITION OR RESULT OF THE SECURITY INTEREST'S OBTAINING PRIORITY OVER THE RIGHTS OF A LIEN CREDITOR WITH RESPECT TO THE COLLATERAL.

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

(11-a) "Check" means (i) a draft, other than a documentary draft, payable on demand and drawn on a bank or (ii) a cashier's check or a teller's check. An instrument may be a check even though it is described on its face by another term, such as "money order". An instrument that (i) meets all of the requirements stated in Article 3 of this chapter to be a negotiable instrument other than stating that it is payable to order or bearer and (ii) otherwise qualifies as a check is a negotiable instrument and a check.

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

(A) proceeds to which a security interest attaches;

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

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

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

(A) the claimant is an organization; or

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

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

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

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

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

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

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

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

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

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

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

(18) "Communicate" means:

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

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

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

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

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

(A) the merchant:

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

(ii) is not an auctioneer; and

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

(B) with respect to each delivery, the aggregate value of the goods is $1,000 or more at the time of delivery;

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

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

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

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

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

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

(A) an individual incurs an obligation primarily for personal, family, or household purposes; and
(B) a security interest in consumer goods secures the obligation.

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

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

(27) "Continuation statement" means an amendment of a financing statement which:
(A) identifies, by its file number, the initial financing statement to which it relates; and
(B) indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

(27-a) "Cooperative addendum" means a record that satisfies Section 9--502(e).

(27-b) "Cooperative interest" means an ownership interest in a cooperative organization, which interest, when created, is coupled with possessory rights of a proprietary nature in identified physical space belonging to the cooperative organization. A subsequent termination of the possessory rights shall not cause an ownership interest to cease being a cooperative interest.

(27-c) "Cooperative organization" means an organization which has as its principal asset an interest in real property in this state and in which organization all ownership interests are cooperative interests.

(27-d) "Cooperative organization security interest" means a security interest which is in a cooperative interest, is in favor of the cooperative organization, is created by the cooperative record, and secures only obligations incident to ownership of that cooperative interest.

(27-e) "Cooperative record" means those records which, as a whole, evidence cooperative interests and define the mutual rights and obligations of the owners of the cooperative interests and the cooperative organization.

(27-f) "Cooperative unit" means the physical space associated with a cooperative interest.

(28) "Debtor" means:
(A) a person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;
(B) a seller of accounts, chattel paper, payment intangibles, or promissory notes; or
(C) a consignee.

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

(30) "Document" means a document of title or a receipt of the type described in Section 7--201[(2)] (B).

(31) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.

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

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

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

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

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

(ii) aquatic goods produced in aquacultural operations;

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

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

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

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

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

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

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

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

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

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

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

(43) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(44) "Goods" means all things that are movable when a security interest attaches. The term includes (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance or contract for sale, (iii) the unborn young of animals, (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes, and (v)

manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if (i) the program is associated with the goods in such a manner that it customarily is considered part of the goods, or (ii) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consists solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

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

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

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

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

(A) are leased by a person as lessor;

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

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

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

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

(50) "Jurisdiction of organization", with respect to a registered organization, means the jurisdiction under whose law the organization is FORMED OR organized.

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

(52) "Lien creditor" means:

(A) a creditor that has acquired a lien on the property involved by attachment, levy, or the like;
(B) an assignee for benefit of creditors from the time of assignment;
(C) a trustee in bankruptcy from the date of the filing of the petition; or
(D) a receiver in equity from the time of appointment.

(53) "Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code.

(54) "Manufactured-home transaction" means a secured transaction:
(A) that creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or
(B) in which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.

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

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

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

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

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

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

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

(62) "Person related to", with respect to an individual, means:
(A) the spouse of the individual;
(B) a brother, brother-in-law, sister, or sister-in-law of the individual;
(C) an ancestor or lineal descendant of the individual or the individual's spouse; or
(D) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.
(63) "Person related to", with respect to an organization, means:
(A) a person directly or indirectly controlling, controlled by, or under common control with the organization;
(B) an officer or director of, or a person performing similar functions with respect to, the organization;
(C) an officer or director of, or a person performing similar functions with respect to, a person described in subparagraph (A);
(D) the spouse of an individual described in subparagraph (A), (B), or (C); or
(E) an individual who is related by blood or marriage to an individual described in subparagraph (A), (B), (C), or (D) and shares the same home with the individual.
(64) "Proceeds", except as used in Section 9--609(b), means the following property:
(A) Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;
(B) whatever is collected on, or distributed on account of, collateral;
(C) rights arising out of collateral;
(D) to the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or
(E) to the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.
(65) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.
(66) "Proposal" means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to Sections 9--620, 9--621, and 9--622.
(66-a) "Prove" with respect to a fact means to meet the burden of establishing the fact (Section 1-201(8)).
(67) "Public-finance transaction" means a secured transaction in connection with which:
(A) debt securities are issued;
(B) all or a portion of the securities issued have an initial stated maturity of at least 20 years; and

(C) the debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state.

(68) "PUBLIC ORGANIC RECORD" MEANS A RECORD THAT IS AVAILABLE TO THE PUBLIC FOR INSPECTION AND IS:

(A) A RECORD CONSISTING OF THE RECORD INITIALLY FILED WITH OR ISSUED BY A STATE OR THE UNITED STATES TO FORM OR ORGANIZE AN ORGANIZATION AND ANY RECORD FILED WITH OR ISSUED BY THE STATE OR THE UNITED STATES WHICH AMENDS OR RESTATES THE INITIAL RECORD;

(B) AN ORGANIC RECORD OF A BUSINESS TRUST CONSISTING OF THE RECORD INITIALLY FILED WITH A STATE AND ANY RECORD FILED WITH THE STATE WHICH AMENDS OR RESTATES THE INITIAL RECORD, IF A STATUTE OF THE STATE GOVERNING BUSINESS TRUSTS REQUIRES THAT THE RECORD BE FILED WITH THE STATE; OR

(C) A RECORD CONSISTING OF LEGISLATION ENACTED BY THE LEGISLATURE OF A STATE OR THE CONGRESS OF THE UNITED STATES WHICH FORMS OR ORGANIZES AN ORGANIZATION, ANY RECORD AMENDING THE LEGISLATION, AND ANY RECORD FILED WITH OR ISSUED BY THE STATE OR THE UNITED STATES WHICH AMENDS OR RESTATES THE NAME OF THE ORGANIZATION.

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

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

[(70)] (71) "Registered organization" means an organization FORMED OR organized solely under the law of a single state or the United States [and as to which the state or the United States must maintain a public record showing the organization to have been organized] BY THE FILING OF A PUBLIC ORGANIC RECORD WITH, THE ISSUANCE OF A PUBLIC ORGANIC RECORD BY, OR THE ENACTMENT OF LEGISLATION BY THE STATE OR THE UNITED STATES. THE TERM INCLUDES A BUSINESS TRUST THAT IS FORMED OR ORGANIZED UNDER THE LAW OF A SINGLE STATE IF A STATUTE OF THE STATE GOVERNING BUSINESS TRUSTS REQUIRES THAT THE BUSINESS TRUST'S ORGANIC RECORD BE FILED WITH THE STATE.

[(71)] (72) "Secondary obligor" means an obligor to the extent that:

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

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

[(72)] (73) "Secured party" means:

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

(B) a person that holds an agricultural lien;
(C) a consignor;
(D) a person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;
(E) a trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or
(F) a person that holds a security interest arising under Section 2--401, 2--505, 2--711(3), 2-A-508(5), 4--210, or 5--118.

[(73)] (74) "Security agreement" means an agreement that creates or provides for a security interest. A cooperative record that provides that the owner of a cooperative interest has an obligation to pay amounts to the cooperative organization incident to ownership of that cooperative interest and which states that the cooperative organization has a direct remedy against that cooperative interest if such amounts are not paid is a security agreement creating a cooperative organization security interest.

[(74)] (75) "Send", in connection with a record or notification, means:
(A) to deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or
(B) to cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph (A).

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

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

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

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

[(79)] (80) "Termination statement" means an amendment of a financing statement which:
(A) identifies, by its file number, the initial financing statement to which it relates; and
(B) indicates either that it is a termination statement or that the identified financing statement is no longer effective.

[(80)] (81) "Transmitting utility" means a person primarily engaged in the business of:
(A) operating a railroad, subway, street railway, or trolley bus;
(B) transmitting communications electrically, electromagnetically, or by light;

(C) transmitting goods by pipeline or sewer; or
(D) transmitting or producing and transmitting electricity, steam, gas, or water.

(b) Definitions in other articles. The following definitions in other articles apply to this article:

"Applicant"	Section 5--102.
"Beneficiary"	Section 5--102.
"Broker"	Section 8--102.
"Certificated security"	Section 8--102.
"Clearing corporation"	Section 8--102.
"Contract for sale"	Section 2--106.
"CONTROL" (WITH RESPECT TO A DOCUMENT OF TITLE)	SECTION 7--106.
"Customer"	Section 4--104.
"Entitlement holder"	Section 8--102.
"Financial asset"	Section 8--102.
"Holder in due course"	Section 3--302.
"Issuer" (with respect to a letter of credit or letter-of-credit right)	Section 5--102.
"Issuer" (with respect to a security)	Section 8--201.
"ISSUER" (WITH RESPECT TO DOCUMENT OF TITLE)	SECTION 7--102.
"Lease"	Section 2-A-103.
"Lease agreement"	Section 2-A-103.
"Lease contract"	Section 2-A-103.
"Leasehold interest"	Section 2-A-103.
"Lessee"	Section 2-A-103.
"Lessee in ordinary course of business"	Section 2-A-103.
"Lessor"	Section 2-A-103.
"Lessor's residual interest"	Section 2-A-103.
"Letter of credit"	Section 5--102.
"Merchant"	Section 2--104.
"Negotiable instrument"	Section 3--104.
"Nominated person"	Section 5--102.
"Note"	Section 3--104.
"Proceeds of a letter of credit"	Section 5--114.
"PROVE"	SECTION 4-A-105.
"Sale"	Section 2--106.
"Securities account"	Section 8--501.
"Securities intermediary"	Section 8--102.
"Security"	Section 8--102.
"Security certificate"	Section 8--102.
"Security entitlement"	Section 8--102.
"Uncertificated security"	Section 8--102.

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

S 27. Section 9--104 of the uniform commercial code, as added by chapter 84 of the laws of 2001, is amended to read as follows:

Section 9--104. Control of Deposit Account.

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

(1) the secured party is the bank with which the deposit account is maintained;
(2) the debtor, secured party, and bank have agreed in an authenticated record that the bank will comply with instructions

originated by the secured party directing disposition of the funds in the deposit account without further consent by the debtor; [or]

(3) the secured party becomes the bank's customer with respect to the deposit account;

(4) THE NAME ON THE DEPOSIT ACCOUNT IS THE NAME OF THE SECURED PARTY OR INDICATES THAT THE SECURED PARTY HAS A SECURITY INTEREST IN THE DEPOSIT ACCOUNT; OR

(5) ANOTHER PERSON HAS CONTROL OF THE DEPOSIT ACCOUNT ON BEHALF OF THE SECURED PARTY OR, HAVING PREVIOUSLY ACQUIRED CONTROL OF THE DEPOSIT ACCOUNT, ACKNOWLEDGES THAT IT HAS CONTROL ON BEHALF OF THE SECURED PARTY.

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

(C) NO IMPLIED DUTIES OF BANK. THE AUTHENTICATION OF A RECORD BY THE BANK UNDER SUBSECTION (A)(2) DOES NOT IMPOSE UPON THE BANK ANY DUTY NOT EXPRESSLY AGREED TO BY THE BANK IN THE RECORD. THE NAMING OF THE DEPOSIT ACCOUNT IN THE NAME OF THE SECURED PARTY OR WITH AN INDICATION THAT THE SECURED PARTY HAS A SECURITY INTEREST IN THE DEPOSIT ACCOUNT UNDER SUBSECTION (A)(4) DOES NOT IMPOSE UPON THE BANK ANY DUTY NOT EXPRESSLY AGREED TO BY THE BANK.

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

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

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

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

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

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

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

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

(3) may create a security interest in the collateral.

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

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

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

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

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

(B) IF THE DEBTOR DESIGNATES A CUSTODIAN THAT IS THE DESIGNATED CUSTODIAN WITH WHICH THE AUTHORITATIVE COPY OF THE ELECTRONIC DOCUMENT IS MAINTAINED FOR THE SECURED PARTY, COMMUNICATE TO THE CUSTODIAN AN AUTHENTICATED RECORD RELEASING THE DESIGNATED CUSTODIAN FROM ANY FURTHER OBLIGATION TO COMPLY WITH INSTRUCTIONS ORIGINATED BY THE SECURED PARTY AND INSTRUCTING THE CUSTODIAN TO COMPLY WITH INSTRUCTIONS ORIGINATED BY THE DEBTOR; AND

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

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

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

(1) perfection of a security interest in the goods by filing a fixture filing;

(2) perfection of a security interest in timber to be cut; and

(3) the effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral.

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

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

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

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

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

(12) an assignment for the benefit of all creditors of the transferor and subsequent transfers by the assignee thereunder; [and]

(13) a security interest created by an assignment of a beneficial interest in a decedent's estate; AND

(14) A SALE BY AN INDIVIDUAL OF AN ACCOUNT THAT IS A RIGHT TO PAYMENT OF WINNINGS IN A LOTTERY OR OTHER GAME OF CHANCE.

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

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

(1) that is perfected under Section 9--308(d), (e), (f), or (g);

(2) that is perfected under Section 9--309 when it attaches;

(3) in property subject to a statute, regulation, or treaty described in Section 9--311(a);

(4) in goods in possession of a bailee which is perfected under Section 9--312(d)(1) or (2);

(5) in certificated securities, documents, goods, or instruments which is perfected without filing, CONTROL, or possession under Section 9--312(e), (f), or (g);

(6) in collateral in the secured party's possession under Section 9--313;

(7) in a certificated security which is perfected by delivery of the security certificate to the secured party under Section 9--313;

(8) in deposit accounts, electronic chattel paper, ELECTRONIC DOCUMENTS, investment property, or letter-of-credit rights which is perfected by control under Section 9--314;

(9) in proceeds which is perfected under Section 9--315;

(10) that is perfected under Section 9--316; or

(11) that is a cooperative organization security interest.

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

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

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

(e) Temporary perfection: new value. A security interest in certificated securities, negotiable documents, or instruments is perfected

without filing or the taking of possession OR CONTROL for a period of 20 days from the time it attaches to the extent that it arises for new value given under an authenticated security agreement.

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

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

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

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

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

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

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

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

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

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

(I) EFFECT OF CHANGE IN GOVERNING LAW ON FINANCING STATEMENT FILED AGAINST ORIGINAL DEBTOR. IF A FINANCING STATEMENT NAMING AN ORIGINAL DEBTOR IS FILED PURSUANT TO THE LAW OF THE JURISDICTION DESIGNATED IN SECTION 9--301(A) OR 9--305(C) AND

THE NEW DEBTOR IS LOCATED IN ANOTHER JURISDICTION, THE FOLLOWING RULES APPLY:

(1) THE FINANCING STATEMENT IS EFFECTIVE TO PERFECT A SECURITY INTEREST IN COLLATERAL IN WHICH THE NEW DEBTOR HAS OR ACQUIRES RIGHTS BEFORE OR WITHIN FOUR MONTHS AFTER THE NEW DEBTOR BECOMES BOUND UNDER SECTION 9--203(D), IF THE FINANCING STATEMENT WOULD HAVE BEEN EFFECTIVE TO PERFECT A SECURITY INTEREST IN THE COLLATERAL HAD THE COLLATERAL BEEN ACQUIRED BY THE ORIGINAL DEBTOR.

(2) A SECURITY INTEREST THAT IS PERFECTED BY THE FINANCING STATEMENT AND WHICH BECOMES PERFECTED UNDER THE LAW OF THE OTHER JURISDICTION BEFORE THE EARLIER OF THE EXPIRATION OF THE FOUR MONTH PERIOD OR THE TIME THE FINANCING STATEMENT WOULD HAVE BECOME INEFFECTIVE UNDER THE LAW OF THE JURISDICTION DESIGNATED IN SECTION 9--301(A) OR 9--305(C) REMAINS PERFECTED THEREAFTER. A SECURITY INTEREST THAT IS PERFECTED BY THE FINANCING STATEMENT BUT WHICH DOES NOT BECOME PERFECTED UNDER THE LAW OF THE OTHER JURISDICTION BEFORE THE EARLIER TIME OR EVENT BECOMES UNPERFECTED AND IS DEEMED NEVER TO HAVE BEEN PERFECTED AS AGAINST A PURCHASER OF THE COLLATERAL FOR VALUE.

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

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

(d) Licensees and buyers of certain collateral. A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, ELECTRONIC DOCUMENTS, general intangibles, or investment property other than a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

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

Section 9--326. Priority of Security Interests Created by New Debtor.

(a) Subordination of security interest created by new debtor. Subject to subsection (b), a security interest THAT IS created by a new debtor [which is] IN COLLATERAL IN WHICH THE NEW DEBTOR HAS OR ACQUIRES RIGHTS AND IS perfected SOLELY by a filed financing statement that [is effective solely under Section 9--508 in collateral in which a new debtor has or acquires rights] WOULD BE INEFFECTIVE TO PERFECT THE SECURITY INTEREST BUT FOR THE APPLICATION OF SECTION 9--316(I)(1) OR 9--508 is subordinate to a security interest in the same collateral which is perfected other than by SUCH a filed financing statement [that is effective solely under Section 9--508].

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

debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

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

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

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

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

[(b)](2) a purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of TANGIBLE chattel paper, TANGIBLE documents, goods, instruments, or a security certificate, receives delivery of the collateral.

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

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

(1) the record indicates the goods or accounts that it covers;

(2) the goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;

(3) the record satisfies the requirements for a financing statement in this section [other than an indication], BUT:

(A) THE RECORD NEED NOT INDICATE that it is to be filed in the real property records; and

(B) THE RECORD SUFFICIENTLY PROVIDES THE NAME OF A DEBTOR WHO IS AN INDIVIDUAL IF IT PROVIDES THE INDIVIDUAL NAME OF THE DEBTOR OR THE SURNAME AND FIRST PERSONAL NAME OF THE DEBTOR, EVEN IF THE DEBTOR IS AN INDIVIDUAL TO WHOM SECTION 9--503(A)(4) APPLIES; AND

(4) the record is duly recorded.

S 45. Section 9--503 of the uniform commercial code, as added by chapter 84 of the laws of 2001, is amended to read as follows:

Section 9--503. Name of Debtor and Secured Party.

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

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

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

(2) SUBJECT TO SUBSECTION (F), if the [debtor is a decedent's estate] COLLATERAL IS BEING ADMINISTERED BY THE PERSONAL REPRESENTATIVE OF A DECEDENT, only if the financing statement provides, AS THE NAME OF THE DEBTOR, the name of the decedent and, IN A SEPARATE PART OF THE FINANCING STATEMENT, indicates that the [debtor is an estate] COLLATERAL IS BEING ADMINISTERED BY A PERSONAL REPRESENTATIVE;

(3) if the [debtor is a trust or a trustee acting with respect to property held in trust, only if the financing statement] COLLATERAL IS HELD IN A TRUST THAT IS NOT A REGISTERED ORGANIZATION, ONLY IF THE FINANCING STATEMENT:

(A) [provides the name specified for the trust in its organic documents or, if no name is specified, provides the name of the settlor and additional information sufficient to distinguish the debtor from other trusts having one or more of the same settlors; and] PROVIDES, AS THE NAME OF THE DEBTOR:

(I) IF THE ORGANIC RECORD OF THE TRUST SPECIFIES A NAME FOR THE TRUST, THE NAME SPECIFIED; OR

(II) IF THE ORGANIC RECORD OF THE TRUST DOES NOT SPECIFY A NAME FOR THE TRUST, THE NAME OF THE SETTLOR OR TESTATOR; AND

(B) [indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee acting with respect to property held in trust;] IN A SEPARATE PART OF THE FINANCING STATEMENT:

(I) IF THE NAME IS PROVIDED IN ACCORDANCE WITH SUBPARAGRAPH (A)(I), INDICATES THAT THE COLLATERAL IS HELD IN A TRUST; OR

(II) IF THE NAME IS PROVIDED IN ACCORDANCE WITH SUBPARAGRAPH (A)(II), PROVIDES ADDITIONAL INFORMATION SUFFICIENT TO DISTINGUISH THE TRUST FROM OTHER TRUSTS HAVING ONE OR MORE OF THE SAME SETTLORS OR THE SAME TESTATOR AND INDICATES THAT THE COLLATERAL IS HELD IN A TRUST, UNLESS THE ADDITIONAL INFORMATION SO INDICATES;

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

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

(6) in other cases:

(A) if the debtor has a name, only if [it] THE FINANCING STATEMENT provides the [individual or] organizational name of the debtor; and

(B) if the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor, IN A MANNER THAT EACH NAME

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

(b) Additional debtor-related information. A financing statement that provides the name of the debtor in accordance with subsection (a) is not rendered ineffective by the absence of:

(1) a trade name or other name of the debtor; or

(2) unless required under subsection [(a)(4)(B)] (A)(6)(B), names of partners, members, associates, or other persons comprising the debtor.

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

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

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

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

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

(H) DEFINITION. IN THIS SECTION, THE "NAME OF THE SETTLOR OR TESTATOR" MEANS:

(1) IF THE SETTLOR IS A REGISTERED ORGANIZATION, THE NAME THAT IS STATED TO BE THE SETTLOR'S NAME ON THE PUBLIC ORGANIC RECORD MOST RECENTLY FILED WITH OR ISSUED OR ENACTED BY THE SETTLOR'S JURISDICTION OF ORGANIZATION WHICH PURPORTS TO STATE, AMEND, OR RESTATE THE SETTLOR'S NAME; OR

(2) IN OTHER CASES, THE NAME OF THE SETTLOR OR TESTATOR INDICATED IN THE TRUST'S ORGANIC RECORD.

S 46. Subsection (c) of section 9--507 of the uniform commercial code, as added by chapter 84 of the laws of 2001, is amended to read as follows:

(c) Change in debtor's name. If [a debtor so changes its] THE name that a filed financing statement PROVIDES FOR A DEBTOR becomes INSUFFICIENT AS THE NAME OF THE DEBTOR UNDER SECTION 9--503(A) SO THAT THE FINANCING STATEMENT BECOMES seriously misleading under Section 9--506:

(1) the financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within four months after, the [change] FILED FINANCING STATEMENT BECOMES SERIOUSLY MISLEADING; and

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

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

(f) Transmitting utility financing statement. If a debtor is a transmitting utility and a filed INITIAL financing statement so indicates, the financing statement is effective until a termination statement is filed.

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

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

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

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

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

(c) Persons entitled to recover damages; statutory damages [in consumer-goods transaction] IF COLLATERAL IS CONSUMER GOODS. Except as otherwise provided in Section 9--628:

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

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

S 51. This act shall take effect immediately and shall apply to transactions entered into on or after such date.