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

5502

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

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:

Section 1. Paragraph (g) of subsection 1 of section 4-A-105 of the uniform commercial code, as added by chapter 208 of the laws of 1990, is amended to read as follows:

(g) "Prove" with respect to a fact means to meet the burden of establishing the fact (subsection (B)(8) of section [1-201] 1--201).

S 2. Subsection 1 of section 4-A-106 of the uniform commercial code, as added by chapter 208 of the laws of 1990, is amended to read as follows:

(1) The time of receipt of a payment order or communication cancelling or amending a payment order is determined by the rules applicable to receipt of a notice stated in [subsection (27) of] Section [1-201] 1--202. A receiving bank may fix a cut-off time or times on a funds-transfer business day for the receipt and processing of payment orders and communications cancelling or amending payment orders. Different cut-off times may apply to payment orders, cancellations, or amendments, or to different categories of payment orders, cancellations, or amendments. A cut-off time may apply to senders generally or different cut-off times may apply to different senders or categories of payment orders. If a payment order or communication cancelling or amending a

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

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payment order is received after the close of a funds-transfer business day or after the appropriate cut-off time on a funds-transfer business day, the receiving bank may treat the payment order or communication as received at the opening of the next funds-transfer business day.

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

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

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

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

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

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

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

S 200. Sale of personal property to satisfy a lien. A lien against personal property, other than the lien of a [warehouseman] WAREHOUSE pursuant to section 7--209 of the uniform commercial code, the lien of a

carrier pursuant to section 7--307 of the uniform commercial code, a security interest in goods and the lien of a keeper of a hotel, apartment hotel, inn, boarding-house or lodging-house, except an immigrant lodging-house, if in the legal possession of the lienor, may be satisfied by the sale of such property according to the provisions of this article.

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

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

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

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

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

1. Notwithstanding section [1-105] 1--301 of the uniform commercial code, any bank or trust company or national bank located in this state which in accordance with the provisions of this chapter or otherwise applicable law shall have opened and occupied a branch office or branch offices in any foreign country shall be liable for contracts to be performed at such branch office or offices and for deposits to be repaid at such branch office or offices to no greater extent than a bank, banking corporation or other organization or association for banking purposes organized and existing under the laws of such foreign country would be liable under its laws. The laws of such foreign country for the purpose of this section shall be deemed to include all acts, decrees, regulations and orders promulgated or enforced by a dominant authority

asserting governmental, military or police power of any kind at the place where any such branch office is located, whether or not such dominant authority be recognized as a de facto or de jure government.

2. Notwithstanding section [1-105] 1--301 of the uniform commercial code, if by action of any such dominant authority which is not recognized by the United States as the de jure government of the foreign territory concerned, any property situated in or any amount to be received in such foreign territory and carried as an asset of any branch office of such bank or trust company or national bank in such foreign territory is seized, destroyed or cancelled, then the liability of such bank or trust company or national bank for any deposit theretofore received and thereafter to be repaid by it, and for any contract theretofore made and thereafter to be performed by it, at any branch office in such foreign territory shall be reduced pro tanto by the proportion that the value (as shown by the books or other records of such bank or trust company or national bank at the time of such seizure, destruction or cancellation) of such assets bears to the aggregate of all the deposit and contract liabilities of the branch office or offices of such bank or trust company or national bank in such foreign territory, as shown at such time by the books or other records of such bank or trust company or national bank.

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

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

(b) Notwithstanding section [1-105] 1--301 of the uniform commercial code, if by action of any such dominant authority which is not recognized by the United States as the de jure government of the foreign territory concerned, any property situated in or any amount to be received in such foreign territory and carried as an asset of any office of such foreign banking corporation in such foreign territory is seized, destroyed or cancelled, then the liability, if any, in this state of such foreign banking corporation for any deposit theretofore received and thereafter to be repaid by it, and for any contract theretofore made and thereafter to be performed by it, at any office in such foreign territory shall be reduced pro tanto by the proportion that the value (as shown by the books or other records of such foreign banking corporation, at the time of such seizure, destruction or cancellation) of such assets bears to the aggregate of all the deposit and contract liabilities of the office or offices of such foreign banking corporation in such foreign territory, as shown at such time by the books or other records of such foreign banking corporations. Nothing contained in this

paragraph shall diminish or otherwise affect the liability of any such foreign banking corporation to any corporation, firm or individual which at the time of such seizure, destruction or cancellation was incorporated or resident in any state of the United States.

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

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

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

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

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

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

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

6. "Rental-purchase agreement" means an agreement for the use of merchandise by a consumer for primarily personal, family, or household purposes, for an initial period of four months or less, that is renewable with each payment after the initial period and that permits the consumer to become the owner of the property. An agreement that complies with this article is not a retail installment sales contract, agreement, or obligation as defined in this chapter nor a security interest as

defined in [subdivision thirty-seven] PARAGRAPH THIRTY-FIVE of SUBSECTION (B) OF section [1-201] 1--201 of the uniform commercial code.

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

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

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

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

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

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

(1) the record is not communicated by a method or medium of communication authorized by the filing office;

(2) an amount equal to or greater than the applicable filing fee is not tendered;

(3) the filing office is unable to index the record because:

(A) in the case of an initial financing statement, the record does not provide a name for the debtor;

(B) in the case of an amendment or [correction] INFORMATION statement, the record:

(i) does not identify the initial financing statement as required by Section 9--512 or 9--518, as applicable; or

(ii) identifies an initial financing statement whose effectiveness has lapsed under Section 9--515;

(C) in the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's [last name] SURNAME; or

(D) in the case of a record filed in the filing office described in Section 9--501 (a) (1), the record does not provide a sufficient description of the real property to which it relates;

(4) in the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;

(5) in the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously

provided in the financing statement to which the amendment relates, the record does not:
(A) provide a mailing address for the debtor; or
(B) indicate whether the NAME PROVIDED AS THE NAME OF THE debtor is THE NAME OF an individual or an organization;
[(C) if the financing statement indicates that the debtor is an organization, provide:
(i) a type of organization for the debtor, or
(ii) a jurisdiction of organization for the debtor; or]

(6) in the case of an assignment reflected in an initial financing statement under Section 9--514(a) or an amendment filed under Section 9--514(b), the record does not provide a name and mailing address for the assignee; or

(7) in the case of a continuation statement, the record is not filed within the six-month period prescribed by Section 9--515(d).

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

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

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

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

(1) identify the record to which it relates by:
(A) the file number assigned to the initial financing statement to which the record relates; and
(B) if the [correction] INFORMATION statement relates to a record filed in a filing office described in Section 9--501(a)(1), the date and time that the initial financing statement was filed and the information specified in Section 9--502(b);

(2) indicate that it is [a correction] AN INFORMATION statement; and

(3) provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

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

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

(1) IDENTIFY THE RECORD TO WHICH IT RELATES BY:

(A) THE FILE NUMBER ASSIGNED TO THE INITIAL FINANCING STATEMENT TO WHICH THE RECORD RELATES; AND

(B) IF THE INFORMATION STATEMENT RELATES TO A RECORD FILED IN A FILING OFFICE DESCRIBED IN SECTION 9--501(A)(1), THE DATE THAT THE INITIAL

FINANCING STATEMENT WAS FILED AND THE INFORMATION SPECIFIED IN SECTION 9--502(B);

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

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

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

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

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

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

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

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

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

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

the issuance of such an injunction where the respondent has defaulted, the court shall direct service of such injunction upon the respondent.]

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

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

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

(b) Amendment form. A filing office that accepts written records may not refuse to accept a written [financing statement amendment] RECORD AND ADDENDUM in the form AND FORMAT SET FORTH AS FORM UCC3 AND FORM UCC3AD THAT IS EITHER (1) SET FORTH IN THE FINAL OFFICIAL TEXT OF THE 2010 AMENDMENTS TO ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE promulgated by THE AMERICAN LAW INSTITUTE AND THE NATIONAL CONFERENCE OF COMMISSIONERS ON THE UNIFORM STATE LAWS, OR (2) PROMULGATED BY THE DEPARTMENT OF STATE, IN EACH CASE except for a reason as set forth in Section 9--516 (b).

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

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

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

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

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

(C) EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (B) OF THIS SECTION, NEITHER (I) THE PROVISION OF ADDITIONAL FINANCING TO A DEBTOR SECURED BY AN AGREEMENT ORIGINALLY ENTERED INTO PRIOR TO DECEMBER 17, 2014, (II) THE ATTACHMENT OF THE SECURITY INTEREST TO AFTER-ACQUIRED PROPERTY OF THE DEBTOR PURSUANT TO AN AGREEMENT ORIGINALLY ENTERED INTO PRIOR TO DECEMBER 17, 2014, NOR (III) THE DEBTOR'S PROVISION OF ADDITIONAL COLLATERAL TO THE SECURED PARTY PURSUANT TO AN AMENDMENT, MODIFICATION, SUPPLEMENT OR RESTATEMENT OF AN AGREEMENT ORIGINALLY ENTERED INTO PRIOR TO DECEMBER 17, 2014, SHALL, WITHOUT THE ACTIONS REFERRED TO IN SUBDIVI-

SION (B) OF THIS SECTION, CONSTITUTE A "TRANSACTION ENTERED INTO ON OR AFTER DECEMBER 17, 2014" WITHIN THE MEANING OF THIS SECTION. SIMILARLY, EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (D) OF THIS SECTION, SECTIONS TWENTY-SIX THROUGH FIFTY OF THIS ACT SHALL NOT APPLY TO ACTIONS TAKEN ON OR AFTER DECEMBER 17, 2014 TO PERFECT OR MAINTAIN THE PERFECTION OF A SECURITY INTEREST UNLESS THE CREATION OF THE SECURITY INTEREST TO WHICH SUCH PERFECTION RELATES SHALL CONSTITUTE A TRANSACTION WITHIN THE MEANING OF EITHER SUBDIVISION (A) OR (C) OF THIS SECTION.

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

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

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

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

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

(c) Except as otherwise provided in subdivision (b) of this section, neither (i) the provision of additional financing to a debtor secured by an agreement originally entered into prior to December 17, 2014, (ii) the attachment of the security interest to after-acquired property of the debtor pursuant to an agreement originally entered into prior to December 17, 2014, nor (iii) the debtor's provision of additional collateral to the secured party pursuant to an amendment, modification, supplement or restatement of an agreement originally entered into prior to December 17, 2014, shall, without the actions referred to in subdivision (b) of this section, constitute a "transaction entered into on or after December 17, 2014" within the meaning of this section. Similarly, except as otherwise provided in subdivision (d) of this section, sections fifteen through nineteen of this act shall not apply to actions taken on or after December 17, 2014 to perfect or maintain the perfection of a security interest unless the creation of the security interest to which such perfection relates shall constitute a transaction within the meaning of either subdivision (a) or (c) of this section.

(d) Notwithstanding the foregoing, this act shall apply to all initial financing statements filed on or after December 17, 2014 regardless of whether or not they relate to a "transaction entered into on or after

December 17, 2014." Conversely, this act shall not apply to initial financing statements filed prior to December 17, 2014 or to any amendments thereof regardless of when such amendments are filed even if such financing statements relate to a "transaction entered into on or after December 17, 2014."

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