

5502--A

2015-2016 Regular Sessions

I N S E N A T E

May 14, 2015

Introduced by Sen. FARLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the uniform commercial code, the civil practice law and rules, the lien law, the general obligations law, the banking law, the general business law, the arts and cultural affairs law and the personal property law, in relation to making technical corrections to conform with revisions to the uniform commercial code; and to amend chapter 505 of the laws of 2014 amending the uniform commercial code relating to modernizing commercial law in New York state, in relation to making technical amendments thereto

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

1 Section 1. Paragraph (g) of subsection 1 of section 4-A-105 of the
2 uniform commercial code, as added by chapter 208 of the laws of 1990, is
3 amended to read as follows:
4 (g) "Prove" with respect to a fact means to meet the burden of estab-
5 lishing the fact (subsection (B)(8) of section [1-201] 1--201).
6 S 2. Subsection 1 of section 4-A-106 of the uniform commercial code,
7 as added by chapter 208 of the laws of 1990, is amended to read as
8 follows:
9 (1) The time of receipt of a payment order or communication cancelling
10 or amending a payment order is determined by the rules applicable to
11 receipt of a notice stated in [subsection (27) of] Section [1-201]
12 1--202. A receiving bank may fix a cut-off time or times on a funds-
13 transfer business day for the receipt and processing of payment orders
14 and communications cancelling or amending payment orders. Different
15 cut-off times may apply to payment orders, cancellations, or amendments,
16 or to different categories of payment orders, cancellations, or amend-
17 ments. A cut-off time may apply to senders generally or different cut-

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

LBD07881-05-5

1 off times may apply to different senders or categories of payment
2 orders. If a payment order or communication cancelling or amending a
3 payment order is received after the close of a funds-transfer business
4 day or after the appropriate cut-off time on a funds-transfer business
5 day, the receiving bank may treat the payment order or communication as
6 received at the opening of the next funds-transfer business day.

7 S 3. Subsection 2 of section 4-A-204 of the uniform commercial code,
8 as added by chapter 208 of the laws of 1990, is amended to read as
9 follows:

10 (2) Reasonable time under subsection (1) may be fixed by agreement as
11 stated in [subsection (1) of] Section [1-204] 1--302(B), but the obli-
12 gation of a receiving bank to refund payment as stated in subsection (1)
13 may not otherwise be varied by agreement.

14 S 4. Subsection (c) of section 5--103 of the uniform commercial code,
15 as added by chapter 471 of the laws of 2000, is amended to read as
16 follows:

17 (c) With the exception of this subsection, subsections (a) and (d) of
18 this section, paragraphs (9) and (10) of subsection (a) of section
19 5--102, subsection (d) of section 5--106, and subsection (d) of section
20 5--114, and except to the extent prohibited in [subsection (3) of]
21 section [1--102] 1--302 and subsection (d) of section 5--117, the effect
22 of this article may be varied by agreement or by a provision stated or
23 incorporated by reference in an undertaking. A term in an agreement or
24 undertaking generally excusing liability or generally limiting remedies
25 for failure to perform obligations is not sufficient to vary obligations
26 prescribed by this article.

27 S 5. Subdivision (c) of rule 4518 of the civil practice law and rules,
28 as amended by chapter 170 of the laws of 1994, is amended to read as
29 follows:

30 (c) Other records. All records, writings and other things referred to
31 in sections 2306 and 2307 are admissible in evidence under this rule and
32 are prima facie evidence of the facts contained, provided they bear a
33 certification or authentication by the head of the hospital, laboratory,
34 department or bureau of a municipal corporation or of the state, or by
35 an employee delegated for that purpose or by a qualified physician.
36 Where a hospital record is in the custody of a warehouse[, or "ware-
37 houseman"] as that term is defined by paragraph [(h) of subdivision one]
38 THIRTEEN OF SUBSECTION (A) of section [7-102] 7--102 of the uniform
39 commercial code, pursuant to a plan approved in writing by the state
40 commissioner of health, admissibility under this subdivision may be
41 established by a certification made by the manager of the warehouse that
42 sets forth (i) the authority by which the record is held, including but
43 not limited to a court order, order of the commissioner, or order or
44 resolution of the governing body or official of the hospital, and (ii)
45 that the record has been in the exclusive custody of such warehouse [or
46 warehousemen] since its receipt from the hospital or, if another has had
47 access to it, the name and address of such person and the date on which
48 and the circumstances under which such access was had. Any [warehouse-
49 man] WAREHOUSE providing a certification as required by this subdivision
50 shall have no liability for acts or omissions relating thereto, except
51 for intentional misconduct, and the [warehouseman] WAREHOUSE is author-
52 ized to assess and collect a reasonable charge for providing the certif-
53 ication described by this subdivision.

54 S 6. Section 200 of the lien law, as amended by chapter 30 of the laws
55 of 1968, is amended to read as follows:

1 S 200. Sale of personal property to satisfy a lien. A lien against
2 personal property, other than the lien of a [warehouseman] WAREHOUSE
3 pursuant to section 7--209 of the uniform commercial code, the lien of a
4 carrier pursuant to section 7--307 of the uniform commercial code, a
5 security interest in goods and the lien of a keeper of a hotel, apart-
6 ment hotel, inn, boarding-house or lodging-house, except an immigrant
7 lodging-house, if in the legal possession of the lienor, may be satis-
8 fied by the sale of such property according to the provisions of this
9 article.

10 S 7. Subdivision 1 of section 5-1401 of the general obligations law,
11 as added by chapter 421 of the laws of 1984, is amended to read as
12 follows:

13 1. The parties to any contract, agreement or undertaking, contingent
14 or otherwise, in consideration of, or relating to any obligation arising
15 out of a transaction covering in the aggregate not less than two hundred
16 fifty thousand dollars, including a transaction otherwise covered by
17 subsection [one] (A) of section [1-105] 1--301 of the uniform commercial
18 code, may agree that the law of this state shall govern their rights and
19 duties in whole or in part, whether or not such contract, agreement or
20 undertaking bears a reasonable relation to this state. This section
21 shall not apply to any contract, agreement or undertaking (a) for labor
22 or personal services, (b) relating to any transaction for personal,
23 family or household services, or (c) to the extent provided to the
24 contrary in subsection [two] (C) of section [1-105] 1--301 of the
25 uniform commercial code.

26 S 8. Subdivision 1-c of section 7-101 of the general obligations law,
27 as amended by chapter 84 of the laws of 2001, is amended to read as
28 follows:

29 1-c. This section shall apply to money deposited or advanced on
30 contracts for the use or rental of personal property as security for
31 performance of the contract or to be applied to payments upon such
32 contract when due, only if (a) such contract is governed by the laws of
33 this state as the result of a choice of law provision in such contract,
34 in accordance with section [1-105] 1--301 of the uniform commercial code
35 (subject to the limitations on choice of law by the parties to a consum-
36 er lease under section 2-A-106 of the uniform commercial code), or such
37 contract is otherwise governed by the laws of this state in accordance
38 with applicable conflict of laws rules, and (b) the lessee under such
39 contract is located within this state, within the meaning of the uniform
40 commercial code (with respect to the location of debtors), except that a
41 foreign air carrier under the Federal Aviation Act of 1958, as amended,
42 shall not be deemed located in this state solely as a result of having a
43 designated office of an agent upon whom service of process may be made
44 located in this state.

45 S 9. Subdivisions 1 and 2 of section 138 of the banking law, as
46 amended by chapter 689 of the laws of 1984, are amended to read as
47 follows:

48 1. Notwithstanding section [1-105] 1--301 of the uniform commercial
49 code, any bank or trust company or national bank located in this state
50 which in accordance with the provisions of this chapter or otherwise
51 applicable law shall have opened and occupied a branch office or branch
52 offices in any foreign country shall be liable for contracts to be
53 performed at such branch office or offices and for deposits to be repaid
54 at such branch office or offices to no greater extent than a bank, bank-
55 ing corporation or other organization or association for banking
56 purposes organized and existing under the laws of such foreign country

1 would be liable under its laws. The laws of such foreign country for the
2 purpose of this section shall be deemed to include all acts, decrees,
3 regulations and orders promulgated or enforced by a dominant authority
4 asserting governmental, military or police power of any kind at the
5 place where any such branch office is located, whether or not such domi-
6 nant authority be recognized as a de facto or de jure government.

7 2. Notwithstanding section [1-105] 1--301 of the uniform commercial
8 code, if by action of any such dominant authority which is not recog-
9 nized by the United States as the de jure government of the foreign
10 territory concerned, any property situated in or any amount to be
11 received in such foreign territory and carried as an asset of any branch
12 office of such bank or trust company or national bank in such foreign
13 territory is seized, destroyed or cancelled, then the liability of such
14 bank or trust company or national bank for any deposit theretofore
15 received and thereafter to be repaid by it, and for any contract there-
16 tofore made and thereafter to be performed by it, at any branch office
17 in such foreign territory shall be reduced pro tanto by the proportion
18 that the value (as shown by the books or other records of such bank or
19 trust company or national bank at the time of such seizure, destruction
20 or cancellation) of such assets bears to the aggregate of all the depos-
21 it and contract liabilities of the branch office or offices of such bank
22 or trust company or national bank in such foreign territory, as shown at
23 such time by the books or other records of such bank or trust company or
24 national bank.

25 S 10. Paragraphs (a) and (b) of subdivision 3 of section 204-a of the
26 banking law, as amended by chapter 552 of the laws of 1962, are amended
27 to read as follows:

28 (a) Notwithstanding section [1-105] 1--301 of the uniform commercial
29 code, any foreign banking corporation doing business in this state under
30 a license issued by the superintendent in accordance with the provisions
31 of this chapter shall be liable in this state for contracts to be
32 performed at its office or offices in any foreign country, and for
33 deposits to be repaid at such office or offices, to no greater extent
34 than a bank, banking corporation or other organization or association
35 for banking purposes organized and existing under the laws of such
36 foreign country would be liable under its laws. The laws of such foreign
37 country for the purpose of this subdivision shall be deemed to include
38 all acts, decrees, regulations and orders promulgated or enforced by a
39 dominant authority asserting governmental, military or police power of
40 any kind at the place where any such office is located, whether or not
41 such dominant authority be recognized as a de facto or de jure govern-
42 ment.

43 (b) Notwithstanding section [1-105] 1--301 of the uniform commercial
44 code, if by action of any such dominant authority which is not recog-
45 nized by the United States as the de jure government of the foreign
46 territory concerned, any property situated in or any amount to be
47 received in such foreign territory and carried as an asset of any office
48 of such foreign banking corporation in such foreign territory is seized,
49 destroyed or cancelled, then the liability, if any, in this state of
50 such foreign banking corporation for any deposit theretofore received
51 and thereafter to be repaid by it, and for any contract theretofore made
52 and thereafter to be performed by it, at any office in such foreign
53 territory shall be reduced pro tanto by the proportion that the value
54 (as shown by the books or other records of such foreign banking corpo-
55 ration, at the time of such seizure, destruction or cancellation) of
56 such assets bears to the aggregate of all the deposit and contract

1 liabilities of the office or offices of such foreign banking corporation
2 in such foreign territory, as shown at such time by the books or other
3 records of such foreign banking corporations. Nothing contained in this
4 paragraph shall diminish or otherwise affect the liability of any such
5 foreign banking corporation to any corporation, firm or individual which
6 at the time of such seizure, destruction or cancellation was incorpo-
7 rated or resident in any state of the United States.

8 S 11. Subdivision 4 of section 11.01 of the arts and cultural affairs
9 law, as added by chapter 849 of the laws of 1984, is amended to read as
10 follows:

11 4. "Creditors" means "creditor" as defined in [subdivision twelve]
12 PARAGRAPH THIRTEEN of SUBSECTION (B) OF section [1-201] 1--201 of the
13 uniform [commerical] COMMERCIAL code.

14 S 12. Subdivision 5 of section 331 of the personal property law, as
15 added by chapter 1 of the laws of 1994, is amended to read as follows:

16 5. "Retail lease agreement" or "agreement" means an agreement, entered
17 into in this state, for the lease of a motor vehicle, and which may
18 include the purchase of goods or services incidental thereto, by a
19 retail lessee for a scheduled term exceeding four months, whether or not
20 the lessee has the option to purchase or otherwise become the owner of
21 the vehicle at the expiration of the agreement. The term includes such
22 an agreement wherever entered into if executed by the lessee in this
23 state and if solicited in person by a person acting on his own behalf or
24 that of the lessor. The term does not include a retail instalment
25 contract or a rental-purchase agreement as defined in articles nine and
26 eleven of this chapter. An agreement that substantially complies with
27 this article does not create a security interest in a motor vehicle as
28 the term "security interest" is defined in [subdivision thirty-seven]
29 PARAGRAPH THIRTY-FIVE of SUBSECTION (B) OF section [1-201] 1--201 of the
30 uniform commercial code.

31 S 13. Paragraph (e) of subdivision 7 of section 399-w of the general
32 business law, as amended by chapter 140 of the laws of 1995, is amended
33 to read as follows:

34 (e) "Retail lease agreement" or "agreement" means an agreement,
35 entered into in this state, for the lease of goods and which may include
36 the purchase of goods or services incidental thereto by a lessee for a
37 scheduled term exceeding four months, whether or not the lessee has the
38 option to purchase or otherwise become the owner of the goods at the
39 expiration of the agreement. The term includes such an agreement wherev-
40 er entered into if executed by the lessee in this state and if solicited
41 in person by a person acting on his or her own behalf or that of the
42 lessor. The term does not include a retail instalment contract or a
43 rental-purchase agreement as defined in articles ten and eleven of the
44 personal property law. An agreement that substantially complies with
45 this article does not create a security interest in the goods as the
46 term "security interest" is defined in [subdivision thirty-seven] PARA-
47 GRAPH THIRTY-FIVE of SUBSECTION (B) OF section [1-201] 1--201 of the
48 uniform commercial code.

49 S 14. Subdivision 6 of section 500 of the personal property law, as
50 amended by chapter 309 of the laws of 2010, is amended to read as
51 follows:

52 6. "Rental-purchase agreement" means an agreement for the use of
53 merchandise by a consumer for primarily personal, family, or household
54 purposes, for an initial period of four months or less, that is renewa-
55 ble with each payment after the initial period and that permits the
56 consumer to become the owner of the property. An agreement that complies

1 with this article is not a retail installment sales contract, agreement,
2 or obligation as defined in this chapter nor a security interest as
3 defined in [subdivision thirty-seven] PARAGRAPH THIRTY-FIVE of
4 SUBSECTION (B) OF section [1-201] 1--201 of the uniform commercial code.

5 S 15. Subsection (e) of section 9--406 of the uniform commercial
6 code, as added by chapter 84 of the laws of 2001, is amended to read as
7 follows:

8 (e) Inapplicability of subsection (d) to certain sales. Subsection (d)
9 does not apply to the sale of a payment intangible or promissory note,
10 OTHER THAN A SALE PURSUANT TO A DISPOSITION UNDER SECTION 9--610 OR AN
11 ACCEPTANCE OF COLLATERAL UNDER SECTION 9--620.

12 S 16. Subsection (b) of section 9--408 of the uniform commercial code,
13 as added by chapter 84 of the laws of 2001, is amended to read as
14 follows:

15 (b) Applicability of subsection (a) to sales of certain rights to
16 payment. Subsection (a) applies to a security interest in a payment
17 intangible or promissory note only if the security interest arises out
18 of a sale of the payment intangible or promissory note, OTHER THAN A
19 SALE PURSUANT TO A DISPOSITION UNDER SECTION 9--610 OR AN ACCEPTANCE OF
20 COLLATERAL UNDER SECTION 9--620.

21 S 17. Subsection (b) of section 9--516 of the uniform commercial code,
22 as added by chapter 84 of the laws of 2001, is amended to read as
23 follows:

24 (b) Refusal to accept record; filing does not occur. Filing does not
25 occur with respect to a record that a filing office refuses to accept
26 because:

- 27 (1) the record is not communicated by a method or medium of
28 communication authorized by the filing office;
- 29 (2) an amount equal to or greater than the applicable filing fee
30 is not tendered;
- 31 (3) the filing office is unable to index the record because:
 - 32 (A) in the case of an initial financing statement, the record
33 does not provide a name for the debtor;
 - 34 (B) in the case of an amendment or [correction] INFORMATION
35 statement, the record:
 - 36 (i) does not identify the initial financing statement as
37 required by Section 9--512 or 9--518, as applicable;
38 or
 - 39 (ii) identifies an initial financing statement whose
40 effectiveness has lapsed under Section 9--515;
 - 41 (C) in the case of an initial financing statement that
42 provides the name of a debtor identified as an individual
43 or an amendment that provides a name of a debtor identi-
44 fied as an individual which was not previously provided
45 in the financing statement to which the record relates,
46 the record does not identify the debtor's [last name]
47 SURNAME; or
 - 48 (D) in the case of a record filed in the filing office
49 described in Section 9--501 (a) (1), the record does not
50 provide a sufficient description of the real property to
51 which it relates;
- 52 (4) in the case of an initial financing statement or an amendment
53 that adds a secured party of record, the record does not
54 provide a name and mailing address for the secured party of
55 record;

- 1 (5) in the case of an initial financing statement or an amendment
 2 that provides a name of a debtor which was not previously
 3 provided in the financing statement to which the amendment
 4 relates, the record does not:
 5 (A) provide a mailing address for the debtor; or
 6 (B) indicate whether the NAME PROVIDED AS THE NAME OF THE
 7 debtor is THE NAME OF an individual or an organization;
 8 [(C) if the financing statement indicates that the debtor is
 9 an organization, provide:
 10 (i) a type of organization for the debtor, or
 11 (ii) a jurisdiction of organization for the debtor; or]
 12 (6) in the case of an assignment reflected in an initial financ-
 13 ing statement under Section 9--514(a) or an amendment filed
 14 under Section 9--514(b), the record does not provide a name
 15 and mailing address for the assignee; or
 16 (7) in the case of a continuation statement, the record is not
 17 filed within the six-month period prescribed by Section
 18 9--515(d).

19 S 18. Section 9--518 of the uniform commercial code, as added by chap-
 20 ter 84 of the laws of 2001 and subsection (d) as added by chapter 490 of
 21 the laws of 2013, is amended to read as follows:

22 Section 9--518. Claim Concerning Inaccurate or Wrongfully Filed Record.

23 (a) [Correction statement] STATEMENT WITH RESPECT TO RECORD INDEXED
 24 UNDER PERSON'S NAME. A person may file in the filing office [a
 25 correction] AN INFORMATION statement with respect to a record indexed
 26 there under the person's name if the person believes that the record is
 27 inaccurate or was wrongfully filed.

28 (b) [Sufficiency] CONTENTS of [correction] statement UNDER SUBSECTION
 29 (A) OF THIS SECTION. [A correction] AN INFORMATION statement UNDER
 30 SUBSECTION (A) OF THIS SECTION must:

- 31 (1) identify the record to which it relates by:
 32 (A) the file number assigned to the initial financing state-
 33 ment to which the record relates; and
 34 (B) if the [correction] INFORMATION statement relates to a
 35 record filed in a filing office described in Section
 36 9--501(a)(1), the date and time that the initial financ-
 37 ing statement was filed and the information specified in
 38 Section 9--502(b);
 39 (2) indicate that it is [a correction] AN INFORMATION statement;
 40 and
 41 (3) provide the basis for the person's belief that the record is
 42 inaccurate and indicate the manner in which the person
 43 believes the record should be amended to cure any inaccuracy
 44 or provide the basis for the person's belief that the record
 45 was wrongfully filed.

46 (c) STATEMENT BY SECURED PARTY OF RECORD. A PERSON MAY FILE IN THE
 47 FILING OFFICE AN INFORMATION STATEMENT WITH RESPECT TO A RECORD FILED
 48 THERE IF THE PERSON IS A SECURED PARTY OF RECORD WITH RESPECT TO THE
 49 FINANCING STATEMENT TO WHICH THE RECORD RELATES AND BELIEVES THAT THE
 50 PERSON THAT FILED THE RECORD WAS NOT ENTITLED TO DO SO UNDER SECTION
 51 9--509(D).

52 (D) CONTENTS OF STATEMENT UNDER SUBSECTION (C) OF THIS SECTION. AN
 53 INFORMATION STATEMENT UNDER SUBSECTION (C) OF THIS SECTION MUST:

- 54 (1) IDENTIFY THE RECORD TO WHICH IT RELATES BY:
 55 (A) THE FILE NUMBER ASSIGNED TO THE INITIAL FINANCING STATEMENT TO
 56 WHICH THE RECORD RELATES; AND

1 (B) IF THE INFORMATION STATEMENT RELATES TO A RECORD FILED IN A FILING
2 OFFICE DESCRIBED IN SECTION 9--501(A)(1), THE DATE THAT THE INITIAL
3 FINANCING STATEMENT WAS FILED AND THE INFORMATION SPECIFIED IN SECTION
4 9--502(B);

5 (2) INDICATE THAT IT IS AN INFORMATION STATEMENT; AND

6 (3) PROVIDE THE BASIS FOR THE PERSON'S BELIEF THAT THE PERSON THAT
7 FILED THE RECORD WAS NOT ENTITLED TO DO SO UNDER SECTION 9--509(D).

8 (E) Record not affected by [correction] INFORMATION statement. The
9 filing of [a correction] AN INFORMATION statement does not affect the
10 effectiveness of an initial financing statement or other filed record.

11 [(d)] (F) Special proceeding to redact or expunge a falsely filed or
12 amended financing statement. (1) Provided he or she is an employee of
13 the state or a political subdivision thereof, a person identified as a
14 debtor in a financing statement filed pursuant to this subpart may bring
15 a special proceeding against the named filer of such statement or any
16 amendment thereof to invalidate the filing or amendment thereof where
17 such statement was falsely filed or amended; except that an attorney who
18 is not an employee of the state or a political subdivision thereof may
19 also bring a special proceeding hereunder where he or she represents or
20 has represented the respondent therein in a criminal court. Such special
21 proceeding shall be governed by article four of the civil practice law
22 and rules, and shall be commenced in the supreme court of Albany county,
23 the county of the petitioner's residence or a county within the judicial
24 district in which any property covered by the financing statement is
25 located. No fee pursuant to article eighty of the civil practice law and
26 rules shall be collected in such special proceeding.

27 (2) The petition in a special proceeding hereunder shall plead that:

28 (A) the financing statement filed or amended by the respondent pursu-
29 ant to section 9--509 was falsely filed or amended to retaliate for: (i)
30 the performance of the petitioner's official duties in his or her capac-
31 ity as an employee of the state or a political subdivision thereof, or
32 (ii) in the case of a special proceeding brought by an attorney who is
33 not an employee of the state or a political subdivision thereof, to
34 retaliate for the performance of the petitioner's duties in his or her
35 capacity as an attorney for the respondent in a criminal court; and

36 (B) such financing statement does not relate to an interest in a
37 consumer-goods transaction, a commercial transaction, or any other actu-
38 al transaction between the petitioner and the respondent; and

39 (C) the collateral covered in such financing statement is the property
40 of the petitioner; and

41 (D) prompt redaction or invalidation of the financing statement is
42 necessary to avert or mitigate prejudice to the petitioner.

43 (3) If the court makes a written finding that the allegations in para-
44 graph two of this subsection are established, the court shall order the
45 expungement of such statement or its redaction in the public records in
46 the office in which the financing statement is filed, as appropriate,
47 and may grant any additional relief authorized by section 9--625. In
48 such case, the court shall cause a copy of its order to be filed with
49 the secretary of state or other appropriate filing office pursuant to
50 this chapter. Upon a finding that the respondent has engaged in a
51 repeated pattern of false filings as found under this subsection, the
52 court also may enjoin the respondent from filing or amending any further
53 financing statement pursuant to this article without leave of the court.
54 If the respondent is incarcerated at the time the court issues an order
55 containing such an injunction, the court shall cause the head of the
56 correctional facility in which the respondent is incarcerated to receive

1 a copy of such determination. The head of such a facility shall cause a
2 copy of such order to be provided to the respondent. In any instances of
3 the issuance of such an injunction where the respondent has defaulted,
4 the court shall direct service of such injunction upon the respondent.

5 S 19. Section 9--521 of the uniform commercial code, as added by chap-
6 ter 84 of the laws of 2001, is amended to read as follows:

7 Section 9--521. Uniform Form of Written Financing Statement; Amendment;
8 and Cooperative Addendum.

9 (a) Initial financing statement form. A filing office that accepts
10 written records may not refuse to accept a written initial financing
11 statement AND ADDENDUM in the form AND FORMAT THAT IS EITHER (1) SET
12 FORTH IN THE OFFICIAL TEXT OF THE 2010 AMENDMENTS TO ARTICLE 9 OF THE
13 UNIFORM COMMERCIAL CODE PROMULGATED BY THE AMERICAN LAW INSTITUTE AND
14 THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS OR (2)
15 promulgated by the department of state, IN EACH CASE except for a reason
16 as set forth in Section 9--516(b).

17 (b) Amendment form. A filing office that accepts written records may
18 not refuse to accept a written [financing statement amendment] RECORD
19 AND ADDENDUM in the form AND FORMAT THAT IS EITHER (1) SET FORTH IN THE
20 FINAL OFFICIAL TEXT OF THE 2010 AMENDMENTS TO ARTICLE 9 OF THE UNIFORM
21 COMMERCIAL CODE promulgated by THE AMERICAN LAW INSTITUTE AND THE
22 NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS, OR (2)
23 PROMULGATED BY THE DEPARTMENT OF STATE, IN EACH CASE except for a reason
24 as set forth in Section 9--516 (b).

25 (c) Cooperative addendum form. A filing office that accepts written
26 records may not refuse to accept a written cooperative addendum in the
27 form promulgated by the department of state except for a reason as set
28 forth in Section 9--516 (b).

29 S 20. Section 51 of chapter 505 of the laws of 2014 amending the
30 uniform commercial code relating to modernizing commercial law in New
31 York state, is amended to read as follows:

32 S 51. This act shall take effect immediately and shall apply to trans-
33 actions entered into on or after [such date] DECEMBER 17, 2014; PROVIDED
34 HOWEVER THAT:

35 (A) WITH RESPECT TO SECTIONS TWENTY-SIX THROUGH FIFTY OF THIS ACT,
36 SUBJECT TO SUBDIVISION (B) OF THIS SECTION, A "TRANSACTION ENTERED INTO
37 ON OR AFTER DECEMBER 17, 2014" SHALL MEAN THE CREATION OF AN ENFORCEABLE
38 SECURITY INTEREST BETWEEN THE DEBTOR AND THE SECURED PARTY PURSUANT TO
39 AN AGREEMENT ORIGINALLY ENTERED INTO ON OR AFTER DECEMBER 17, 2014. A
40 TERM SHEET OR OTHER PROPOSAL FOR THE CREATION OF A SECURITY INTEREST
41 SHALL NOT CONSTITUTE A "TRANSACTION."

42 (B) A "TRANSACTION ENTERED INTO ON OR AFTER DECEMBER 17, 2014" SHALL
43 ALSO INCLUDE ANY ENFORCEABLE SECURITY INTEREST CREATED PURSUANT TO AN
44 AGREEMENT ORIGINALLY ENTERED INTO PRIOR TO DECEMBER 17, 2014 THAT HAS
45 BEEN AMENDED, MODIFIED, SUPPLEMENTED OR RESTATED ON OR AFTER DECEMBER
46 17, 2014 IF, BUT ONLY IF, SUCH AMENDMENT, MODIFICATION, SUPPLEMENT OR
47 RESTATEMENT EXPRESSLY PROVIDES THAT THE PARTIES INTEND THAT THE SECURITY
48 INTEREST THEREUNDER CONSTITUTE A "TRANSACTION" SUBJECT TO THIS SECTION.

49 (C) EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (B) OF THIS SECTION,
50 NEITHER (I) THE PROVISION OF ADDITIONAL FINANCING TO A DEBTOR SECURED BY
51 AN AGREEMENT ORIGINALLY ENTERED INTO PRIOR TO DECEMBER 17, 2014, (II)
52 THE ATTACHMENT OF THE SECURITY INTEREST TO AFTER-ACQUIRED PROPERTY OF
53 THE DEBTOR PURSUANT TO AN AGREEMENT ORIGINALLY ENTERED INTO PRIOR TO
54 DECEMBER 17, 2014, NOR (III) THE DEBTOR'S PROVISION OF ADDITIONAL COLLA-
55 TERAL TO THE SECURED PARTY PURSUANT TO AN AMENDMENT, MODIFICATION,
56 SUPPLEMENT OR RESTATEMENT OF AN AGREEMENT ORIGINALLY ENTERED INTO PRIOR

1 TO DECEMBER 17, 2014, SHALL, WITHOUT THE ACTIONS REFERRED TO IN SUBDIVI-
2 SION (B) OF THIS SECTION, CONSTITUTE A "TRANSACTION ENTERED INTO ON OR
3 AFTER DECEMBER 17, 2014" WITHIN THE MEANING OF THIS SECTION. SIMILARLY,
4 EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (D) OF THIS SECTION,
5 SECTIONS TWENTY-SIX THROUGH FIFTY OF THIS ACT SHALL NOT APPLY TO ACTIONS
6 TAKEN ON OR AFTER DECEMBER 17, 2014 TO PERFECT OR MAINTAIN THE
7 PERFECTION OF A SECURITY INTEREST UNLESS THE CREATION OF THE SECURITY
8 INTEREST TO WHICH SUCH PERFECTION RELATES SHALL CONSTITUTE A TRANSACTION
9 WITHIN THE MEANING OF EITHER SUBDIVISION (A) OR (C) OF THIS SECTION.

10 (D) NOTWITHSTANDING THE FOREGOING, THIS ACT SHALL APPLY TO ALL INITIAL
11 FINANCING STATEMENTS FILED ON OR AFTER DECEMBER 17, 2014 REGARDLESS OF
12 WHETHER OR NOT THEY RELATE TO A "TRANSACTION ENTERED INTO ON OR AFTER
13 DECEMBER 17, 2014." CONVERSELY, THIS ACT SHALL NOT APPLY TO INITIAL
14 FINANCING STATEMENTS FILED PRIOR TO DECEMBER 17, 2014 OR TO ANY AMEND-
15 MENTS THEREOF REGARDLESS OF WHEN SUCH AMENDMENTS ARE FILED EVEN IF SUCH
16 FINANCING STATEMENTS RELATE TO A "TRANSACTION ENTERED INTO ON OR AFTER
17 DECEMBER 17, 2014."

18 (E) THIS ACT SHALL NOT APPLY TO A DOCUMENT OF TITLE THAT IS ISSUED OR
19 A BAILMENT THAT ARISES BEFORE THE EFFECTIVE DATE OF THIS ACT.

20 S 21. This act shall take effect on the same date and in the same
21 manner as chapter 505 of the laws of 2014 took effect, and shall apply
22 to transactions entered into on or after December 17, 2014; provided,
23 however, that:

24 (a) With respect to sections fifteen through nineteen of this act,
25 subject to subdivision (b) of this section, a "transaction entered into
26 on or after December 17, 2014" shall mean the creation of an enforceable
27 security interest between the debtor and the secured party pursuant to
28 an agreement originally entered into on or after December 17, 2014. A
29 term sheet or other proposal for the creation of a security interest
30 shall not constitute a "transaction."

31 (b) A "transaction entered into on or after December 17, 2014" shall
32 also include any enforceable security interest created pursuant to an
33 agreement originally entered into prior to December 17, 2014 that has
34 been amended, modified, supplemented or restated on or after December
35 17, 2014 if, but only if, such amendment, modification, supplement or
36 restatement expressly provides that the parties intend that the security
37 interest thereunder constitute a "transaction" subject to this section.

38 (c) Except as otherwise provided in subdivision (b) of this section,
39 neither (i) the provision of additional financing to a debtor secured by
40 an agreement originally entered into prior to December 17, 2014, (ii)
41 the attachment of the security interest to after-acquired property of
42 the debtor pursuant to an agreement originally entered into prior to
43 December 17, 2014, nor (iii) the debtor's provision of additional colla-
44 teral to the secured party pursuant to an amendment, modification,
45 supplement or restatement of an agreement originally entered into prior
46 to December 17, 2014, shall, without the actions referred to in subdivi-
47 sion (b) of this section, constitute a "transaction entered into on or
48 after December 17, 2014" within the meaning of this section. Similarly,
49 except as otherwise provided in subdivision (d) of this section,
50 sections fifteen through nineteen of this act shall not apply to actions
51 taken on or after December 17, 2014 to perfect or maintain the
52 perfection of a security interest unless the creation of the security
53 interest to which such perfection relates shall constitute a transaction
54 within the meaning of either this subdivision or subdivision (a) of this
55 section.

1 (d) Notwithstanding the foregoing, this act shall apply to all initial
2 financing statements filed on or after December 17, 2014 regardless of
3 whether or not they relate to a "transaction entered into on or after
4 December 17, 2014." Conversely, this act shall not apply to initial
5 financing statements filed prior to December 17, 2014 or to any amend-
6 ments thereof regardless of when such amendments are filed even if such
7 financing statements relate to a "transaction entered into on or after
8 December 17, 2014."

9 (e) This act shall not apply to a document of title that is issued or
10 a bailment that arises before the effective date of this act.