

5502--A

2015-2016 Regular Sessions

I N S E N A T E

May 14, 2015

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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.

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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.