

STATE OF NEW YORK

7244--A

Cal. No. 1094

2023-2024 Regular Sessions

IN SENATE

May 19, 2023

Introduced by Sen. HOYLMAN-SIGAL -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report

AN ACT to amend the uniform commercial code, in relation to controllable electronic records

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraphs 10, 15, 21, 24, 27, 36 and 37 of subsection (b)
2 of section 1--201 of the uniform commercial code, as added by chapter
3 505 of the laws of 2014, are amended and a new paragraph 16-a is added
4 to read as follows:

5 (10) "Conspicuous", with reference to a term, means so written,
6 displayed, or presented that, based on the totality of the circum-
7 stances, a reasonable person against which it is to operate ought to
8 have noticed it. Whether a term is "conspicuous" or not is a decision
9 for the court.

10 (15) "Delivery", with respect to an electronic document of title means
11 voluntary transfer of control and with respect to an instrument, a
12 tangible document of title, or an authoritative tangible copy of a
13 record evidencing chattel paper, means voluntary transfer of possession.

14 (16-a) "Electronic" means relating to technology having electrical,
15 digital, magnetic, wireless, optical, electromagnetic, or similar capa-
16 bilities.

17 (21) "Holder" means:

18 (A) the person in possession of a negotiable instrument that is paya-
19 ble either to bearer or to an identified person that is the person in
20 possession; or

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

LBD11556-02-4

1 (B) the person in possession of a negotiable tangible document of
2 title if the goods are deliverable either to bearer or to the order of
3 the person in possession; or

4 (C) the person in control, other than pursuant to Section 7--106(g),
5 of a negotiable electronic document of title.

6 (24) "Money" means a medium of exchange that is currently authorized
7 or adopted by a domestic or foreign government. The term includes a
8 monetary unit of account established by an intergovernmental organiza-
9 tion or by agreement between two or more countries. The term does not
10 include an electronic record that is a medium of exchange recorded and
11 transferable in a system that existed and operated for the medium of
12 exchange before the medium of exchange was authorized or adopted by the
13 government.

14 (27) "Person" means an individual, corporation, business trust,
15 estate, trust, partnership, limited liability company, association,
16 joint venture, government, governmental subdivision, agency, [~~or instru-~~
17 ~~mentality, public corporation,~~] or any other legal or commercial entity.
18 The term includes a protected series, however denominated, of an entity
19 if the protected series is established under law other than this act
20 that limits, or limits if conditions specified under the law are satis-
21 fied, the ability of a creditor of the entity or of any other protected
22 series of the entity to satisfy a claim from assets of the protected
23 series.

24 (36) "Send", in connection with a [~~writing,~~] record[~~, or notice~~] or
25 notification means:

26 (A) to deposit in the mail [~~or~~], deliver for transmission, or transmit
27 by any other usual means of communication with postage or cost of trans-
28 mission provided for [~~and properly~~], addressed [~~and, in the case of an~~
29 ~~instrument, to an address specified thereon or otherwise agreed, or if~~
30 ~~there be none~~] to any address reasonable under the circumstances; or

31 (B) [~~in any other way~~] to cause the record or notification to be
32 received [~~any record or notice~~] within the time it would have [~~arrived~~]
33 been received if properly sent pursuant to subparagraph (A).

34 (37) [~~"Signed" includes using any symbol executed or adopted with~~
35 ~~present intention to adopt or accept a writing.~~] "Sign" means, with
36 present intent to authenticate or adopt a record:

37 (A) execute or adopt a tangible symbol; or

38 (B) attach to or logically associate with the record an electronic
39 symbol, sound, or process.

40 "Signed, "signing", and "signature" have corresponding meanings.

41 § 2. Section 1--204 of the uniform commercial code, as added by chap-
42 ter 505 of the laws of 2014, is amended to read as follows:
43 Section 1--204. Value.

44 Except as otherwise provided in articles 3, 4, [~~and~~] 5, and 12 of this
45 act a person gives value for rights if the person acquires them:

46 (a) in return for a binding commitment to extend credit or for the
47 extension of immediately available credit, whether or not drawn upon and
48 whether or not a charge-back is provided for in the event of difficul-
49 ties in collection;

50 (b) as security for, or in total or partial satisfaction of, a preex-
51 isting claim;

52 (c) by accepting delivery under a preexisting contract for purchase;
53 or

54 (d) in return for any consideration sufficient to support a simple
55 contract.

1 § 3. Subsection (c) of section 1--301 of the uniform commercial code,
2 as added by chapter 505 of the laws of 2014, is amended to read as
3 follows:

4 (c) If one of the following provisions of this act specifies the
5 applicable law, that provision governs and a contrary agreement is
6 effective only to the extent permitted by the law so specified:

- 7 (1) Section 2--402;
- 8 (2) Sections 2-A--105 and 2-A--106;
- 9 (3) Section 4--102;
- 10 (4) Section 4-A--507;
- 11 (5) Section 5--116;
- 12 (6) Section 8--110; ~~[and]~~
- 13 (7) Sections 9--301 through 9--307; and
- 14 (8) Section 12--107.

15 § 4. Section 1--306 of the uniform commercial code, as added by chap-
16 ter 505 of the laws of 2014, is amended to read as follows:

17 Section 1--306. Waiver or Renunciation of Claim or Right After Breach.

18 A claim or right arising out of an alleged breach may be discharged in
19 whole or in part without consideration by agreement of the aggrieved
20 party in ~~[an authenticated]~~ a signed record.

21 § 5. Section 2--102 of the uniform commercial code is amended to read
22 as follows:

23 Section 2--102. Scope; Certain Security and Other Transactions Excluded
24 From This Article.

25 (1) Unless the context otherwise requires, and except as provided in
26 subsection (3), this Article applies to transactions in goods~~[, it does~~
27 ~~not apply to any transaction which although in the form of an uncondi-~~
28 ~~tional contract to sell or present sale is intended to operate only as a~~
29 ~~security transaction nor does this Article impair or repeal any statute~~
30 ~~regulating sales to consumers, farmers or other specified classes of~~
31 ~~buyers], it applies to the extent provided in subsection (2).~~

32 (2) In a hybrid transaction:

33 (a) If the sale-of-goods aspects do not predominate, only the
34 provisions of this Article which relate primarily to the sale-of-goods
35 aspects of the transaction apply, and the provisions that relate prima-
36 rily to the transaction as a whole do not apply.

37 (b) If the sale-of-goods aspects predominate, this Article applies to
38 the transaction but does not preclude application in appropriate circum-
39 stances of other law to aspects of the transaction which do not relate
40 to the sale of goods.

41 (3) This Article does not:

42 (a) apply to a transaction that, even though in the form of an uncon-
43 ditional contract to sell or present sale, operates only to create a
44 security interest; or

45 (b) impair or repeal a statute regulating sales to consumers, farmers,
46 or other specified classes of buyers.

47 § 6. Section 2--106 of the uniform commercial code is amended to read
48 as follows:

49 Section 2--106. Definitions. "Contract"; "Agreement"; "Contract for
50 Sale"; "Sale"; "Present Sale"; "Conforming" to
51 Contract; "Termination"; "Cancellation"; "Hybrid Tran-
52 saction".

53 (1) In this Article, unless the context otherwise requires, "contract"
54 and "agreement" are limited to those relating to the present or future
55 sale of goods. "Contract for sale" includes both a present sale of goods
56 and a contract to sell goods at a future time. A "sale" consists in the

1 passing of title from the seller to the buyer for a price (Section
2 2--401). A "present sale" means a sale which is accomplished by the
3 making of the contract.

4 (2) Goods or conduct including any part of a performance are "conform-
5 ing" or conform to the contract when they are in accordance with the
6 obligations under the contract.

7 (3) "Termination" occurs when either party pursuant to a power created
8 by agreement or law puts an end to the contract otherwise than for its
9 breach. On "termination" all obligations which are still executory on
10 both sides are discharged but any right based on prior breach or
11 performance survives.

12 (4) "Cancellation" occurs when either party puts an end to the
13 contract for breach by the other and its effect is the same as that of
14 "termination" except that the cancelling party also retains any remedy
15 for breach of the whole contract or any unperformed balance.

16 (5) "Hybrid transaction" means a single transaction involving a sale
17 of goods and:

18 (a) the provision of services;

19 (b) a lease of other goods; or

20 (c) a sale, lease, or license of property other than goods.

21 § 7. Subsections 1 and 2 of section 2--201 of the uniform commercial
22 code are amended to read as follows:

23 (1) Except as otherwise provided in this section a contract for the
24 sale of goods for the price of \$500 or more is not enforceable by way of
25 action or defense unless there is [~~some writing~~] a record sufficient to
26 indicate that a contract for sale has been made between the parties and
27 signed by the party against whom enforcement is sought or by [~~his~~] the
28 party's authorized agent or broker. A writing is not insufficient
29 because it omits or incorrectly states a term agreed upon but the
30 contract is not enforceable under this [~~paragraph~~] subsection beyond the
31 quantity of goods shown in [~~such writing~~] the record.

32 (2) Between merchants if within a reasonable time a [~~writing~~] record
33 in confirmation of the contract and sufficient against the sender is
34 received and the party receiving it has reason to know its contents, it
35 satisfies the requirements of subsection (1) against [~~such~~] the party
36 unless written notice in a record of objection to its contents is given
37 within ten days after it is received.

38 § 8. Section 2--202 of the uniform commercial code, as amended by
39 chapter 505 of the laws of 2014, is amended to read as follows:

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

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

47 (a) by course of performance, course of dealing, or usage of trade
48 (Section 1--303); and

49 (b) by evidence of consistent additional terms unless the court finds
50 the [~~writing~~] record to have been intended also as a complete and exclu-
51 sive statement of the terms of the agreement.

52 § 9. Section 2--203 of the uniform commercial code is amended to read
53 as follows:

54 Section 2--203. Seals Inoperative.

55 The affixing of a seal to a [~~writing~~] record evidencing a contract for
56 sale or an offer to buy or sell goods does not constitute the [~~writing~~]

1 record a sealed instrument and the law with respect to sealed instru-
2 ments does not apply to such a contract or offer.

3 § 10. Section 2--205 of the uniform commercial code is amended to read
4 as follows:

5 Section 2--205. Firm Offers.

6 An offer by a merchant to buy or sell goods in a signed [~~writing~~]
7 record which by its terms gives assurance that it will be held open is
8 not revocable, for lack of consideration, during the time stated or if
9 no time is stated for a reasonable time, but in no event may such period
10 of irrevocability exceed three months; but any such term of assurance on
11 a form supplied by the offeree must be separately signed by the offeror.

12 § 11. Subsection 2 of section 2--209 of the uniform commercial code is
13 amended to read as follows:

14 (2) A signed agreement which excludes modification or rescission
15 except by a signed writing or other signed record cannot be otherwise
16 modified or rescinded, but except as between merchants such a require-
17 ment on a form supplied by the merchant must be separately signed by the
18 other party.

19 § 12. Section 2-A-102 of the uniform commercial code, as added by
20 chapter 114 of the laws of 1994, is amended to read as follows:
21 Section 2-A-102. Scope.

22 (1) This Article applies to any transaction, regardless of form, that
23 creates a lease and, in the case of a hybrid lease, it applies to the
24 extent provided in subsection (2).

25 (2) In a hybrid lease:

26 (a) if the lease-of-goods aspects do not predominate:

27 (i) only the provisions of this article which relate primarily to the
28 lease-of-goods aspects of the transaction apply, and the provisions that
29 relate primarily to the transaction as a whole do not apply;

30 (ii) Section 2-A-209 applies if the lease is a finance lease; and

31 (iii) Section 2-A-407 applies to the promises of the lessee in a
32 finance lease to the extent the promises are consideration for the right
33 to possession and use of the leased goods; and

34 (b) if the lease-of-goods aspects predominate, this Article applies to
35 the transaction, but does not preclude application in appropriate
36 circumstances of other law to aspects of the lease which do not relate
37 to the lease of goods.

38 § 13. Subsection 1 of section 2-A-103 of the uniform commercial code
39 is amended by adding a new paragraph (h-1) to read as follows:

40 (h-1) "Hybrid lease" means a single transaction involving a lease of
41 goods and:

42 (i) the provision of services;

43 (ii) a sale of other goods; or

44 (iii) a sale, lease, or license of property other than goods.

45 § 14. Section 2-A-107 of the uniform commercial code, as added by
46 chapter 114 of the laws of 1994, is amended to read as follows:

47 Section 2-A-107. Waiver or Renunciation of Claim or Right After Default.

48 Any claim or right arising out of an alleged default or breach of
49 warranty may be discharged in whole or in part without consideration by
50 a [~~written~~] waiver or renunciation in a signed [~~and~~] record delivered by
51 the aggrieved party.

52 § 15. Subsections 1, 3 and 5 of section 2-A-201 of the uniform commer-
53 cial code, as added by chapter 114 of the laws of 1994, are amended to
54 read as follows:

55 (1) A lease contract is not enforceable by way of action or defense
56 unless:

1 (a) the total payments to be made under the lease contract,
2 excluding payments for options to renew or buy, are less than
3 \$1,000; or

4 (b) there is a [writing] record, signed by the party against whom
5 enforcement is sought or by that party's authorized agent,
6 sufficient to indicate that a lease contract has been made
7 between the parties and to describe the goods leased and the
8 lease term.

9 (3) A [writing] record is not insufficient because it omits or incor-
10 rectly states a term agreed upon, but the lease contract is not enforce-
11 able under subsection (1)(b) beyond the lease term and the quantity of
12 goods shown in the [writing] record.

13 (5) The lease term under a lease contract referred to in subsection
14 (4) is:

15 (a) if there is a [writing] record signed by the party against
16 whom enforcement is sought or by that party's authorized
17 agent specifying the lease term, the term so specified;

18 (b) if the party against whom enforcement is sought admits in
19 that party's pleading, testimony, or otherwise in court a
20 lease term, the term so admitted; or

21 (c) a reasonable lease term.

22 § 16. Section 2-A-202 of the uniform commercial code, as added by
23 chapter 114 of the laws of 1994, is amended to read as follows:

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

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

31 (a) by course of dealing or usage of trade or by course of
32 performance; and

33 (b) by evidence of consistent additional terms unless the court
34 finds the [writing] record to have been intended also as a
35 complete and exclusive statement of the terms of the agree-
36 ment.

37 § 17. Section 2-A-203 of the uniform commercial code, as added by
38 chapter 114 of the laws of 1994, is amended to read as follows:

39 Section 2-A-203. Seals Inoperative.

40 The affixing of a seal to a [writing] record evidencing a lease
41 contract or an offer to enter into a lease contract does not render the
42 [writing] record a sealed instrument and the law with respect to sealed
43 instruments does not apply to the lease contract or offer.

44 § 18. Section 2-A-205 of the uniform commercial code, as added by
45 chapter 114 of the laws of 1994, is amended to read as follows:

46 Section 2-A-205. Firm Offers.

47 An offer by a merchant to lease goods to or from another person in a
48 signed [writing] record that by its terms gives assurance it will be
49 held open is not revocable, for lack of consideration, during the time
50 stated or, if no time is stated, for a reasonable time, but in no event
51 may the period of irrevocability exceed three months. Any such term of
52 assurance on a form supplied by the offeree must be separately signed by
53 the offeror.

54 § 19. Subsection 2 of section 2-A-208 of the uniform commercial code,
55 as added by chapter 114 of the laws of 1994, is amended to read as
56 follows:

1 (2) A signed lease agreement that excludes modification or rescission
2 except by a signed [~~writing~~ record] may not be otherwise modified or
3 rescinded, but, except as between merchants, such a requirement on a
4 form supplied by a merchant must be separately signed by the other
5 party.

6 § 20. Paragraph (a) of subsection 1 of section 3--102 of the uniform
7 commercial code is amended to read as follows:

8 (a) "Issue" means:

9 (i) the first delivery of an instrument to a holder or a
10 remitter; or

11 (ii) if agreed by the payee, the first transmission by the
12 drawer to the payee of an image of an item and information
13 derived from the item that enables the depository bank to
14 collect the item by transferring or presenting under federal
15 law an electronic check.

16 § 21. Paragraph (g) of subsection 1 of section 3--112 of the uniform
17 commercial code is amended and two new paragraphs (h) and (i) are
18 added to read as follows:

19 (g) a statement in a draft drawn in a set of parts (Section
20 3--801) to the effect that the order is effective only if no
21 other part has been honored[~~+~~]; or

22 (h) a term that specifies the law that governs the promise or
23 order; or

24 (i) an undertaking to resolve in a specified forum a dispute
25 concerning the promise or order.

26 § 22. Section 3--605 of the uniform commercial code is amended by
27 adding a new subsection 3 to read as follows:

28 (3) The obligation of a party to pay a check is not discharged solely
29 by destruction of the check in connection with a process in which infor-
30 mation is extracted from the check and an image of the check is made
31 and, subsequently, the information and image are transmitted for
32 payment.

33 § 23. Paragraph (a) of subsection 1 of section 4-A-103 of the uniform
34 commercial code, as amended by chapter 208 of the laws of 1990, is
35 amended to read as follows:

36 (a) "Payment order" means an instruction of a sender to a receiv-
37 ing bank, transmitted orally[~~, electronically,~~] or in [~~writ-~~
38 ~~ing~~] a record, to pay, or to cause another bank to pay, a
39 fixed or determinable amount of money to a beneficiary if:

40 (i) the instruction does not state a condition to payment to
41 the beneficiary other than time of payment,

42 (ii) the receiving bank is to be reimbursed by debiting an
43 account of, or otherwise receiving payment from, the
44 sender, and

45 (iii) the instruction is transmitted by the sender directly to
46 the receiving bank or to an agent, funds transfer system,
47 or communication system for transmittal to the receiving
48 bank.

49 § 24. Section 4-A-201 of the uniform commercial code, as added by
50 chapter 208 of the laws of 1990, is amended to read as follows:

51 Section 4-A-201. Security Procedure.

52 "Security procedure" means a procedure established by agreement of a
53 customer and a receiving bank for the purpose of (1) verifying that a
54 payment order or communication amending or cancelling a payment order is
55 that of the customer, or (2) detecting error in the transmission or the
56 content of the payment order or communication. A security procedure may

1 impose an obligation on the receiving bank or the customer and may
2 require the use of algorithms or other codes, identifying words [~~or~~],
3 numbers, symbols, sounds, biometrics, encryption, callback procedures,
4 or similar security devices. Comparison of a signature on a payment
5 order or communication with an authorized specimen signature of the
6 customer or requiring a payment order to be sent from a known email
7 address, IP address, or telephone number is not by itself a security
8 procedure.

9 § 25. Subsections 2 and 3 of section 4-A-202 of the uniform commercial
10 code, as added by chapter 208 of the laws of 1990, are amended to read
11 as follows:

12 (2) If a bank and its customer have agreed that the authenticity of
13 payment orders issued to the bank in the name of the customer as sender
14 will be verified pursuant to a security procedure, a payment order
15 received by the receiving bank is effective as the order of the custom-
16 er, whether or not authorized, if (a) the security procedure is a
17 commercially reasonable method of providing security against unauthor-
18 ized payment orders, and (b) the bank proves that it accepted the
19 payment order in good faith and in compliance with the bank's obli-
20 gations under the security procedure and any [~~written~~] agreement or
21 instruction of the customer, evidenced by a record, restricting accept-
22 ance of payment orders issued in the name of the customer. The bank is
23 not required to follow an instruction that violates [~~a written~~] an
24 agreement with the customer, evidenced by a record, or notice of which
25 is not received at a time and in a manner affording the bank a reason-
26 able opportunity to act on it before the payment order is accepted.

27 (3) Commercial reasonableness of a security procedure is a question of
28 law to be determined by considering the wishes of the customer expressed
29 to the bank, the circumstances of the customer known to the bank,
30 including the size, type, and frequency of payment orders normally
31 issued by the customer to the bank, alternative security procedures
32 offered to the customer, and security procedures in general use by
33 customers and receiving banks similarly situated. A security procedure
34 is deemed to be commercially reasonable if (a) the security procedure
35 was chosen by the customer after the bank offered, and the customer
36 refused, a security procedure that was commercially reasonable for that
37 customer, and (b) the customer expressly agreed in [~~writing~~] a record to
38 be bound by any payment order, whether or not authorized, issued in its
39 name and accepted by the bank in compliance with the bank's obligations
40 under the security procedure chosen by the customer.

41 § 26. Subsection 1 of section 4-A-203 of the uniform commercial code,
42 as added by chapter 208 of the laws of 1990, is amended to read as
43 follows:

44 (1) If an accepted payment order is not, under subsection (1) of
45 Section 4-A-202, an authorized order of a customer identified as sender,
46 but is effective as an order of the customer pursuant to subsection (2)
47 of Section 4-A-202, the following rules apply:

48 (a) By express [~~written~~] agreement evidenced by a record, the
49 receiving bank may limit the extent to which it is entitled
50 to enforce or retain payment of the payment order.

51 (b) The receiving bank is not entitled to enforce or retain
52 payment of the payment order if the customer proves that the
53 order was not caused, directly or indirectly, by a person (i)
54 entrusted at any time with duties to act for the customer
55 with respect to payment orders or the security procedure, or
56 (ii) who obtained access to transmitting facilities of the

1 customer or who obtained, from a source controlled by the
2 customer and without authority of the receiving bank, infor-
3 mation facilitating breach of the security procedure, regard-
4 less of how the information was obtained or whether the
5 customer was at fault. Information includes any access
6 device, computer software, or the like.

7 § 27. Subsection 3 of section 4-A-207 of the uniform commercial code,
8 as added by chapter 208 of the laws of 1990, is amended to read as
9 follows:

10 (3) If (i) a payment order described in subsection (2) is accepted,
11 (ii) the originator's payment order described the beneficiary inconsist-
12 ently by name and number, and (iii) the beneficiary's bank pays the
13 person identified by number as permitted by paragraph (a) of subsection
14 (2), the following rules apply:

15 (a) If the originator is a bank, the originator is obliged to pay
16 its order.

17 (b) If the originator is not a bank and proves that the person
18 identified by number was not entitled to receive payment from
19 the originator, the originator is not obliged to pay its
20 order unless the originator's bank proves that the origina-
21 tor, before acceptance of the originator's order, had notice
22 that payment of a payment order issued by the originator
23 might be made by the beneficiary's bank on the basis of an
24 identifying or bank account number even if it identifies a
25 person different from the named beneficiary. Proof of notice
26 may be made by any admissible evidence. The originator's bank
27 satisfies the burden of proof if it proves that the origina-
28 tor, before the payment order was accepted, signed a [~~writ-~~
29 ~~ing~~] record stating the information to which the notice
30 relates.

31 § 28. Paragraph (b) of subsection 2 of section 4-A-208 of the uniform
32 commercial code, as added by chapter 208 of the laws of 1990, is amended
33 to read as follows:

34 (b) If the sender is not a bank and the receiving bank proves
35 that the sender, before the payment order was accepted, had
36 notice that the receiving bank might rely on the number as
37 the proper identification of the intermediary or benefici-
38 ary's bank even if it identifies a person different from the
39 bank identified by name, the rights and obligations of the
40 sender and the receiving bank are governed by paragraph (a)
41 of subsection (2), as though the sender were a bank. Proof of
42 notice may be made by any admissible evidence. The receiving
43 bank satisfies the burden of proof if it proves that the
44 sender, before the payment order was accepted, signed a
45 [~~writing~~] record stating the information to which the notice
46 relates.

47 § 29. Subsection 1 of section 4-A-210 of the uniform commercial code,
48 as added by chapter 208 of the laws of 1990, is amended to read as
49 follows:

50 (1) A payment order is rejected by the receiving bank by a notice of
51 rejection transmitted to the sender orally, [~~electronically,~~] or in
52 [~~writing~~] a record. A notice of rejection need not use any particular
53 words and is sufficient if it indicates that the receiving bank is
54 rejecting the order or will not execute or pay the order. Rejection is
55 effective when the notice is given if transmission is by a means that is
56 reasonable in the circumstances. If notice of rejection is given by a

1 means that is not reasonable, rejection is effective when the notice is
2 received. If an agreement of the sender and receiving bank establishes
3 the means to be used to reject a payment order, (i) any means complying
4 with the agreement is reasonable and (ii) any means not complying is not
5 reasonable unless no significant delay in receipt of the notice resulted
6 from the use of the noncomplying means.

7 § 30. Subsection 1 of section 4-A-211 of the uniform commercial code,
8 as added by chapter 208 of the laws of 1990, is amended to read as
9 follows:

10 (1) A communication of the sender of a payment order cancelling or
11 amending the order may be transmitted to the receiving bank orally[~~7~~
12 ~~electronically,~~] or in [~~writing~~] a record. If a security procedure is in
13 effect between the sender and the receiving bank, the communication is
14 not effective to cancel or amend the order unless the communication is
15 verified pursuant to the security procedure or the bank agrees to the
16 cancellation or amendment.

17 § 31. Subsections 3 and 4 of section 4-A-305 of the uniform commercial
18 code, as added by chapter 208 of the laws of 1990, are amended to read
19 as follows:

20 (3) In addition to the amounts payable under subsections (1) and (2),
21 damages, including consequential damages, are recoverable to the extent
22 provided in an express [~~written~~] agreement of the receiving bank,
23 evidenced by a record.

24 (4) If a receiving bank fails to execute a payment order it was
25 obliged by express agreement to execute, the receiving bank is liable to
26 the sender for its expenses in the transaction and for incidental
27 expenses and interest losses resulting from the failure to execute.
28 Additional damages, including consequential damages, are recoverable to
29 the extent provided in an express [~~written~~] agreement of the receiving
30 bank, evidenced by a record, but are not otherwise recoverable.

31 § 32. Section 5--104 of the uniform commercial code, as added by chap-
32 ter 471 of the laws of 2000, is amended to read as follows:
33 Section 5--104. Formal requirements.

34 A letter of credit, confirmation, advice, transfer, amendment, or
35 cancellation may be issued in any form that is a signed record [~~and is~~
36 ~~authenticated:~~

37 ~~(a) by a signature, or~~

38 ~~(b) in accordance with the agreement of the parties or the standard~~
39 ~~practice referred to in subsection (c) of section 5--108].~~

40 § 33. Section 5--116 of the uniform commercial code, as added by chap-
41 ter 471 of the laws of 2000, is amended to read as follows:
42 Section 5--116. Choice of law and forum.

43 (a) The liability of an issuer, nominated person, or adviser for
44 action or omission is governed by the law of the jurisdiction chosen by
45 an agreement in the form of a record signed [~~or otherwise authenticated~~]
46 by the affected parties [~~in the manner provided in section 5--104~~] or by
47 a provision in the person's letter of credit, confirmation, or other
48 undertaking. The jurisdiction whose law is chosen need not bear any
49 relation to the transaction.

50 (b) Unless subsection (a) of this section applies, the liability of an
51 issuer, nominated person, or adviser for action or omission is governed
52 by the law of the jurisdiction in which the person is located. The
53 person is considered to be located at the address indicated in the
54 person's undertaking. If more than one address is indicated, the person
55 is considered to be located at the address from which the person's
56 undertaking was issued. For the purpose of jurisdiction, choice of law,

1 and recognition of interbranch letters of credit, but not enforcement of
2 a judgement, all branches of a bank are considered separate juridical
3 entities and a bank is considered to be located at the place where its
4 relevant branch is considered to be located under ~~[this]~~ subsection (c).

5 (c) A branch of a bank is considered to be located at the address
6 indicated in the branch's undertaking. If more than one address is
7 indicated, the branch is considered to be located at the address from
8 which the undertaking was issued.

9 (d) Except as otherwise provided in this subsection, the liability of
10 an issuer, nominated person, or adviser is governed by any rules of
11 custom or practice, such as the uniform customs and practice for docu-
12 mentary credits, to which the letter of credit, confirmation, or other
13 undertaking is expressly made subject. If (1) this article would govern
14 the liability of an issuer, nominated person, or adviser under
15 subsection (a) or (b) of this section, (2) the relevant undertaking
16 incorporates rules of custom or practice, and (3) there is conflict
17 between this article and those rules as applied to that undertaking,
18 those rules govern except to the extent of any conflict with the nonvar-
19 iable provisions specified in subsection (c) of section 5--103.

20 ~~[(d)]~~ (e) If there is conflict between this article and article 3, 4,
21 4-A or 9, this article governs.

22 ~~[(e)]~~ (f) The forum for settling disputes arising out of an undertak-
23 ing within this article may be chosen in the manner and with the binding
24 effect that governing law may be chosen in accordance with subsection
25 (a) of this section.

26 § 34. Paragraph 11 of subsection (a) of section 7--102 of the uniform
27 commercial code, as added by chapter 505 of the laws of 2014, is amended
28 to read as follows:

29 (11) ~~["Sign" means, with present intent to authenticate or adopt a~~
30 ~~record.~~

31 ~~(A) to execute or adopt a tangible symbol, or~~
32 ~~(B) to attach to or logically associate with the record an electronic~~
33 ~~sound, symbol, or process] Reserved.~~

34 § 35. Section 7--106 of the uniform commercial code, as added by chap-
35 ter 505 of the laws of 2014, is amended to read as follows:
36 Section 7--106. Control of Electronic Document of Title.

37 (a) A person has control of an electronic document of title if a
38 system employed for evidencing the transfer of interests in the elec-
39 tronic document reliably establishes that person as the person to which
40 the electronic document was issued or transferred.

41 (b) A system satisfies subsection (a), and a person ~~[is deemed to~~
42 ~~have]~~ has control of an electronic document of title, if the document is
43 created, stored and [assigned] transferred in ~~[such]~~ a manner that:

44 (1) a single authoritative copy of the document exists which is
45 unique, identifiable, and, except as otherwise provided in paragraphs
46 (4), (5), and (6), unalterable;

47 (2) the authoritative copy identifies the person asserting control as:

48 (A) the person to which the document was issued; or

49 (B) if the authoritative copy indicates that the document has been
50 transferred, the person to which the document was most recently trans-
51 ferred;

52 (3) the authoritative copy is communicated to and maintained by the
53 person asserting control or its designated custodian;

54 (4) copies or amendments that add or change an identified ~~[assignee]~~
55 transferee of the authoritative copy can be made only with the consent
56 of the person asserting control;

1 (5) each copy of the authoritative copy and any copy of a copy is
2 readily identifiable as a copy that is not the authoritative copy; and
3 (6) any amendment of the authoritative copy is readily identifiable as
4 authorized or unauthorized.

5 (c) A system satisfies subsection (a), and a person has control of an
6 electronic document of title, if an authoritative electronic copy of the
7 document, a record attached to or logically associated with the elec-
8 tronic copy, or a system in which the electronic copy is recorded:

9 (1) enables the person readily to identify each electronic copy as
10 either an authoritative copy or a nonauthoritative copy;

11 (2) enables the person readily to identify itself in any way, includ-
12 ing by name, identifying number, cryptographic key, office, or account
13 number, as the person to which each authoritative electronic copy was
14 issued or transferred; and

15 (3) gives the person exclusive power, subject to subsection (d), to:

16 (A) prevent others from adding or changing the person to which each
17 authoritative electronic copy has been issued or transferred; and

18 (B) transfer control of each authoritative electronic copy.

19 (d) Subject to subsection (e), a power is exclusive under subsection
20 (c) (3) (A) even if:

21 (1) the authoritative electronic copy, a record attached to or
22 logically associated with the authoritative electronic copy, or a system
23 in which the authoritative electronic copy is recorded limits the use of
24 the document of title or has a protocol that is programmed to cause a
25 change, including a transfer or loss of control; or

26 (2) the power is shared with another person.

27 (e) A power of a person is not shared with another person under
28 subsection (d) (2) and the person's power is not exclusive if:

29 (1) the person can exercise the power only if the power also is exer-
30 cised by the other person; and

31 (2) the other person:

32 (A) can exercise the power without exercise of the power by the
33 person; or

34 (B) is the transferor to the person of an interest in the document of
35 title.

36 (f) If a person has the powers specified in subsection (c) (3) (A) and
37 (B), the powers are presumed to be exclusive.

38 (g) A person has control of an electronic document of title if another
39 person, other than the transferor to the person of an interest in the
40 document:

41 (1) has control of the document and acknowledges that it has control
42 on behalf of the person; or

43 (2) obtains control of the document after having acknowledged that it
44 will obtain control of the document on behalf of the person.

45 (h) A person that has control under this section is not required to
46 acknowledge that it has control on behalf of another person.

47 (i) If a person acknowledges that it has or will obtain control on
48 behalf of another person, unless the person otherwise agrees or law
49 other than this article or Article 9 otherwise provides, the person does
50 not owe any duty to the other person and is not required to confirm the
51 acknowledgment to any other person.

52 § 36. Paragraph 6 of subsection (a) of section 8--102 of the uniform
53 commercial code, as added by chapter 566 of the laws of 1997, is amended
54 to read as follows:

55 (6) "Communicate" means to:

56 (i) send a signed ~~writing~~ record; or

1 (ii) transmit information by any mechanism agreed upon by
 2 the persons transmitting and receiving the information.
 3 § 37. Subsections (b) and (e) of section 8--102 of the uniform commer-
 4 cial code, subsection (b) as added by chapter 566 of the laws of 1997
 5 and subsection (e) as added by chapter 84 of the laws of 2001, are
 6 amended to read as follows:

7 (b) Other definitions applying to this Article and the sections in
 8 which they appear are:

9	"Appropriate person".	Section 8--107.
10	"Control".	Section 8--106.
11	<u>"Controllable account".</u>	<u>Section 9--102.</u>
12	<u>"Controllable electronic record".</u>	<u>Section 12--102.</u>
13	<u>"Controllable payment intangible".</u>	<u>Section 9--102.</u>
14	"Delivery".	Section 8--301.
15	"Investment company security".	Section 8--103.
16	"Issuer".	Section 8--201.
17	"Overissue".	Section 8--210.
18	"Protected purchaser".	Section 8--303.
19	"Securities account".	Section 8--501.

20 (e) The following definitions in Article 9 apply to this article:

21	Cooperative interest	Section [9--102(a)(27-b)]
22		<u>9--102(a)(27-d)</u>
23	Cooperative organization	Section [9--102(a)(27-e)]
24		<u>9--102(a)(27-e)</u>
25	Cooperative record	Section [9--102(a)(27-e)]
26		<u>9--102(a)(27-g)</u>

27 § 38. Section 8--103 of the uniform commercial code is amended by
 28 adding a new subsection (i) to read as follows:

29 (i) A controllable account, controllable electronic record, or
 30 controllable payment intangible is not a financial asset unless Section
 31 8--102(a)(9)(iii) applies.

32 § 39. Subsection (d) of section 8--106 of the uniform commercial code,
 33 as amended by chapter 84 of the laws of 2001, is amended and two new
 34 subsections (j) and (k) are added to read as follows:

35 (d) A purchaser has "control" of a security entitlement if:

36 (1) the purchaser becomes the entitlement holder;
 37 (2) the securities intermediary has agreed that it will comply
 38 with entitlement orders originated by the purchaser without
 39 further consent by the entitlement holder; or

40 (3) another person, other than the transferor to the purchaser of
 41 an interest in the security entitlement:

42 (A) has control of the security entitlement on behalf of the
 43 purchaser or, having previously acquired control of the secu-
 44 rity entitlement, acknowledges that it has control on behalf
 45 of the purchaser[+];

46 (B) has control of the security entitlement and acknowledges that
 47 it has control on behalf of the purchaser; or

48 (C) obtains control of the security entitlement after having
 49 acknowledged that it will obtain control of the security
 50 entitlement on behalf of the purchaser.

51 (j) A person that has control under this section is not required to
 52 acknowledge that it has control on behalf of a purchaser.

53 (k) If a person acknowledges that it has or will obtain control on
 54 behalf of a purchaser, unless the person otherwise agrees or law other
 55 than this article or Article 9 otherwise provides, the person does not

1 owe any duty to the purchaser and is not required to confirm the
2 acknowledgment to any other person.

3 § 40. Section 8--110 of the uniform commercial code is amended by
4 adding a new subsection (g) to read as follows:

5 (g) The local law of the issuer's jurisdiction or the securities
6 intermediary's jurisdiction governs a matter or transaction specified in
7 subsection (a) or (b) even if the matter or transaction does not bear
8 any relation to the jurisdiction.

9 § 41. Subsection (b) of section 8--303 of the uniform commercial code,
10 as added by chapter 566 of the laws of 1997, is amended to read as
11 follows:

12 (b) [~~In addition to acquiring the rights of a purchaser, a~~] A
13 protected purchaser also acquires its interest in the security free of
14 any adverse claim.

15 § 42. Paragraphs 2, 3, 4, 7, 11, 27-a, 27-b, 27-c, 27-d, 27-e, 27-f,
16 31, 42, 47, 61, 66, 66-a, 75 and 79 of subsection (a) of section 9--102
17 of the uniform commercial code, as amended by chapter 505 of the laws of
18 2014, are amended, and five new paragraphs 7-a, 7-b, 31-a, 54-a and 79-a
19 are added to read as follows:

20 (2) "Account", except as used in "account for", means a right to
21 payment of a monetary obligation, whether or not earned by
22 performance, (i) for property that has been or is to be sold,
23 leased, licensed, assigned, or otherwise disposed of, (ii)
24 for services rendered or to be rendered, (iii) for a policy
25 of insurance issued or to be issued, (iv) for a secondary
26 obligation incurred or to be incurred, (v) for energy
27 provided or to be provided, (vi) for the use or hire of a
28 vessel under a charter or other contract, (vii) arising out
29 of the use of a credit or charge card or information
30 contained on or for use with the card, or (viii) as winnings
31 in a lottery or other game of chance operated or sponsored by
32 a state, governmental unit of a State, or person licensed or
33 authorized to operate the game by a State or governmental
34 unit of a State. The term includes health-care-insurance
35 receivables. The term does not include (i) [~~rights to payment~~
36 ~~evidenced by~~] chattel paper [~~or an instrument~~], (ii) commer-
37 cial tort claims, (iii) deposit accounts, (iv) investment
38 property, (v) letter-of-credit rights or letters of credit,
39 or (vi) rights to payment for money or funds advanced or
40 sold, other than rights arising out of the use of a credit or
41 charge card or information contained on or for use with the
42 card.

43 (3) "Account debtor" means a person obligated on an account,
44 chattel paper, or general intangible. The term does not
45 include persons obligated to pay a negotiable instrument,
46 even if the instrument [~~constitutes part of~~] evidences chat-
47 tel paper.

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

50 (A) [~~authenticated~~] signed by a secured party;

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

54 (C) identifying the components of the obligations in reason-
55 able detail.

56 (7) [~~"Authenticate" means:~~

~~(A) to sign, or
(B) with present intent to adopt or accept a record, to
attach to or logically associate with the record an elec-
tronic sound, symbol, or process] Reserved.~~

(7-a) "Assignee", except as used in "assignee for benefit of creditors", means a person (A) in whose favor a security interest that secures an obligation is created or provided for under a security agreement, whether or not the obligation is outstanding or (B) to which an account, chattel paper, payment intangible, or promissory note has been sold. The term includes a person to which a security interest has been transferred by a secured party.

(7-b) "Assignor" means a person that (A) under a security agreement creates or provides for a security interest that secures an obligation or (B) sells an account, chattel paper, payment intangible, or promissory note. The term includes a secured party that has transferred a security interest to another person.

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

(A) a right to payment of a monetary obligation secured by specific goods, if the right to payment and security agreement are evidenced by a record; or

(B) a right to payment of a monetary obligation owed by a lessee under a lease agreement with respect to specific goods and a monetary obligation owed by the lessee in connection with the transaction giving rise to the lease, if:

(i) the right to payment and lease agreement are evidenced by a record; and

(ii) the predominant purpose of the transaction giving rise to the lease was to give the lessee the right to possession and use of the goods; but

(C) does not include a right to payment arising out of a charter or other contract involving the use or hire of a vessel or a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(27-a) "Controllable account" means an account evidenced by a controllable electronic record that provides that the account debtor undertakes to pay the person that has

- 1 control under Section 12--105 of the controllable elec-
2 tronic record.
- 3 (27-b) "Controllable payment intangible" means a payment intangi-
4 ble evidenced by a controllable electronic record that
5 provides that the account debtor undertakes to pay the
6 person that has control under Section 12--105 of the
7 controllable electronic record.
- 8 (27-c) "Cooperative addendum" means a record that satisfies
9 Section 9--502(e).
- 10 [~~(27-b)~~] (27-d) "Cooperative interest" means an ownership inter-
11 est in a cooperative organization, which interest, when
12 created, is coupled with possessory rights of a propri-
13 etary nature in identified physical space belonging to the
14 cooperative organization. A subsequent termination of the
15 possessory rights shall not cause an ownership interest to
16 cease being a cooperative interest.
- 17 [~~(27-c)~~] (27-e) "Cooperative organization" means an organization
18 which has as its principal asset an interest in real prop-
19 erty in this state and in which organization all ownership
20 interests are cooperative interests.
- 21 [~~(27-d)~~] (27-f) "Cooperative organization security interest"
22 means a security interest which is in a cooperative inter-
23 est, is in favor of the cooperative organization, is
24 created by the cooperative record, and secures only oblig-
25 ations incident to ownership of that cooperative inter-
26 est.
- 27 [~~(27-e)~~] (27-g) "Cooperative record" means those records which,
28 as a whole, evidence cooperative interests and define the
29 mutual rights and obligations of the owners of the cooper-
30 ative interests and the cooperative organization.
- 31 [~~(27-f)~~] (27-h) "Cooperative unit" means the physical space asso-
32 ciated with a cooperative interest.
- 33 [~~(31) "Electronic chattel paper" means chattel paper evidenced by~~
34 ~~a record or records consisting of information stored in an~~
35 ~~electronic medium.] Reserved~~
- 36 (31-a) "Electronic money" means money in an electronic form.
- 37 (42) "General intangible" means any personal property, including
38 things in action, other than accounts, chattel paper,
39 commercial tort claims, deposit accounts, documents, goods,
40 instruments, investment property, letter-of-credit rights,
41 letters of credit, money, and oil, gas, or other minerals
42 before extraction. The term includes controllable electronic
43 records, payment intangibles and software.
- 44 (47) "Instrument" means a negotiable instrument or any other
45 writing that evidences a right to the payment of a monetary
46 obligation, is not itself a security agreement or lease, and
47 is of a type that in ordinary course of business is trans-
48 ferred by delivery with any necessary indorsement or assign-
49 ment. The term does not include (i) investment property,
50 (ii) letters of credit, [~~ex~~] (iii) writings that evidence a
51 right to payment arising out of the use of a credit or
52 charge card or information contained on or for use with the
53 card, or (iv) writings that evidence chattel paper.
- 54 (54-a) "Money" has the same meaning as in Section 1--201(b)(24),
55 but does not include (A) a deposit account or (B) money in

an electronic form that cannot be subjected to control under Section 9-105A.

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

(66) "Proposal" means a record [~~authenticated~~] signed by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to Sections 9--620, 9--621, and 9--622.

(66-a) "Prove" with respect to a fact means to meet the burden of establishing the fact (Section [~~1-201(8)~~] 1--201(b)(8)).

(75) [~~"Send", in connection with a record or notification, means:~~

~~(A) to deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or~~

~~(B) to cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph (A).] Reserved.~~

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

(79-a) "Tangible money" means money in a tangible form.

§ 43. Subsection (b) of section 9--102 of the uniform commercial code is amended by adding three new definitions Controllable electronic record, Protected purchaser and Qualifying purchaser in alphabetical order to read as follows:

- "Controllable electronic record" Section 12--102.
- "Protected purchaser" Section 8--303.
- "Qualifying purchaser" Section 12--102.

§ 44. Paragraphs 2 and 5 of subsection (a) of section 9--104 of the uniform commercial code, as amended by chapter 505 of the laws of 2014, are amended to read as follows:

(2) the debtor, secured party, and bank have agreed in [~~an authenticated~~] a signed record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the deposit account without further consent by the debtor;

(5) another person, other than the debtor:

(A) has control of the deposit account and acknowledges that it has control on behalf of the secured party [~~or, having previously acquired];~~
or

(B) obtains control of the deposit account[~~, acknowledges~~] after having acknowledged that it [~~has~~] will obtain control of the deposit account on behalf of the secured party.

§ 45. Section 9--105 of the uniform commercial code, as added by chapter 84 of the laws of 2001, is amended to read as follows:

Section 9--105. Control of Electronic Copy of Record Evidencing Chattel Paper.

1 ~~[A secured party has control of electronic chattel paper if the record~~
2 ~~or records comprising the chattel paper are created, stored, and~~
3 ~~assigned in such a manner that.]~~

4 (a) General rule: control of electronic copy of record evidencing
5 chattel paper. A purchaser has control of an authoritative electronic
6 copy of a record evidencing chattel paper if a system employed for
7 evidencing the assignment of interests in the chattel paper reliably
8 establishes the purchaser as the person to which the authoritative elec-
9 tronic copy was assigned.

10 (b) Single authoritative copy. A system satisfies subsection (a) if
11 the record or records evidencing the chattel paper are created, stored,
12 and assigned in a manner that:

- 13 (1) a single authoritative copy of the record or records exists
14 which is unique, identifiable and, except as otherwise
15 provided in paragraphs (4), (5), and (6), unalterable;
- 16 (2) the authoritative copy identifies the secured party as the
17 assignee of the record or records;
- 18 (3) the authoritative copy is communicated to and maintained by
19 the secured party or its designated custodian;
- 20 (4) copies or revisions that add or change an identified assignee
21 of the authoritative copy can be made only with the partic-
22 ipation of the secured party;
- 23 (5) each copy of the authoritative copy and any copy of a copy is
24 readily identifiable as a copy that is not the authoritative
25 copy; and
- 26 (6) any revision of the authoritative copy is readily identifi-
27 able as an authorized or unauthorized revision.

28 (c) One or more authoritative copies. A system satisfies subsection
29 (a), and a purchaser has control of an authoritative electronic copy of
30 a record evidencing chattel paper, if the electronic copy, a record
31 attached to or logically associated with the electronic copy, or a
32 system in which the electronic copy is recorded:

33 (1) enables the purchaser readily to identify each electronic copy as
34 either an authoritative copy or a nonauthoritative copy;

35 (2) enables the purchaser readily to identify itself in any way,
36 including by name, identifying number, cryptographic key, office, or
37 account number, as the assignee of the authoritative electronic copy;
38 and

39 (3) gives the purchaser exclusive power, subject to subsection (d),
40 to:

41 (A) prevent others from adding or changing an identified assignee of
42 the authoritative electronic copy; and

43 (B) transfer control of the authoritative electronic copy.

44 (d) Meaning of exclusive. Subject to subsection (e), a power is exclu-
45 sive under subsection (c)(3)(A) and (B) even if:

46 (1) the authoritative electronic copy, a record attached to or
47 logically associated with the authoritative electronic copy, or a system
48 in which the authoritative electronic copy is recorded limits the use of
49 the authoritative electronic copy or has a protocol programmed to cause
50 a change, including a transfer or loss of control; or

51 (2) the power is shared with another person.

52 (e) When power not shared with another person. A power of a purchaser
53 is not shared with another person under subsection (d)(2) and the
54 purchaser's power is not exclusive if:

55 (1) the purchaser can exercise the power only if the power also is
56 exercised by the other person; and

1 (2) the other person:

2 (A) can exercise the power without exercise of the power by the
3 purchaser; or

4 (B) is the transferor to the purchaser of an interest in the chattel
5 paper.

6 (f) Presumption of exclusivity of certain powers. If a purchaser has
7 the powers specified in subsection (c)(3)(A) and (B), the powers are
8 presumed to be exclusive.

9 (g) Obtaining control through another person. A purchaser has control
10 of an authoritative electronic copy of a record evidencing chattel paper
11 if another person, other than the transferor to the purchaser of an
12 interest in the chattel paper:

13 (1) has control of the authoritative electronic copy and acknowledges
14 that it has control on behalf of the purchaser; or

15 (2) obtains control of the authoritative electronic copy after having
16 acknowledged that it will obtain control of the electronic copy on
17 behalf of the purchaser.

18 § 46. The uniform commercial code is amended by adding three new
19 sections 9--105A, 9--107A and 9--107B to read as follows:

20 Section 9--105A. Control of Electronic Money.

21 (a) General rule: control of electronic money. A person has control
22 of electronic money if:

23 (1) the electronic money, a record attached to or logically associated
24 with the electronic money, or a system in which the electronic money is
25 recorded gives the person:

26 (A) power to avail itself of substantially all the benefit from the
27 electronic money; and

28 (B) exclusive power, subject to subsection (b), to:

29 (i) prevent others from availing themselves of substantially all the
30 benefit from the electronic money; and

31 (ii) transfer control of the electronic money to another person or
32 cause another person to obtain control of other electronic money as a
33 result of the transfer of the electronic money; and

34 (2) the electronic money, a record attached to or logically associated
35 with the electronic money, or a system in which the electronic money is
36 recorded enables the person readily to identify itself in any way,
37 including by name, identifying number, cryptographic key, office, or
38 account number, as having the powers under paragraph (1).

39 (b) Meaning of exclusive. Subject to subsection (c), a power is
40 exclusive under subsection (a)(1)(B)(i) and (ii) even if:

41 (1) the electronic money, a record attached to or logically associated
42 with the electronic money, or a system in which the electronic money is
43 recorded limits the use of the electronic money or has a protocol
44 programmed to cause a change, including a transfer or loss of control;
45 or

46 (2) the power is shared with another person.

47 (c) When power not shared with another person. A power of a person is
48 not shared with another person under subsection (b)(2) and the person's
49 power is not exclusive if:

50 (1) the person can exercise the power only if the power also is exer-
51 cised by the other person; and

52 (2) the other person:

53 (A) can exercise the power without exercise of the power by the
54 person; or

55 (B) is the transferor to the person of an interest in the electronic
56 money.

1 (d) Presumption of exclusivity of certain powers. If a person has the
 2 powers specified in subsection (a)(1)(B)(i) and (ii), the powers are
 3 presumed to be exclusive.

4 (e) Control through another person. A person has control of electron-
 5 ic money if another person, other than the transferor to the person of
 6 an interest in the electronic money:

7 (1) has control of the electronic money and acknowledges that it has
 8 control on behalf of the person; or

9 (2) obtains control of the electronic money after having acknowledged
 10 that it will obtain control of the electronic money on behalf of the
 11 person.

12 Section 9--107A. Control of Controllable Electronic Record, Controllable
 13 Account, or Controllable Payment Intangible.

14 (a) Control under Section 12--105. A secured party has control of a
 15 controllable electronic record as provided in Section 12--105.

16 (b) Control of controllable account and controllable payment intangi-
 17 ble. A secured party has control of a controllable account or control-
 18 lable payment intangible if the secured party has control of the
 19 controllable electronic record that evidences the controllable account
 20 or controllable payment intangible.

21 Section 9--107B. No Requirement to Acknowledge or Confirm; No Duties.

22 (a) No requirement to acknowledge. A person that has control under
 23 Section 9--104, 9--105, or 9--105A is not required to acknowledge that
 24 it has control on behalf of another person.

25 (b) No duties or confirmation. If a person acknowledges that it has or
 26 will obtain control on behalf of another person, unless the person
 27 otherwise agrees or law other than this article otherwise provides, the
 28 person does not owe any duty to the other person and is not required to
 29 confirm the acknowledgment to any other person.

30 § 47. Subsection (b) of section 9--203 of the uniform commercial code,
 31 as added by chapter 84 of the laws of 2001 and subparagraph (D) of para-
 32 graph 3 as amended by chapter 505 of the laws of 2014, is amended to
 33 read as follows:

34 (b) Enforceability. Except as otherwise provided in subsections (c)
 35 through (i), a security interest is enforceable against the debtor and
 36 third parties with respect to the collateral only if:

- 37 (1) value has been given;
 38 (2) the debtor has rights in the collateral or the power to
 39 transfer rights in the collateral to a secured party; and
 40 (3) one of the following conditions is met:
 41 (A) the debtor has [~~authenticated~~] signed a security agree-
 42 ment that provides a description of the collateral and,
 43 if the security interest covers timber to be cut, a
 44 description of the land concerned;
 45 (B) the collateral is not a certificated security and is in
 46 the possession of the secured party under Section 9--313
 47 pursuant to the debtor's security agreement;
 48 (C) the collateral is a certificated security in registered
 49 form and the security certificate has been delivered to
 50 the secured party under Section 8--301 pursuant to the
 51 debtor's security agreement; [~~or~~]
 52 (D) the collateral is controllable accounts, controllable
 53 electronic records, controllable payment intangibles,
 54 deposit accounts, electronic [~~chattel paper~~] documents,
 55 electronic money, investment property[~~7~~] or letter-of-
 56 credit rights, [~~or electronic documents,~~] and the secured

1 party has control under Section 7--106, 9--104, 9--105,
 2 9--105A, 9--106, [~~9~~] 9--107, or 9--107A pursuant to the
 3 debtor's security agreement; or

4 (E) the collateral is chattel paper and the secured party has
 5 possession and control under Section 9--314A pursuant to
 6 the debtor's security agreement.

7 § 48. Subsection (b) of section 9--204 of the uniform commercial code,
 8 as added by chapter 84 of the laws of 2001, is amended and a new
 9 subsection (b-1) is added to read as follows:

10 (b) When after-acquired property clause not effective. [~~A~~] Subject to
 11 subsection (b-1), a security interest does not attach under a term
 12 constituting an after-acquired property clause to:

13 (1) consumer goods, other than an accession when given as addi-
 14 tional security, unless the debtor acquires rights in them
 15 within 10 days after the secured party gives value; or

16 (2) a commercial tort claim.

17 (b-1) Limitation on subsection (b). Subsection (b) does not prevent a
 18 security interest from attaching:

19 (1) to consumer goods as proceeds under Section 9--315(a) or
 20 commingled goods under Section 9--336(c);

21 (2) to a commercial tort claim as proceeds under Section
 22 9--315(a); or

23 (3) under an after-acquired property clause to property that is
 24 proceeds of consumer goods or a commercial tort claim.

25 § 49. Subsection (c) of section 9--207 of the uniform commercial code,
 26 as amended by chapter 505 of the laws of 2014, is amended to read as
 27 follows:

28 (c) Duties and rights when secured party in possession or control.
 29 Except as otherwise provided in subsection (d), a secured party having
 30 possession of collateral or control of collateral under Section 7--106,
 31 9--104, 9--105, 9--105A, 9--106, [~~9~~] 9--107, or 9--107A:

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

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

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

38 § 50. Subsection (b) of section 9--208 of the uniform commercial code,
 39 as added by chapter 84 of the laws of 2001, paragraphs 4 and 5 as
 40 amended and paragraph 6 as added by chapter 505 of the laws of 2014, is
 41 amended to read as follows:

42 (b) Duties of secured party after receiving demand from debtor. Within
 43 10 days after receiving [~~an authenticated~~] a signed demand by the
 44 debtor:

45 (1) a secured party having control of a deposit account under
 46 Section 9--104(a)(2) shall send to the bank with which the
 47 deposit account is maintained [~~an authenticated statement~~] a
 48 signed record that releases the bank from any further obli-
 49 gation to comply with instructions originated by the secured
 50 party;

51 (2) a secured party having control of a deposit account under
 52 Section 9--104(a)(3) shall:

53 (A) pay the debtor the balance on deposit in the deposit
 54 account; or

55 (B) transfer the balance on deposit into a deposit account in
 56 the debtor's name;

- 1 (3) a secured party, other than a buyer, having control [~~of elec-~~
2 ~~tronic chattel paper~~] under Section 9--105 [~~shall:~~
3 ~~(A) communicate the authoritative copy of the electronic~~
4 ~~chattel paper to the debtor or its designated custodian;~~
5 ~~(B) if the debtor designates a custodian that is the desig-~~
6 ~~nated custodian with which the authoritative copy of the~~
7 ~~electronic chattel paper is maintained for the secured~~
8 ~~party, communicate to the custodian an authenticated~~
9 ~~record releasing the designated custodian from any~~
10 ~~further obligation to comply with instructions originated~~
11 ~~by the secured party and instructing the custodian to~~
12 ~~comply with instructions originated by the debtor; and~~
13 ~~(C) take appropriate action to enable the debtor or its~~
14 ~~designated custodian to make copies of or revisions to~~
15 ~~the authoritative copy which add or change an identified~~
16 ~~assignee of the authoritative copy without the consent of~~
17 ~~the secured party] of an authoritative electronic copy of
18 a record evidencing chattel paper shall transfer control
19 of the electronic copy to debtor or a person designated
20 by the debtor;~~
- 21 (4) a secured party having control of investment property under
22 Section 8--106(d)(2) or 9--106(b) shall send to the securi-
23 ties intermediary or commodity intermediary with which the
24 security entitlement or commodity contract is maintained [~~an~~
25 ~~authenticated~~] a signed record that releases the securities
26 intermediary or commodity intermediary from any further obli-
27 gation to comply with entitlement orders or directions origi-
28 nated by the secured party;
- 29 (5) a secured party having control of a letter-of-credit right
30 under Section 9--107 shall send to each person having an
31 unfulfilled obligation to pay or deliver proceeds of the
32 letter-of-credit to the secured party [~~an authenticated~~] a
33 signed release from any further obligation to pay or deliver
34 proceeds of the letter-of-credit to the secured party; [~~and~~]
- 35 (6) a secured party having control [~~of an electronic document~~
36 ~~shall:~~
37 ~~(A) give control of the electronic document to the debtor or~~
38 ~~its designated custodian;~~
39 ~~(B) if the debtor designates a custodian that is the desig-~~
40 ~~nated custodian with which the authoritative copy of the~~
41 ~~electronic document is maintained for the secured party,~~
42 ~~communicate to the custodian an authenticated record~~
43 ~~releasing the designated custodian from any further obli-~~
44 ~~gation to comply with instructions originated by the~~
45 ~~secured party and instructing the custodian to comply~~
46 ~~with instructions originated by the debtor; and~~
47 ~~(C) take appropriate action to enable the debtor or its~~
48 ~~designated custodian to make copies of or revisions to~~
49 ~~the authoritative copy which add or change an identified~~
50 ~~assignee of the authoritative copy without the consent of~~
51 ~~the secured party] under Section 7--106 of an authori-
52 tative electronic copy of an electronic document of title
53 shall transfer control of the electronic copy to the
54 debtor or a person designated by the debtor;
55 (7) a secured party having control under Section 9--105A of
56 electronic money shall transfer control of the electronic~~

1 money to the debtor or a person designated by the debtor;
 2 and
 3 (8) a secured party having control under Section 12--105 of a
 4 controllable electronic record, other than a buyer of a
 5 controllable account or controllable payment intangible
 6 evidenced by the controllable electronic record, shall
 7 transfer control of the controllable electronic record to
 8 the debtor or a person designated by the debtor.

9 § 51. Subsection (b) of section 9--209 of the uniform commercial code,
 10 as added by chapter 84 of the laws of 2001, is amended to read as
 11 follows:

12 (b) Duties of secured party after receiving demand from debtor. Within
 13 10 days after receiving [~~an authenticated~~] a signed demand by the
 14 debtor, a secured party shall send to an account debtor that has
 15 received notification under Section 9--406(a) or 12--106(b) of an
 16 assignment to the secured party as assignee [~~under Section 9--406(a) an~~
 17 ~~authenticated~~] a signed record that releases the account debtor from any
 18 further obligation to the secured party.

19 § 52. Section 9--210 of the uniform commercial code, as added by chap-
 20 ter 84 of the laws of 2001, is amended to read as follows:

21 Section 9--210. Request for Accounting; Request Regarding List of Colla-
 22 teral or Statement of Account.

23 (a) Definitions in this section:

24 (1) "Request" means a record of a type described in paragraph
 25 (2), (3), or (4).

26 (2) "Request for an accounting" means a record [~~authenticated~~]
 27 signed by a debtor requesting that the recipient provide an
 28 accounting of the unpaid obligations secured by collateral
 29 and reasonably identifying the transaction or relationship
 30 that is the subject of the request.

31 (3) "Request regarding a list of collateral" means a record
 32 [~~authenticated~~] signed by a debtor requesting that the recip-
 33 ient approve or correct a list of what the debtor believes to
 34 be the collateral securing an obligation and reasonably ident-
 35 ifying the transaction or relationship that is the subject
 36 of the request.

37 (4) "Request regarding a statement of account" means a record
 38 [~~authenticated~~] signed by a debtor requesting that the recip-
 39 ient approve or correct a statement indicating what the
 40 debtor believes to be the aggregate amount of unpaid obli-
 41 gations secured by collateral as of a specified date and
 42 reasonably identifying the transaction or relationship that
 43 is the subject of the request.

44 (b) Duty to respond to requests. Subject to subsections (c), (d), (e),
 45 and (f), a secured party, other than a buyer of accounts, chattel paper,
 46 payment intangibles, or promissory notes or a consignor, shall comply
 47 with a request within 14 days after receipt:

48 (1) in the case of a request for an accounting, by [~~authenticat-~~
 49 ~~ing~~] signing and sending to the debtor an accounting; and

50 (2) in the case of a request regarding a list of collateral or a
 51 request regarding a statement of account, by [~~authenticating~~]
 52 signing and sending to the debtor an approval or correction.

53 (c) Request regarding list of collateral; statement concerning type of
 54 collateral. A secured party that claims a security interest in all of a
 55 particular type of collateral owned by the debtor may comply with a
 56 request regarding a list of collateral by sending to the debtor [~~an~~

1 ~~authenticated~~] a signed record including a statement to that effect
2 within 14 days after receipt.

3 (d) Request regarding list of collateral; no interest claimed. A
4 person that receives a request regarding a list of collateral, claims no
5 interest in the collateral when it receives the request, and claimed an
6 interest in the collateral at an earlier time shall comply with the
7 request within 14 days after receipt by sending to the debtor [~~an~~
8 ~~authenticated~~] a signed record:

9 (1) disclaiming any interest in the collateral; and

10 (2) if known to the recipient, providing the name and mailing
11 address of any assignee of or successor to the recipient's
12 interest in the collateral.

13 (e) Request for accounting or regarding statement of account; no
14 interest in obligation claimed. A person that receives a request for an
15 accounting or a request regarding a statement of account, claims no
16 interest in the obligations when it receives the request, and claimed an
17 interest in the obligations at an earlier time shall comply with the
18 request within 14 days after receipt by sending to the debtor [~~an~~
19 ~~authenticated~~] a signed record:

20 (1) disclaiming any interest in the obligations; and

21 (2) if known to the recipient, providing the name and mailing
22 address of any assignee of or successor to the recipient's
23 interest in the obligations.

24 (f) Charges for responses. A debtor is entitled without charge to one
25 response to a request under this section during any six-month period.
26 The secured party may require payment of a charge not exceeding \$25 for
27 each additional response.

28 § 53. The opening paragraph and subsection (c) of section 9--301 of
29 the uniform commercial code, the opening paragraph as added by chapter
30 84 of the laws of 2001 and subsection (c) as amended by chapter 505 of
31 the laws of 2014, are amended to read as follows:

32 Except as otherwise provided in Sections 9--303 through [~~9--306~~]
33 9-306B, the following rules determine the law governing perfection, the
34 effect of perfection or nonperfection, and the priority of a security
35 interest in collateral:

36 (c) Except as otherwise provided in subsection (d), while [~~tangible~~]
37 negotiable tangible documents, goods, instruments, [~~money~~] or tangible
38 [~~chattel—paper~~] money is located in a jurisdiction, the local law of
39 that jurisdiction governs:

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

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

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

45 § 54. Subsection (a) of section 9--304 of the uniform commercial code,
46 as added by chapter 84 of the laws of 2001, is amended to read as
47 follows:

48 (a) Law of bank's jurisdiction governs. The local law of a bank's
49 jurisdiction governs perfection, the effect of perfection or nonper-
50 fection, and the priority of a security interest in a deposit account
51 maintained with that bank even if the transaction does not bear any
52 relation to the bank's jurisdiction.

53 § 55. Subsection (a) of section 9--305 of the uniform commercial code
54 is amended by adding a new paragraph 5 to read as follows:

55 (5) Paragraphs (2), (3), and (4) apply even if the transaction does
56 not bear any relation to the jurisdiction.

1 § 56. The uniform commercial code is amended by adding two new
2 sections 9-306A and 9-306B to read as follows:

3 Section 9-306A. Law Governing Perfection and Priority of Security Inter-
4 ests in Chattel Paper.

5 (a) Chattel paper evidenced by authoritative electronic copy. Except
6 as provided in subsection (d), if chattel paper is evidenced only by an
7 authoritative electronic copy of the chattel paper or is evidenced by an
8 authoritative electronic copy and an authoritative tangible copy, the
9 local law of the chattel paper's jurisdiction governs perfection, the
10 effect of perfection or nonperfection, and the priority of a security
11 interest in the chattel paper, even if the transaction does not bear any
12 relation to the chattel paper's jurisdiction.

13 (b) Chattel paper's jurisdiction. The following rules determine the
14 chattel paper's jurisdiction under this section:

15 (1) If the authoritative electronic copy of the record evidencing
16 chattel paper, or a record attached to or logically associated with the
17 electronic copy and readily available for review, expressly provides
18 that a particular jurisdiction is the chattel paper's jurisdiction for
19 purposes of this part, this article, or this code, that jurisdiction is
20 the chattel paper's jurisdiction.

21 (2) If paragraph (1) does not apply and the rules of the system in
22 which the authoritative electronic copy is recorded are readily avail-
23 able for review and expressly provide that a particular jurisdiction is
24 the chattel paper's jurisdiction for purposes of this part, this arti-
25 cle, or this code, that jurisdiction is the chattel paper's jurisdic-
26 tion.

27 (3) If paragraphs (1) and (2) do not apply and the authoritative elec-
28 tronic copy, or a record attached to or logically associated with the
29 electronic copy and readily available for review, expressly provides
30 that the chattel paper is governed by the law of a particular jurisdic-
31 tion, that jurisdiction is the chattel paper's jurisdiction.

32 (4) If paragraphs (1), (2) and (3) do not apply and the rules of the
33 system in which the authoritative electronic copy is recorded are readi-
34 ly available for review and expressly provide that the chattel paper or
35 the system is governed by the law of a particular jurisdiction, that
36 jurisdiction is the chattel paper's jurisdiction.

37 (5) If paragraphs (1) through (4) do not apply, the chattel paper's
38 jurisdiction is the jurisdiction in which the debtor is located.

39 (c) Chattel paper evidenced by authoritative tangible copy. If an
40 authoritative tangible copy of a record evidences chattel paper and the
41 chattel paper is not evidenced by an authoritative electronic copy,
42 while the authoritative tangible copy of the record evidencing chattel
43 paper is located in a jurisdiction, the local law of that jurisdiction
44 governs:

45 (1) perfection of a security interest in the chattel paper by
46 possession under Section 9--314A; and

47 (2) the effect of perfection or nonperfection and the priority of a
48 security interest in the chattel paper.

49 (d) When perfection governed by law of jurisdiction where debtor
50 located. The local law of the jurisdiction in which the debtor is
51 located governs perfection of a security interest in chattel paper by
52 filing.

53 Section 9-306B. Law Governing Perfection and Priority of Security Inter-
54 ests in Controllable Accounts, Controllable Electron-
55 ic Records, and Controllable Payment Intangibles.

1 (a) Governing law: general rules. Except as provided in subsection
 2 (b), the local law of the controllable electronic record's jurisdiction
 3 specified in Section 12--107(c) and (d) governs perfection, the effect
 4 of perfection or nonperfection, and the priority of a security interest
 5 in a controllable electronic record and a security interest in a
 6 controllable account or controllable payment intangible evidenced by the
 7 controllable electronic record.

8 (b) When perfection governed by law of jurisdiction where debtor
 9 located. The local law of the jurisdiction in which the debtor is
 10 located governs:

11 (1) perfection of a security interest in a controllable account,
 12 controllable electronic record, or controllable payment intangible by
 13 filing; and

14 (2) automatic perfection of a security interest in a controllable
 15 payment intangible created by a sale of the controllable payment intan-
 16 gible.

17 § 57. Paragraph 8 of subsection (b) of section 9--310 of the uniform
 18 commercial code, as amended by chapter 505 of the laws of 2014, is
 19 amended and a new paragraph 8-a is added to read as follows:

20 (8) in controllable accounts, controllable electronic records,
 21 controllable payment intangibles, deposit accounts, [~~elec-~~
 22 ~~tronic chattel paper,~~] electronic documents, investment prop-
 23 erty, or letter-of-credit rights which is perfected by
 24 control under Section 9--314;

25 (8-a) in chattel paper which is perfected by possession and
 26 control under Section 9--314A;

27 § 58. The section heading and subsections (a), (b) and (e) of section
 28 9--312 of the uniform commercial code, the section heading and
 29 subsections (a) and (b) as added by chapter 84 of the laws of 2001, and
 30 subsection (e) as amended by chapter 505 of the laws of 2014, are
 31 amended to read as follows:

32 Perfection of Security Interests in Chattel Paper, Controllable
 33 Accounts, Controllable Electronic Records, Controlla-
 34 ble Payment Intangibles, Deposit Accounts, Documents,
 35 Goods Covered by Documents, Instruments, Investment
 36 Property, Letter-of-credit Rights, and Money;
 37 Perfection by Permissive Filing; Temporary Perfection
 38 Without Filing or Transfer of Possession.

39 (a) Perfection by filing permitted. A security interest in chattel
 40 paper, [~~negotiable documents,~~] controllable accounts, controllable elec-
 41 tronic records, controllable payment intangibles, instruments, [~~or~~]
 42 investment property, or negotiable documents may be perfected by filing.

43 (b) Control or possession of certain collateral. Except as otherwise
 44 provided in Section 9--315(c) and (d) for proceeds:

45 (1) a security interest in a deposit account may be perfected
 46 only by control under Section 9--314;

47 (2) and except as otherwise provided in Section 9--308(d), a
 48 security interest in a letter-of-credit right may be
 49 perfected only by control under Section 9--314; [~~and~~]

50 (3) a security interest in tangible money may be perfected only
 51 by the secured party's taking possession under Section
 52 9--313; and

53 (4) a security interest in electronic money may be
 54 perfected only by control under Section 9--314.

55 (e) Temporary perfection: new value. A security interest in certif-
 56 icated securities, negotiable documents, or instruments is perfected

1 without filing or the taking of possession or control for a period of 20
2 days from the time it attaches to the extent that it arises for new
3 value given under [~~an authenticated~~] a signed security agreement.

4 § 59. Subsections (a), (c) and (d) of section 9--313 of the uniform
5 commercial code, subsection (a) as amended by chapter 505 of the laws of
6 2014, and subsections (c) and (d) as added by chapter 84 of the laws of
7 2001, are amended to read as follows:

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

15 (c) Collateral in possession of person other than debtor. With respect
16 to collateral other than certificated securities and goods covered by a
17 document, a secured party takes possession of collateral in the
18 possession of a person other than the debtor, the secured party, or a
19 lessee of the collateral from the debtor in the ordinary course of the
20 debtor's business, when:

21 (1) the person in possession [~~authenticates~~] signs a record
22 acknowledging that it holds possession of the collateral for
23 the secured party's benefit; or

24 (2) the person takes possession of the collateral after having
25 [~~authenticated~~] signed a record acknowledging that it will
26 hold possession of the collateral for the secured party's
27 benefit.

28 (d) Time of perfection by possession; continuation of perfection. If
29 perfection of a security interest depends upon possession of the collat-
30 eral by a secured party, perfection occurs [~~no~~] not earlier than the
31 time the secured party takes possession and continues only while the
32 secured party retains possession.

33 § 60. Section 9--314 of the uniform commercial code, as added by chap-
34 ter 84 of the laws of 2001, subsections (a) and (b) as amended by chap-
35 ter 505 of the laws of 2014, is amended to read as follows:
36 Section 9--314. Perfection by Control.

37 (a) Perfection by control. A security interest in controllable
38 accounts, controllable electronic records, controllable payment intangi-
39 bles, deposit accounts, electronic documents, electronic money, invest-
40 ment property, [~~deposit accounts,~~] or letter-of-credit rights, [~~elec-~~
41 ~~tronic chattel paper, or electronic documents~~] may be perfected by
42 control of the collateral under Section 7--106, 9--104, [~~9--105~~]
43 9--105A, 9--106, [~~ex~~] 9--107 or 9--107A.

44 (b) Specified collateral: time of perfection by control; continuation
45 of perfection. A security interest in controllable accounts, controlla-
46 ble electronic records, controllable payment intangibles, deposit
47 accounts, electronic [~~chattel paper~~] documents, electronic money, or
48 letter-of-credit rights[~~, or electronic documents~~] is perfected by
49 control under Section 7--106, 9--104, [~~9--105~~] 9--105A, [~~ex~~] 9--107, or
50 9--107A not earlier than the time when the secured party obtains control
51 and remains perfected by control only while the secured party retains
52 control.

53 (c) Investment property: time of perfection by control; continuation
54 of perfection. A security interest in investment property is perfected
55 by control under Section 9--106 [~~from~~] not earlier than the time the
56 secured party obtains control and remains perfected by control until:

- 1 (1) the secured party does not have control; and
2 (2) one of the following occurs:
3 (A) if the collateral is a certificated security, the debtor
4 has or acquires possession of the security certificate;
5 (B) if the collateral is an uncertificated security, the
6 issuer has registered or registers the debtor as the
7 registered owner; or
8 (C) if the collateral is a security entitlement, the debtor
9 is or becomes the entitlement holder.
10 (d) Cooperative interests. Subsections (a) through (c) do not apply to
11 cooperative interests.

12 § 61. The uniform commercial code is amended by adding a new section
13 9-314A to read as follows:

14 Section 9-314A. Perfection by Possession and Control of Chattel Paper.

15 (a) Perfection by possession and control. A secured party may perfect
16 a security interest in chattel paper by taking possession of each
17 authoritative tangible copy of the record evidencing the chattel paper
18 and obtaining control of each authoritative electronic copy of the elec-
19 tronic record evidencing the chattel paper.

20 (b) Time of perfection; continuation of perfection. A security inter-
21 est is perfected under subsection (a) not earlier than the time the
22 secured party takes possession and obtains control and remains perfected
23 under subsection (a) only while the secured party retains possession and
24 control.

25 (c) Application of Section 9--313 to perfection by possession of chat-
26 tel paper. Section 9--313(c) and (f) through (i) applies to perfection
27 by possession of an authoritative tangible copy of a record evidencing
28 chattel paper.

29 § 62. Subsections (a) and (f) of section 9--316 of the uniform commer-
30 cial code, as added by chapter 84 of the laws of 2001, are amended to
31 read as follows:

32 (a) General rule: effect on perfection of change in governing law. A
33 security interest perfected pursuant to the law of the jurisdiction
34 designated in Section 9--301(a) [~~or~~], 9--305(c), 9-306A(d), or 9-306B(b)
35 remains perfected until the earliest of:

- 36 (1) the time perfection would have ceased under the law of that
37 jurisdiction;
38 (2) the expiration of four months after a change of the debtor's
39 location to another jurisdiction; or
40 (3) the expiration of one year after a transfer of collateral to
41 a person that thereby becomes a debtor and is located in
42 another jurisdiction.

43 (f) Change in jurisdiction of chattel paper, controllable electronic
44 record, bank, issuer, nominated person, securities intermediary, or
45 commodity intermediary. A security interest in chattel paper, controlla-
46 ble accounts, controllable electronic records, controllable payment
47 intangibles, deposit accounts, letter-of-credit rights, or investment
48 property which is perfected under the law of the chattel paper's juris-
49 isdiction, the controllable electronic record's jurisdiction, the bank's
50 jurisdiction, the issuer's jurisdiction, a nominated person's jurisdic-
51 tion, the securities intermediary's jurisdiction, or the commodity
52 intermediary's jurisdiction, as applicable, remains perfected until the
53 earlier of:

- 54 (1) the time the security interest would have become unperfected
55 under the law of that jurisdiction; or

1 (2) the expiration of four months after a change of the applica-
2 ble jurisdiction to another jurisdiction.

3 § 63. Subsections (b) and (d) of section 9--317 of the uniform commer-
4 cial code, as amended by chapter 505 of the laws of 2014, are amended
5 and four new subsections (f), (g), (h) and (i) are added to read as
6 follows:

7 (b) Buyers that receive delivery. Except as otherwise provided in
8 subsection (e), a buyer, other than a secured party, of [~~tangible chat-
9 tel paper~~] goods, instruments, tangible documents, [~~goods, instruments,~~]
10 or a certificated security takes free of a security interest or agricul-
11 tural lien if the buyer gives value and receives delivery of the collat-
12 eral without knowledge of the security interest or agricultural lien and
13 before it is perfected.

14 (d) Licensees and buyers of certain collateral. [~~A~~] Subject to
15 subsections (f) through (i), a licensee of a general intangible or a
16 buyer, other than a secured party, of [~~accounts,~~] collateral other than
17 electronic [~~chattel paper~~] money, [~~electronic documents, general intan-~~
18 ~~gibles, or investment property other than~~] goods, instruments, intangi-
19 ble documents or a certificated security takes free of a security inter-
20 est if the licensee or buyer gives value without knowledge of the
21 security interest and before it is perfected.

22 (f) Buyers of chattel paper. A buyer, other than a secured party, of
23 chattel paper takes free of a security interest if, without knowledge of
24 the security interest and before it is perfected, the buyer gives value
25 and:

26 (1) receives delivery of each authoritative tangible copy of the
27 record evidencing the chattel paper; and

28 (2) if each authoritative electronic copy of the record evidencing the
29 chattel paper can be subjected to control under Section 9--105, obtains
30 control of each authoritative electronic copy.

31 (g) Buyers of electronic documents. A buyer of an electronic document
32 takes free of a security interest if, without knowledge of the security
33 interest and before it is perfected, the buyer gives value and, if each
34 authoritative electronic copy of the document can be subjected to
35 control under Section 7--106, obtains control of each authoritative
36 electronic copy.

37 (h) Buyers of controllable electronic records. A buyer of a control-
38 lable electronic record takes free of a security interest if, without
39 knowledge of the security interest and before it is perfected, the buyer
40 gives value and obtains control of the controllable electronic record.

41 (i) Buyers of controllable accounts and controllable payment intangi-
42 bles. A buyer, other than a secured party, of a controllable account or
43 a controllable payment intangible takes free of a security interest if,
44 without knowledge of the security interest and before it is perfected,
45 the buyer gives value and obtains control of the controllable account or
46 controllable payment intangible.

47 § 64. Subsections (d) and (f) of section 9--323 of the uniform commer-
48 cial code, as added by chapter 84 of the laws of 2001, are amended to
49 read as follows:

50 (d) Buyer of goods. Except as otherwise provided in subsection (e), a
51 buyer of goods [~~other than a buyer in ordinary course of business~~] takes
52 free of a security interest to the extent that it secures advances made
53 after the earlier of:

- 54 (1) the time the secured party acquires knowledge of the buyer's
55 purchase; or
56 (2) 45 days after the purchase.

1 (f) Lessee of goods. Except as otherwise provided in subsection (g), a
2 lessee of goods[~~, other than a lessee in ordinary course of business,~~]
3 takes the leasehold interest free of a security interest to the extent
4 that it secures advances made after the earlier of:

- 5 (1) the time the secured party acquires knowledge of the lease;
- 6 or
- 7 (2) 45 days after the lease contract becomes enforceable.

8 § 65. Subsections (b) and (d) of section 9--324 of the uniform commer-
9 cial code, as added by chapter 84 of the laws of 2001, are amended to
10 read as follows:

11 (b) Inventory purchase-money priority. Subject to subsection (c) and
12 except as otherwise provided in subsection (g), a perfected purchase-mo-
13 ney security interest in inventory has priority over a conflicting secu-
14 rity interest in the same inventory, has priority over a conflicting
15 security interest in chattel paper or an instrument constituting
16 proceeds of the inventory and in proceeds of the chattel paper, if so
17 provided in Section 9--330, and, except as otherwise provided in Section
18 9--327, also has priority in identifiable cash proceeds of the inventory
19 to the extent the identifiable cash proceeds are received on or before
20 the delivery of the inventory to a buyer, if:

- 21 (1) the purchase-money security interest is perfected when the
22 debtor receives possession of the inventory;
- 23 (2) the purchase-money secured party sends [~~an authenticated~~] a
24 signed notification to the holder of the conflicting security
25 interest;
- 26 (3) the holder of the conflicting security interest receives the
27 notification within five years before the debtor receives
28 possession of the inventory; and
- 29 (4) the notification states that the person sending the notifica-
30 tion has or expects to acquire a purchase-money security
31 interest in inventory of the debtor and describes the inven-
32 tory.

33 (d) Livestock purchase-money priority. Subject to subsection (e) and
34 except as otherwise provided in subsection (g), a perfected purchase-mo-
35 ney security interest in livestock that are farm products has priority
36 over a conflicting security interest in the same livestock, and, except
37 as otherwise provided in Section 9--327, a perfected security interest
38 in their identifiable proceeds and identifiable products in their unman-
39 ufactured states also has priority, if:

- 40 (1) the purchase-money security interest is perfected when the
41 debtor receives possession of the livestock;
- 42 (2) the purchase-money secured party sends [~~an authenticated~~] a
43 signed notification to the holder of the conflicting security
44 interest;
- 45 (3) the holder of the conflicting security interest receives the
46 notification within six months before the debtor receives
47 possession of the livestock; and
- 48 (4) the notification states that the person sending the notifica-
49 tion has or expects to acquire a purchase-money security
50 interest in livestock of the debtor and describes the live-
51 stock.

52 § 66. The uniform commercial code is amended by adding a new section
53 9-326A to read as follows:

54 Section 9-326A. Priority of Security Interest in Controllable Account,
55 Controllable Electronic Record, and Controllable
56 Payment Intangible.

1 A security interest in a controllable account, controllable electronic
2 record, or controllable payment intangible held by a secured party
3 having control of the account, electronic record, or payment intangible
4 has priority over a conflicting security interest held by a secured
5 party that does not have control.

6 § 67. Subsections (a), (b) and (f) of section 9--330 of the uniform
7 commercial code, as added by chapter 84 of the laws of 2001, are amended
8 to read as follows:

9 (a) Purchaser's priority: security interest claimed merely as
10 proceeds. A purchaser of chattel paper has priority over a security
11 interest in the chattel paper which is claimed merely as proceeds of
12 inventory subject to a security interest if:

13 (1) in good faith and in the ordinary course of the purchaser's
14 business, the purchaser gives new value [~~and~~], takes
15 possession of [~~the chattel paper or obtains control of~~] each
16 authoritative tangible copy of the record evidencing the
17 chattel paper, and obtains control under Section 9--105 of
18 each authoritative electronic copy of the record evidencing
19 the chattel paper; and

20 (2) the authoritative copies of the record evidencing the chattel
21 paper [~~does~~] do not indicate that [~~it~~] the chattel paper has
22 been assigned to an identified assignee other than the
23 purchaser.

24 (b) Purchaser's priority: other security interests. A purchaser of
25 chattel paper has priority over a security interest in the chattel paper
26 which is claimed other than merely as proceeds of inventory subject to a
27 security interest if the purchaser gives new value [~~and~~], takes
28 possession of each authoritative tangible copy of the record evidencing
29 the chattel paper [~~or~~], and obtains control [~~of the chattel paper~~] under
30 Section 9--105 of each authoritative electronic copy of the record
31 evidencing the chattel paper in good faith, in the ordinary course of
32 the purchaser's business, and without knowledge that the purchase
33 violates the rights of the secured party.

34 (f) Indication of assignment gives knowledge. For purposes of
35 subsections (b) and (d), if the authoritative copies of the record
36 evidencing chattel paper or an instrument [~~indicates~~] indicate that [~~it~~]
37 the chattel paper or instrument has been assigned to an identified
38 secured party other than the purchaser, a purchaser of the chattel paper
39 or instrument has knowledge that the purchase violates the rights of the
40 secured party.

41 § 68. Section 9--331 of the uniform commercial code, as added by chap-
42 ter 84 of the laws of 2001, is amended to read as follows:

43 Section 9--331. Priority of Rights of Purchasers of Controllable
44 Accounts, Controllable Electronic Records, Controlla-
45 ble Payment Intangibles, Documents, Instruments,
46 [~~Documents,~~] and Securities under Other Articles;
47 Priority of Interests in Financial Assets and Security
48 Entitlements and Protection Against Assertion of Claim
49 under [~~Article~~] Articles 8 and 12.

50 (a) Rights under Articles 3, 7, [~~and~~] 8, and 12 not limited. This
51 article does not limit the rights of a holder in due course of a negoti-
52 able instrument, a holder to which a negotiable document of title has
53 been duly negotiated, [~~or a~~] protected purchaser of a security, or a
54 qualifying purchaser of a controllable account, controllable electronic
55 record, or controllable payment intangible. These holders or purchasers

1 take priority over an earlier security interest, even if perfected, to
2 the extent provided in Articles 3, 7, [~~and~~] 8, and 12.

3 (b) Protection under [~~Article~~] Articles 8 and 12. This article does
4 not limit the rights of or impose liability on a person to the extent
5 that the person is protected against the assertion of a claim under
6 Article 8 or 12.

7 (c) Filing not notice. Filing under this article does not constitute
8 notice of a claim or defense to the holders, or purchasers, or persons
9 described in subsections (a) and (b).

10 (d) Section not applicable to cooperative interests. Subsections (a),
11 (b), and (c) do not apply to cooperative interests.

12 § 69. Section 9--332 of the uniform commercial code, as added by
13 chapter 84 of the laws of 2001, is amended to read as follows:

14 Section 9--332. Transfer of Money; Transfer of Funds from Deposit
15 Account.

16 (a) Transferee of tangible money. A transferee of tangible money
17 takes the money free of a security interest [~~unless~~] if the transferee
18 [~~acts~~] receives possession of the money without acting in collusion with
19 the debtor in violating the rights of the secured party.

20 (b) Transferee of funds from deposit account. A transferee of funds
21 from a deposit account takes the funds free of a security interest in
22 the deposit account [~~unless~~] if the transferee [~~acts~~] receives the funds
23 without acting in collusion with the debtor in violating the rights of
24 the secured party.

25 (c) Transferee of electronic money. A transferee of electronic money
26 takes the money free of a security interest if the transferee obtains
27 control of the money without acting in collusion with the debtor in
28 violating the rights of the secured party.

29 § 70. Subsection (f) of section 9--334 of the uniform commercial code,
30 as added by chapter 84 of the laws of 2001, is amended to read as
31 follows:

32 (f) Priority based on consent, disclaimer, or right to remove. A secu-
33 rity interest in fixtures, whether or not perfected, has priority over a
34 conflicting interest of an encumbrancer or owner of the real property
35 if:

36 (1) the encumbrancer or owner has, in [~~an authenticated~~] a signed
37 record, consented to the security interest or disclaimed an
38 interest in the goods as fixtures; or

39 (2) the debtor has a right to remove the goods as against the
40 encumbrancer or owner.

41 § 71. Section 9--341 of the uniform commercial code, as added by chap-
42 ter 84 of the laws of 2001, is amended to read as follows:

43 Section 9--341. Bank's Rights and Duties with Respect to Deposit
44 Account.

45 Except as otherwise provided in Section 9--340 (c), and unless the
46 bank otherwise agrees in [~~an authenticated~~] a signed record, a bank's
47 rights and duties with respect to a deposit account maintained with the
48 bank are not terminated, suspended, or modified by:

49 (a) the creation, attachment, or perfection of a security inter-
50 est in the deposit account;

51 (b) the bank's knowledge of the security interest; or

52 (c) the bank's receipt of instructions from the secured party.

53 § 72. Paragraph 2 of subsection (a) of section 9--404 of the uniform
54 commercial code, as added by chapter 84 of the laws of 2001, is amended
55 to read as follows:

1 (2) any other defense or claim of the account debtor against the
2 assignor which accrues before the account debtor receives a
3 notification of the assignment [~~authenticated~~] signed by the
4 assignor or the assignee.

5 § 73. Section 9--406 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--406. Discharge of Account Debtor; Notification of Assignment;
8 Identification and Proof of Assignment; Restrictions
9 on Assignment of Accounts, Chattel Paper, Payment
10 Intangibles, and Promissory Notes Ineffective.

11 (a) Discharge of account debtor; effect of notification. Subject to
12 subsections (b) through [~~(h)~~] (i), an account debtor on an account,
13 chattel paper, or a payment intangible may discharge its obligation by
14 paying the assignor until, but not after, the account debtor receives a
15 notification, [~~authenticated~~] signed by the assignor or the assignee,
16 that the amount due or to become due has been assigned and that payment
17 is to be made to the assignee. After receipt of the notification, the
18 account debtor may discharge its obligation by paying the assignee and
19 may not discharge the obligation by paying the assignor.

20 (b) When notification ineffective. Subject to [~~subsection~~] subsections
21 (g) and (i), notification is ineffective under subsection (a):

- 22 (1) if it does not reasonably identify the rights assigned;
23 (2) to the extent that an agreement between an account debtor and
24 a seller of a payment intangible limits the account debtor's
25 duty to pay a person other than the seller and the limitation
26 is effective under law other than this article; or
27 (3) at the option of an account debtor, if the notification noti-
28 fies the account debtor to make less than the full amount of
29 any installment or other periodic payment to the assignee,
30 even if:
31 (A) only a portion of the account, chattel paper, or payment
32 intangible has been assigned to that assignee;
33 (B) a portion has been assigned to another assignee; or
34 (C) the account debtor knows that the assignment to that
35 assignee is limited.

36 (c) Proof of assignment. Subject to [~~subsection~~] subsections (g) and
37 (i), if requested by the account debtor, an assignee shall seasonably
38 furnish reasonable proof that the assignment has been made. Unless the
39 assignee complies, the account debtor may discharge its obligation by
40 paying the assignor, even if the account debtor has received a notifica-
41 tion under subsection (a).

42 (d) Term restricting assignment generally ineffective. For purposes of
43 this subsection, "promissory note" includes a negotiable instrument that
44 evidences chattel paper. Except as otherwise provided in subsection (e)
45 and Sections 2-A-303 and 9--407, and subject to subsection (g), a term
46 in an agreement between an account debtor and an assignor or in a prom-
47 issory note is ineffective to the extent that it:

- 48 (1) prohibits, restricts, or requires the consent of the account
49 debtor or person obligated on the promissory note to the
50 assignment or transfer of, or the creation, attachment,
51 perfection, or enforcement of a security interest in, the
52 account, chattel paper, payment intangible, or promissory
53 note; or
54 (2) provides that the assignment or transfer or the creation,
55 attachment, perfection, or enforcement of the security inter-
56 est may give rise to a default, breach, right of recoupment,

1 claim, defense, termination, right of termination, or remedy
2 under the account, chattel paper, payment intangible, or
3 promissory note.

4 (e) Inapplicability of subsection (d) to certain sales. Subsection (d)
5 does not apply to the sale of a payment intangible or promissory note.

6 (f) Subsection (b)(3) not waivable. Subject to ~~[subsection]~~
7 subsections (g) and (i), an account debtor may not waive or vary its
8 option under subsection (b)(3).

9 (g) Rule for individual under other law. This section is subject to a
10 rule of law, statute, rule or regulation other than this article which
11 establishes a different rule for an account debtor who is an individual
12 and who incurred the obligation primarily for personal, family, or
13 household purposes.

14 (h) Inapplicability. This section does not apply to:

15 (1) an assignment of a health care insurance receivable to the
16 extent such assignment conflicts with other law or the
17 parties have otherwise agreed in writing that such receivable
18 is non-assignable,

19 (2) a claim or right to receive compensation for injuries or
20 sickness as described in 26 U.S.C. § 104(a)(1) and (2), as
21 amended from time to time, or

22 (3) a claim or right to receive benefits under a special needs
23 trust as described in 42 U.S.C. § 1396p (d)(4), as amended
24 from time to time.

25 (i) Inapplicability of certain subsections. Subsections (a),
26 (b), (c) and (f) do not apply to a controllable account or
27 controllable payment intangible.

28 § 74. Section 9--408 of the uniform commercial code is amended by
29 adding a new subsection (e) to read as follows:

30 (e) "Promissory note". In this section, "promissory note" includes a
31 negotiable instrument that evidences chattel paper.

32 § 75. Paragraph 1 of subsection (a) and the opening paragraph of
33 subsection (b) of section 9--509 of the uniform commercial code, as
34 added by chapter 84 of the laws of 2001, are amended to read as follows:

35 (1) the debtor authorizes the filing in ~~[an-authenticated]~~ a
36 signed record or pursuant to subsection (b) or (c); or

37 By ~~[authenticating]~~ signing or becoming bound as debtor by a security
38 agreement, a debtor or new debtor authorizes the filing of an initial
39 financing statement, and an amendment, covering:

40 § 76. Paragraph 2 of subsection (b) and the opening paragraph of
41 subsection (c) of section 9--513 of the uniform commercial code, as
42 added by chapter 84 of the laws of 2001, are amended to read as follows:

43 (2) if earlier, within 20 days after the secured party receives
44 ~~[an-authenticated]~~ a signed demand from a debtor.

45 In cases not governed by subsection (a), within 20 days after a
46 secured party receives ~~[an-authenticated]~~ a signed demand from a debtor,
47 the secured party shall cause the secured party of record for a financ-
48 ing statement to send to the debtor a termination statement for the
49 financing statement or file the termination statement in the filing
50 office if:

51 § 77. Subsection (b) of section 9--601 of the uniform commercial code,
52 as amended by chapter 505 of the laws of 2014, is amended to read as
53 follows:

54 (b) Rights and duties of secured party in possession or control. A
55 secured party in possession of collateral or control of collateral under

1 Section 7--106, 9--104, 9--105, 9--105A, 9--106, [~~ex~~] 9--107, or 9--107A
2 has the rights and duties provided in Section 9--207.

3 § 78. Section 9--605 of the uniform commercial code, as added by chap-
4 ter 84 of the laws of 2001, is amended to read as follows:
5 Section 9--605. Unknown Debtor or Secondary Obligor.

6 [A] (a) In general: No duty owed by secured party. Except as
7 provided in subsection (b), a secured party does not owe a duty based on
8 its status as secured party:

9 [~~a~~] (1) to a person that is a debtor or obligor, unless the secured
10 party knows:

11 [~~1~~] (A) that the person is a debtor or obligor;

12 [~~2~~] (B) the identity of the person; and

13 [~~3~~] (C) how to communicate with the person; or

14 [~~b~~] (2) to a secured party or lienholder that has filed a financing
15 statement against a person, unless the secured party knows:

16 [~~1~~] (A) that the person is a debtor; and

17 [~~2~~] (B) the identity of the person.

18 (b) Exception: Secured party owes duty to debtor or obligor. A
19 secured party owes a duty based on its status as a secured party to a
20 person if, at the time the secured party obtains control of collateral
21 that is a controllable account, controllable electronic record, or
22 controllable payment intangible or at the time the security interest
23 attaches to the collateral, whichever is later:

24 (1) the person is a debtor or obligor; and

25 (2) the secured party knows that the information in subsection
26 (a)(1)(A), (B), or (C) relating to the person is not provided by the
27 collateral, a record attached to or logically associated with the colla-
28 teral, or the system in which the collateral is recorded.

29 § 79. Subparagraph (C) of paragraph 1 of subsection (a) of section
30 9--608 of the uniform commercial code, as added by chapter 84 of the
31 laws of 2001, is amended to read as follows:

32 (C) the satisfaction of obligations secured by any subordi-
33 nate security interest in or other lien on the collateral
34 subject to the security interest or agricultural lien
35 under which the collection or enforcement is made if the
36 secured party receives [~~an authenticated~~] a signed demand
37 for proceeds before distribution of the proceeds is
38 completed.

39 § 80. Subsections (a), (b), (c) and (e) of section 9--611 of the
40 uniform commercial code, as added by chapter 84 of the laws of 2001, are
41 amended to read as follows:

42 (a) "Notification date." In this section, "notification date" means
43 the earlier of the date on which:

44 (1) a secured party sends to the debtor and any secondary obligor
45 [~~an authenticated~~] a signed notification of disposition; or

46 (2) the debtor and any secondary obligor waive the right to
47 notification.

48 (b) Notification of disposition required. Except as otherwise provided
49 in subsection (d), a secured party that disposes of collateral under
50 Section 9--610 shall send to the persons specified in subsection (c) a
51 reasonable [~~authenticated~~] signed notification of disposition.

52 (c) Persons to be notified. To comply with subsection (b), the secured
53 party shall send [~~an authenticated~~] a signed notification of disposition
54 to:

55 (1) the debtor;

56 (2) any secondary obligor; and

- 1 (3) if the collateral is other than consumer goods:
2 (A) any other person from which the secured party has
3 received, before the notification date, [~~an authenticated~~
4 a signed] notification of a claim of an interest in
5 the collateral;
6 (B) any other secured party or lienholder that, 10 days
7 before the notification date, held a security interest in
8 or other lien on the collateral perfected by the filing
9 of a financing statement that:
10 (i) identified the collateral;
11 (ii) was indexed under the debtor's name as of that date;
12 and
13 (iii) was filed in the office in which to file a financ-
14 ing statement against the debtor covering the
15 collateral as of that date; and
16 (C) any other secured party that, 10 days before the notifi-
17 cation date, held a security interest in the collateral
18 perfected by compliance with a statute, regulation, or
19 treaty described in Section 9--311(a).

20 (e) Compliance with subsection (c) (3) (B). A secured party complies
21 with the requirement for notification prescribed by subsection (c)
22 (3) (B) if:

- 23 (1) not later than twenty days or earlier than thirty days before
24 the notification date, the secured party requests, in a
25 commercially reasonable manner, information concerning
26 financing statements indexed under the debtor's name in the
27 office indicated in subsection (c) (3) (B); and
28 (2) before the notification date, the secured party:
29 (A) did not receive a response to the request for informa-
30 tion; or
31 (B) received a response to the request for information and
32 sent [~~an authenticated~~] a signed notification of disposi-
33 tion to each secured party or other lienholder named in
34 that response whose financing statement covered the
35 collateral.

36 § 81. Section 9--613 of the uniform commercial code, as added by chap-
37 ter 84 of the laws of 2001, is amended to read as follows:
38 Section 9--613. Contents and Form of Notification Before Disposition of
39 Collateral: General.

40 (a) Contents and form of notification. Except in a consumer-goods
41 transaction, the following rules apply:

- 42 [~~(a)~~] (1) The contents of a notification of disposition are suffi-
43 cient if the notification:
44 [~~(1)~~] (A) describes the debtor and the secured party;
45 [~~(2)~~] (B) describes the collateral that is the subject of the
46 intended disposition;
47 [~~(3)~~] (C) states the method of intended disposition;
48 [~~(4)~~] (D) states that the debtor is entitled to an accounting of
49 the unpaid indebtedness and states the charge, if any, for an
50 accounting; and
51 [~~(5)~~] (E) states the time and place of a public disposition or
52 the time after which any other disposition is to be made.
53 [~~(b)~~] (2) Whether the contents of a notification that lacks any of
54 the information specified in subsection (a) are nevertheless sufficient
55 is a question of fact.

1 [~~(e)~~] (3) The contents of a notification providing substantially the
 2 information specified in subsection (a) are sufficient, even if the
 3 notification includes:

4 [~~(1)~~] (A) information not specified by subsection (a); or

5 [~~(2)~~] (B) minor errors that are not seriously misleading.

6 [~~(d)~~] (4) A particular phrasing of the notification is not required.

7 [~~(e)~~] (5) The following form of notification and the form appearing
 8 in Section [~~9--614(e)~~] 9--614(a)(3), when completed in accordance with
 9 the instructions in subsection (b) and Section 9--614(b), each provides
 10 sufficient information:

11 NOTIFICATION OF DISPOSITION OF COLLATERAL

12 To: (Name of debtor, obligor, or other person to which the notifica-
 13 tion is sent)

14 From: (Name, address, and telephone number of secured party)

15 [~~Name of Debtor(s): (Include only if debtor(s) are not an addressee)~~
 16 ~~(For a public disposition:)~~

17 ~~We will sell (or lease or license, as applicable) the (describe colla-~~
 18 ~~teral) (to the highest qualified bidder) in public as follows:~~

19 ~~Day and Date: _____~~

20 ~~Time: _____~~

21 ~~Place: _____~~

22 ~~(For a private disposition:)~~

23 ~~We will sell (or lease or license, as applicable) the (describe colla-~~
 24 ~~teral) privately sometime after (day and date).~~

25 ~~You are entitled to an accounting of the unpaid indebtedness secured~~
 26 ~~by the property that we intend to sell (or lease or license, as applica-~~
 27 ~~ble) (for a charge of \$ _____). You may request an accounting by calling us~~
 28 ~~at (telephone number).]~~

29 {1} Name of any debtor that is not an addressee: (Name of each
 30 debtor)

31 {2} We will sell (describe collateral) (to the highest qualified
 32 bidder) at public sale. A sale could include a lease or license. The
 33 sale will be held as follows:

34 (Date)

35 (Time)

36 (Place)

37 {3} We will sell (describe collateral) at private sale sometime after
 38 (date). A sale could include a lease or license.

39 {4} You are entitled to an accounting of the unpaid indebtedness
 40 secured by the property that we intend to sell or, as applicable, lease
 41 or license.

42 {5} If you request an accounting you must pay a charge of \$ (amount).

43 {6} You may request an accounting by calling us at (telephone number).

44 (End of Form)

45 (b) Instructions for form of notification. The following instructions
 46 apply to the form of notification in subsection (a)(5):

(1) The instructions in this subsection refer to the numbers in braces before items in the form of notification in subsection (a)(5). Do not include the numbers or braces in the notification. The numbers and braces are used only for the purpose of these instructions.

(2) Include and complete subsection (a)(5) item {1} only if there is a debtor that is not an addressee of the notification and list the name or names.

(3) Include and complete either item {2}, if the notification relates to a public disposition of the collateral, or item {3}, if the notification relates to a private disposition of the collateral. If item {2} is included, include the words "to the highest qualified bidder" only if applicable.

(4) Include and complete items {4} and {6}.

(5) Include and complete item {5} only if the sender will charge the recipient for an accounting.

§ 82. Section 9--614 of the uniform commercial code, as added by chapter 84 of the laws of 2001, is amended to read as follows:

Section 9--614. Contents and Form of Notification Before Disposition of Collateral: Consumer-goods Transaction.

(a) Contents and form of notification. In a consumer-goods transaction, the following rules apply:

~~(a)~~ (1) A notification of disposition must provide the following information:

~~(1)~~ (A) the information specified in Section 9--613(a);

~~(2)~~ (B) a description of any liability for a deficiency of the person to which the notification is sent;

~~(3)~~ (C) a telephone number from which the amount that must be paid to the secured party to redeem the collateral under Section 9--623 is available; and

~~(4)~~ (D) a telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available.

~~(b)~~ (2) A particular phrasing of the notification is not required.

~~(a)~~ (3) The following form of notification, when completed in accordance with the instructions in subsection (b), provides sufficient information:

(Name and address of secured party)

(Date)

NOTICE OF OUR PLAN TO SELL PROPERTY

(Name and address of any obligor who is also a debtor)

Subject: (Identification of Transaction)

We have your (describe collateral), because you broke promises in our agreement.

~~(For a public disposition:)~~

{1} We will sell (describe collateral) at public sale. A sale could include a lease or license. The sale will be held as follows:

Date: _____

Time: _____

Place: _____

You may attend the sale and bring bidders if you want.

~~(For a private disposition:)~~

{2} We will sell (describe collateral) at private sale sometime after (date). A sale could include a lease or license.

{3} The money that we get from the sale [+], after paying our costs~~]~~, will reduce the amount you owe. If we get less money than you owe, you (will or will not, as applicable) still owe us the difference.

1 If we get more money than you owe, you will get the extra money, unless
2 we must pay it to someone else.

3 {4} You can get the property back at any time before we sell it by
4 paying us the full amount you owe [~~+~~], not just the past due
5 payments[~~+~~], including our expenses. To learn the exact amount you must
6 pay, call us at (telephone number).

7 {5} If you want us to explain to you in writing or in (description of
8 electronic record) (description of electronic record) how we have
9 figured the amount that you owe us, [~~you may~~] {6} call us at (telephone
10 number) [~~+~~]or write us at (secured party's address)[~~+~~] or contact us by
11 (description of electronic communication method) {7} and request a writ-
12 ten explanation or an explanation in (description of electronic record)
13 an explanation in (description of electronic record).

14 [~~+~~]{8} We will charge you \$ (amount) for the explanation if we sent
15 you another written explanation of the amount you owe us within the last
16 six months.[~~+~~]

17 {9} If you need more information about the sale call us at (telephone
18 number) [~~+~~]or write us at (secured party's address)[~~+~~] or contact us by
19 (description of electronic communication method).

20 {10} We are sending this notice to the following other people who have
21 an interest in (describe collateral) or who owe money under your agree-
22 ment:

23 (Names of all other debtors and obligors, if any)

24 (End of Form)

25 [~~(d)~~]{4} A notification in the form of [~~subsection (e)~~] paragraph (3)
26 is sufficient, even if additional information appears at the end of the
27 form.

28 [~~(e)~~]{5} A notification in the form of [~~subsection (e)~~] paragraph (3)
29 is sufficient, even if it includes errors in information not required by
30 [~~subsection (a)~~] paragraph (3), unless the error is misleading with
31 respect to rights arising under this article.

32 [~~(f)~~]{6} If a notification under this section is not in the form of
33 [~~subsection (e)~~] paragraph (3), law other than this article determines
34 the effect of including information not required by [~~subsection (a)~~]
35 paragraph (3).

36 (b) Instructions for form of notification. The following instructions
37 apply to the form of notification in subsection (a)(3):

38 (1) The instructions in this subsection refer to the numbers in braces
39 before items in the form of notification in subsection (a)(3). Do not
40 include the numbers or braces in the notification. The numbers and brac-
41 es are used only for the purpose of these instructions.

42 (2) Include and complete either item {1}, if the notification relates
43 to a public disposition of the collateral, or item {2}, if the notifica-
44 tion relates to a private disposition of the collateral.

45 (3) Include and complete items {3}, {4}, {5}, {6}, and {7}.

46 (4) In item {5}, include and complete any one of the three alternative
47 methods for the explanation--writing, writing or electronic record, or
48 electronic record.

49 (5) In item {6}, include the telephone number. In addition, the sender
50 may include and complete either or both of the two additional alterna-
51 tive methods of communication--writing or electronic communication-for
52 the recipient of the notification to communicate with the sender.
53 Neither of the two additional methods of communication is required to be
54 included.

1 (6) In item {7}, include and complete the method or methods for the
2 explanation--writing, writing or electronic record, or electronic
3 record--included in item {5}.

4 (7) Include and complete item {8} only if a written explanation is
5 included in item {5} as a method for communicating the explanation and
6 the sender will charge the recipient for another written explanation.

7 (8) In item {9}, include either the telephone number or the address or
8 both the telephone number and the address. In addition, the sender may
9 include and complete the additional method of communication--electronic
10 communication--for the recipient of the notification to communicate with
11 the sender. The additional method of electronic communication is not
12 required to be included.

13 (9) If item {10} does not apply, insert "None" after "agreement:".

14 § 83. Paragraphs 3 and 4 of subsection (a) of section 9--615 of the
15 uniform commercial code, as added by chapter 84 of the laws of 2001, are
16 amended to read as follows:

17 (3) the satisfaction of obligations secured by any subordinate
18 security interest in or other subordinate lien on the collat-
19 eral if:

20 (A) the secured party receives from the holder of the subor-
21 dinate security interest or other lien [~~an authenticated~~]
22 a signed demand for proceeds before distribution of the
23 proceeds is completed; and

24 (B) in a case in which a consignor has an interest in the
25 collateral, the subordinate security interest or other
26 lien is senior to the interest of the consignor; and

27 (4) a secured party that is a consignor of the collateral if the
28 secured party receives from the consignor [~~an authenticated~~]
29 a signed demand for proceeds before distribution of the
30 proceeds is completed.

31 § 84. Subsections (a) and (b) and the opening paragraph of subsection
32 (c) of section 9--616 of the uniform commercial code, as added by chap-
33 ter 84 of the laws of 2001, are amended to read as follows:

34 (a) Definitions. In this section:

35 (1) "Explanation" means a [~~writing~~] record that:

36 (A) states the amount of the surplus or deficiency;

37 (B) provides an explanation in accordance with subsection (c)
38 of how the secured party calculated the surplus or defi-
39 ciency;

40 (C) states, if applicable, that future debits, credits,
41 charges, including additional credit service charges or
42 interest, rebates, and expenses may affect the amount of
43 the surplus or deficiency; and

44 (D) provides a telephone number or mailing address from which
45 additional information concerning the transaction is
46 available.

47 (2) "Request" means a record:

48 (A) [~~authenticated~~] signed by a debtor or consumer obligor;

49 (B) requesting that the recipient provide an explanation; and

50 (C) sent after disposition of the collateral under Section
51 9--610.

52 (b) Explanation of calculation. In a consumer-goods transaction in
53 which the debtor is entitled to a surplus or a consumer obligor is
54 liable for a deficiency under Section 9--615, the secured party shall:

55 (1) send an explanation to the debtor or consumer obligor, as
56 applicable, after the disposition and:

(A) before or when the secured party accounts to the debtor and pays any surplus or first makes [~~written~~] demand in a record on the consumer obligor after the disposition for payment of the deficiency; and

(B) within fourteen days after receipt of a request; or

(2) in the case of a consumer obligor who is liable for a deficiency, within fourteen days after receipt of a request, send to the consumer obligor a record waiving the secured party's right to a deficiency.

To comply with subsection (a)(1)(B), [~~a writing~~] an explanation must provide the following information in the following order:

§ 85. The opening paragraph of subsection (a) of section 9--619 of the uniform commercial code, as added by chapter 84 of the laws of 2001, is amended to read as follows:

In this section, "transfer statement" means a record [~~authenticated~~] signed by a secured party stating:

§ 86. The uniform commercial code is amended by adding a new article 12 to read as follows:

ARTICLE 12

CONTROLLABLE ELECTRONIC RECORDS

Section 12--101. Short title.

This article may be cited as Uniform Commercial Code--Controllable Electronic Records.

Section 12--102. Definitions.

(a) In this article:

(1) "Controllable electronic record" means a record stored in an electronic medium that can be subjected to control under Section 12-105. The term does not include a controllable account, a controllable payment intangible, a deposit account, an electronic copy of a record evidencing chattel paper, an electronic document of title, electronic money, investment property, or a transferable record.

(2) "Qualifying purchaser" means a purchaser of a controllable electronic record or an interest in a controllable electronic record that obtains control of the controllable electronic record for value, in good faith, and without notice of a claim of a property right in the controllable electronic record. In the case of a controllable electronic record that would be a "draft" or a "note", as those terms are defined in Section 3--104, if the controllable electronic record were a signed writing, Section 3--304(7) applies to the determination of whether a purchaser obtains control of the controllable electronic record without notice of a claim of a property right in it as if the reference in that subsection to "the instrument" referred to the controllable electronic record. The preceding sentence applies even if the controllable electronic record contains a term by which an obligor or account debtor on the controllable account or controllable payment intangible evidenced by the controllable electronic record waives or agrees not to assert against an assignee of the controllable electronic record any claim or defense that the obligor or account debtor may have against the assignor.

(3) "Transferable record" means an electronic record that either:

(A) is a "transferable record" under Section 201(a)(1) of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7021(a)(1), as amended; or,

1 (B) is governed by the law of any State that has enacted or adopted
2 the Uniform Electronic Transactions Act substantially as approved and
3 recommended for enactment in all the States by the National Conference
4 of Commissioners on Uniform State Laws in 1999 and is a "transferable
5 record" under Section 16(a) of that Act.

6 (4) "Value" has the meaning provided in Section 3-303(a), as if refer-
7 ences in that subsection to an "instrument" were references to a
8 controllable account, controllable electronic record, or controllable
9 payment intangible.

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

12 (1) The definitions in Article 9 of "account debtor", "controllable
13 account", "controllable payment intangible", "chattel paper", "deposit
14 account", "electronic money", and "investment property" apply to this
15 article.

16 (2) Article 1 contains general definitions and principles of
17 construction and interpretation applicable throughout this article.
18 Section 12--103. Relation to Article 9 and Consumer Laws.

19 (a) Article 9 governs in case of conflict. If there is conflict
20 between this article and Article 9, Article 9 governs.

21 (b) Applicable consumer law and other laws. A transaction subject to
22 this article is subject to any applicable rule of law that establishes a
23 different rule for consumers, including Article 22-A of the General
24 Business Law and chapter 5 of title 20 of the New York City Administra-
25 tive Code.

26 (c) Enforceability or effectiveness. If an electronic record is a
27 controllable electronic record under this article, Section 307.2 of the
28 Electronic Signatures and Records Act (State Technology Law 301 et seq.)
29 shall not impair the enforceability or effectiveness of such electronic
30 record under this article nor shall such Act cause such controllable
31 electronic record to be governed by Article 3 rather than this article,
32 except to the extent the electronic record expressly provides otherwise
33 or was created prior to the effective date of this article.

34 Section 12--104. Rights in Controllable Account, Controllable Electronic
35 Record, and Controllable Payment Intangible.

36 (a) Applicability of section to controllable account and controllable
37 payment intangible. This section applies to the acquisition and
38 purchase of rights in a controllable account or controllable payment
39 intangible, including the rights and benefits under subsections (c),
40 (d), (e), (g), and (h) of a purchaser and qualifying purchaser, in the
41 same manner this section applies to a controllable electronic record.

42 (b) Control of controllable account and controllable payment intangi-
43 ble. To determine whether a purchaser of a controllable account or a
44 controllable payment intangible is a qualifying purchaser, the purchaser
45 obtains control of the account or payment intangible if it obtains
46 control of the controllable electronic record that evidences the account
47 or payment intangible.

48 (c) Applicability of other law to acquisition of rights. Except as
49 provided in this section, law other than this article determines whether
50 a person acquires a right in a controllable electronic record and the
51 right the person acquires.

52 (d) Shelter principle and purchase of limited interest. A purchaser of
53 a controllable electronic record acquires all rights in the controllable
54 electronic record that the transferor had or had power to transfer,
55 except that a purchaser of a limited interest in a controllable elec-

1 tronic record acquires rights only to the extent of the interest
2 purchased.

3 (e) Rights of qualifying purchaser. A qualifying purchaser acquires
4 its rights in the controllable electronic record free of a claim of a
5 property right in the controllable electronic record.

6 (f) Limitation of rights of qualifying purchaser in other property.
7 Except as provided in subsections (a) and (e) for a controllable account
8 and a controllable payment intangible or law other than this article, a
9 qualifying purchaser takes a right to payment, right to performance, or
10 other interest in property evidenced by the controllable electronic
11 record subject to a claim of a property right in the right to payment,
12 right to performance, or other interest in property.

13 (g) No-action protection for qualifying purchaser. An action may not
14 be asserted against a qualifying purchaser based on both a purchase by
15 the qualifying purchaser of a controllable electronic record and a claim
16 of a property right in another controllable electronic record, whether
17 the action is framed in conversion, replevin, constructive trust, equi-
18 table lien, or other theory.

19 (h) Filing not notice. Filing of a financing statement under Article 9
20 is not notice of a claim of a property right in a controllable electron-
21 ic record.

22 Section 12--105. Control of Controllable Electronic Record.

23 (a) General rule: control of controllable electronic record. A person
24 has control of a controllable electronic record if the electronic
25 record, a record attached to or logically associated with the electronic
26 record, or a system in which the electronic record is recorded:

27 (1) gives the person:

28 (A) power to avail itself of substantially all the benefit from the
29 electronic record; and

30 (B) exclusive power, subject to subsection (b), to:

31 (i) prevent others from availing themselves of substantially all the
32 benefit from the electronic record; and

33 (ii) transfer control of the electronic record to another person or
34 cause another person to obtain control of another controllable electron-
35 ic record as a result of the transfer of the electronic record; and

36 (2) enables the person readily to identify itself in any way, includ-
37 ing by name, identifying number, cryptographic key, office, or account
38 number, as having the powers specified in paragraph (1).

39 (b) Meaning of exclusive. Subject to subsection (c), a power is exclu-
40 sive under subsection (a)(1)(B)(i) and (ii) even if:

41 (1) the controllable electronic record, a record attached to or
42 logically associated with the electronic record, or a system in which
43 the electronic record is recorded limits the use of the electronic
44 record or has a protocol programmed to cause a change, including a
45 transfer or loss of control or a modification of benefits afforded by
46 the electronic record; or

47 (2) the power is shared with another person.

48 (c) When power not shared with another person. A power of a person is
49 not shared with another person under subsection (b)(2) and the person's
50 power is not exclusive if:

51 (1) the person can exercise the power only if the power also is exer-
52 cised by the other person; and

53 (2) the other person:

54 (A) can exercise the power without exercise of the power by the
55 person; or

1 (B) is the transferor to the person of an interest in the controllable
2 electronic record or a controllable account or controllable payment
3 intangible evidenced by the controllable electronic record.

4 (d) Presumption of exclusivity of certain powers. If a person has the
5 powers specified in subsection (a)(1)(B)(i) and (ii), the powers are
6 presumed to be exclusive.

7 (e) Control through another person. A person has control of a control-
8 lable electronic record if another person, other than the transferor to
9 the person of an interest in the controllable electronic record or a
10 controllable account or controllable payment intangible evidenced by the
11 controllable electronic record:

12 (1) has control of the electronic record and acknowledges that it has
13 control on behalf of the person; or

14 (2) obtains control of the electronic record after having acknowledged
15 that it will obtain control of the electronic record on behalf of the
16 person.

17 (f) No requirement to acknowledge. A person that has control under
18 this section is not required to acknowledge that it has control on
19 behalf of another person.

20 (g) No duties or confirmation. If a person acknowledges that it has or
21 will obtain control on behalf of another person, unless the person
22 otherwise agrees or law other than this article or Article 9 otherwise
23 provides, the person does not owe any duty to the other person and is
24 not required to confirm the acknowledgment to any other person.

25 Section 12--106. Discharge of Account Debtor on Controllable Account or
26 Controllable Payment Intangible.

27 (a) Discharge of account debtor. An account debtor on a controllable
28 account or controllable payment intangible may discharge its obligation
29 by paying:

30 (1) the person having control of the controllable electronic record
31 that evidences the controllable account or controllable payment intangi-
32 ble; or

33 (2) except as provided in subsection (b), a person that formerly had
34 control of the controllable electronic record.

35 (b) Content and effect of notification. Subject to subsection (d), the
36 account debtor may not discharge its obligation by paying a person that
37 formerly had control of the controllable electronic record if the
38 account debtor receives a notification that:

39 (1) is signed by a person that formerly had control or the person to
40 which control was transferred;

41 (2) reasonably identifies the controllable account or controllable
42 payment intangible;

43 (3) notifies the account debtor that control of the controllable elec-
44 tronic record that evidences the controllable account or controllable
45 payment intangible was transferred;

46 (4) identifies the transferee, in any reasonable way, including by
47 name, identifying number, cryptographic key, office, or account number;
48 and

49 (5) provides a commercially reasonable method by which the account
50 debtor is to pay the transferee.

51 (c) Discharge following effective notification. After receipt of a
52 notification that complies with subsection (b), the account debtor may
53 discharge its obligation by paying in accordance with the notification
54 and may not discharge the obligation by paying a person that formerly
55 had control.

1 (d) When notification ineffective. Subject to subsection (h), notification is ineffective under subsection (b):

2
3 (1) unless, before the notification is sent, the account debtor and
4 the person that, at that time, had control of the controllable electronic
5 record that evidences the controllable account or controllable
6 payment intangible agree in a signed record to a commercially reasonable
7 method by which a person may furnish reasonable proof that control has
8 been transferred;

9 (2) to the extent an agreement between the account debtor and seller
10 of a payment intangible limits the account debtor's duty to pay a person
11 other than the seller and the limitation is effective under law other
12 than this article; or

13 (3) at the option of the account debtor, if the notification notifies
14 the account debtor to:

15 (A) divide a payment;

16 (B) make less than the full amount of an installment or other periodic
17 payment; or

18 (C) pay any part of a payment by more than one method or to more than
19 one person.

20 (e) Proof of transfer of control. Subject to subsection (h), if
21 requested by the account debtor, the person giving the notification
22 under subsection (b) seasonably shall furnish reasonable proof, using
23 the method in the agreement referred to in subsection (d)(1), that
24 control of the controllable electronic record has been transferred.
25 Unless the person complies with the request, the account debtor may
26 discharge its obligation by paying a person that formerly had control,
27 even if the account debtor has received a notification under subsection
28 (b).

29 (f) What constitutes reasonable proof. A person furnishes reasonable
30 proof under subsection (e) that control has been transferred if the
31 person demonstrates, using the method in the agreement referred to in
32 subsection (d)(1), that the transferee has the power to:

33 (1) avail itself of substantially all the benefit from the controlla-
34 ble electronic record;

35 (2) prevent others from availing themselves of substantially all the
36 benefit from the controllable electronic record; and

37 (3) transfer the powers specified in paragraphs (1) and (2) to another
38 person.

39 (g) Rights not waivable. Subject to subsection (h), an account debtor
40 may not waive or vary its rights under subsections (d)(1) and (e) or its
41 option under subsection (d)(3).

42 (h) Rule for individual under other law. This section is subject to
43 law other than this article which establishes a different rule for an
44 account debtor who is an individual and who incurred the obligation
45 primarily for personal, family, or household purposes.

46 Section 12--107. Governing Law.

47 (a) Governing law: general rule. Except as provided in subsection (b),
48 the local law of a controllable electronic record's jurisdiction governs
49 a matter covered by this article.

50 (b) Governing law: Section 12--106. For a controllable electronic
51 record that evidences a controllable account or controllable payment
52 intangible, the local law of the controllable electronic record's juris-
53 isdiction governs a matter covered by Section 12--106 unless an effective
54 agreement determines that the local law of another jurisdiction governs.

1 (c) Controllable electronic record's jurisdiction. The following rules
2 determine a controllable electronic record's jurisdiction under this
3 section:

4 (1) If the controllable electronic record, or a record attached to or
5 logically associated with the controllable electronic record and readily
6 available for review, expressly provides that a particular jurisdiction
7 is the controllable electronic record's jurisdiction for purposes of
8 this article, that jurisdiction is the controllable electronic record's
9 jurisdiction.

10 (2) If paragraph (1) does not apply and the rules of the system in
11 which the controllable electronic record is recorded are readily avail-
12 able for review and expressly provide that a particular jurisdiction is
13 the controllable electronic record's jurisdiction for purposes of this
14 article, that jurisdiction is the controllable electronic record's
15 jurisdiction.

16 (3) If paragraphs (1) and (2) do not apply and the controllable elec-
17 tronic record, or a record attached to or logically associated with the
18 controllable electronic record and readily available for review,
19 expressly provides that the controllable electronic record is governed
20 by the law of a particular jurisdiction, that jurisdiction is the
21 controllable electronic record's jurisdiction.

22 (4) If paragraphs (1), (2), and (3) do not apply and the rules of the
23 system in which the controllable electronic record is recorded are read-
24 ily available for review and expressly provide that the controllable
25 electronic record or the system is governed by the law of a particular
26 jurisdiction, that jurisdiction is the controllable electronic record's
27 jurisdiction.

28 (5) If paragraphs (1) through (4) do not apply, the controllable elec-
29 tronic record's jurisdiction is the District of Columbia.

30 (d) Applicability of Article 12. If subsection (c)(5) applies and
31 Article 12 is not in effect in the District of Columbia without material
32 modification, the governing law for a matter covered by this article is
33 the law of the District of Columbia as though Article 12 were in effect
34 in the District of Columbia without material modification. In this
35 subsection, "Article 12" means Article 12 of Uniform Commercial Code
36 Amendments (2022).

37 (e) Relation of matter or transaction to controllable electronic
38 record's jurisdiction not necessary. To the extent subsections (a) and
39 (b) provide that the local law of the controllable electronic record's
40 jurisdiction governs a matter covered by this article, that law governs
41 even if the matter or a transaction to which the matter relates does not
42 bear any relation to the controllable electronic record's jurisdiction.

43 (f) Rights of purchasers determined at time of purchase. The rights
44 acquired under Section 12--104 by a purchaser or qualifying purchaser
45 are governed by the law applicable under this section at the time of
46 purchase.

47 § 87. The uniform commercial code is amended by adding a new article
48 12-A to read as follows:

49 ARTICLE 12-A
50 TRANSITIONAL PROVISIONS FOR UNIFORM COMMERCIAL
51 CODE AMENDMENTS

52 PART 1
53 GENERAL PROVISIONS AND DEFINITIONS

1 Section 12-A-101. Title. This article may be cited as Transitional
2 Provisions for the 2024 Uniform Commercial Code
3 Amendments.

4 Section 12-A-102. Definitions.

5 (a) Article A Definitions. In this article:

6 (1) "Adjustment date" means July 1, 2025, or the date that is one year
7 after the effective date of this article, whichever is later.

8 (2) "Article 12" means Article 12 of this code.

9 (3) "Article 12 property" means a controllable account, controllable
10 electronic record, or controllable payment intangible.

11 (b) Definitions in other articles. The following definitions in other
12 articles of this code apply to this article.

13 "Controllable account". Section 9--102.

14 "Controllable electronic record". Section 12--102.

15 "Controllable payment intangible". Section 9--102.

16 "Electronic money". Section 9--102.

17 "Financing statement". Section 9--102.

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

21 PART 2

22 GENERAL TRANSITIONAL PROVISION

23 Section 12-A-201. Saving Clause.

24 Except as provided in Part 3, a transaction validly entered into
25 before the effective date of this article and the rights, duties, and
26 interests flowing from the transaction remain valid thereafter and may
27 be terminated, completed, consummated, or enforced as required or
28 permitted by law other than this article or, if applicable, this arti-
29 cle, as though this article had not taken effect.

30 PART 3

31 TRANSITIONAL PROVISIONS FOR ARTICLES 9 AND 12

32 Section 12-A-301. Saving Clause.

33 (a) Pre-effective-date transaction, lien, or interest. Except as
34 provided in this part, Article 9 as amended by a chapter of the laws of
35 two thousand twenty-four adding this article and Article 12 apply to a
36 transaction, lien, or other interest in property, even if the trans-
37 action, lien, or interest was entered into, created, or acquired before
38 the effective date of this article.

39 (b) Continuing validity. Except as provided in subsection (c) and
40 Sections 12-A-302 through 12-A-306:

41 (1) a transaction, lien, or interest in property that was validly
42 entered into, created, or transferred before the effective date of this
43 article and was not governed by this article, but would be subject to
44 Article 9 as amended by a chapter of the laws of two thousand twenty-
45 four adding this article or Article 12 if it had been entered into,
46 created, or transferred on or after the effective date of this article,
47 including the rights, duties, and interests flowing from the trans-
48 action, lien, or interest, remains valid on and after the effective date
49 of this article; and

50 (2) the transaction, lien, or interest may be terminated, completed,
51 consummated, and enforced as required or permitted by this code or by
52 the law that would apply if this article had not taken effect.

1 (c) Pre-effective-date proceeding. This code does not affect an
2 action, case, or proceeding commenced before the effective date of this
3 article.

4 Section 12-A-302. Security Interest Perfected Before Effective Date.

5 (a) Continuing perfection: perfection requirements satisfied. A secu-
6 rity interest that is enforceable and perfected immediately before the
7 effective date of this article is a perfected security interest under
8 this article if, on the effective date of this article, the requirements
9 for enforceability and perfection under this article are satisfied with-
10 out further action.

11 (b) Continuing perfection: enforceability or perfection requirements
12 not satisfied. If a security interest is enforceable and perfected imme-
13 diately before the effective date of this article, but the requirements
14 for enforceability or perfection under this article are not satisfied on
15 the effective date of this article, the security interest:

16 (1) is a perfected security interest until the earlier of the time
17 perfection would have ceased under the law in effect immediately before
18 the effective date of this article or the adjustment date;

19 (2) remains enforceable thereafter only if the security interest
20 satisfies the requirements for enforceability under Section 9--203, as
21 amended by a chapter of the laws of two thousand twenty-four adding this
22 article before the adjustment date; and

23 (3) remains perfected thereafter only if the requirements for
24 perfection under this article are satisfied before the time specified in
25 paragraph (1).

26 Section 12-A-303. Security Interest Unperfected Before Effective Date.

27 A security interest that is enforceable immediately before the effec-
28 tive date of this article but is unperfected at that time:

29 (1) remains an enforceable security interest until the adjustment
30 date;

31 (2) remains enforceable thereafter if the security interest becomes
32 enforceable under Section 9--203, as amended by a chapter of the laws of
33 two thousand twenty-four that added this article, on the effective date
34 of this article or before the adjustment date; and

35 (3) becomes perfected:

36 (A) without further action, on the effective date of this article if
37 the requirements for perfection under this article are satisfied before
38 or at that time; or

39 (B) when the requirements for perfection are satisfied if the require-
40 ments are satisfied after that time.

41 Section 12-A-304. Effectiveness of Actions Taken Before Effective Date.

42 (a) Pre-effective-date action; attachment and perfection before
43 adjustment date. If action, other than the filing of a financing state-
44 ment, is taken before the effective date of this article and the action
45 would have resulted in perfection of the security interest had the secu-
46 rity interest become enforceable before the effective date of this arti-
47 cle, the action is effective to perfect a security interest that
48 attaches under this article before the adjustment date. An attached
49 security interest becomes unperfected on the adjustment date unless the
50 security interest becomes a perfected security interest under this arti-
51 cle before the adjustment date.

52 (b) Pre-effective-date filing. The filing of a financing statement
53 before the effective date of this article is effective to perfect a
54 security interest on the effective date of this article to the extent
55 the filing would satisfy the requirements for perfection under this
56 article.

1 (c) Pre-effective-date enforceability action. The taking of an action
2 before the effective date of this article is sufficient for the enforce-
3 ability of a security interest on the effective date of this article if
4 the action would satisfy the requirements for enforceability under this
5 article.

6 Section 12-A-305. Priority.

7 (a) Determination of priority. Subject to subsections (b) and (c),
8 this code determines the priority of conflicting claims to collateral.

9 (b) Established priorities. Subject to subsection (c), if the priori-
10 ties of claims to collateral were established before the effective date
11 of this article, Article 9 as in effect before the effective date of a
12 chapter of the laws of two thousand twenty-four that added this article
13 determines priority.

14 (c) Determination of certain priorities on adjustment date. On the
15 adjustment date, to the extent the priorities determined by Article 9 as
16 amended by this code modify the priorities established before the effec-
17 tive date of a chapter of the laws of two thousand twenty-four that
18 added this article, the priorities of claims to Article 12 property and
19 electronic money established before the effective date of this article
20 cease to apply.

21 Section 12-A-306. Priority of Claims When Priority Rules of Article 9 Do
22 Not Apply.

23 (a) Determination of priority. Subject to subsections (b) and (c),
24 Article 12 determines the priority of conflicting claims to Article 12
25 property when the priority rules of Article 9 as amended by this article
26 do not apply.

27 (b) Established priorities. Subject to subsection (c), when the prior-
28 ity rules of Article 9 as amended by a chapter of the laws of two thou-
29 sand twenty-four that added this article do not apply and the priorities
30 of claims to Article 12 property were established before the effective
31 date of this article, law other than Article 12 determines priority.

32 (c) Determination of certain priorities on adjustment date. When the
33 priority rules of Article 9 as amended by this article do not apply, to
34 the extent the priorities determined by this code modify the priorities
35 established before the effective date this article, the priorities of
36 claims to Article 12 property established before the effective date of
37 this article cease to apply on the adjustment date.

38 § 88. This act shall take effect on the one hundred eightieth day
39 after it shall have become a law.