

# HOUSE . . . . . No. 28

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So much of the recommendations of the Commission on Uniform State Laws (House, No. 26) as relates to making amendments to the Uniform Commercial Code covering general provisions, documents of title and secured transactions. Economic Development and Emerging Technologies.

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## The Commonwealth of Massachusetts

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**In the Year Two Thousand Thirteen**  
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An Act making amendments to the Uniform Commercial Code covering general provisions, documents of title and secured transactions.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           FIRST SET OF AMENDMENTS

2           (UCC ARTICLES 1 AND 7 REVISIONS AND TECHNICAL AMENDMENTS TO  
3 UCC ARTICLE 9)

4           SECTION 1. Section 28 of chapter 10 of the General Laws is hereby amended by  
5 striking out “9-405” and by substituting in place thereof “9-406.”

6           SECTION 2. Chapter 106 of the General Laws is hereby amended by striking out article  
7 1, as so appearing, and by substituting in place thereof the following article 1:--

8           ARTICLE 1 – GENERAL PROVISIONS

9           PART 1

10          GENERAL PROVISIONS

11          SECTION 1 101. SHORT TITLES.

12          (a) This chapter may be cited as the Uniform Commercial Code.

13          (b) This article may be cited as Uniform Commercial Code – General Provisions.

14          SECTION 1 102. SCOPE OF ARTICLE. This article applies to a transaction to the  
15 extent that it is governed by another article of this chapter.

16 SECTION 1 103. CONSTRUCTION OF THIS CHAPTER TO PROMOTE ITS  
17 PURPOSES AND POLICIES; APPLICABILITY OF SUPPLEMENTAL PRINCIPLES OF  
18 LAW

19 (a) This chapter must be liberally construed and applied to promote its underlying  
20 purposes and policies, which are:

21 (1) to simplify, clarify, and modernize the law governing commercial transactions;

22 (2) to permit the continued expansion of commercial practices through custom, usage,  
23 and agreement of the parties; and

24 (3) to make uniform the law among the various jurisdictions.

25 (b) Unless displaced by the particular provisions of this chapter, the principles of law and  
26 equity, including the law merchant and the law relative to capacity to contract, principal and  
27 agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, and other  
28 validating or invalidating cause supplement its provisions.

29 SECTION 1 104. CONSTRUCTION AGAINST IMPLIED REPEAL. This chapter  
30 being a general act intended as a unified coverage of its subject matter, no part of it shall be  
31 deemed to be impliedly repealed by subsequent legislation if such construction can reasonably be  
32 avoided.

33 SECTION 1 105. SEVERABILITY. If any provision or clause of this chapter or its  
34 application to any person or circumstance is held invalid, the invalidity does not affect other  
35 provisions or applications of this chapter which can be given effect without the invalid provision  
36 or application, and to this end the provisions of this chapter are severable.

37 SECTION 1 106. USE OF SINGULAR AND PLURAL; GENDER. In this chapter,  
38 unless the statutory context otherwise requires:

39 (1) words in the singular number include the plural, and those in the plural include the  
40 singular; and

41 (2) words of any gender also refer to any other gender.

42 SECTION 1 107. SECTION CAPTIONS. Section captions are part of this chapter. The  
43 subsection headings in Article 9 are not part of this chapter.

44 SECTION 1 108. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND  
45 NATIONAL COMMERCE ACT. This chapter modifies, limits, and supersedes the federal  
46 Electronic Signatures in Global and National Commerce Act, (15 U.S.C. Section 7001, et seq.)  
47 but does not modify, limit, or supersede Section 101(c) of that act (15. U.S.C. Section 7001(c))

48 or authorize electronic delivery of any of the notices described in Section 103(b) of that act (15  
49 U.S.C. Section 7003(b)).

50 PART 2

51 GENERAL DEFINITIONS AND

52 PRINCIPLES OF INTERPRETATION

53 SECTION 1 201. GENERAL DEFINITIONS.

54 (a) Unless the context otherwise requires, words or phrases defined in this section, or in  
55 the additional definitions contained in other articles of this chapter that apply to particular  
56 articles or parts thereof, have the meanings stated.

57 (b) Subject to definitions contained in other articles of this chapter that apply to  
58 particular articles or parts thereof:

59 (1) “Action”, in the sense of a judicial proceeding, includes recoupment, counterclaim,  
60 set off, suit in equity, and any other proceeding in which rights are determined.

61 (2) “Aggrieved party” means a party entitled to pursue a remedy.

62 (3) “Agreement”, as distinguished from “contract”, means the bargain of the parties in  
63 fact, as found in their language or inferred from other circumstances, including course of  
64 performance, course of dealing, or usage of trade as provided in Section 1 303.

65 (4) “Bank” means a person engaged in the business of banking and includes a savings  
66 bank, savings and loan association, credit union, and trust company.

67 (5) “Bearer” means a person in control of a negotiable electronic document of title or a  
68 person in possession of a negotiable instrument, a negotiable tangible document of title, or  
69 certificated security that is payable to bearer or indorsed in blank.

70 (6) “Bill of lading” means a document of title evidencing the receipt of goods for  
71 shipment issued by a person engaged in the business of directly or indirectly transporting or  
72 forwarding goods. The term does not include a warehouse receipt.

73 (7) “Branch” includes a separately incorporated foreign branch of a bank.

74 (8) “Burden of establishing” a fact means the burden of persuading the trier of fact that  
75 the existence of the fact is more probable than its nonexistence.

76 (9) “Buyer in ordinary course of business” means a person that buys goods in good faith,  
77 without knowledge that the sale violates the rights of another person in the goods, and in the  
78 ordinary course from a person, other than a pawnbroker, in the business of selling goods of that

79 kind. A person buys goods in the ordinary course if the sale to the person comports with the  
80 usual or customary practices in the kind of business in which the seller is engaged or with the  
81 seller's own usual or customary practices. A person that sells oil, gas, or other minerals at the  
82 wellhead or minehead is a person in the business of selling goods of that kind. A buyer in  
83 ordinary course of business may buy for cash, by exchange of other property, or on secured or  
84 unsecured credit, and may acquire goods or documents of title under a preexisting contract for  
85 sale. Only a buyer that takes possession of the goods or has a right to recover the goods from the  
86 seller under Article 2 may be a buyer in ordinary course of business. "Buyer in ordinary course  
87 of business" does not include a person that acquires goods in a transfer in bulk or as security for  
88 or in total or partial satisfaction of a money debt.

89 (10) "Conspicuous", with reference to a term, means so written, displayed, or presented  
90 that a reasonable person against which it is to operate ought to have noticed it. Whether a term is  
91 "conspicuous" or not is a decision for the court. Conspicuous terms include the following:

92 (A) a heading in capitals equal to or greater in size than the surrounding text, or in  
93 contrasting type, font, or color to the surrounding text of the same or lesser size; and

94 (B) language in the body of a record or display in larger type than the surrounding text, or  
95 in contrasting type, font, or color to the surrounding text of the same size, or set off from  
96 surrounding text of the same size by symbols or other marks that call attention to the language.

97 (11) "Consumer" means an individual who enters into a transaction primarily for  
98 personal, family, or household purposes

99 (12) "Contract", as distinguished from "agreement", means the total legal obligation that  
100 results from the parties' agreement as determined by this chapter as supplemented by any other  
101 applicable laws.

102 (13) "Creditor" includes a general creditor, a secured creditor, a lien creditor, and any  
103 representative of creditors, including an assignee for the benefit of creditors, a trustee in  
104 bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor's or  
105 assignor's estate.

106 (14) "Defendant" includes a person in the position of defendant in a counterclaim,  
107 cross-claim, or third-party claim.

108 (15) "Delivery", with respect to an electronic document of title means voluntary transfer  
109 of control and with respect to an instrument, a tangible document of title, or chattel paper, means  
110 voluntary transfer of possession.

111 (16) "Document of title" means a record (i) that in the regular course of business or  
112 financing is treated as adequately evidencing that the person in possession or control of the  
113 record is entitled to receive, control, hold, and dispose of the record and the goods the record

114 covers and (ii) that purports to be issued by or addressed to a bailee and to cover goods in the  
115 bailee's possession which are either identified or are fungible portions of an identified mass. The  
116 term includes a bill of lading, transport document, dock warrant, dock receipt, warehouse receipt,  
117 and order for delivery of goods. An electronic document of title means a document of title  
118 evidenced by a record consisting of information stored in an electronic medium. A tangible  
119 document of title means a document of title evidenced by a record consisting of information that  
120 is inscribed on a tangible medium.

121 (17) "Fault" means a default, breach, or wrongful act or omission.

122 (18) "Fungible goods" means:

123 (A) goods of which any unit, by nature or usage of trade, is the equivalent of any other  
124 like unit; or

125 (B) goods that by agreement are treated as equivalent.

126 (19) "Genuine" means free of forgery or counterfeiting.

127 (20) "Good faith," except as otherwise provided in Article 5, means honesty in fact and  
128 the observance of reasonable commercial standards of fair dealing.

129 (21) "Holder" means:

130 (A) the person in possession of a negotiable instrument that is payable either to bearer or  
131 to an identified person that is the person in possession;

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

134 (C) the person in control of a negotiable electronic document of title.

135 (22) "Insolvency proceeding" includes an assignment for the benefit of creditors or other  
136 proceeding intended to liquidate or rehabilitate the estate of the person involved.

137 (23) "Insolvent" means:

138 (A) having generally ceased to pay debts in the ordinary course of business other than as  
139 a result of bona fide dispute;

140 (B) being unable to pay debts as they become due; or

141 (C) being insolvent within the meaning of federal bankruptcy law.

142 (24) “Money” means a medium of exchange currently authorized or adopted by a  
143 domestic or foreign government. The term includes a monetary unit of account established by an  
144 intergovernmental organization or by agreement between two or more countries.

145 (25) “Organization” means a person other than an individual.

146 (26) “Party”, as distinguished from “third party”, means a person that has engaged in a  
147 transaction or made an agreement subject to this chapter.

148 (27) “Person” means an individual, corporation, business trust, estate, trust, partnership,  
149 limited liability company, association, joint venture, government, governmental subdivision,  
150 agency, or instrumentality, public corporation, or any other legal or commercial entity.

151 (28) “Present value” means the amount as of a date certain of one or more sums payable  
152 in the future, discounted to the date certain by use of either an interest rate specified by the  
153 parties if that rate is not manifestly unreasonable at the time the transaction is entered into or, if  
154 an interest rate is not so specified, a commercially reasonable rate that takes into account the  
155 facts and circumstances at the time the transaction is entered into.

156 (29) “Purchase” means taking by sale, lease, discount, negotiation, mortgage, pledge,  
157 lien, security interest, issue or reissue, gift, or any other voluntary transaction creating an interest  
158 in property.

159 (30) “Purchaser” means a person that takes by purchase.

160 (31) “Record” means information that is inscribed on a tangible medium or that is stored  
161 in an electronic or other medium and is retrievable in perceivable form.

162 (32) “Remedy” means any remedial right to which an aggrieved party is entitled with or  
163 without resort to a tribunal.

164 (33) “Representative” means a person empowered to act for another, including an agent,  
165 an officer of a corporation or association, and a trustee, executor, or administrator of an estate.

166 (34) “Right” includes remedy.

167 (35) “Security interest” means an interest in personal property or fixtures which secures  
168 payment or performance of an obligation. “Security interest” includes any interest of a  
169 consignor and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in a  
170 transaction that is subject to Article 9. “Security interest” does not include the special property  
171 interest of a buyer of goods on identification of those goods to a contract for sale under Section 2  
172 401, but a buyer may also acquire a “security interest” by complying with Article 9. Except as  
173 otherwise provided in Section 2 505, the right of a seller or lessor of goods under Article 2 or 2A  
174 to retain or acquire possession of the goods is not a “security interest”, but a seller or lessor may  
175 also acquire a “security interest” by complying with Article 9. The retention or reservation of

176 title by a seller of goods notwithstanding shipment or delivery to the buyer under Section 2 401  
177 is limited in effect to a reservation of a “security interest.” Whether a transaction in the form of a  
178 lease creates a “security interest” is determined pursuant to Section 1 203.

179 (36) “Send” in connection with a writing, record, or notice means:

180 (A) to deposit in the mail or deliver for transmission by any other usual means of  
181 communication with postage or cost of transmission provided for and properly addressed and, in  
182 the case of an instrument, to an address specified thereon or otherwise agreed, or if there be none  
183 to any address reasonable under the circumstances; or

184 (B) in any other way to cause to be received any writing, record or notice within the time  
185 it would have arrived if properly sent.

186 (37) “Signed” includes using any symbol executed or adopted with present intention to  
187 adopt or accept a writing.

188 (38) “State” means a State of the United States, the District of Columbia, Puerto Rico,  
189 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction  
190 of the United States.

191 (39) “Surety” includes a guarantor or other secondary obligor.

192 (40) “Term” means a portion of an agreement that relates to a particular matter.

193 (41) “Unauthorized signature” means a signature made without actual, implied, or  
194 apparent authority. The term includes a forgery.

195 (42) “Warehouse receipt” means a document of title issued by a person engaged in the  
196 business of storing goods for hire.

197 (43) “Writing” includes printing, typewriting, or any other intentional reduction to  
198 tangible form. “Written” has a corresponding meaning.

199 SECTION 1 202. NOTICE; KNOWLEDGE.

200 (a) Subject to subsection (f), a person has “notice” of a fact if the person:

201 (1) has actual knowledge of it;

202 (2) has received a notice or notification of it; or

203 (3) from all the facts and circumstances known to the person at the time in question, has  
204 reason to know that it exists.

205 (b) “Knowledge” means actual knowledge. “Knows” has a corresponding meaning.

206 (c) “Discover”, “learn”, or words of similar import refer to knowledge rather than to  
207 reason to know.

208 (d) A person “notifies” or “gives” a notice or notification to another person by taking  
209 such steps as may be reasonably required to inform the other person in ordinary course, whether  
210 or not the other person actually comes to know of it.

211 (e) Subject to subsection (f), a person “receives” a notice or notification when:

212 (1) it comes to that person’s attention; or

213 (2) it is duly delivered in a form reasonable under the circumstances at the place of  
214 business through which the contract was made or at another location held out by that person as  
215 the place for receipt of such communications.

216 (f) Notice, knowledge, or a notice or notification received by an organization is effective  
217 for a particular transaction from the time it is brought to the attention of the individual  
218 conducting that transaction and, in any event, from the time it would have been brought to the  
219 individual’s attention if the organization had exercised due diligence. An organization exercises  
220 due diligence if it maintains reasonable routines for communicating significant information to the  
221 person conducting the transaction and there is reasonable compliance with the routines. Due  
222 diligence does not require an individual acting for the organization to communicate information  
223 unless the communication is part of the individual’s regular duties or the individual has reason to  
224 know of the transaction and that the transaction would be materially affected by the information.

225 SECTION 1 203. LEASE DISTINGUISHED FROM SECURITY INTEREST.

226 (a) Whether a transaction in the form of a lease creates a lease or security interest is  
227 determined by the facts of each case.

228 (b) A transaction in the form of a lease creates a security interest if the consideration that  
229 the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for  
230 the term of the lease and is not subject to termination by the lessee, and:

231 (1) the original term of the lease is equal to or greater than the remaining economic life of  
232 the goods;

233 (2) the lessee is bound to renew the lease for the remaining economic life of the goods or  
234 is bound to become the owner of the goods;

235 (3) the lessee has an option to renew the lease for the remaining economic life of the  
236 goods for no additional consideration or for nominal additional consideration upon compliance  
237 with the lease agreement; or

238 (4) the lessee has an option to become the owner of the goods for no additional  
239 consideration or for nominal additional consideration upon compliance with the lease agreement.

240 (c) A transaction in the form of a lease does not create a security interest merely because:

241 (1) the present value of the consideration the lessee is obligated to pay the lessor for the  
242 right to possession and use of the goods is substantially equal to or is greater than the fair market  
243 value of the goods at the time the lease is entered into;

244 (2) the lessee assumes risk of loss of the goods;

245 (3) the lessee agrees to pay, with respect to the goods, taxes, insurance, filing, recording,  
246 or registration fees, or service or maintenance costs;

247 (4) the lessee has an option to renew the lease or to become the owner of the goods;

248 (5) the lessee has an option to renew the lease for a fixed rent that is equal to or greater  
249 than the reasonably predictable fair market rent for the use of the goods for the term of the  
250 renewal at the time the option is to be performed; or

251 (6) the lessee has an option to become the owner of the goods for a fixed price that is  
252 equal to or greater than the reasonably predictable fair market value of the goods at the time the  
253 option is to be performed.

254 (d) Additional consideration is nominal if it is less than the lessee's reasonably  
255 predictable cost of performing under the lease agreement if the option is not exercised.  
256 Additional consideration is not nominal if:

257 (1) when the option to renew the lease is granted to the lessee, the rent is stated to be the  
258 fair market rent for the use of the goods for the term of the renewal determined at the time the  
259 option is to be performed; or

260 (2) when the option to become the owner of the goods is granted to the lessee, the price is  
261 stated to be the fair market value of the goods determined at the time the option is to be  
262 performed.

263 (e) The "remaining economic life of the goods" and "reasonably predictable" fair market  
264 rent, fair market value, or cost of performing under the lease agreement must be determined with  
265 reference to the facts and circumstances at the time the transaction is entered into.

266 SECTION 1 204. VALUE. Except as otherwise provided in Articles 3, 4, and 5, a  
267 person gives value for rights if the person acquires them:

268 (1) in return for a binding commitment to extend credit or for the extension of  
269 immediately available credit, whether or not drawn upon and whether or not a charge back is  
270 provided for in the event of difficulties in collection;

271 (2) as security for, or in total or partial satisfaction of, a preexisting claim;

272 (3) by accepting delivery under a preexisting contract for purchase; or

273 (4) in return for any consideration sufficient to support a simple contract.

274 SECTION 1 205. REASONABLE TIME; SEASONABLENESS.

275 (a) Whether a time for taking an action required by this chapter is reasonable depends on  
276 the nature, purpose, and circumstances of the action.

277 (b) An action is taken seasonably if it is taken at or within the time agreed or, if no time  
278 is agreed, at or within a reasonable time.

279 SECTION 1-206. PRESUMPTIONS. Whenever this chapter creates a “presumption”  
280 with respect to a fact, or provides that a fact is “presumed,” the trier of fact must find the  
281 existence of the fact unless and until evidence is introduced that supports a finding of its  
282 nonexistence.

283 PART 3

284 TERRITORIAL APPLICABILITY AND GENERAL RULES

285 SECTION 1 301. TERRITORIAL APPLICABILITY; PARTIES’ POWER TO  
286 CHOOSE APPLICABLE LAW.

287 (a) Except as provided hereafter in this section, when a transaction bears a reasonable  
288 relation to this state and also to another state or nation the parties may agree that the law either of  
289 this state or of such other state or nation shall govern their rights and duties. Failing such  
290 agreement this Act applies to transactions bearing an appropriate relation to this state.

291 (b) To the extent that this chapter governs a transaction, if one of the following  
292 provisions of this chapter specifies the applicable law, that provision governs and a contrary  
293 agreement is effective only to the extent permitted by the law so specified:

294 (1) Section 2 402;

295 (2) Sections 2A 105 and 2A 106;

296 (3) Section 4 102;

297 (4) Section 4A 507;

298 (5) Section 5 116;

299 (6) Section 8 110;

300 (7) Sections 9 301 through 9 307.

301 SECTION 1 302. VARIATION BY AGREEMENT.

302 (a) Except as otherwise provided in subsection (b) or elsewhere in this chapter, the effect  
303 of provisions of this chapter may be varied by agreement.

304 (b) The obligations of good faith, diligence, reasonableness, and care prescribed by this  
305 chapter may not be disclaimed by agreement. The parties, by agreement, may determine the  
306 standards by which the performance of those obligations is to be measured if those standards are  
307 not manifestly unreasonable. Whenever this chapter requires an action to be taken within a  
308 reasonable time, a time that is not manifestly unreasonable may be fixed by agreement.

309 (c) The presence in certain provisions of this chapter of the phrase “unless otherwise  
310 agreed”, or words of similar import, does not imply that the effect of other provisions may not be  
311 varied by agreement under this section.

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

314 (a) A “course of performance” is a sequence of conduct between the parties to a  
315 particular transaction that exists if:

316 (1) the agreement of the parties with respect to the transaction involves repeated  
317 occasions for performance by a party; and

318 (2) the other party, with knowledge of the nature of the performance and opportunity for  
319 objection to it, accepts the performance or acquiesces in it without objection.

320 (b) A “course of dealing” is a sequence of conduct concerning previous transactions  
321 between the parties to a particular transaction that is fairly to be regarded as establishing a  
322 common basis of understanding for interpreting their expressions and other conduct.

323 (c) A “usage of trade” is any practice or method of dealing having such regularity of  
324 observance in a place, vocation, or trade as to justify an expectation that it will be observed with  
325 respect to the transaction in question. The existence and scope of such a usage must be proved  
326 as facts. If it is established that such a usage is embodied in a trade code or similar record, the  
327 interpretation of the record is a question of law.

328 (d) A course of performance or course of dealing between the parties or usage of trade in  
329 the vocation or trade in which they are engaged or of which they are or should be aware is

330 relevant in ascertaining the meaning of the parties' agreement, may give particular meaning to  
331 specific terms of the agreement, and may supplement or qualify the terms of the agreement. A  
332 usage of trade applicable in the place in which part of the performance under the agreement is to  
333 occur may be so utilized as to that part of the performance.

334 (e) Except as otherwise provided in subsection (f), the express terms of an agreement and  
335 any applicable course of performance, course of dealing, or usage of trade must be construed  
336 whenever reasonable as consistent with each other. If such a construction is unreasonable:

337 (1) express terms prevail over course of performance, course of dealing, and usage of  
338 trade;

339 (2) course of performance prevails over course of dealing and usage of trade; and

340 (3) course of dealing prevails over usage of trade.

341 (f) Subject to Section 2 209, a course of performance is relevant to show a waiver or  
342 modification of any term inconsistent with the course of performance.

343 (g) Evidence of a relevant usage of trade offered by one party is not admissible unless  
344 that party has given the other party notice that the court finds sufficient to prevent unfair surprise  
345 to the other party.

346 SECTION 1 304. OBLIGATION OF GOOD FAITH. Every contract or duty within this  
347 chapter imposes an obligation of good faith in its performance and enforcement.

348 SECTION 1 305. REMEDIES TO BE LIBERALLY ADMINISTERED.

349 (a) The remedies provided by this chapter must be liberally administered to the end that  
350 the aggrieved party may be put in as good a position as if the other party had fully performed but  
351 neither consequential or special damages nor penal damages may be had except as specifically  
352 provided in this chapter or by other rule of law.

353 (b) Any right or obligation declared by this chapter is enforceable by action unless the  
354 provision declaring it specifies a different and limited effect.

355 SECTION 1 306. WAIVER OR RENUNCIATION OF CLAIM OR RIGHT AFTER  
356 BREACH. A claim or right arising out of an alleged breach may be discharged in whole or in  
357 part without consideration by agreement of the aggrieved party in an authenticated record. For  
358 purposes of this section, a party may "authenticate" a record by (i) signing a record that is a  
359 writing or (ii) attaching to or logically associating with a record that is not a writing an electronic  
360 sound, symbol or process with the present intent to adopt or accept the record. See Sections 1-  
361 201(b)(37) and 9-102(a)(7).

362 SECTION 1 307. PRIMA FACIE EVIDENCE BY THIRD-PARTY DOCUMENTS. A  
363 document in due form purporting to be a bill of lading, policy or certificate of insurance, official  
364 weigher's or inspector's certificate, consular invoice, or any other document authorized or  
365 required by the contract to be issued by a third party is prima facie evidence of its own  
366 authenticity and genuineness and of the facts stated in the document by the third party.

367 SECTION 1 308. PERFORMANCE OR ACCEPTANCE UNDER RESERVATION OF  
368 RIGHTS.

369 (a) A party that with explicit reservation of rights performs or promises performance or  
370 assents to performance in a manner demanded or offered by the other party does not thereby  
371 prejudice the rights reserved. Such words as "without prejudice," "under protest," or the like are  
372 sufficient.

373 (b) Subsection (a) does not apply to an accord and satisfaction.

374 SECTION 1 309. OPTION TO ACCELERATE AT WILL. A term providing that one  
375 party or that party's successor in interest may accelerate payment or performance or require  
376 collateral or additional collateral "at will" or when the party "deems itself insecure," or words of  
377 similar import, means that the party has power to do so only if that party in good faith believes  
378 that the prospect of payment or performance is impaired. The burden of establishing lack of  
379 good faith is on the party against which the power has been exercised.

380 SECTION 1 310. SUBORDINATED OBLIGATIONS. An obligation may be issued as  
381 subordinated to performance of another obligation of the person obligated, or a creditor may  
382 subordinate its right to performance of an obligation by agreement with either the person  
383 obligated or another creditor of the person obligated. Subordination does not create a security  
384 interest as against either the common debtor or a subordinated creditor.

385 SECTION 3. Subsection 2-103(1)(b) of said chapter 106 is hereby amended by striking  
386 out the words "'Good faith" in the case of a merchant means honesty in fact and the observance  
387 of reasonable commercial standards of fair dealing in the trade." and by substituting in place  
388 thereof the following word:-- "[Reserved]".

389 SECTION 4. Subsection 2-103(3) of said chapter 106 is hereby amended by inserting,  
390 after the words "'Consumer Goods'. Section 9-102", the words "'Control'. Section 7-106."

391 SECTION 5. Subsection 2-104(2) of said chapter 106 is hereby amended by inserting in  
392 the first sentence of said Subsection, after the words "whether or not documents of title  
393 accompany", the words "or are associated with".

394 SECTION 6. Section 202 of said chapter 106 is hereby amended by striking out  
395 Subsection 2-202(a) and by substituting in place thereof the following Subsection 2-202(a):--

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

397 SECTION 7. Section 2-208 of said chapter 106 is hereby repealed.

398 SECTION 8. Subsection 2-210(2) of said chapter 106 is hereby amended by striking out  
399 "9-405" and by substituting "9-406."

400 SECTION 9. Section 2-310 of said chapter 106 is hereby amended by striking out  
401 Subsection 2-310(c) and substituting in place thereof the following Subsection 2-310(c):--

402 (c) if delivery is authorized and made by way of documents of title otherwise than by  
403 subsection (b) then payment is due regardless of where the goods are to be received (i) at the  
404 time and place at which the buyer is to receive delivery of the tangible documents or (ii) at the  
405 time the buyer is to receive delivery of the electronic documents and at the seller's place of  
406 business or if none, the seller's residence; and

407 SECTION 10. Subsection 2-323(2) of said chapter 106 is hereby amended by inserting  
408 in the first sentence of said Subsection after the words "in a case within subsection (1) a ", the  
409 word "tangible".

410 SECTION 11. Section 2-401 of said chapter 106 is hereby amended by striking out  
411 Subsection 2-401(3) and substituting in place thereof the following Subsection 2-401(3):--

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

414 (a) if the seller is to deliver a tangible document of title, title passes at the time when and  
415 the place where he delivers such documents and if the seller is to deliver an electronic document  
416 of title, title passes when the seller delivers the document; or

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

419 SECTION 12. Subsection 2-503(4)(b) of said chapter 106 is hereby amended by striking  
420 out the words "written direction to" and by substituting in place thereof the words "record  
421 directing".

422 SECTION 13. Subsection 2-503(4)(b) of said chapter 106 is hereby further amended by  
423 inserting, after the words "buyer seasonably objects, and", the words "except as otherwise  
424 provided in Article 9".

425 SECTION 14. Subsection 2-503(5)(b) of said chapter 106 is hereby amended by  
426 inserting, after the words "dishonor of a draft accompanying", the words "or associated with".

427 SECTION 15. Subsection 2-505(1)(b) of said chapter 106 is hereby amended by  
428 inserting, after the words “even though the seller retains possession”, the words “or control”.

429 SECTION 16. Subsection 2-505(2) of said chapter 106 is hereby amended by inserting,  
430 at the end of said Subsection after the words “negotiable document”, the words “of title”.

431 SECTION 17. Section 2-506 of said chapter 106 is hereby amended by striking out, at  
432 the end of said Section after the words “which was apparently regular”, the words “on its face”.

433 SECTION 18. Subsection 2-509(2)(a) of said chapter 106 is hereby amended by  
434 inserting ,after the words “on his receipt of”, the words “possession or control of”.

435 SECTION 19. Subsection 2-509(2)(c) of said chapter 106 is hereby amended by  
436 inserting, after the words “on his receipt of”, the words “possession or control of”.

437 SECTION 20. Subsection 2-509(2)(c) of said chapter 106 is hereby amended further by  
438 striking the words “written direction to deliver” and by substituting in place thereof the words  
439 “direction to deliver in a record”.

440 SECTION 21. Subsection 2-605(2) of said chapter 106 is hereby amended by striking  
441 the words “on the face of” and by substituting in place thereof the word “in”.

442 SECTION 22. Subsection 2-705(2)(c) of said chapter 106 is hereby amended by striking  
443 the word “ warehouseman” and by substituting in place thereof the words “a warehouse”.

444 SECTION 23. Subsection 2-705(3)(c) of said chapter 106 is hereby amended by  
445 inserting, after the words “stop until surrender”, the words “of possession or control”.

446 SECTION 24. Subsection 2A-103(1)(a) of said chapter 106 is hereby amended by  
447 striking in the last sentence the word “receiving” and by substituting in place thereof the word  
448 “acquiring”.

449 SECTION 25. Subsection 2A-103(1)(o) of said chapter 106 is hereby amended by  
450 striking in the last sentence the word “receiving” and by substituting in place thereof the word  
451 “acquiring”.

452 SECTION 26. Subsection 2A-103(3) of said chapter 106 is hereby amended by striking  
453 out the words ““Good faith”. Section 2-103(1)(b).”

454 SECTION 27. Section 2A-207 of said chapter 106 is hereby repealed.

455 SECTION 28. Subsection 2A-303(2) of said chapter 106 is hereby amended by striking  
456 out “9-406” and by substituting in place thereof “9-407.”

457 SECTION 29. Subsection 2A-303(4) of said chapter 106 is hereby amended by striking  
458 out “9-406” and by substituting in place thereof “9-407.”

459 SECTION 30. Subsection 2A-501(4) of said chapter 106 is hereby amended by striking  
460 out “1-106(1)” and by substituting in place thereof “1-305(a)”.

461 SECTION 31. Subsection 2A-514(2) of said chapter 106 is hereby amended by striking  
462 the words “on the face of” and by substituting in place thereof the word “in”.

463 SECTION 32. Subsection 2A-518(2) of said chapter 106 is hereby amended by striking  
464 out “1-102(3)” and by inserting in place thereof “1-302”.

465 SECTION 33. Subsection 2A-519(1) of said chapter 106 is hereby amended by striking  
466 out “1-102(3)” and by inserting in place thereof “1-302”.

467 SECTION 34. Subsection 2A-526(2)(c) of said chapter 106 is hereby amended by  
468 striking out the word “warehouseman” and by substituting in place thereof the words “a  
469 warehouse”.

470 SECTION 35. Subsection 2A-527(2) of said chapter 106 is hereby amended by striking  
471 out “1-102(3)” and by inserting in place thereof “1-302”.

472 SECTION 36. Subsection 2A-528(1) of said chapter 106 is hereby amended by striking  
473 out “1-102(3)” and by inserting in place thereof “1-302”.

474 SECTION 37. The definition of “Prove” in Subsection 3-103(a) of said chapter 106 is  
475 hereby amended by striking out “1-201(8)” and by inserting in place thereof “1-201(b)(8)”.

476 SECTION 38. Section 4-104 of said chapter 106 is hereby amended by inserting, after  
477 the words “‘Check’. Section 3-104”, the words “‘Control’. Section 7-106.”

478 SECTION 39. Subsection 4-210(c) of said chapter 106 is hereby amended by inserting,  
479 after the words “give up possession of the item or”, the words “possession or control of the”.

480 SECTION 40. The definition of “Prove” in said Section 4A-105(a) is hereby amended  
481 by striking out “1-201(8)” and by substituting in place thereof “1-201(b)(8)”.

482 SECTION 41. Subsection 4A-106(a) of said chapter 106 is hereby amended by striking  
483 out “1-201(27)” and by substituting in place thereof “1-202”.

484 SECTION 42. Section 4A-108 of said chapter 106 is hereby amended by striking out  
485 Section 4A-108 and by substituting in place thereof the following Section 4A-108:--

486 SECTION 4A-108: Relationship to Electronic Fund Transfer Act.

487 (a) Except as provided in subsection (b), this Article shall not apply to a funds transfer  
488 any part of which is governed by the Electronic Fund Transfer Act of 1978 (Title XX, Public  
489 Law 95-630, 92 Stat. 3728, 15 U.S.C. 1693 et seq.).

490 (b) This Article applies to a funds transfer that is a remittance transfer as defined in the  
491 Electronic Fund Transfer Act (15 U.S.C. Sec. 1693o-1) as amended from time to time, unless the  
492 remittance transfer is an electronic fund transfer as defined in the Electronic Fund Transfer Act  
493 (15 U.S.C. Sec. 1693a) as amended from time to time.

494 (c) In a funds transfer to which this Article applies, in the event of an inconsistency  
495 between an applicable provision of this Article and an applicable provision of the Electronic  
496 Fund Transfer Act, the provision of the Electronic Fund Transfer Act governs to the extent of the  
497 inconsistency.

498 SECTION 43. Subsection 4A-204(b) of said chapter 106 is hereby amended by striking  
499 out “1-204(1)” and by substituting in place thereof “1-302(b)”.

500 SECTION 44. Subsection 5-103(c) of said chapter 106 is hereby amended by striking  
501 out “1-102(3)” and by substituting in place thereof “1-302”.

502 SECTION 45. Chapter 106 of the General Laws is hereby further amended by striking  
503 out article 7, as so appearing, and by substituting in place thereof the following article 7:--

504 ARTICLE 7—DOCUMENTS OF TITLE

505 PART 1 GENERAL

506 SECTION 7-101. SHORT TITLE. This article may be cited as Uniform Commercial  
507 Code-Documents of Title.

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

509 (a) In this article, unless the context otherwise requires:

510 (1) "Bailee" means a person that by a warehouse receipt, bill of lading, or other  
511 document of title acknowledges possession of goods and contracts to deliver them.

512 (2) “Carrier” means a person that issues a bill of lading.

513 (3) "Consignee" means a person named in a bill of lading to which or to whose  
514 order the bill promises delivery.

515 (4) "Consignor" means a person named in a bill of lading as the person from  
516 which the goods have been received for shipment.

517 (5) "Delivery order" means a record that contains an order to deliver goods  
518 directed to a warehouse, carrier, or other person that in the ordinary course of business issues  
519 warehouse receipts or bills of lading.

520 (6) [Reserved]

521 (7) "Goods" means all things that are treated as movable for the purposes of a  
522 contract for storage or transportation.

523 (8) "Issuer" means a bailee that issues a document of title or, in the case of an  
524 unaccepted delivery order, the person that orders the possessor of goods to deliver. The term  
525 includes a person for which an agent or employee purports to act in issuing a document if the  
526 agent or employee has real or apparent authority to issue documents, even if the issuer did not  
527 receive any goods, the goods were misdescribed, or in any other respect the agent or employee  
528 violated the issuer's instructions.

529 (9) "Person entitled under the document" means the holder, in the case of a  
530 negotiable document of title, or the person to which delivery of the goods is to be made by the  
531 terms of, or pursuant to instructions in a record under, a nonnegotiable document of title.

532 (10) [Reserved]

533 (11) "Sign" means, with present intent to authenticate or adopt a record:

534 (A) to execute or adopt a tangible symbol; or

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

537 For purposes of this subsection, a person may "authenticate" a record by (i) signing a  
538 record that is a writing or (ii) attaching to or logically associating with a record that is not a  
539 writing an electronic sound, symbol or process with the present intent to adopt or accept the  
540 record. See Sections 1-201(b)(37) and 9-102(a)(7).

541 (12) "Shipper" means a person that enters into a contract of transportation with a  
542 carrier.

543 (13) "Warehouse" means a person engaged in the business of storing goods for  
544 hire.

545 (b) Definitions in other articles applying to this article and the sections in which they  
546 appear are:

547 (1) "Contract for sale". Section 2-106.

548 (2) "Lessee in the ordinary course of business". Section 2A-103.

549 (3) "Receipt" of goods. Section 2-103.

550 (c) In addition, Article 1 contains general definitions and principles of  
551 construction and interpretation applicable throughout this article.

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

553 (a) This article is subject to any treaty or statute of the United States or regulatory statute  
554 of this state to the extent the treaty, statute, or regulatory statute is applicable.

555 (b) This article does not modify or repeal any law prescribing the form or content of a  
556 document of title or the services or facilities to be afforded by a bailee, or otherwise regulating a  
557 bailee's business in respects not specifically treated in this article. However, violation of such a  
558 law does not affect the status of a document of title that otherwise is within the definition of a  
559 document of title.

560 (c) This article modifies, limits, and supersedes the federal Electronic Signatures in  
561 Global and National Commerce Act (15 U.S.C. Section 7001, et. seq.) but does not modify,  
562 limit, or supersede Section 101(c) of that act (15 U.S.C. Section 7001(c)) or authorize electronic  
563 delivery of any of the notices described in Section 103(b) of that act (15 U.S.C. Section 7003(b)).

564 (d) To the extent there is a conflict between the Uniform Electronic Transactions Act  
565 (chapter 110G, sections 1 through 18) and this article, this article governs.

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

567 (a) Except as otherwise provided in subsection (c), a document of title is negotiable if by  
568 its terms the goods are to be delivered to bearer or to the order of a named person.

569 (b) A document of title other than one described in subsection (a) is nonnegotiable. A  
570 bill of lading that states that the goods are consigned to a named person is not made negotiable  
571 by a provision that the goods are to be delivered only against an order in a record signed by the  
572 same or another named person.

573 (c) A document of title is nonnegotiable if, at the time it is issued, the document has a  
574 conspicuous legend, however expressed, that it is nonnegotiable.

575 SECTION 7-105. REISSUANCE IN ALTERNATIVE MEDIUM.

576 (a) Upon request of a person entitled under an electronic document of title, the issuer of  
577 the electronic document may issue a tangible document of title as a substitute for the electronic  
578 document if:

579 (1) the person entitled under the electronic document surrenders control of the  
580 document to the issuer; and

581 (2) the tangible document when issued contains a statement that it is issued in  
582 substitution for the electronic document.

583 (b) Upon issuance of a tangible document of title in substitution for an electronic  
584 document of title in accordance with subsection (a):

585 (1) the electronic document ceases to have any effect or validity; and

586 (2) the person that procured issuance of the tangible document warrants to all  
587 subsequent persons entitled under the tangible document that the warrantor was a person entitled  
588 under the electronic document when the warrantor surrendered control of the electronic  
589 document to the issuer.

590 (c) Upon request of a person entitled under a tangible document of title, the issuer of the  
591 tangible document may issue an electronic document of title as a substitute for the tangible  
592 document if:

593 (1) the person entitled under the tangible document surrenders possession of the  
594 document to the issuer; and

595 (2) the electronic document when issued contains a statement that it is issued in  
596 substitution for the tangible document.

597 (d) Upon issuance of an electronic document of title in substitution for a tangible  
598 document of title in accordance with subsection (c):

599 (1) the tangible document ceases to have any effect or validity; and

600 (2) the person that procured issuance of the electronic document warrants to all  
601 subsequent persons entitled under the electronic document that the warrantor was a person  
602 entitled under the tangible document when the warrantor surrendered possession of the tangible  
603 document to the issuer.

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

605 (a) A person has control of an electronic document of title if a system employed for  
606 evidencing the transfer of interests in the electronic document reliably establishes that person as  
607 the person to which the electronic document was issued or transferred.

608 (b) A system satisfies subsection (a), and a person is deemed to have control of an  
609 electronic document of title, if the document is created, stored, and assigned in such a manner  
610 that:

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

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

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

615 (B) if the authoritative copy indicates that the document has been  
616 transferred, the person to which the document was most recently transferred;

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

619 (4) copies or amendments that add or change an identified assignee of the  
620 authoritative copy can be made only with the consent of the person asserting control;

621 (5) each copy of the authoritative copy and any copy of a copy is readily  
622 identifiable as a copy that is not the authoritative copy; and

623 (6) any amendment of the authoritative copy is readily identifiable as authorized  
624 or unauthorized.

## 625 PART 2 WAREHOUSE RECEIPTS: SPECIAL PROVISIONS

### 626 SECTION 7-201. PERSON THAT MAY ISSUE A WAREHOUSE RECEIPT; 627 STORAGE UNDER BOND.

628 (a) A warehouse receipt may be issued by any warehouse.

629 (b) If goods, including distilled spirits and agricultural commodities, are stored under a  
630 statute requiring a bond against withdrawal or a license for the issuance of receipts in the nature  
631 of warehouse receipts, a receipt issued for the goods is deemed to be a warehouse receipt even if  
632 issued by a person that is the owner of the goods and is not a warehouse.

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

634 (a) A warehouse receipt need not be in any particular form.

635 (b) Unless a warehouse receipt provides for each of the following, the warehouse is liable  
636 for damages caused to a person injured by its omission:

637 (1) a statement of the location of the warehouse facility where the goods are  
638 stored;

639 (2) the date of issue of the receipt;

640 (3) the unique identification code of the receipt;

641 (4) a statement whether the goods received will be delivered to the bearer, to a  
642 named person, or to a named person or its order;

643 (5) the rate of storage and handling charges, unless goods are stored under a field  
644 warehousing arrangement, in which case a statement of that fact is sufficient on a nonnegotiable  
645 receipt;

646 (6) a description of the goods or the packages containing them;

647 (7) the signature of the warehouse or its agent;

648 (8) if the receipt is issued for goods that the warehouse owns, either solely,  
649 jointly, or in common with others, a statement of the fact of that ownership; and

650 (9) a statement of the amount of advances made and of liabilities incurred for  
651 which the warehouse claims a lien or security interest, unless the precise amount of advances  
652 made or liabilities incurred, at the time of the issue of the receipt, is unknown to the warehouse  
653 or to its agent that issued the receipt, in which case a statement of the fact that advances have  
654 been made or liabilities incurred and the purpose of the advances or liabilities is sufficient.

655 (c) A warehouse may insert in its receipt any terms that are not contrary to this chapter  
656 and do not impair its obligation of delivery under Section 7-403 or its duty of care under Section  
657 7-204. Any contrary provision is ineffective.

658 SECTION 7-203. LIABILITY FOR NONRECEIPT OR MISDESCRIPTION. A party  
659 to or purchaser for value in good faith of a document of title, other than a bill of lading, that  
660 relies upon the description of the goods in the document may recover from the issuer damages  
661 caused by the nonreceipt or misdescription of the goods, except to the extent that:

662 (1) the document conspicuously indicates that the issuer does not know whether all or  
663 part of the goods in fact were received or conform to the description, such as a case in which the  
664 description is in terms of marks or labels or kind, quantity, or condition, or the receipt or  
665 description is qualified by "contents, condition, and quality unknown", "said to contain", or  
666 words of similar import, if the indication is true; or

667 (2) the party or purchaser otherwise has notice of the nonreceipt or misdescription.

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

670 (a) A warehouse is liable for damages for loss of or injury to the goods caused by its  
671 failure to exercise care with regard to the goods that a reasonably careful person would exercise  
672 under similar circumstances. Unless otherwise agreed, the warehouse is not liable for damages  
673 that could not have been avoided by the exercise of that care.

674 (b) Damages may be limited by a term in the warehouse receipt or storage agreement  
675 limiting the amount of liability in case of loss or damage beyond which the warehouse is not  
676 liable. Such a limitation is not effective with respect to the warehouse's liability for conversion

677 to its own use. On request of the bailor in a record at the time of signing the storage agreement  
678 or within a reasonable time after receipt of the warehouse receipt, the warehouse's liability may  
679 be increased on part or all of the goods covered by the storage agreement or the warehouse  
680 receipt. In this event, increased rates may be charged based on an increased valuation of the  
681 goods.

682 (c) Reasonable provisions as to the time and manner of presenting claims and  
683 commencing actions based on the bailment may be included in the warehouse receipt or storage  
684 agreement.

685 SECTION 7-205. TITLE UNDER WAREHOUSE RECEIPT DEFEATED IN  
686 CERTAIN CASES. A buyer in ordinary course of business of fungible goods sold and delivered  
687 by a warehouse that is also in the business of buying and selling such goods takes the goods free  
688 of any claim under a warehouse receipt even if the receipt is negotiable and has been duly  
689 negotiated.

690 SECTION 7-206. TERMINATION OF STORAGE AT WAREHOUSE'S OPTION.

691 (a) A warehouse, by giving notice to the person on whose account the goods are held and  
692 any other person known to claim an interest in the goods, may require payment of any charges  
693 and removal of the goods from the warehouse at the termination of the period of storage fixed by  
694 the document of title or, if a period is not fixed, within a stated period not less than 30 days after  
695 the warehouse gives notice. If the goods are not removed before the date specified in the notice,  
696 the warehouse may sell them pursuant to Section 7-210.

697 (b) If a warehouse in good faith believes that goods are about to deteriorate or decline in  
698 value to less than the amount of its lien within the time provided in subsection (a) and Section 7-  
699 210, the warehouse may specify in the notice given under subsection (a) any reasonable shorter  
700 time for removal of the goods and, if the goods are not removed, may sell them at public sale  
701 held not less than one week after a single advertisement or posting.

702 (c) If, as a result of a quality or condition of the goods of which the warehouse did not  
703 have notice at the time of deposit, the goods are a hazard to other property, the warehouse  
704 facilities, or other persons, the warehouse may sell the goods at public or private sale without  
705 advertisement or posting on reasonable notification to all persons known to claim an interest in  
706 the goods. If the warehouse, after a reasonable effort, is unable to sell the goods, it may dispose  
707 of them in any lawful manner and does not incur liability by reason of that disposition.

708 (d) A warehouse shall deliver the goods to any person entitled to them under this article  
709 upon due demand made at any time before sale or other disposition under this section.

710 (e) A warehouse may satisfy its lien from the proceeds of any sale or disposition under  
711 this section but shall hold the balance for delivery on the demand of any person to which the  
712 warehouse would have been bound to deliver the goods.

713 SECTION 7-207. GOODS MUST BE KEPT SEPARATE; FUNGIBLE GOODS.

714 (a) Unless the warehouse receipt provides otherwise, a warehouse shall keep separate the  
715 goods covered by each receipt so as to permit at all times identification and delivery of those  
716 goods. However, different lots of fungible goods may be commingled.

717 (b) If different lots of fungible goods are commingled, the goods are owned in common  
718 by the persons entitled thereto and the warehouse is severally liable to each owner for that  
719 owner's share. If, because of overissue, a mass of fungible goods is insufficient to meet all the  
720 receipts the warehouse has issued against it, the persons entitled include all holders to which  
721 overissued receipts have been duly negotiated.

722 SECTION 7-208. ALTERED WAREHOUSE RECEIPTS. If a blank in a negotiable  
723 tangible warehouse receipt has been filled in without authority, a good-faith purchaser for value  
724 and without notice of the lack of authority may treat the insertion as authorized. Any other  
725 unauthorized alteration leaves any tangible or electronic warehouse receipt enforceable against  
726 the issuer according to its original tenor.

727 SECTION 7-209. LIEN OF WAREHOUSE.

728 (a) A warehouse has a lien against the bailor on the goods covered by a warehouse receipt  
729 or storage agreement or on the proceeds thereof in its possession for charges for storage or  
730 transportation, including demurrage and terminal charges, insurance, labor, or other charges,  
731 present or future, in relation to the goods, and for expenses necessary for preservation of the  
732 goods or reasonably incurred in their sale pursuant to law. If the person on whose account the  
733 goods are held is liable for similar charges or expenses in relation to other goods whenever  
734 deposited and it is stated in the warehouse receipt or storage agreement that a lien is claimed for  
735 charges and expenses in relation to other goods, the warehouse also has a lien against the goods  
736 covered by the warehouse receipt or storage agreement or on the proceeds thereof in its  
737 possession for those charges and expenses, whether or not the other goods have been delivered  
738 by the warehouse. However, as against a person to which a negotiable warehouse receipt is duly  
739 negotiated, a warehouse's lien is limited to charges in an amount or at a rate specified in the  
740 warehouse receipt or, if no charges are so specified, to a reasonable charge for storage of the  
741 specific goods covered by the receipt subsequent to the date of the receipt.

742 (b) A warehouse may also reserve a security interest against the bailor for the maximum  
743 amount specified on the receipt for charges other than those specified in subsection (a), such as  
744 for money advanced and interest. The security interest is governed by Article 9.

745 (c) A warehouse's lien for charges and expenses under subsection (a) or a security  
746 interest under subsection (b) is also effective against any person that so entrusted the bailor with  
747 possession of the goods that a pledge of them by the bailor to a good-faith purchaser for value  
748 would have been valid. However, the lien or security interest is not effective against a person  
749 that before issuance of a document of title had a legal interest or a perfected security interest in  
750 the goods and that did not:

751 (1) deliver or entrust the goods or any document of title covering the goods to the  
752 bailor or the bailor's nominee with:

753 (A) actual or apparent authority to ship, store, or sell;

754 (B) power to obtain delivery under Section 7-403; or

755 (C) power of disposition under Sections 2-403, 2A-304(2), 2A-305(2), 9-  
756 320, or 9-321(c) or other statute or rule of law; or

757 (2) acquiesce in the procurement by the bailor or its nominee of any document.

758 (d) A warehouse's lien on household goods for charges and expenses in relation to the  
759 goods under subsection (a) is also effective against all persons if the depositor was the legal  
760 possessor of the goods at the time of deposit. In this subsection, "household goods" means  
761 furniture, furnishings, or personal effects used by the depositor in a dwelling.

762 (e) A warehouse loses its lien on any goods that it voluntarily delivers or unjustifiably  
763 refuses to deliver.

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

765 (a) Except as otherwise provided in subsection (b), a warehouse's lien may be enforced  
766 by public or private sale of the goods, in bulk or in packages, at any time or place and on any  
767 terms that are commercially reasonable, after notifying all persons known to claim an interest in  
768 the goods. The notification must include a statement of the amount due, the nature of the  
769 proposed sale, and the time and place of any public sale. The fact that a better price could have  
770 been obtained by a sale at a different time or in a method different from that selected by the  
771 warehouse is not of itself sufficient to establish that the sale was not made in a commercially  
772 reasonable manner. The warehouse sells in a commercially reasonable manner if the warehouse  
773 sells the goods in the usual manner in any recognized market therefore, sells at the price current  
774 in that market at the time of the sale, or otherwise sells in conformity with commercially  
775 reasonable practices among dealers in the type of goods sold. A sale of more goods than  
776 apparently necessary to be offered to ensure satisfaction of the obligation is not commercially  
777 reasonable, except in cases covered by the preceding sentence.

778 (b) A warehouse may enforce its lien on goods, other than goods stored by a merchant in  
779 the course of its business, only if the following requirements are satisfied:

780 (1) All persons known to claim an interest in the goods must be notified.

781 (2) The notification must include an itemized statement of the claim, a description  
782 of the goods subject to the lien, a demand for payment within a specified time not less than 10  
783 days after receipt of the notification, and a conspicuous statement that unless the claim is paid  
784 within that time the goods will be advertised for sale and sold by auction at a specified time and  
785 place.

786 (3) The sale must conform to the terms of the notification.

787 (4) The sale must be held at the nearest suitable place to where the goods are held  
788 or stored.

789 (5) After the expiration of the time given in the notification, an advertisement of  
790 the sale must be published once a week for two weeks consecutively in a newspaper of general  
791 circulation where the sale is to be held. The advertisement must include a description of the  
792 goods, the name of the person on whose account the goods are being held, and the time and place  
793 of the sale. The sale must take place at least 15 days after the first publication. If there is no  
794 newspaper of general circulation where the sale is to be held, the advertisement must be posted at  
795 least 10 days before the sale in not fewer than six conspicuous places in the neighborhood of the  
796 proposed sale.

797 (c) Before any sale pursuant to this section, any person claiming a right in the goods may  
798 pay the amount necessary to satisfy the lien and the reasonable expenses incurred in complying  
799 with this section. In that event, the goods may not be sold but must be retained by the warehouse  
800 subject to the terms of the receipt and this article.

801 (d) A warehouse may buy at any public sale held pursuant to this section.

802 (e) A purchaser in good faith of goods sold to enforce a warehouse's lien takes the goods  
803 free of any rights of persons against which the lien was valid, despite the warehouse's  
804 noncompliance with this section.

805 (f) A warehouse may satisfy its lien from the proceeds of any sale pursuant to this section  
806 but shall hold the balance, if any, for delivery on demand to any person to which the warehouse  
807 would have been bound to deliver the goods.

808 (g) The rights provided by this section are in addition to all other rights allowed by law to  
809 a creditor against a debtor.

810 (h) If a lien is on goods stored by a merchant in the course of its business, the lien may be  
811 enforced in accordance with subsection (a) or (b).

812 (i) A warehouse is liable for damages caused by failure to comply with the requirements  
813 for sale under this section and, in case of willful violation, is liable for conversion.

814 PART 3 BILLS OF LADING: SPECIAL PROVISIONS

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

817 (a) A consignee of a nonnegotiable bill of lading which has given value in good faith, or a  
818 holder to which a negotiable bill has been duly negotiated, relying upon the description of the  
819 goods in the bill or upon the date shown in the bill, may recover from the issuer damages caused  
820 by the misdating of the bill or the nonreceipt or misdescription of the goods, except to the extent  
821 that the bill indicates that the issuer does not know whether any part or all of the goods in fact  
822 were received or conform to the description, such as in a case in which the description is in terms  
823 of marks or labels or kind, quantity, or condition or the receipt or description is qualified by  
824 "contents or condition of contents of packages unknown", "said to contain", "shipper's weight,  
825 load, and count," or words of similar import, if that indication is true.

826 (b) If goods are loaded by the issuer of a bill of lading;

827 (1) the issuer shall count the packages of goods if shipped in packages and  
828 ascertain the kind and quantity if shipped in bulk; and

829 (2) words such as "shipper's weight, load, and count," or words of similar import  
830 indicating that the description was made by the shipper are ineffective except as to goods  
831 concealed in packages.

832 (c) If bulk goods are loaded by a shipper that makes available to the issuer of a bill of  
833 lading adequate facilities for weighing those goods, the issuer shall ascertain the kind and  
834 quantity within a reasonable time after receiving the shipper's request in a record to do so. In  
835 that case, "shipper's weight" or words of similar import are ineffective.

836 (d) The issuer of a bill of lading, by including in the bill the words "shipper's weight,  
837 load, and count," or words of similar import, may indicate that the goods were loaded by the  
838 shipper, and, if that statement is true, the issuer is not liable for damages caused by the improper  
839 loading. However, omission of such words does not imply liability for damages caused by  
840 improper loading.

841 (e) A shipper guarantees to an issuer the accuracy at the time of shipment of the  
842 description, marks, labels, number, kind, quantity, condition, and weight, as furnished by the  
843 shipper, and the shipper shall indemnify the issuer against damage caused by inaccuracies in  
844 those particulars. This right of indemnity does not limit the issuer's responsibility or liability  
845 under the contract of carriage to any person other than the shipper.

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

848 (a) The issuer of a through bill of lading, or other document of title embodying an  
849 undertaking to be performed in part by a person acting as its agent or by a performing carrier, is  
850 liable to any person entitled to recover on the bill or other document for any breach by the other  
851 person or the performing carrier of its obligation under the bill or other document. However, to  
852 the extent that the bill or other document covers an undertaking to be performed overseas or in  
853 territory not contiguous to the continental United States or an undertaking including matters  
854 other than transportation, this liability for breach by the other person or the performing carrier  
855 may be varied by agreement of the parties.

856 (b) If goods covered by a through bill of lading or other document of title embodying an  
857 undertaking to be performed in part by a person other than the issuer are received by that person,  
858 the person is subject, with respect to its own performance while the goods are in its possession,  
859 to the obligation of the issuer. The person's obligation is discharged by delivery of the goods to  
860 another person pursuant to the bill or other document and does not include liability for breach by  
861 any other person or by the issuer.

862 (c) The issuer of a through bill of lading or other document of title described in  
863 subsection (a) is entitled to recover from the performing carrier, or other person in possession of  
864 the goods when the breach of the obligation under the bill or other document occurred:

865 (1) the amount it may be required to pay to any person entitled to recover on the  
866 bill or other document for the breach, as may be evidenced by any receipt, judgment, or  
867 transcript of judgment; and

868 (2) the amount of any expense reasonably incurred by the issuer in defending any  
869 action commenced by any person entitled to recover on the bill or other document for the breach.

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

872 (a) Unless the bill of lading otherwise provides, a carrier may deliver the goods to a  
873 person or destination other than that stated in the bill or may otherwise dispose of the goods,  
874 without liability for misdelivery, on instructions from:

875 (1) the holder of a negotiable bill;

876 (2) the consignor on a nonnegotiable bill, even if the consignee has given contrary  
877 instructions;

878 (3) the consignee on a nonnegotiable bill in the absence of contrary instructions  
879 from the consignor, if the goods have arrived at the billed destination or if the consignee is in  
880 possession of the tangible bill or in control of the electronic bill; or

881 (4) the consignee on a nonnegotiable bill, if the consignee is entitled as against the  
882 consignor to dispose of the goods.

883 (b) Unless instructions described in subsection (a) are included in a negotiable bill of  
884 lading, a person to which the bill is duly negotiated may hold the bailee according to the original  
885 terms.

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

887 (a) Except as customary in international transportation, a tangible bill of lading may not  
888 be issued in a set of parts. The issuer is liable for damages caused by violation of this  
889 subsection.

890 (b) If a tangible bill of lading is lawfully issued in a set of parts, each of which contains  
891 an identification code and is expressed to be valid only if the goods have not been delivered  
892 against any other part, the whole of the parts constitutes one bill.

893 (c) If a tangible negotiable bill of lading is lawfully issued in a set of parts and different  
894 parts are negotiated to different persons, the title of the holder to which the first due negotiation  
895 is made prevails as to both the document of title and the goods even if any later holder may have  
896 received the goods from the carrier in good faith and discharged the carrier's obligation by  
897 surrendering its part.

898 (d) A person that negotiates or transfers a single part of a tangible bill of lading issued in  
899 a set is liable to holders of that part as if it were the whole set.

900 (e) The bailee shall deliver in accordance with Part 4 against the first presented part of a  
901 tangible bill of lading lawfully issued in a set. Delivery in this manner discharges the bailee's  
902 obligation on the whole bill.

#### 903 SECTION 7-305. DESTINATION BILLS.

904 (a) Instead of issuing a bill of lading to the consignor at the place of shipment, a carrier,  
905 at the request of the consignor, may procure the bill to be issued at destination or at any other  
906 place designated in the request.

907 (b) Upon request of any person entitled as against a carrier to control the goods while in  
908 transit and on surrender of possession or control of any outstanding bill of lading or other receipt  
909 covering the goods, the issuer, subject to Section 7-105, may procure a substitute bill to be issued  
910 at any place designated in the request.

911 SECTION 7-306. ALTERED BILLS OF LADING. An unauthorized alteration or filling  
912 in of a blank in a bill of lading leaves the bill enforceable according to its original tenor.

913 SECTION 7-307. LIEN OF CARRIER.

914 (a) A carrier has a lien on the goods covered by a bill of lading or on the proceeds thereof  
915 in its possession for charges after the date of the carrier's receipt of the goods for storage or  
916 transportation, including demurrage and terminal charges, and for expenses necessary for  
917 preservation of the goods incident to their transportation or reasonably incurred in their sale  
918 pursuant to law. However, against a purchaser for value of a negotiable bill of lading, a carrier's  
919 lien is limited to charges stated in the bill or the applicable tariffs or, if no charges are stated, a  
920 reasonable charge.

921 (b) A lien for charges and expenses under subsection (a) on goods that the carrier was  
922 required by law to receive for transportation is effective against the consignor or any person  
923 entitled to the goods unless the carrier had notice that the consignor lacked authority to subject  
924 the goods to those charges and expenses. Any other lien under subsection (a) is effective against  
925 the consignor and any person that permitted the bailor to have control or possession of the goods  
926 unless the carrier had notice that the bailor lacked authority.

927 (c) A carrier loses its lien on any goods that it voluntarily delivers or unjustifiably refuses  
928 to deliver.

929

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

931 (a) A carrier's lien on goods may be enforced by public or private sale of the goods, in  
932 bulk or in packages, at any time or place and on any terms that are commercially reasonable,  
933 after notifying all persons known to claim an interest in the goods. The notification must include  
934 a statement of the amount due, the nature of the proposed sale, and the time and place of any  
935 public sale. The fact that a better price could have been obtained by a sale at a different time or  
936 in a method different from that selected by the carrier is not of itself sufficient to establish that  
937 the sale was not made in a commercially reasonable manner. The carrier sells goods in a  
938 commercially reasonable manner if the carrier sells the goods in the usual manner in any  
939 recognized market therefor, sells at the price current in that market at the time of the sale, or  
940 otherwise sells in conformity with commercially reasonable practices among dealers in the type  
941 of goods sold. A sale of more goods than apparently necessary to be offered to ensure  
942 satisfaction of the obligation is not commercially reasonable, except in cases covered by the  
943 preceding sentence.

944 (b) Before any sale pursuant to this section, any person claiming a right in the goods may  
945 pay the amount necessary to satisfy the lien and the reasonable expenses incurred in complying

946 with this section. In that event, the goods may not be sold but must be retained by the carrier,  
947 subject to the terms of the bill of lading and this article.

948 (c) A carrier may buy at any public sale pursuant to this section.

949 (d) A purchaser in good faith of goods sold to enforce a carrier's lien takes the goods free  
950 of any rights of persons against which the lien was valid, despite the carrier's noncompliance  
951 with this section.

952 (e) A carrier may satisfy its lien from the proceeds of any sale pursuant to this section but  
953 shall hold the balance, if any, for delivery on demand to any person to which the carrier would  
954 have been bound to deliver the goods.

955 (f) The rights provided by this section are in addition to all other rights allowed by law to  
956 a creditor against a debtor.

957 (g) A carrier's lien may be enforced pursuant to either subsection (a) or the procedure set  
958 forth in Section 7-210(b).

959 (h) A carrier is liable for damages caused by failure to comply with the requirements for  
960 sale under this section and, in case of willful violation, is liable for conversion.

961

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

964 (a) A carrier that issues a bill of lading, whether negotiable or nonnegotiable, shall  
965 exercise the degree of care in relation to the goods which a reasonably careful person would  
966 exercise under similar circumstances. This subsection does not affect any statute, regulation, or  
967 rule of law that imposes liability upon a common carrier for damages not caused by its  
968 negligence.

969 (b) Damages may be limited by a term in the bill of lading or in a transportation  
970 agreement that the carrier's liability may not exceed a value stated in the bill or transportation  
971 agreement if the carrier's rates are dependent upon value and the consignor is afforded an  
972 opportunity to declare a higher value and the consignor is advised of the opportunity. However,  
973 such a limitation is not effective with respect to the carrier's liability for conversion to its own  
974 use.

975 (c) Reasonable provisions as to the time and manner of presenting claims and  
976 commencing actions based on the shipment may be included in a bill of lading or a transportation  
977 agreement.

978 PART 4 WAREHOUSE RECEIPTS AND BILLS OF LADING: GENERAL  
979 OBLIGATIONS

980 SECTION 7-401. IRREGULARITIES IN ISSUE OF RECEIPT OR BILL OR  
981 CONDUCT OF ISSUER. The obligations imposed by this article on an issuer apply to a  
982 document of title even if:

983 (1) the document does not comply with the requirements of this article or of any other  
984 statute, rule, or regulation regarding its issuance, form, or content;

985 (2) the issuer violated laws regulating the conduct of its business;

986 (3) the goods covered by the document were owned by the bailee when the document was  
987 issued; or

988 (4) the person issuing the document is not a warehouse but the document purports to be a  
989 warehouse receipt.

990

991 SECTION 7-402. DUPLICATE DOCUMENT OF TITLE; OVERISSUE. A duplicate  
992 or any other document of title purporting to cover goods already represented by an outstanding  
993 document of the same issuer does not confer any right in the goods, except as provided in the  
994 case of tangible bills of lading in a set of parts, overissue of documents for fungible goods,  
995 substitutes for lost, stolen, or destroyed documents, or substitute documents issued pursuant to  
996 Section 7-105. The issuer is liable for damages caused by its overissue or failure to identify a  
997 duplicate document by a conspicuous notation.

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

999 (a) A bailee shall deliver the goods to a person entitled under a document of title  
1000 if the person complies with subsections (b) and (c), unless and to the extent that the bailee  
1001 establishes any of the following:

1002 (1) delivery of the goods to a person whose receipt was rightful as against the  
1003 claimant;

1004 (2) damage to or delay, loss, or destruction of the goods for which the bailee is not  
1005 liable;

1006 (3) previous sale or other disposition of the goods in lawful enforcement of a lien  
1007 or on a warehouse's lawful termination of storage;

1008 (4) the exercise by a seller of its right to stop delivery pursuant to Section 2-705  
1009 or by a lessor of its right to stop delivery pursuant to Section 2A-526;

1010 (5) a diversion, reconsignment, or other disposition pursuant to Section 7-303;  
1011 (6) release, satisfaction, or any other personal defense against the claimant; or  
1012 (7) any other lawful excuse.

1013 (b) A person claiming goods covered by a document of title shall satisfy the bailee's lien  
1014 if the bailee so requests or if the bailee is prohibited by law from delivering the goods until the  
1015 charges are paid.

1016 (c) Unless a person claiming the goods is a person against which the document of title  
1017 does not confer a right under Section 7-503(a):

1018 (1) the person claiming under a document shall surrender possession or control of  
1019 any outstanding negotiable document covering the goods for cancellation or indication of partial  
1020 deliveries; and

1021 (2) the bailee shall cancel the document or conspicuously indicate in the  
1022 document the partial delivery or the bailee is liable to any person to which the document is duly  
1023 negotiated.

1024 SECTION 7-404. NO LIABILITY FOR GOOD-FAITH DELIVERY PURSUANT TO  
1025 DOCUMENT OF TITLE. A bailee that in good faith has received goods and delivered or  
1026 otherwise disposed of the goods according to the terms of a document of title or pursuant to this  
1027 article is not liable for the goods even if:

1028 (1) the person from which the bailee received the goods did not have authority to procure  
1029 the document or to dispose of the goods; or

1030 (2) the person to which the bailee delivered the goods did not have authority to receive  
1031 the goods.

1032 PART 5 WAREHOUSE RECEIPTS AND BILLS OF LADING: NEGOTIATION AND  
1033 TRANSFER

1034 SECTION 7-501. FORM OF NEGOTIATION AND REQUIREMENTS OF DUE  
1035 NEGOTIATION.

1036 (a) The following rules apply to a negotiable tangible document of title:

1037 (1) If the document's original terms run to the order of a named person, the  
1038 document is negotiated by the named person's indorsement and delivery. After the named  
1039 person's indorsement in blank or to bearer, any person may negotiate the document by delivery  
1040 alone.

1041 (2) If the document's original terms run to bearer, it is negotiated by delivery  
1042 alone.

1043 (3) If the document's original terms run to the order of a named person and it is  
1044 delivered to the named person, the effect is the same as if the document had been negotiated.

1045 (4) Negotiation of the document after it has been indorsed to a named person  
1046 requires indorsement by the named person and delivery.

1047 (5) A document is duly negotiated if it is negotiated in the manner stated in this  
1048 subsection to a holder that purchases it in good faith, without notice of any defense against or  
1049 claim to it on the part of any person, and for value, unless it is established that the negotiation is  
1050 not in the regular course of business or financing or involves receiving the document in  
1051 settlement or payment of a monetary obligation.

1052 (b) The following rules apply to a negotiable electronic document of title:

1053 (1) If the document's original terms run to the order of a named person or to  
1054 bearer, the document is negotiated by delivery of the document to another person. Indorsement  
1055 by the named person is not required to negotiate the document.

1056 (2) If the document's original terms run to the order of a named person and the  
1057 named person has control of the document, the effect is the same as if the document had been  
1058 negotiated.

1059 (3) A document is duly negotiated if it is negotiated in the manner stated in this  
1060 subsection to a holder that purchases it in good faith, without notice of any defense against or  
1061 claim to it on the part of any person, and for value, unless it is established that the negotiation is  
1062 not in the regular course of business or financing or involves taking delivery of the document in  
1063 settlement or payment of a monetary obligation.

1064 (c) Indorsement of a nonnegotiable document of title neither makes it negotiable nor adds  
1065 to the transferee's rights.

1066 (d) The naming in a negotiable bill of lading of a person to be notified of the arrival of  
1067 the goods does not limit the negotiability of the bill or constitute notice to a purchaser of the bill  
1068 of any interest of that person in the goods.

1069 SECTION 7-502. RIGHTS ACQUIRED BY DUE NEGOTIATION.

1070 (a) Subject to Sections 7-205 and 7-503, a holder to which a negotiable document of title  
1071 has been duly negotiated acquires thereby:

1072 (1) title to the document;

1073 (2) title to the goods;

1074 (3) all rights accruing under the law of agency or estoppel, including rights to  
1075 goods delivered to the bailee after the document was issued; and

1076 (4) the direct obligation of the issuer to hold or deliver the goods according to the  
1077 terms of the document free of any defense or claim by the issuer except those arising under the  
1078 terms of the document or under this article, but in the case of a delivery order, the bailee's  
1079 obligation accrues only upon the bailee's acceptance of the delivery order and the obligation  
1080 acquired by the holder is that the issuer and any indorser will procure the acceptance of the  
1081 bailee.

1082 (b) Subject to Section 7-503, title and rights acquired by due negotiation are not defeated  
1083 by any stoppage of the goods represented by the document of title or by surrender of the goods  
1084 by the bailee and are not impaired even if:

1085 (1) the due negotiation or any prior due negotiation constituted a breach of duty;

1086 (2) any person has been deprived of possession of a negotiable tangible document  
1087 or control of a negotiable electronic document by misrepresentation, fraud, accident, mistake,  
1088 duress, loss, theft, or conversion; or

1089 (3) a previous sale or other transfer of the goods or document has been made to a  
1090 third person.

1091 SECTION 7-503. DOCUMENT OF TITLE TO GOODS DEFEATED IN CERTAIN  
1092 CASES.

1093 (a) A document of title confers no right in goods against a person that before issuance of  
1094 the document had a legal interest or a perfected security interest in the goods and that did not:

1095 (1) deliver or entrust the goods or any document of title covering the goods to the  
1096 bailor or the bailor's nominee with:

1097 (A) actual or apparent authority to ship, store, or sell;

1098 (B) power to obtain delivery under Section 7-403; or

1099 (C) power of disposition under Section 2-403, 2A-304(2), 2A-305(2), 9-  
1100 320, or 9-321(c) or other statute or rule of law; or

1101 (2) acquiesce in the procurement by the bailor or its nominee of any document.

1102 (b) Title to goods based upon an unaccepted delivery order is subject to the rights of any  
1103 person to which a negotiable warehouse receipt or bill of lading covering the goods has been

1104 duly negotiated. That title may be defeated under Section 7-504 to the same extent as the rights  
1105 of the issuer or a transferee from the issuer.

1106 (c) Title to goods based upon a bill of lading issued to a freight forwarder is subject to the  
1107 rights of any person to which a bill issued by the freight forwarder is duly negotiated. However,  
1108 delivery by the carrier in accordance with Part 4 pursuant to its own bill of lading discharges the  
1109 carrier's obligation to deliver.

1110 SECTION 7-504. RIGHTS ACQUIRED IN ABSENCE OF DUE NEGOTIATION;  
1111 EFFECT OF DIVERSION; STOPPAGE OF DELIVERY.

1112 (a) A transferee of a document of title, whether negotiable or nonnegotiable, to which the  
1113 document has been delivered but not duly negotiated, acquires the title and rights that its  
1114 transferor had or had actual authority to convey.

1115 (b) In the case of a transfer of a nonnegotiable document of title, until but not after the  
1116 bailee receives notice of the transfer, the rights of the transferee may be defeated:

1117 (1) by those creditors of the transferor which could treat the transfer as void under  
1118 Section 2-402 or 2A-308 ;

1119 (2) by a buyer from the transferor in ordinary course of business if the bailee has  
1120 delivered the goods to the buyer or received notification of the buyer's rights;

1121 (3) by a lessee from the transferor in ordinary course of business if the bailee has  
1122 delivered the goods to the lessee or received notification of the lessee's rights; or

1123 (4) as against the bailee, by good-faith dealings of the bailee with the transferor.

1124 (c) A diversion or other change of shipping instructions by the consignor in a  
1125 nonnegotiable bill of lading which causes the bailee not to deliver the goods to the consignee  
1126 defeats the consignee's title to the goods if the goods have been delivered to a buyer in ordinary  
1127 course of business or a lessee in ordinary course of business and, in any event, defeats the  
1128 consignee's rights against the bailee.

1129 (d) Delivery of the goods pursuant to a nonnegotiable document of title may be stopped  
1130 by a seller under Section 2-705 or a lessor under Section 2A-526, subject to the requirements of  
1131 due notification in those sections. A bailee that honors the seller's or lessor's instructions is  
1132 entitled to be indemnified by the seller or lessor against any resulting loss or expense.

1133 SECTION 7-505. INDORSER NOT GUARANTOR FOR OTHER PARTIES. The  
1134 indorsement of a tangible document of title issued by a bailee does not make the indorser liable  
1135 for any default by the bailee or previous indorsers.

1136

1137 SECTION 7-506. DELIVERY WITHOUT INDORSEMENT: RIGHT TO COMPEL  
1138 INDORSEMENT. The transferee of a negotiable tangible document of title has a specifically  
1139 enforceable right to have its transferor supply any necessary indorsement, but the transfer  
1140 becomes a negotiation only as of the time the indorsement is supplied.

1141 SECTION 7-507. WARRANTIES ON NEGOTIATION OR DELIVERY OF  
1142 DOCUMENT OF TITLE. If a person negotiates or delivers a document of title for value,  
1143 otherwise than as a mere intermediary under Section 7-508, unless otherwise agreed, the  
1144 transferor, in addition to any warranty made in selling or leasing the goods, warrants to its  
1145 immediate purchaser only that:

1146 (1) the document is genuine;

1147 (2) the transferor does not have knowledge of any fact that would impair the document's  
1148 validity or worth; and

1149 (3) the negotiation or delivery is rightful and fully effective with respect to the title to the  
1150 document and the goods it represents.

1151 SECTION 7-508. WARRANTIES OF COLLECTING BANK AS TO DOCUMENTS  
1152 OF TITLE. A collecting bank or other intermediary known to be entrusted with documents of  
1153 title on behalf of another or with collection of a draft or other claim against delivery of  
1154 documents warrants by the delivery of the documents only its own good faith and authority even  
1155 if the collecting bank or other intermediary has purchased or made advances against the claim or  
1156 draft to be collected.

1157 SECTION 7-509. ADEQUATE COMPLIANCE WITH COMMERCIAL CONTRACT.  
1158 Whether a document of title is adequate to fulfill the obligations of a contract for sale, a contract  
1159 for lease, or the conditions of a letter of credit is determined by Article 2, 2A, or 5.

1160 PART 6 WAREHOUSE RECEIPTS AND BILLS OF LADING: MISCELLANEOUS  
1161 PROVISIONS

1162 SECTION 7-601. LOST, STOLEN, OR DESTROYED DOCUMENTS OF TITLE.

1163 (a) If a document of title is lost, stolen, or destroyed, a court may order delivery of the  
1164 goods or issuance of a substitute document and the bailee may without liability to any person  
1165 comply with the order. If the document was negotiable, a court may not order delivery of the  
1166 goods or issuance of a substitute document without the claimant's posting security unless it finds  
1167 that any person that may suffer loss as a result of nonsurrender of possession or control of the  
1168 document is adequately protected against the loss. If the document was nonnegotiable, the court  
1169 may require security. The court may also order payment of the bailee's reasonable costs and  
1170 attorney's fees in any action under this subsection.

1171 (b) A bailee that, without a court order, delivers goods to a person claiming under a  
1172 missing negotiable document of title is liable to any person injured thereby. If the delivery is  
1173 not in good faith, the bailee is liable for conversion. Delivery in good faith is not conversion if  
1174 the claimant posts security with the bailee in an amount at least double the value of the goods at  
1175 the time of posting to indemnify any person injured by the delivery which files a notice of claim  
1176 within one year after the delivery.

1177 SECTION 7-602. JUDICIAL PROCESS AGAINST GOODS COVERED BY  
1178 NEGOTIABLE DOCUMENT OF TITLE. Unless a document of title was originally issued upon  
1179 delivery of the goods by a person that did not have power to dispose of them, a lien does not  
1180 attach by virtue of any judicial process to goods in the possession of a bailee for which a  
1181 negotiable document of title is outstanding unless possession or control of the document is first  
1182 surrendered to the bailee or the document's negotiation is enjoined. The bailee may not be  
1183 compelled to deliver the goods pursuant to process until possession or control of the document is  
1184 surrendered to the bailee or to the court. A purchaser of the document for value without notice  
1185 of the process or injunction takes free of the lien imposed by judicial process.

1186 SECTION 7-603. CONFLICTING CLAIMS; INTERPLEADER. If more than one  
1187 person claims title to or possession of the goods, the bailee is excused from delivery until the  
1188 bailee has a reasonable time to ascertain the validity of the adverse claims or to commence an  
1189 action for interpleader. The bailee may assert an interpleader either in defending an action for  
1190 nondelivery of the goods or by original action.

1191 SECTION 46. Subsection 8-102(a)(10) of said chapter 106 is hereby amended by striking  
1192 out the words ““Good faith,” for purposes of the obligation of good faith in the performance or  
1193 enforcement of contracts or duties within this Article, means honesty in fact and the observance  
1194 of reasonable commercial standards of fair dealing.” and by substituting in place thereof word:--  
1195 “[Reserved]”.

1196 SECTION 47. Section 8-103 of said chapter 106 is hereby amended by adding at the end  
1197 of said Section the following new Subsection 8-103(g):--

1198 (g) A document of title, as defined in Section 1-201(16), is not a financial asset unless  
1199 Section 8-102(a)(9)(iii) applies.

1200 SECTION 48. Subsection 9-102(a)(5) of chapter 106 of the General Laws is hereby  
1201 amended by striking out the words “, other than a security interest, ”.

1202 SECTION 49. Subsection 9-102(a)(30) of said chapter 106 is hereby amended by striking  
1203 out “7-201(2)” and by inserting in place thereof “7-201(b)”.

1204 SECTION 50. Subsection 9-102(a)(43) of said chapter 106 is hereby amended by striking  
1205 out the words ““Good faith” means honesty in fact and the observance of reasonable commercial  
1206 standards of fair dealing.” and by inserting in place thereof word “[Reserved]”.

1207 SECTION 51. Subsection 9-102(a)(46) of said chapter 106 is hereby amended by  
1208 inserting, after the word “provided”, the words “or to be provided”.

1209 SECTION 52. Subsection 9-102(b) of said chapter 106 is hereby amended by inserting,  
1210 after the words ““Contract for sale’. Section 2-106”, the words ““Control’ (with respect to a  
1211 document of title). Section 7-106.”

1212 SECTION 53. Subsection 9-109(d)(10)(B) of said chapter 106 is hereby amended by  
1213 striking out “9-403” and by substituting in place thereof “9-404.”

1214 SECTION 54. Subsection 9-203(b)(3)(D) of said chapter 106 is hereby amended by  
1215 striking out the words “or letter-of credit rights,” and by substituting in place thereof the words  
1216 “letter-of credit rights, or electronic documents,”.

1217 SECTION 55. Subsection 9-203(b)(3)(D) of said chapter 106 is hereby further amended  
1218 by striking out the words “or 9-107,” and by substituting in place thereof the words “9-107, or 7-  
1219 106”.

1220 SECTION 56. Subsection 9-207(c) of said chapter 106 is hereby amended by striking out  
1221 the words “or 9-107,” and by substituting in place thereof the words “9-107, or 7-106”.

1222 SECTION 57. Section 9-208 of said chapter 106 is hereby amended by striking out the  
1223 word “and” at the end of Subsection 9-208(b)(4), by striking out the period and substituting in  
1224 place thereof the word “; and” at the end of Subsection 9-208(b)(5) and by adding at the end of  
1225 said Section the following the following new Subsection 9-208(b)(6):--

1226 (6) a secured party having control of an electronic document shall:

1227 (A) give control of the electronic document to the debtor or its designated  
1228 custodian;

1229 (B) if the debtor designates a custodian that is the designated custodian  
1230 with which the authoritative copy of the electronic document is maintained for the secured party,  
1231 communicate to the custodian an authenticated record releasing the designated custodian from  
1232 any further obligation to comply with instructions originated by the secured party and instructing  
1233 the custodian to comply with instructions originated by the debtor; and

1234 (C) take appropriate action to enable the debtor or its designated custodian  
1235 to make copies of or revisions to the authoritative copy which add or change an identified  
1236 assignee of the authoritative copy without the consent of the secured party.

1237 SECTION 58. Subsection 9-209(b) of said chapter 106 is hereby amended by striking  
1238 out “9-405(a)” and by substituting in place thereof “9-406(a).”

1239 SECTION 59. Subsection 9-301(3) of said chapter 106 is hereby amended by inserting,  
1240 after the words “provided in paragraph (4), while”, the word “tangible”.

1241 SECTION 60. Subsection 9-304(b)(1) of said chapter 106 is hereby amended by striking  
1242 out the words “the debtor” and by substituting in place thereof the words “its customer”.

1243 SECTION 61. Section 9-309 of said chapter 106 is hereby amended by striking out the  
1244 word “and” after the word “thereunder;” in Subsection 9-309(12), by striking out the period at  
1245 the end of Subsection 9-309(13), by substituting in place thereof the word “; and” and by adding  
1246 at the end of said Section 9-309 the following new Subsection 9-309(14):--

1247 (14) a sale by an individual of an account that is a right to payment of winnings in a  
1248 lottery or other game of chance.

1249 SECTION 62. Subsection 9-310(b)(5) of said chapter 106 is hereby amended by  
1250 inserting, after the words “perfected without filing;”, the word “control;”.

1251 SECTION 63. Subsection 9-310(b)(8) of said chapter 106 is hereby amended by  
1252 inserting, after the words “electronic chattel paper;”, the words “electronic documents;”.

1253 SECTION 64. Subsection 9-312(e) of said chapter 106 is hereby amended by inserting,  
1254 after the words “taking of possession;”, the words “or control”.

1255 SECTION 65. Subsection 9-313(a) of said chapter 106 is hereby amended by inserting  
1256 in the first sentence of said Subsection, after the words “may perfect a security in”, the word  
1257 “tangible”.

1258 SECTION 66. Subsection 9-314(a) of said chapter 106 is hereby amended by striking  
1259 out the words “or electronic chattel paper;” and by substituting in place thereof the words  
1260 “electronic chattel paper, or electronic documents;”.

1261 SECTION 67. Subsection 9-314(a) of said chapter 106 is hereby further amended by  
1262 striking out the words “or 9-107;” and by substituting in place thereof the words “9-107, or 7-  
1263 106”.

1264 SECTION 68. Subsection 9-314(b) of said chapter 106 is hereby amended by striking  
1265 out the words “or letter-of-credit rights” and by substituting in place thereof the words “letter-of-  
1266 credit rights, or electronic documents”.

1267 SECTION 69. Subsection 9-314(b) of said chapter 106 is hereby further amended by  
1268 striking out the words “or 9-107;” and by substituting in place thereof the words “9-107, or 7-  
1269 106”.

1270 SECTION 70. Subsection 9-317(b) of said chapter 106 is hereby amended by inserting,  
1271 after the words “tangible chattel paper,”, the word “tangible”.

1272 SECTION 71. Subsection 9-317(d) of said chapter 106 is hereby amended by inserting,  
1273 after the words “electronic chattel paper,”, the words “electronic documents,”.

1274 SECTION 72. Subsection 9-338(2) of said chapter 106 is hereby amended by striking  
1275 the words “in the case of chattel paper, documents” and by substituting in place thereof the  
1276 words “in the case of tangible chattel paper, tangible documents”.

1277 SECTION 73. Part 3 of article 9 of said chapter 106 is hereby further amended by  
1278 inserting, immediately after Section 9-341, the following new Section 9-342: --

1279 SECTION 9-342. BANK’S RIGHT TO REFUSE TO ENTER INTO OR DISCLOSE  
1280 EXISTENCE OF CONTROL AGREEMENT. This article does not require a bank to enter into  
1281 an agreement of the kind described in Section 9-104(a)(2), even if its customer so requests or  
1282 directs. A bank that has entered into such an agreement is not required to confirm the existence  
1283 of the agreement to another person unless requested to do so by its customer.

1284 SECTION 74. Subsection 9-401(a) of said chapter 106 is hereby amended by striking  
1285 out the words “9-405, 9-406, 9-407 and 9-408” and by substituting in place thereof the words “9-  
1286 406, 9-407, 9-408 and 9-409.”

1287 SECTION 75. Part 4 of article 9 of said chapter 106 is hereby amended by redesignating  
1288 Sections 9-402, 9-403, 9-404, 9-405, 9-406, 9-407 and 9-408 as Sections 9-403, 9-404, 9-405, 9-  
1289 406, 9-407, 9-408 and 9-409 respectively and by inserting, immediately after Section 9-401, the  
1290 following new Section 9-402:--

1291 SECTION 9 402. SECURED PARTY NOT OBLIGATED ON CONTRACT OF  
1292 DEBTOR OR IN TORT. The existence of a security interest, agricultural lien, or authority given  
1293 to a debtor to dispose of or use collateral, without more, does not subject a secured party to  
1294 liability in contract or tort for the debtor’s acts or omissions.

1295 SECTION 76. Subsection 9-404(b)(2), so redesignated as Subsection 9-405(b)(2), of  
1296 said chapter 106, is hereby amended by striking out “9-405(a)” and by substituting in place  
1297 thereof “9-406(a).”

1298 SECTION 77. Subsection 9-405(d), so redesignated as Subsection 9-406(d), of said  
1299 chapter 106 is hereby amended by striking out “9-406” and by substituting “9-407.”

1300 SECTION 78. Subsection 9-405(f), so redesignated as Subsection 9-406(f), of said  
1301 chapter 106 is hereby amended by striking out “9-406” and by substituting “9-407.”

1302 SECTION 79. Subsection 9-601(b) of said chapter 106 is hereby amended by striking  
1303 out the words “or 9-107,” and by substituting in place thereof the words “9-107, or 7-106”.

1304 SECTION 80. Subsection 9-702(b) of said chapter 106 is hereby amended by striking  
1305 out the word “9-708” and by inserting in place thereof the following word:-- “9-709”.

1306 SECTION 81. Subsection 9-706(b)(1) of said chapter 106 is hereby amended by striking  
1307 out “9-402” and by substituting “9-403.”

1308 SECTION 82. Section 47 of chapter 152 of the General Laws is hereby amended by  
1309 striking out “9-405 and 9-407” and by substituting “9-406 and 9-408.”

1310 SECTION 83. The following transitional provisions apply to the foregoing sections of  
1311 this Act:

1312 (a) The foregoing sections of this Act apply to a document of title that is issued or a  
1313 bailment that arises on or after the effective date of the foregoing sections of this Act. The  
1314 foregoing sections of this Act do not apply to a document of title that is issued or a bailment that  
1315 arises before the effective date of the foregoing sections of this Act even if the document of title  
1316 or bailment would be subject to this Act if the document of title had been issued or bailment had  
1317 arisen on or after the effective date of the foregoing sections of this Act.

1318 (b) The foregoing sections of this Act do not apply to a right of action that has  
1319 accrued before the effective date of the foregoing sections of this Act.

1320 (c) A document of title issued or a bailment that arises before the effective date of the  
1321 foregoing sections of this Act and the rights, obligations, and interests flowing from that  
1322 document or bailment are governed by any statute or other rule amended or repealed by the  
1323 foregoing sections of this Act as if amendment or repeal had not occurred and may be  
1324 terminated, completed, consummated, or enforced under that statute or other rule.

1325 (d) Section 61 of this Act applies to a sale of an account described in Subsection 9-  
1326 309(14) of Article 9 of chapter 106 of the General Laws, as amended by Section 61, even if the  
1327 sale was entered into before the foregoing sections of this Act take effect. However, if the  
1328 relative priorities of conflicting claims to the account were established before the foregoing  
1329 sections of this Act take effect, Article 9 of said chapter 106 as in effect immediately prior to the  
1330 date on which the foregoing sections of this Act take effect determines priority.

1331 (e) The amendments to said chapter 106 contained in Sections 1, 8, 28, 29, 48, 51, 53,  
1332 58, 60, 73, 74, 75, 76, 77, 78, 80, 81 and 82 of this Act are intended to correct technical errors  
1333 and, to the extent substantive, are intended to be declarative of existing law.

1334 SECOND SET OF AMENDMENTS

1335 (2010 AMENDMENTS TO UCC ARTICLE 9)

1336 SECTION 84. Chapter 106 of the General Laws is hereby amended by striking out  
1337 Subsection 9-102(a)(7)(B) of said chapter 106 and by substituting in place thereof the following  
1338 Subsection 9-102(a)(7)(B):--

1339 (B) with present intent to adopt or accept a record, to attach to or logically  
1340 associate with the record an electronic sound, symbol, or process.

1341 SECTION 85. Subsection 9-102(a)(10) of said chapter 106 is hereby amended by adding  
1342 the following sentence to the end of said Subsection:--

1343 The term includes another record maintained as an alternative to a certificate of title by  
1344 the governmental unit that issues certificates of title if a statute permits the security interest in  
1345 question to be indicated on the record as a condition or result of the security interest's obtaining  
1346 priority over the rights of a lien creditor with respect to the collateral.

1347 SECTION 86. Subsection 9-102(a)(50) of said chapter 106 is hereby amended by  
1348 inserting, after the words "under whose law the organization is", the words "formed or".

1349 SECTION 87. Subsection 9-102(a) of said chapter 106 is hereby amended by  
1350 redesignating Subsections 9-102(a)(68), 9-102(a)(69), 9-102(a)(70), 9-102(a)(71), 9-102(a)(72),  
1351 9-102(a)(73), 9-102(a)(74), 9-102(a)(75), 9-102(a)(76), 9-102(a)(77), 9-102(a)(78), 9-  
1352 102(a)(79), and 9-102(a)(80) as 9-102(a)(69), 9-102(a)(70), 9-102(a)(71), 9-102(a)(72), 9-  
1353 102(a)(73), 9-102(a)(74), 9-102(a)(75), 9-102(a)(76), 9-102(a)(77), 9-102(a)(78), 9-102(a)(79),  
1354 9-102(a)(80), and 9-102(a)(81) respectively and by inserting immediately after Subsection 9-  
1355 102(a)(67), the following new Subsection 9-102(a)(68):--

1356 (68) "Public organic record" means a record that is available to the public for  
1357 inspection and is:

1358 (A) a record consisting of the record initially filed with or issued by a  
1359 State or the United States to form or organize an organization and any record filed with or issued  
1360 by the State or the United States which amends or restates the initial record;

1361 (B) an organic record of a business trust consisting of the record initially  
1362 filed with a State and any record filed with the State which amends or restates the initial record,  
1363 if a statute of the State governing business trusts requires that the record be filed with the State;  
1364 or

1365 (C) a record consisting of legislation enacted by the legislature of a State  
1366 or the Congress of the United States which forms or organizes an organization, any record  
1367 amending the legislation, and any record filed with or issued by the State or the United States  
1368 which amends or restates the name of the organization.

1369 SECTION 88. Subsection 9-102(a)(70), so redesignated as Subsection 9-102(a)(71), of  
1370 said chapter 106, is hereby amended by inserting, after the words “means an organization”, the  
1371 words “formed or”.

1372 SECTION 89. Subsection 9-102(a)(70), so redesignated as Subsection 9-102(a)(71), of  
1373 said chapter 106, is hereby further amended by striking out the words “and as to which the State  
1374 or the United States must maintain a public record showing the organization to have been  
1375 organized” and by substituting in place thereof the words “by the filing of a public organic  
1376 record with, the issuance of a public organic record by, or the enactment of legislation by the  
1377 State or the United States. The term includes a business trust that is formed or organized under  
1378 the law of a single State if a statute of the State governing business trusts requires that the  
1379 business trust’s organic record be filed with the State”.

1380 SECTION 90. Section 9-105 of said chapter 106 is hereby amended by striking out  
1381 Section 9-105 and by substituting in place thereof the following Section 9-105:--

1382 SECTION 9-105. CONTROL OF ELECTRONIC CHATTEL PAPER

1383 (a) General rule: control of electronic chattel paper. A secured party has control of  
1384 electronic chattel paper if a system employed for evidencing the transfer of interests in the  
1385 chattel paper reliably establishes the secured party as the person to which the chattel paper was  
1386 assigned.

1387 (b) Specific facts giving control. A system satisfies subsection (a) if the record or  
1388 records comprising the chattel paper are created, stored, and assigned in such a manner that:

1389 (1) a single authoritative copy of the record or records exists which is unique,  
1390 identifiable, and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;

1391 (2) the authoritative copy identifies the secured party as the assignee of the record  
1392 or records;

1393 (3) the authoritative copy is communicated to and maintained by the secured party  
1394 or its designated custodian;

1395 (4) copies or amendments that add or change an identified assignee of the  
1396 authoritative copy can be made only with the consent of the secured party;

1397 (5) each copy of the authoritative copy and any copy of a copy is readily  
1398 identifiable as a copy that is not the authoritative copy; and

1399 (6) any amendment of the authoritative copy is readily identifiable as authorized  
1400 or unauthorized.

1401 SECTION 91. Subsection 9-307(f)(2) of said chapter 106 is hereby amended by  
1402 inserting, after the words “designate its State of location”, the words “, including by designating  
1403 its main office, home office, or other comparable office”.

1404 SECTION 92. Subsection 9-311(a)(3) of said chapter 106 is hereby amended by striking  
1405 out, before the words “statute of another jurisdiction”, the words “certificate of title”.

1406 SECTION 93. Subsection 9-311(a)(3) of said chapter 106 is hereby further amended by  
1407 striking out, after the words “to be indicated on”, the words “the certificate”, and by substituting  
1408 in place thereof the words “a certificate of title”.

1409 SECTION 94. Section 9-316 of said chapter 106 is hereby amended by striking out the  
1410 words “Continued Perfection of Security Interest Following” in the caption of said Section and  
1411 by substituting in place thereof the words “Effect of”.

1412 SECTION 95. Section 9-316 of said chapter 106 is hereby further amended by adding at  
1413 the end of said Section the following new Subsections 9-316(h) and 9-316(i):--

1414 (h) Effect on filed financing statement of change in governing law. The following rules  
1415 apply to collateral to which a security interest attaches within four months after the debtor  
1416 changes its location to another jurisdiction:

1417 (1) A financing statement filed before the change pursuant to the law of the  
1418 jurisdiction designated in Section 9-301(1) or 9-305(c) is effective to perfect a security interest in  
1419 the collateral if the financing statement would have been effective to perfect a security interest in  
1420 the collateral had the debtor not changed its location.

1421 (2) If a security interest perfected by a financing statement that is effective under  
1422 paragraph (1) becomes perfected under the law of the other jurisdiction before the earlier of the  
1423 time the financing statement would have become ineffective under the law of the jurisdiction  
1424 designated in Section 9-301(1) or 9-305(c) or the expiration of the four-month period, it remains  
1425 perfected thereafter. If the security interest does not become perfected under the law of the other  
1426 jurisdiction before the earlier time or event, it becomes unperfected and is deemed never to have  
1427 been perfected as against a purchaser of the collateral for value.

1428 (i) Effect of change in governing law on financing statement filed against original  
1429 debtor. If a financing statement naming an original debtor is filed pursuant to the law of the  
1430 jurisdiction designated in Section 9-301(1) or 9-305(c) and the new debtor is located in another  
1431 jurisdiction, the following rules apply:

1432 (1) The financing statement is effective to perfect a security interest in collateral  
1433 acquired by the new debtor before, and within four months after, the new debtor becomes bound  
1434 under Section 9-203(d), if the financing statement would have been effective to perfect a security  
1435 interest in the collateral had the collateral been acquired by the original debtor.

1436 (2) A security interest perfected by the financing statement and which becomes  
1437 perfected under the law of the other jurisdiction before the earlier of the time the financing  
1438 statement would have become ineffective under the law of the jurisdiction designated in Section  
1439 9-301(1) or 9-305(c) or the expiration of the four-month period remains perfected thereafter. A  
1440 security interest that is perfected by the financing statement but which does not become perfected  
1441 under the law of the other jurisdiction before the earlier time or event becomes unperfected and  
1442 is deemed never to have been perfected as against a purchaser of the collateral for value.

1443 SECTION 96. Subsection 9-317(b) of said chapter 106 is hereby amended by striking  
1444 out the words “security certificate” and by substituting in place thereof the words “certificated  
1445 security”.

1446 SECTION 97. Subsection 9-317(d) of said chapter 106 is hereby amended by striking  
1447 out the words “accounts, electronic chattel paper, electronic documents, general intangibles, or  
1448 investment property other than” and by substituting in place thereof the words “collateral other  
1449 than tangible chattel paper, tangible documents, goods, instruments, or”.

1450 SECTION 98. Section 9-326 of said chapter 106 is hereby amended by striking out  
1451 Subsection 9-326(a) and by substituting in place thereof the following Subsection 9-326(a):--

1452 (a) Subordination of security interest created by new debtor. Subject to subsection (b), a  
1453 security interest that is created by a new debtor in collateral in which the new debtor has or  
1454 acquires rights and is perfected solely by a filed financing statement that would be ineffective to  
1455 perfect the security interest but for the application of Section 9-316(i)(1) or 9-508 is subordinate  
1456 to a security interest in the same collateral which is perfected other than by such a filed financing  
1457 statement.

1458 SECTION 99. Subsection 9-326(b) of said chapter 106 is hereby amended by striking  
1459 out the words in the first sentence “that are effective solely under Section 9-508” and by  
1460 substituting in place thereof the words “described in subsection (a)”.

1461 SECTION 100. Subsection 9-405(e), redesignated in Section 75 as Subsection 9-406(e),  
1462 of said chapter 106 is hereby amended by inserting, after the words “or promissory note”, the  
1463 words “, other than a sale pursuant to a disposition under Section 9-610 or an acceptance of  
1464 collateral under Section 9-620”.

1465 SECTION 101. Subsection 9-407(b), redesignated in Section 75 as Subsection 9-408(b),  
1466 of said chapter 106 is hereby amended by inserting, after the words “only if the security interest  
1467 arises out of a sale of the payment intangible or promissory note”, the words “, other than a sale  
1468 pursuant to a disposition under Section 9-610 or an acceptance of collateral under Section 9-  
1469 620”.

1470 SECTION 102. Section 9-502 of said chapter 106 is hereby amended by striking out  
1471 Subsection 9-502(c)(3) and by substituting in place thereof the following Subsection 9-  
1472 502(c)(3):--

1473 (3) the record satisfies the requirements for a financing statement in this section,  
1474 but:

1475 (A) the record need not indicate that it is to be filed in the real property  
1476 records; and

1477 (B) the record sufficiently provides the name of a debtor who is an  
1478 individual if it provides the individual name of the debtor or the surname and first personal name  
1479 of the debtor, even if the debtor is an individual to whom Section 9-503(a)(4) applies; and

1480 SECTION 103. Section 9-503 of said chapter 106 is hereby amended by striking out  
1481 Subsection 9-503(a) and by substituting in place thereof the following Subsection 9-503(a):--

1482 (a) Sufficiency of debtor's name. A financing statement sufficiently provides the name  
1483 of the debtor:

1484 (1) except as otherwise provided in paragraph (3), if the debtor is a registered  
1485 organization or the collateral is held in a trust that is a registered organization, only if the  
1486 financing statement provides the name that is stated to be the registered organization's name on  
1487 the public organic record most recently filed with or issued or enacted by the registered  
1488 organization's jurisdiction of organization which purports to state, amend, or restate the  
1489 registered organization's name;

1490 (2) subject to subsection (f), if the collateral is being administered by the personal  
1491 representative of a decedent, only if the financing statement provides, as the name of the debtor,  
1492 the name of the decedent and, in a separate part of the financing statement, indicates that the  
1493 collateral is being administered by a personal representative;

1494 (3) if the collateral is held in a trust that is not a registered organization, only if  
1495 the financing statement:

1496 (A) provides, as the name of the debtor:

1497 (i) if the organic record of the trust specifies a name for the trust,  
1498 the name specified; or

1499 (ii) if the organic record of the trust does not specify a name for the  
1500 trust, the name of the settlor or testator; and

1501 (B) in a separate part of the financing statement:

1502 (i) if the name is provided in accordance with subparagraph (A)(i),  
1503 indicates that the collateral is held in a trust; or

1504 (ii) if the name is provided in accordance with subparagraph  
1505 (A)(ii), provides additional information sufficient to distinguish the trust from other trusts having  
1506 one or more of the same settlors or the same testator and indicates that the collateral is held in a  
1507 trust, unless the additional information so indicates;

1508 (4) subject to subsection (g), if the debtor is an individual to whom this State has  
1509 issued a driver's license or Massachusetts identification card that has not expired, only if the  
1510 financing statement provides the name of the individual which is indicated on the driver's license  
1511 or Massachusetts identification card;

1512 (5) if the debtor is an individual to whom paragraph (4) does not apply, only if the  
1513 financing statement provides the individual name of the debtor or the surname and first personal  
1514 name of the debtor; and

1515 (6) in other cases:

1516 (A) if the debtor has a name, only if the financing statement provides the  
1517 organizational name of the debtor; and

1518 (B) if the debtor does not have a name, only if it provides the names of the  
1519 partners, members, associates, or other persons comprising the debtor, in a manner that each  
1520 name provided would be sufficient if the person named were the debtor.

1521 SECTION 104. Section 9-503 of said chapter 106 is hereby amended further by striking  
1522 out, in Subsection 9-503(b)(2), the reference to "subsection (a)(4)(B)", and by substituting in  
1523 place thereof "subsection (a)(6)(B)".

1524

1525 SECTION 105. Section 9-503 of said chapter 106 is hereby amended further by adding  
1526 at the end of said Section the following new Subsections 9-503(f), 9-503(g), and 9-503(h):--

1527 (f) Name of decedent. The name of the decedent indicated on the order appointing the  
1528 personal representative of the decedent issued by the court having jurisdiction over the collateral  
1529 is sufficient as the "name of the decedent" under subsection (a)(2).

1530 (g) Multiple driver's licenses. If this State has issued to an individual more than one  
1531 driver's license or Massachusetts identification card of a kind described in subsection (a)(4), the  
1532 one that was issued most recently is the one to which subsection (a)(4) refers.

1533 (h) Definition. In this section, the "name of the settlor or testator" means:

1534 (1) if the settlor is a registered organization, the name that is stated to be the  
1535 settlor's name on the public organic record most recently filed with or issued or enacted by the  
1536 settlor's jurisdiction of organization which purports to state, amend, or restate the settlor's name;  
1537 or

1538 (2) in other cases, the name of the settlor or testator indicated in the trust's organic  
1539 record.

1540 SECTION 106. Section 9-507 of said chapter 106 is hereby amended by striking out  
1541 Subsection 9-507(c) and by substituting in place thereof the following Subsection 9-507(c):--

1542 (c) Change in debtor's name. If the name that a filed financing statement provides for a  
1543 debtor becomes insufficient as the name of the debtor under Section 9-503(a) so that the  
1544 financing statement becomes seriously misleading under Section 9-506:

1545 (1) the financing statement is effective to perfect a security interest in collateral  
1546 acquired by the debtor before, or within four months after, the filed financing statement becomes  
1547 seriously misleading; and

1548 (2) the financing statement is not effective to perfect a security interest in  
1549 collateral acquired by the debtor more than four months after the filed financing statement  
1550 becomes seriously misleading, unless an amendment to the financing statement which renders  
1551 the financing statement not seriously misleading is filed within four months after the financing  
1552 statement became seriously misleading.

1553 SECTION 107. Subsection 9-515(f) of said chapter 106 is hereby amended by inserting,  
1554 before the words "financing statement so indicates", the word "initial".

1555 SECTION 108. Subsection 9-516(b)(3)(B) of said chapter 106 is hereby amended by  
1556 striking out the word "correction" and by substituting in place thereof the word "information".

1557 SECTION 109. Subsection 9-516(b)(3)(C) of said chapter 106 is hereby amended by  
1558 striking out the words "last name" and by substituting in place thereof the word "surname".

1559 SECTION 110. Subsection 9-516(b)(5) of said chapter 106 is hereby amended by  
1560 striking out Subsection 9-516(b)(5) and by substituting in place thereof the following Subsection  
1561 9-516(b)(5):--

1562 (5) in the case of an initial financing statement or an amendment that provides a  
1563 name of a debtor which was not previously provided in the financing statement to which the  
1564 amendment relates, the record does not:

1565 (A) provide a mailing address for the debtor; or

1566 (B) indicate whether the name provided as the name of the debtor is the  
1567 name of an individual or an organization;

1568 SECTION 111. Section 9-518 of said chapter 106 is hereby amended by striking out said  
1569 Section 9-518 and by substituting in place thereof the following Section 9-518:--

1570 SECTION 9-518. CLAIM CONCERNING INACCURATE OR WRONGFULLY  
1571 FILED RECORD.

1572 (a) Statement with respect to record indexed under person's name. A person may file in  
1573 the filing office an information statement with respect to a record indexed there under the  
1574 person's name if the person believes that the record is inaccurate or was wrongfully filed.

1575 (b) Contents of statement under subsection (a). An information statement under  
1576 subsection (a) must:

1577 (1) identify the record to which it relates by:

1578 (A) the file number assigned to the initial financing statement to which the  
1579 record relates; and

1580 (B) if the information statement relates to a record filed or recorded in a  
1581 filing office described in Section 9-501(a)(1),

1582 (i) the book and page number of the initial financing statement, in  
1583 the case of unregistered land governed by chapter 36, or if a book and page number has not yet  
1584 been assigned to the initial financing statement, the instrument number of the initial financing  
1585 statement and the date on which the initial financing statement was originally filed, and the  
1586 document number of the initial financing statement, in the case of registered land governed by  
1587 chapter 185; and

1588 (ii) the information specified in Section 9-502(b);

1589 (2) indicate that it is an information statement; and

1590 (3) provide the basis for the person's belief that the record is inaccurate and  
1591 indicate the manner in which the person believes the record should be amended to cure any  
1592 inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

1593 (c) Statement by secured party of record. A person may file in the filing office an  
1594 information statement with respect to a record filed there if the person is a secured party of  
1595 record with respect to the financing statement to which the record relates and believes that the  
1596 person that filed the record was not entitled to do so under Section 9-509(d).

1597 (d) Contents of statement under subsection (c). An information statement under  
1598 subsection (c) must:

1599 (1) identify the record to which it relates by:

1600 (A) the file number assigned to the initial financing statement to which the  
1601 record relates; and

1602 (B) if the information statement relates to a record filed or recorded in a  
1603 filing office described in Section 9-501(a)(1),

1604 (i) the book and page number of the initial financing statement, in  
1605 the case of unregistered land governed by chapter 36, or if a book and page number has not yet  
1606 been assigned to the initial financing statement, the instrument number of the initial financing  
1607 statement and the date on which the initial financing statement was originally filed, and the  
1608 document number of the initial financing statement, in the case of registered land governed by  
1609 chapter 185; and

1610 (ii) the information specified in Section 9-502(b);

1611 (2) indicate that it is an information statement; and

1612 (3) provide the basis for the person's belief that the person that filed the record  
1613 was not entitled to do so under Section 9-509(d).

1614 (e) Record not affected by information statement. The filing of an information statement  
1615 does not affect the effectiveness of an initial financing statement or other filed record.

1616 SECTION 112. Section 9-521 of said chapter 106 is hereby amended by striking out said  
1617 Section 9-521 and by substituting in place thereof the following Section 9-521:--

1618 SECTION 9-521. UNIFORM FORM OF WRITTEN FINANCING STATEMENT AND  
1619 AMENDMENT.

1620 (a) Initial financing statement form. A filing office that accepts written records may not  
1621 refuse to accept a written initial financing statement in the following form and format except for  
1622 a reason set forth in Section 9-516(b):

1623

1624

1625 (b) Amendment form. A filing office that accepts written records may not refuse to  
1626 accept a written record in the following form and format except for a reason set forth in Section  
1627 9-516(b):

1628

1629

1630 SECTION 113. Subsection 9-607(b)(2)(A) of said chapter 106 is hereby amended by  
1631 inserting, after the words “a default has occurred”, the words “with respect to the obligation  
1632 secured by the mortgage”.

1633 SECTION 114. Subsection 2A-103(3) of said chapter 106 is hereby amended by striking  
1634 out “9-102(a)(68)” and by substituting in place thereof “9-102(a)(69)”.

1635 SECTION 115. The amendments of said chapter 106 contained in Sections 84 through  
1636 114 and this Section 115 shall take effect on July 1, 2013. Said chapter 106 is hereby further  
1637 amended by adding, following Part 7 of Article 9, the following new Part 8 containing the  
1638 transition provisions for Sections 84 through 114:

1639 PART 8 TRANSITION PROVISIONS FOR 2010 AMENDMENTS

1640 SECTION 9-801. EFFECTIVE DATE. This Amendatory Act takes effect on July 1,  
1641 2013. References in this Part to this “Amendatory Act” are to those sections of the legislative  
1642 enactment by which this Part is added to Article 9 of chapter 106 effective on July 1, 2013 .

1643 SECTION 9-802. SAVINGS CLAUSE.

1644 (a) Pre-effective-date transactions or liens. Except as otherwise provided in this part,  
1645 this Amendatory Act applies to a transaction or lien within its scope, even if the transaction or  
1646 lien was entered into or created before this Amendatory Act takes effect.

1647 (b) Pre-effective-date proceedings. This Amendatory Act does not affect an action, case,  
1648 or proceeding commenced before this Amendatory Act takes effect.

1649 SECTION 9-803. SECURITY INTEREST PERFECTED BEFORE EFFECTIVE  
1650 DATE.

1651 (a) Continuing perfection: perfection requirements satisfied. A security interest that is a  
1652 perfected security interest immediately before this Amendatory Act takes effect is a perfected  
1653 security interest under Article 9 of this chapter as amended by this Amendatory Act if, when this  
1654 Amendatory Act takes effect, the applicable requirements for attachment and perfection under  
1655 Article 9 of this chapter as amended by this Amendatory Act are satisfied without further action.

1656 (b) Continuing perfection: perfection requirements not satisfied. Except as otherwise  
1657 provided in Section 9-805, if, immediately before this Amendatory Act takes effect, a security  
1658 interest is a perfected security interest, but the applicable requirements for perfection under  
1659 Article 9 of this chapter as amended by this Amendatory Act are not satisfied when this  
1660 Amendatory Act takes effect, the security interest remains perfected thereafter only if the

1661 applicable requirements for perfection under Article 9 of this chapter as amended by this  
1662 Amendatory Act are satisfied within one year after this Amendatory Act takes effect.

1663 SECTION 9-804. SECURITY INTEREST UNPERFECTED BEFORE EFFECTIVE  
1664 DATE. A security interest that is an unperfected security interest immediately before this  
1665 Amendatory Act takes effect becomes a perfected security interest:

1666 (1) without further action, when this Amendatory Act takes effect if the applicable  
1667 requirements for perfection under Article 9 of this chapter as amended by this Amendatory Act  
1668 are satisfied before or at that time; or

1669 (2) when the applicable requirements for perfection are satisfied if the requirements are  
1670 satisfied after that time.

1671 SECTION 9-805. EFFECTIVENESS OF ACTION TAKEN BEFORE EFFECTIVE  
1672 DATE.

1673 (a) Pre-effective-date filing effective. The filing of a financing statement before this  
1674 Amendatory Act takes effect is effective to perfect a security interest to the extent the filing  
1675 would satisfy the applicable requirements for perfection under Article 9 of this chapter as  
1676 amended by this Amendatory Act.

1677 (b) When pre-effective-date filing becomes ineffective. This Amendatory Act does not  
1678 render ineffective an effective financing statement that, before this Amendatory Act takes effect,  
1679 is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction  
1680 governing perfection as provided in Article 9 of this chapter as it existed before this Amendatory  
1681 Act took effect. However, except as otherwise provided in subsections (c) and (d) and Section 9-  
1682 806, the financing statement ceases to be effective:

1683 (1) if the financing statement is filed in this State, at the time the financing  
1684 statement would have ceased to be effective had this Amendatory Act not taken effect; or

1685 (2) if the financing statement is filed in another jurisdiction, at the earlier of:

1686 (A) the time the financing statement would have ceased to be effective  
1687 under the law of that jurisdiction; or

1688 (B) June 30, 2018.

1689 (c) Continuation statement. The filing of a continuation statement after this Amendatory  
1690 Act takes effect does not continue the effectiveness of a financing statement filed before this  
1691 Amendatory Act takes effect. However, upon the timely filing of a continuation statement after  
1692 this Amendatory Act takes effect and in accordance with the law of the jurisdiction governing  
1693 perfection as provided in Article 9 of this chapter as amended by this Amendatory Act, the

1694 effectiveness of a financing statement filed in the same office in that jurisdiction before this  
1695 Amendatory Act takes effect continues for the period provided by the law of that jurisdiction.

1696 (d) Application of subsection (b)(2)(B) to transmitting utility financing statement.  
1697 Subsection (b)(2)(B) applies to a financing statement that, before this Amendatory Act takes  
1698 effect, is filed against a transmitting utility and satisfies the applicable requirements for  
1699 perfection under the law of the jurisdiction governing perfection as provided in Article 9 of this  
1700 chapter as it existed before this Amendatory Act took effect, only to the extent that Article 9 of  
1701 this chapter as amended by this Amendatory Act provides that the law of a jurisdiction other than  
1702 the jurisdiction in which the financing statement is filed governs perfection of a security interest  
1703 in collateral covered by the financing statement.

1704 (e) Application of Part 5. A financing statement that includes a financing statement filed  
1705 before this Amendatory Act takes effect and a continuation statement filed after this Amendatory  
1706 Act takes effect is effective only to the extent that it satisfies the requirements of Part 5 of Article  
1707 9 of this chapter as amended by this Amendatory Act for an initial financing statement. A  
1708 financing statement that indicates that the debtor is a decedent's estate indicates that the  
1709 collateral is being administered by a personal representative within the meaning of Section 9-  
1710 503(a)(2) as amended by this Amendatory Act. A financing statement that indicates that the  
1711 debtor is a trust or is a trustee acting with respect to property held in trust indicates that the  
1712 collateral is held in a trust within the meaning of Section 9-503(a)(3) as amended by this  
1713 Amendatory Act.

1714 SECTION 9-806. WHEN INITIAL FINANCING STATEMENT SUFFICES TO  
1715 CONTINUE EFFECTIVENESS OF FINANCING STATEMENT

1716 (a) Initial financing statement in lieu of continuation statement. The filing of an initial  
1717 financing statement in the office specified in Section 9-501 continues the effectiveness of a  
1718 financing statement filed before this Amendatory Act takes effect if:

1719 (1) the filing of an initial financing statement in that office would be effective to  
1720 perfect a security interest under Article 9 of this chapter as amended by this Amendatory Act;

1721 (2) the pre-effective-date financing statement was filed in an office in another  
1722 State; and

1723 (3) the initial financing statement satisfies subsection (c).

1724 (b) Period of continued effectiveness. The filing of an initial financing statement under  
1725 subsection (a) continues the effectiveness of the pre-effective-date financing statement:

1726 (1) if the initial financing statement is filed before this Amendatory Act takes  
1727 effect, for the period provided in Section 9-515 of Article 9 of this chapter before this  
1728 Amendatory Act took effect with respect to an initial financing statement; and

1729 (2) if the initial financing statement is filed after this Amendatory Act takes effect,  
1730 for the period provided in Section 9-515 of Article 9 of this chapter as amended by this  
1731 Amendatory Act with respect to an initial financing statement.

1732 (c) Requirements for initial financing statement under subsection (a). To be effective for  
1733 purposes of subsection (a), an initial financing statement must:

1734 (1) satisfy the requirements of Part 5 of Article 9 of this chapter as amended by  
1735 this Amendatory Act for an initial financing statement;

1736 (2) identify the pre-effective-date financing statement by indicating the office in  
1737 which the financing statement was filed and providing the dates of filing and file numbers, if  
1738 any, of the financing statement and of the most recent continuation statement filed with respect  
1739 to the financing statement; and

1740 (3) indicate that the pre-effective-date financing statement remains effective.

1741 SECTION 9-807. AMENDMENT OF PRE-EFFECTIVE-DATE FINANCING  
1742 STATEMENT.

1743 (a) “Pre-effective-date financing statement”. In this section, “pre-effective-date  
1744 financing statement” means a financing statement filed before this Amendatory Act takes effect.

1745 (b) Applicable law. After this Amendatory Act takes effect, a person may add or delete  
1746 collateral covered by, continue or terminate the effectiveness of, or otherwise amend the  
1747 information provided in, a pre-effective-date financing statement only in accordance with the law  
1748 of the jurisdiction governing perfection as provided in Article 9 of this chapter as amended by  
1749 this Amendatory Act. However, the effectiveness of a pre-effective-date financing statement  
1750 also may be terminated in accordance with the law of the jurisdiction in which the financing  
1751 statement is filed.

1752 (c) Method of amending: general rule. Except as otherwise provided in subsection (d), if  
1753 the law of this State governs perfection of a security interest, the information in a pre-effective-  
1754 date financing statement may be amended after this Amendatory Act takes effect only if:

1755 (1) the pre-effective-date financing statement and an amendment are filed in the  
1756 office specified in Section 9-501;

1757 (2) an amendment is filed in the office specified in Section 9-501 concurrently  
1758 with, or after the filing in that office of, an initial financing statement that satisfies Section 9-  
1759 806(c); or

1760 (3) an initial financing statement that provides the information as amended and  
1761 satisfies Section 9-806(c) is filed in the office specified in Section 9-501.

1762 (d) Method of amending: continuation. If the law of this State governs perfection of a  
1763 security interest, the effectiveness of a pre-effective-date financing statement may be continued  
1764 only under Section 9-805(c) and (e) or 9-806.

1765 (e) Method of amending: additional termination rule. Whether or not the law of this  
1766 State governs perfection of a security interest, the effectiveness of a pre-effective-date financing  
1767 statement filed in this State may be terminated after this Amendatory Act takes effect by filing a  
1768 termination statement in the office in which the pre-effective-date financing statement is filed,  
1769 unless an initial financing statement that satisfies Section 9-806(c) has been filed in the office  
1770 specified by the law of the jurisdiction governing perfection as provided in Article 9 as amended  
1771 by this Amendatory Act as the office in which to file a financing statement.

1772 SECTION 9-808. PERSON ENTITLED TO FILE INITIAL FINANCING  
1773 STATEMENT OR CONTINUATION STATEMENT. A person may file an initial financing  
1774 statement or a continuation statement under this part if:

1775 (1) the secured party of record authorizes the filing; and

1776 (2) the filing is necessary under this part:

1777 (A) to continue the effectiveness of a financing statement filed before this  
1778 Amendatory Act takes effect; or

1779 (B) to perfect or continue the perfection of a security interest.

1780 SECTION 9-809. PRIORITY. This Amendatory Act determines the priority of  
1781 conflicting claims to collateral. However, if the relative priorities of the claims were established  
1782 before this Amendatory Act takes effect, Article 9 of this chapter as it existed before  
1783 Amendatory Act took effect determines priority.