

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend Subtitle I of Title 28 of the District of Columbia Official Code to add a new Article 12—Controllable Electronic Records, to provide rules for transactions involving digital assets, including cryptocurrency, non-fungible tokens, and electronic promises to pay, and to provide for their negotiability and their perfection by control; to make conforming and related amendments to Articles 1, 2, 2A, 4A, 5, 7, 8, and 9; and to provide transition rules to protect the expectations of parties to existing transactions and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Uniform Commercial Code Amendment Act of 2024”.

Sec. 2. Subtitle I of Title 28 of the District of Columbia Official Code is amended as follows:

(a) The Table of Contents is amended as follows:

(1) The section heading for section 28:2-106 is amended by striking the period at the end and inserting the phrase “; hybrid transaction.” in its place.

(2) The section heading for section 28:2-202 is amended by striking the word “written”.

(3) The section heading for section 28:2A-202 is amended by striking the word “written”.

(4) The section heading for section 28:3-401 is amended to read as follows: “28:3-401. Signature necessary for liability on instrument.”.

(5) The section heading for section 28:9-105 is amended to read as follows: “28:9-105. Control of electronic copy of record evidencing chattel paper.”.

(6) A new section heading is added after the section heading for section 28:9-105 to read as follows:

“28:9-105A. Control of electronic money.”.

(7) New section headings are added after the section heading for section 28:9-107 to read as follows:

“28:9-107A. Control of controllable electronic record, controllable account, or controllable payment intangible.

“28:9-107B. No Requirement to Acknowledge or Confirm; No Duties.”.

(8) New section headings are added after the section heading for section 28:9-306 to read as follows:

“28:9-306A. Law governing perfection and priority of security interests in chattel paper.

“28:9-306B. Law governing perfection and priority of security interests in controllable accounts, controllable electronic records, and controllable payment intangibles.”.

(9) The section heading for section 28:9-312 is amended to read as follows:

"28:9-312. Perfection of security interests in chattel paper, controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, negotiable documents, goods covered by documents, instruments, investment property, letter-of-credit rights, and money; perfection by permissive filing; temporary perfection without filing or transfer of possession.”.

(10) A new section heading is added after the section heading for section 28:9-314 to read as follows:

“28:9-314A. Perfection by possession and control of chattel paper.”.

(11) A new section heading is added after the section heading for section 28:9-326 to read as follows:

“28:9-326A. Priority of security interest in controllable account, controllable electronic record, and controllable payment intangible.”.

(12) The section heading for section 28:9-331 is amended to read as follows:

“28:9-331. Priority of rights of purchasers of controllable accounts, controllable electronic records, controllable payment intangibles, documents, instruments, and securities under other articles; priority of interests in financial assets and security entitlements and protection against assertion of claim under Articles 8 and 12.”.

(13) Headings for a new Article 12 are added to read as follows:

“Article 12. Controllable Electronic Records.”

“Part I. General Provisions.

“28:12-101. Title.

“28:12-102. Definitions.

“28:12-103. Relation to Article 9 and consumer laws.

“28:12-104. Rights in controllable account, controllable electronic record, and controllable payment intangible.

“28:12-105. Control of controllable electronic record.

“28:12-106. Discharge of account debtor on controllable account or controllable payment intangible.

“28:12-107. Governing law.

“Part II. Transitional Provisions for Articles 9 and 12.”

“28:12-201. Definitions.

“28:12-202. Saving clause.

“28:12-203. Security interest perfected before effective date of the 2024 Act.

“28:12-204. Security interest unperfected before effective date of the 2024 Act.

“28:12-206. Effectiveness of actions taken before effective date of the 2024 Act.

“28:12-206. Priority.

“28:12-207. Priority of claims when priority rules of Article 9 do not apply.”.

(b) Article 1 is amended as follows:

(1) Section 28:1-201(b) is amended as follows:

(A) Paragraph (10) is amended to read as follows:

“(10) “Conspicuous”, with reference to a term, means so written, displayed, or presented that, based on the totality of the circumstances, a reasonable person against which it is to operate ought to have noticed it. Whether a term is “conspicuous” or not is a decision for the court.”.

(B) Paragraph (15) is amended to read as follows:

“(15) “Delivery”, with respect to an electronic document of title, means voluntary transfer of control; and, with respect to an instrument, a tangible document of title, or an authoritative tangible copy of a record evidencing chattel paper, means voluntary transfer of possession.”.

(C) A new paragraph (16A) is added to read as follows:

“(16A) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.”.

(D) Paragraph (21)(C) is amended by striking the word “control” and inserting the phrase “control, other than pursuant to § 28:7-106(g),” in its place.

(E) Paragraph (24) is amended to read as follows:

“(24) “Money” means a medium of exchange that is currently authorized or adopted by a domestic or foreign government. The term “money” includes a monetary unit of account established by an intergovernmental organization or pursuant to an agreement between 2 or more countries. The term “money” does not include an electronic record that is a medium of exchange recorded and transferable in a system that existed and operated for the medium of exchange before the medium of exchange was authorized or adopted by the government.”.

(F) Paragraph (27) is amended by to read as follows:

“(27) “Person” means an individual, estate, business or nonprofit entity, government or governmental subdivision, agency, or instrumentality, or other legal entity. The term “person” includes a protected series, however denominated, of an entity, if the protected series is established under law, other than this subtitle, that limits, or limits if conditions specified under the law are satisfied, the ability of a creditor of the entity or of any other protected series of the entity to satisfy a claim from assets of the protected series.”.

(G) Paragraph (36) is amended by to read as follows:

“(36) “Send” in connection with a record or notification means:

“(A) To deposit in the mail, or deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for,

addressed to any address reasonable under the circumstances; or

“(B) To cause the record or notification to be received within the time it would have been received if properly sent under subparagraph (A) of this paragraph.”.

(H) Paragraph (37) is amended by to read as follows:

“(37) “Sign”, “signed”, “signing”, and “signature” mean with present intent to authenticate or adopt a record:

“(i) To execute or adopt a tangible symbol; or

“(ii) To attach to or logically associate with the record an electronic symbol, sound, or process.”.

(2) Section 28:1-204 is amended by striking the phrase “Articles 3, 4, and 5” and inserting the phrase “Articles 3, 4, 5, and 12” in its place.

(3) Section 28:1-301(c) is amended as follows:

(A) Paragraph (7) is amended by striking the period at the end and inserting a semicolon in its place.

(B) A new paragraph (8) is added to read as follows:

“(8) Section 28:12-107.”

(4) Section 28:1-306 is amended by striking the phrase “an authenticated” and inserting the phrase “a signed” in its place.

(c) Article 2 is amended as follows:

(1) Section 28:2-102 is amended to read as follows:

“§ 28:2-102. Scope; certain security and other transactions excluded from this article.

“(a) Unless the context otherwise requires, and except as provided in subsection (c) of this section, this article applies to transactions in goods and, in the case of a hybrid transaction, it applies to the extent provided in subsection (b) of this section.

“(b) In a hybrid transaction:

“(1) If the sale-of-goods aspects do not predominate, only the provisions of this article that relate primarily to the sale-of-goods aspects of the transaction apply, and the provisions that relate primarily to the transaction as a whole do not apply.

“(2) If the sale-of-goods aspects predominate, this article applies to the transaction but does not preclude application in appropriate circumstances of other law to aspects of the transaction which do not relate to the sale of goods.

“(c) This article does not:

“(1) Apply to a transaction that, even though in the form of an unconditional contract to sell or present sale, operates only to create a security interest; or

“(2) Impair or repeal a statute regulating sales to consumers, farmers, or other specified classes of buyers.”.

(2) Section 28:2-106 is amended as follows:

(A) The section heading is amended by striking the period at the end and

inserting the phrase “; hybrid transaction.” in its place.

(B) A new paragraph (5) is added to read as follows:

“(5) “Hybrid transaction” means a single transaction involving a sale of goods and:

“(A) The provision of services;

“(B) A lease of other goods; or

“(C) A sale, lease, or license of property other than goods.”.

(3) Section 28:2-201 is amended as follows:

(A) Paragraphs (1) and (2) are amended to read as follows:

“(1) Except as otherwise provided in this section a contract for the sale of goods for the price of \$500 or more is not enforceable by way of action or defense unless there is a record sufficient to indicate that a contract for sale has been made between the parties and signed by the party against whom enforcement is sought or by the party’s authorized agent or broker. A record is not insufficient because it omits or incorrectly states a term agreed upon but the contract is not enforceable under this subsection beyond the quantity of goods shown in the record.

“(2) Between merchants if within a reasonable time a record in confirmation of the contract and sufficient against the sender is received and the party receiving it has reason to know its contents, it satisfies the requirements of subsection (1) of this section against the party unless notice in a record of objection to its contents is given within 10 days after it is received.”.

(4) Section 28:2-202 is amended as follows:

(A) The section heading is amended by striking the word “written”.

(B) Subsection (b) is amended by striking the word “writing” and inserting the word “record” in its place.

(5) Section 28:2-203 is amended by striking the word “writing” both times it appears and inserting the word “record” in its place.

(6) Section 28:2-205 is amended by striking the word “writing” and inserting the word “record” in its place.

(7) Section 28:209(2) is amended by striking the word “writing” and inserting the phrase “writing or other signed record” in its place.

(d) Article 2A is amended as follows:

(1) Section 28:2A-102 is amended to read as follows:

“28:2A-102. Scope.

“(a) This article applies to any transaction, regardless of form, that creates a lease; in the case of a hybrid lease, this article applies to the extent provided in subsection (b) of this section.

“(b) In a hybrid lease:

“(1) If the lease-of-goods aspects do not predominate:

“(A) Only the provisions of this article which relate primarily to the

lease-of-goods aspects of the transaction apply, and the provisions that relate primarily to the transaction as a whole do not apply;

“(B) Section 28:2A-209 applies if the lease is a finance lease; and

“(C) Section 28:2A-407 applies to the promises of the lessee in a finance lease to the extent the promises are consideration for the right to possession and use of the leased goods; and

“(2) If the lease-of-goods aspects predominate, this article applies to the transaction, but does not preclude application in appropriate circumstances of other law to aspects of the lease which do not relate to the lease of goods.”.

(2) Section 28:2A-103(a) is amended by adding a new paragraph (8A) to read as follows:

“(8A) “Hybrid lease” means a single transaction involving a lease of goods and:

“(A) The provision of services;

“(B) A sale of other goods; or

“(C) A sale, lease, or license of property other than goods.”.

(3) Section 28:2A-107 is amended by striking the phrase “written waiver or renunciation signed and” and inserting the phrase “waiver or renunciation in a signed record” in its place.

(4) Section 28:2A-201 is amended as follows:

(A) Subsection (a)(2) is amended by striking the word “writing” and inserting the word “record” in its place.”

(B) Subsection (c) is amended by striking the word “writing” both times it appears and inserting the word “record” in its place.

(C) Subsection (e)(1) is amended by striking the word “writing” and inserting the word “record” in its place.”

(5) Section 28:2A-202 is amended as follows:

(A) The section heading is amended by striking the word “written”.

(B) The lead-in sentence is amended by striking the word “writing” and inserting the word “record” in its place.

(C) Paragraph (2) is amended by striking the word “writing” and inserting the word “record” in its place.

(6) Section 28:2A-203 is amended by striking the word “writing” both times it appears and inserting the word “record” in its place.

(7) Section 28:2A-205 is amended by striking the word “writing” and inserting the word “record” in its place.

(8) Section 28:2A-208(b) is amended by striking the word “writing” and inserting the word “record” in its place.

(e) Article 3 is amended as follows:

(1) Section 28:3-104(a)(3) is amended to read as follows:

“(3) Does not state any other undertaking or instruction by the person promising or ordering payment to do any act in addition to the payment of money, but the promise or order may contain (i) an undertaking or power to give, maintain, or protect collateral to secure payment, (ii) an authorization or power to the holder to confess judgment or realize on or dispose of collateral, (iii) a waiver of the benefit of any law intended for the advantage or protection of an obligor, (iv) a term that specifies the law that governs the promise or order, or (v) an undertaking to resolve in a specified forum a dispute concerning the promise or order.”.

(2) Section 28:3-105(a) is amended to read as follows:

“(a) “Issue” means:

“(1) The first delivery of an instrument by the maker or drawer, whether to a holder or non-holder, for the purpose of giving rights on the instrument to any person; or

“(2) If agreed by the payee, the first transmission by the drawer to the payee of an image of an item and information derived from the item that enables the depository bank to collect the item by transferring or presenting under federal law an electronic check.”.

(3) Section 28:3-401(b) is repealed.

(4) Section 28:3-604 is amended as follows:

(A) Subsection (a) is amended by adding a new sentence at the end to read as follows: “The obligation of a party to pay a check is not discharged solely by destruction of the check in connection with a process in which information is extracted from the check and an image of the check is made and, subsequently, the information and image are transmitted for payment.”.

(B) Subsection (c) is repealed.

(f) Article 4A is amended as follows:

(1) Section 28:4A-103(a)(3) is amended by striking the phrase “, electronically, or in writing” and inserting the phrase “or in a record” in its place.

(2) Section 28:4A-201 is amended to read as follows:

““Security procedure” means a procedure established by agreement of a customer and a receiving bank for the purpose of (i) verifying that a payment order or communication amending or cancelling a payment order is that of the customer, or (ii) detecting error in the transmission or the content of the payment order or communication. A security procedure may impose an obligation on the receiving bank or the customer and may require the use of algorithms or other codes, identifying words, numbers, symbols, sounds, biometrics, encryption, callback procedures, or similar security devices. Comparison of a signature on a payment order or communication with an authorized specimen signature of the customer or requiring a payment order to be sent from a known email address, Internet Protocol address, or telephone number is not by itself a security procedure.”.

(3) Section 28:4A-202 is amended as follows:

(A) Subsection (b) is amended to read as follows:

“(b) If a bank and its customer have agreed that the authenticity of payment orders issued to the bank in the name of the customer as sender will be verified pursuant to a security procedure, a payment order received by the receiving bank is effective as the order of the customer, whether or not authorized, if (i) the security procedure is a commercially reasonable method of providing security against unauthorized payment orders, and (ii) the bank proves that it accepted the payment order in good faith and in compliance with the bank’s obligations under the security procedure and any agreement or instruction of the customer, evidenced by a record, restricting acceptance of payment orders issued in the name of the customer. The bank is not required to follow an instruction that violates an agreement with the customer, evidenced by a record, or notice of which is not received at a time and in a manner affording the bank a reasonable opportunity to act on it before the payment order is accepted.”.

(B) Subsection (c) is amended by:

(i) Striking the word “writing” and inserting the phrase “a record” in its place; and

(ii) Striking the phrase “in compliance with the security procedure chosen by the customer” and inserting the phrase “in compliance with the bank’s security obligation under the security procedure chosen by the customer” in its place.

(4) Section 28:4A-203(a)(1) is amended by striking the phrase “written agreement” and inserting the phrase “agreement evidenced by a record” in its place.

(5) Section 28:4A-207(c)(2) is amended by striking the word “writing” and inserting the word “record” in its place.

(6) Section 28:4A-208(b)(2) is amended by striking the word “writing” and inserting the word “record” in its place.

(7) Section 28:4A-210(a) is amended by striking the phrase “, electronically, or in writing” and inserting the phrase “or in a record” in its place.

(8) Section 28:4A-211(a) is amended by striking the phrase “, electronically, or in a writing” and inserting the phrase “or in a record” in its place.

(9) Section 28:4A-305 is amended as follows:

(A) Subsection (c) is amended by striking the phrase “written agreement of the receiving bank” and inserting the phrase “agreement of the receiving bank, evidenced by a record” in its place.

(B) Subsection (d) is amended by striking the phrase “written agreement of the receiving bank” and inserting the phrase “agreement of the receiving bank, evidenced by a record” in its place.

(g) Article 5 is amended as follows:

(1) Section 28:5-104 is amended by striking the phrase “record and is authenticated (i) by a signature or (ii) in accordance with the agreement of the parties or the



standard practice referred to in § 28:5-108(e)” and inserting the phrase “signed record” in its place.

(2) Section 28:5-116 is amended as follows:

(A) Subsection (a) is amended by striking the phrase “or otherwise authenticated by the affected parties in the manner provided in § 28:5-104” and inserting the phrase “by the affected parties” in its place.

(B) Subsection (b) is amended by striking the fourth sentence.

(C) New subsections (b-1) and (b-2) are added to read as follows:

“(b-1) For the purpose of jurisdiction, choice of law, and recognition of interbranch letters of credit, but not enforcement of a judgment, all branches of a bank are considered separate juridical entities and a bank is considered to be located at the place where its relevant branch is considered to be located under subsection (b-2) of this section.

“(b-2) A branch of a bank is considered to be located at the address indicated in the branch’s undertaking. If more than one address is indicated, the branch is considered to be located at the address from which the undertaking was issued.”.

(h) Article 7 is amended as follows:

(1) Section 28:7-102(a) is amended as follows:

(A) Paragraph (10) is repealed.

(B) Paragraph (12) is repealed.

(2) Section 28:7-106 is amended to read as follows:

(A) Subsection (b) is amended as follows:

(i) The lead-in language is amended as follows:

(I) Strike the phrase “is deemed to have” and insert the word “has” in its place.

(II) Strike the phrase “assigned in such” and insert the phrase “transferred in” in its place.

(ii) Paragraph (4) is amended by striking the word “assignee” and inserting the word “transferee” in its place.

(B) New subsections (c), (d), (e), (f), (g), (h), and (i) are added to read as follows:

“(c) A system satisfies subsection (a) of this section, and a person has control of an electronic document of title, if an authoritative electronic copy of the document, a record attached to or logically associated with the electronic copy, or a system in which the electronic copy is recorded:

“(1) Enables the person readily to identify each electronic copy as either an authoritative copy or a non-authoritative copy;

“(2) Enables the person readily to identify itself in any way, including by name, identifying number, cryptographic key, office, or account number, as the person to which each authoritative electronic copy was issued or transferred; and

“(3) Gives the person exclusive power, subject to subsection (d) of this section, to:

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

“(B) Transfer control of each authoritative electronic copy.

“(d) Subject to subsection (e) of this section, a power is exclusive under subsection (c)(3) of this section even if:

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

“(2) The power is shared with another person.

“(e) A power of a person is not shared with another person under subsection (d)(2) of this section and the person’s power is not exclusive if:

“(1) The person can exercise the power only if the power also is exercised by the other person; and

“(2) The other person:

“(A) Can exercise the power without exercise of the power by the person; or

“(B) Is the transferor to the person of an interest in the document of title.

“(f) If a person has the powers specified in subsection (c)(3) of this section, those powers are presumed to be exclusive.

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

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

“(2) Obtains control of the document after having acknowledged that it will obtain control of the document on behalf of the person.

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

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

(i) Article 8 is amended as follows:

(1) Section 28:8-102 is amended as follows:

(A) Subsection (a)(6)(A) is amended by striking the word “writing” and inserting the word “record” in its place.

(B) Subsection (b) is amended to read as follows:

“(b) The following definitions in this article and other articles apply to this article:

“(1) “Appropriate person”. § 28:8-107.

“(2) “Control”. § 28:8-106.

“(3) “Controllable account”. § 28:9-102.

“(4) “Controllable electronic record”. § 28:12-102.

“(5) “Controllable payment intangible”. § 28:9-102.

“(6) “Delivery”. § 28:8-28:8-301.

“(7) “Investment company security”. § 28:8-103.

“(8) “Issuer”. § 28:8-201.

“(9) “Overissue”. § 28:8-210.

“(10) “Protected purchaser”. § 28:8-303.

“(11) “Securities account”. § 28:8-501.”.

(2) Section 28:8-103 is amended by adding a new subsection (h) to read as follows:

“(h) A controllable account, controllable electronic record, or controllable payment intangible is not a financial asset unless § 28:8-102(a)(9)(A)(iii) applies.”.

(3) Section 28:8-106 is amended as follows:

(A) Subsection (d)(3) is amended to read as follows:

“(3) Another person, other than the transferor to the purchaser of an interest in the security entitlement:

“(A) Has control of the security entitlement and acknowledges that it has control on behalf of the purchaser; or

“(B) Obtains control of the security entitlement after having acknowledged that it will obtain control of the security entitlement on behalf of the purchaser.”.

(B) New subsections (h) and (i) are added to read as follows:

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

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

(4) Section 28:8-110 is amended by adding a new subsection (g) to read as follows:

“(g) The local law of the issuer’s jurisdiction or the securities intermediary’s jurisdiction governs a matter or transaction specified in subsection (a) or (b) of this section, even if the matter or transaction does not bear any relation to the jurisdiction.”.

(5) Section 28:8-303(b) is amended by striking the phrase “In addition to

acquiring the rights of a purchaser, a” and inserting the word “A” in its place.

(j) Article 9 is amended as follows:

(1) Section 28:9-102 is amended as follows:

(A) Subsection (a) is amended as follows:

(i) Paragraph (2) is amended to read as follows:

“(2) “Account”, except as used in “account for”, “account statement”, “account to”, “commodity account” in paragraph (14) of this subsection, “customer’s account”, “deposit account” in paragraph (29) of this subsection, “on account of”, and “statement of account”, means a right to payment of a monetary obligation, whether or not earned by performance, (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or information contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored by a State, governmental unit of a State, or person licensed or authorized to operate the game by a State or governmental unit of a State. The term includes controllable accounts and health-care-insurance receivables. The term does not include (i) chattel paper, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card, or (vii) rights to payment evidenced by an instrument.”.

(ii) Paragraph (3) is amended by striking the phrase “instrument constitutes part of” and inserting the phrase “negotiable instrument evidences” in its place.

(iii) Paragraph (4)(A) is amended by striking the word “Authenticated” and inserting the word “Signed” in its place.

(iv) Paragraph (7) is repealed.

(v) New paragraphs (7A) and (7B) are added to read as follows:

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

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

(vi) Paragraph (11) is amended to read as follows:

“(11)(A) “Chattel paper” means:

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

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

“(I) The right to payment and lease agreement are evidenced by a record; and

“(II) The predominant purpose of the transaction giving rise to the lease was to give the lessee the right to possession and use of the goods.

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

(vii) New paragraphs (27A) and (27B) are added to read as follows:

“(27A) “Controllable account” means an account evidenced by a controllable electronic record that provides that the account debtor undertakes to pay the person that has control under § 28:12-105 of the controllable electronic record.

“(27B) “Controllable payment intangible” means a payment intangible evidenced by a controllable electronic record that provides that the account debtor undertakes to pay the person that has control under §28:12-105 of the controllable electronic record.”.

(viii) Paragraph (31) is repealed.

(ix) A new paragraph (31A) is added to read as follows:

“(31A) “Electronic money” means money in an electronic form.”

(x) Paragraph (42) is amended by striking the second sentence and inserting the sentence “The term includes controllable electronic records, payment intangibles, and software.” in its place.

(xi) Paragraph (47) is amended striking the period at the end and inserting the phrase “, or (iv) writings that evidence chattel paper.” in its place.

(xii) A new paragraph (54A) is added to read as follows:

“(54A) “Money” has the meaning in §28:1-201(b)(24), but does not include (i) a deposit account or (ii) money in an electronic form that cannot be subjected to control under §28:9-105A.”.

(xiii) Paragraph (61) is amended by adding a new sentence at the end to read as follows: “The term includes a controllable payment intangible.”.

(xiv) Paragraph (66) is amended by striking the word “authenticated” and inserting the word “signed” in its place.

(xv) Paragraph (75) is repealed.

(xvi) Paragraph (79) is repealed.

(xvii) A new paragraph (79A) is added to read as follows:

“(79A) “Tangible money” means money in a tangible form.”.

(B) Subsection (b) is amended to read as follows:

“(b) “Control” as provided in § 28:7-106 and the following definitions in other articles apply to this article:

“(1) “Applicant” § 28:5-102.

“(2) “Beneficiary” § 28:5-102.

“(3) “Broker” § 28:8-102.

“(4) “Certificated security” § 28:8-102.

“(5) “Check” § 28:3-104.

“(6) “Clearing corporation” § 28:8-102.

“(7) “Contract for sale” § 28:2-106.

“(8) “Controllable electronic record”. § 28:12-102.

“(9) “Customer” § 28:4-104.

“(10) “Entitlement holder” § 28:8-102.

“(11) “Financial asset” § 28:8-102.

“(12) “Holder in due course” § 28:3-302.

“(13)(A) “Issuer” (with respect to a letter of credit or letter-of-credit right) § 28:5-102;

“(B) “Issuer” (with respect to a security) § 28:8-201; and

“(C) “Issuer” (with respect to documents of title) § 28:7-102.

“(14) “Lease” § 28:2A-103.

“(15) “Lease agreement” § 28:2A-103.

“(16) “Lease contract” § 28:2A-103.

“(17) “Leasehold interest” § 28:2A-103.

“(18) “Lessee” § 28:2A-103.

“(19) “Lessee in ordinary course of business” § 28:2A-103.

“(20) “Lessor” § 28:2A-103.

“(21) “Lessor's residual interest” § 28:2A-103.

“(22) “Letter of credit” § 28:5-102.

“(23) “Merchant” § 28:2-104.

“(24) “Negotiable instrument” § 28:3-104.

“(25) “Nominated person” § 28:5-102.

“(26) “Note” § 28:3-104.

“(27) “Proceeds of a letter of credit” § 28:5-114.

“(28) “Protected purchaser”. § 28:8-303.

“(29) “Prove” § 28:3-103.

“(30) “Qualifying purchaser”. § 28:12-102.

- “(31) “Sale” § 28:2-106.
- “(32) “Securities account” § 28:8-501.
- “(33) “Securities intermediary” § 28:8-102.
- “(34) “Security” § 28:8-102.
- “(35) “Security certificate” § 28:8-102.
- “(36) “Security entitlement” § 28:8-102.
- “(37) “Uncertificated security” §§ 28:9-104.”.

(2) Section 28:9-104(a) is amended as follows:

(A) Paragraph (2) is amended as follows:

(i) Strike the phrase “an authenticated” and insert the phrase “a signed” in its place.

(ii) Strike the word “or”.

(B) Paragraph (3) is amended by striking the period and inserting the phrase “; or” in its place.

(C) A new paragraph (4) is added to read as follows:

“(4) Another person, other than the debtor:

“(A) Has control of the deposit account and acknowledges that it has control on behalf of the secured party; or

“(B) Obtains control of the deposit account after acknowledged that it will obtain control of the deposit account on behalf of the secured party.”.

(3) Section 28:9-105 is amended to read as follows:

“§ 28:9-105. Control of electronic copy of record evidencing chattel paper.

“(a) A purchaser has control of an authoritative electronic copy of a record evidencing chattel paper if a system employed for evidencing the assignment of interests in the chattel paper reliably establishes the purchaser as the person to which the authoritative electronic copy was assigned.

“(b) A system satisfies subsection (a) if the record or records evidencing the chattel paper are created, stored, and assigned in a manner that:

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

“(2) The authoritative copy identifies the purchaser as the assignee of the record or records;

“(3) The authoritative copy is communicated to and maintained by the purchaser or its designated custodian;

“(4) Copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the purchaser;

“(5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

“(6) Any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

“(c) A system satisfies subsection (a) of this section, and a purchaser has control of an authoritative electronic copy of a record evidencing chattel paper, if the electronic copy, a record attached to or logically associated with the electronic copy, or a system in which the electronic copy is recorded:

“(1) Enables the purchaser readily to identify each electronic copy as either an authoritative copy or a non-authoritative copy;

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

“(3) Gives the purchaser exclusive power, subject to subsection (d) of this section, to:

“(A) Prevent others from adding or changing an identified assignee of the authoritative electronic copy; and

“(B) Transfer control of the authoritative electronic copy.

“(d) Subject to subsection (e) of this section, a power is exclusive under subsection (c)(3)(A) and (B) of this section even if:

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

“(2) The power is shared with another person.

“(e) A power of a purchaser is not shared with another person under subsection (d)(2) of this section and the purchaser’s power is not exclusive if:

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

“(2) The other person:

“(A) Can exercise the power without exercise of the power by the purchaser; or

“(B) Is the transferor to the purchaser of an interest in the chattel paper.

“(f) If a purchaser has the powers specified in subsection (c)(3)(A) and (B) of this section, the powers are presumed to be exclusive.

“(g) A purchaser has control of an authoritative electronic copy of a record evidencing chattel paper if another person, other than the transferor to the purchaser of an interest in the chattel paper:

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

“(2) Obtains control of the authoritative electronic copy after having



acknowledged that it will obtain control of the electronic copy on behalf of the purchaser.”.

(4) A new section 28:9-105A is added to read as follows:

“§ 28:9-105A. Control of electronic money.

“(a) A person has control of electronic money if:

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

“(A) Power to avail itself of substantially all the benefit from the electronic money; and

“(B) Exclusive power, subject to subsection (b) of this section, to:

“(i) Prevent others from availing themselves of substantially all the benefit from the electronic money; and

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

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

“(b) Subject to subsection (c) of this section, a power is exclusive under subsection (a)(1)(B)(i) and (ii) of this section even if:

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

“(2) The power is shared with another person.

“(c) A power of a person is not shared with another person under subsection (b)(2) of this section and the person’s power is not exclusive if:

“(1) The person can exercise the power only if the power also is exercised by the other person; and

“(2) The other person:

“(A) Can exercise the power without exercise of the power by the person; or

“(B) Is the transferor to the person of an interest in the electronic money.

“(d) If a person has the powers specified in subsection (a)(1)(B)(i) and (ii) of this section, the powers are presumed to be exclusive.

“(e) A person has control of electronic money if another person, other than the transferor to the person of an interest in the electronic money:

“(1) Has control of the electronic money and acknowledges that it has control

on behalf of the person; or

“(2) Obtains control of the electronic money after having acknowledged that it will obtain control of the electronic money on behalf of the person.”.

(5) New sections 28:9-107A and 28:9-107B are added to read as follows:

“§ 28:9-107A. Control of controllable electronic record, controllable account, or controllable payment intangible.

“(a) A secured party has control of a controllable electronic record as provided in § 28:12-105.

“(b) A secured party has control of a controllable account or controllable payment intangible if the secured party has control of the controllable electronic record that evidences the controllable account or controllable payment intangible.

“§ 28:9-107B. No requirement to acknowledge or confirm; no duties.

“(a) A person that has control under § 28:9-104, § 28:9-105, or § 28:9-105A is not required to acknowledge that it has control on behalf of another person.

“(b) If a person acknowledges that it has or will obtain control on behalf of another person, unless the person otherwise agrees or law other than this article otherwise provides, the person does not owe any duty to the other person and is not required to confirm the acknowledgment to any other person.”.

(6) Section 28:9-203(b)(3) is amended as follows:

(A) Subparagraph (A) is amended by striking the word “authenticated” and inserting the word “signed” in its place.

(B) Subparagraph (C) is amended by striking the word “or”.

(C) Subparagraph (D) is amended to read as follows:

“(D) The collateral is controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic documents, electronic money, investment property, or letter-of-credit rights, and the secured party has control under § 28:7-106, § 28:9-104, § 28:9-105A, § 28:9-106, § 28:9-107, or § 28:9-107A pursuant to the debtor’s security agreement; or”.

(D) A new subparagraph (E) is added to read as follows:

“(E) The collateral is chattel paper and the secured party has possession and control under § 28:9-314A pursuant to the debtor’s security agreement.”.

(7) Section 28:9-204 is amended as follows:

(A) Subparagraph (b) is amended by striking the word “A” the first time it appears and inserting the phrase “Subject to subsection (b-1) of this section, a” in its place.

(B) A new subsection (b-1):

“(b-1) Subsection (b) of this section does not prevent a security interest from attaching:

“(1) To consumer goods as proceeds under § 28:9-315(a) or commingled

goods under § 28:9-336(c);

“(2) To a commercial tort claim as proceeds under § 28:9-315(a); or

“(3) Under an after-acquired property clause to property that is proceeds of consumer goods or a commercial tort claim.”.

(8) Section 28:9-207(c) is amended by striking the phrase “§ 28:7-106, § 28:9-104, § 28:9-105, § 28:9-106, or § 28:9-107” and inserting the phrase “§ 28:7-106, § 28:9-104, § 28:9-105, § 28:9-105A, § 28:9-106, § 28:9-107, or § 28:9-107A” in its place.

(9) Section 28:9-208(b) is amended as follows:

(A) Strike the phrase “an authenticated” and insert the phrase “a signed” in its place.

(B) Paragraph (3) is amended to read as follows:

“(3) A secured party, other than a buyer, having control under § 28:9-105 of an authoritative electronic copy of a record evidencing chattel paper shall transfer control of the electronic copy to the debtor or a person designated by the debtor;”.

(C) Paragraph (4) is amended by striking the phrase “an authenticated” and inserting the phrase “a signed” in its place.

(D) Paragraph (5) is amended as follows:

(i) Strike the phrase “an authenticated” and insert the phrase “a signed” in its place.

(ii) Strike the phrase “; and” and insert a semicolon in its place.

(E) Paragraph (6) is amended to read as follows:

“(6) A secured party having control under § 28:7-106 of an authoritative electronic copy of an electronic document of title shall transfer control of the electronic copy to the debtor or a person designated by the debtor;”.

(F) New paragraphs (7) and (8) are added to read as follows:

“(7) A secured party having control under § 28:9-105A of electronic money shall transfer control of the electronic money to the debtor or a person designated by the debtor; and

“(8) A secured party having control under § 28:12-105 of a controllable electronic record, other than a buyer of a controllable account or controllable payment intangible evidenced by the controllable electronic record, shall transfer control of the controllable electronic record to the debtor or a person designated by the debtor.”.

(10) Section 28:9-209(b) is amended to read as follows:

“(b) Within 10 days after receiving a signed demand by the debtor, a secured party shall send to an account debtor that has received notification under § 28:9-406(a) or § 28:12-106(b) of an assignment to the secured party as assignee a signed record that releases the account debtor from any further obligation to the secured party.”.

(11) Section 28:9-210 is amended as follows:

(A) Subsection (a) is amended as by striking the word “authenticated”

wherever it appears and inserting the word “signed” in its place.

(B) Subsection (b) is amended by striking the word “authenticating” wherever it appears and inserting the word “signing” in its place.

(C) Subsection (c) is amended by striking the phrase “an authenticated” and inserting the phrase “a signed” in its place.

(D) Subsection (d) is amended by striking the phrase “an authenticated” and inserting the phrase “a signed” in its place.

(E) Subsection (e) is amended by striking the phrase “an authenticated” and inserting the phrase “a signed” in its place.

(12) Section 28:9-301 is amended as follows:

(A) The lead-in language is amended by striking the phrase “28:9-306” and inserting the phrase “28:9-306B” in its place.

(B) Paragraph (3) is amended by striking the phrase “while tangible negotiable documents, goods, instruments, money, or tangible chattel paper” and inserting the phrase “while negotiable tangible documents, goods, instruments, or tangible money” in its place.

(13) Section 28:9-304(a) is amended by striking the phrase “bank.” and inserting the phrase “bank, even if the transaction does not bear any relation to the bank’s jurisdiction.” in its place.

(14) Section 28:9-305(a) is amended by adding a new paragraph (5) to read as follows:

“(5) Paragraphs (2), (3), and (4) of this subsection apply even if the transaction does not bear any relation to the jurisdiction.”.

(15) New sections 28:9-306A and 28:9-306B are added to read as follows:

“§ 28:9-306A. Law governing perfection and priority of security interests in chattel paper.

“(a) Except as provided in subsection (d) of this section, if chattel paper is evidenced only by an authoritative electronic copy of the chattel paper or is evidenced by an authoritative electronic copy and an authoritative tangible copy, the local law of the chattel paper’s jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in the chattel paper, even if the transaction does not bear any relation to the chattel paper’s jurisdiction.

“(b) The following rules determine the chattel paper’s jurisdiction under this section:

“(1) If the authoritative electronic copy of the record evidencing chattel paper, or a record attached to or logically associated with the electronic copy and readily available for review, expressly provides that a particular jurisdiction is the chattel paper’s jurisdiction for purposes of this part, this article, or this subtitle, that jurisdiction is the chattel paper’s jurisdiction.

“(2) If paragraph (1) of this subsection does not apply and the rules of the

system in which the authoritative electronic copy is recorded are readily available for review and expressly provide that a particular jurisdiction is the chattel paper's jurisdiction for purposes of this part, this article, or this subtitle, that jurisdiction is the chattel paper's jurisdiction.

“(3) If paragraphs (1) and (2) of this subsection do not apply and the authoritative electronic copy, or a record attached to or logically associated with the electronic copy and readily available for review, expressly provides that the chattel paper is governed by the law of a particular jurisdiction, that jurisdiction is the chattel paper's jurisdiction.

“(4) If paragraphs (1), (2), and (3) of this subsection do not apply and the rules of the system in which the authoritative electronic copy is recorded are readily available for review and expressly provide that the chattel paper or the system is governed by the law of a particular jurisdiction, that jurisdiction is the chattel paper's jurisdiction.

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

“(c) If an authoritative tangible copy of a record evidences chattel paper and the chattel paper is not evidenced by an authoritative electronic copy, while the authoritative tangible copy of the record evidencing chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

“(1) Perfection of a security interest in the chattel paper by possession under § 28:9-314A; and

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

“(d) The local law of the jurisdiction in which the debtor is located governs perfection of a security interest in chattel paper by filing.

“§ 28:9-306B. Law governing perfection and priority of security interests in controllable accounts, controllable electronic records, and controllable payment intangibles.

“(a) Except as provided in subsection (b) of this section, the local law of the controllable electronic record's jurisdiction specified in § 28:12-107(c) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a controllable electronic record and a security interest in a controllable account or controllable payment intangible evidenced by the controllable electronic record.

“(b) The local law of the jurisdiction in which the debtor is located governs:

“(1) Perfection of a security interest in a controllable account, controllable electronic record, or controllable payment intangible by filing; and

“(2) Automatic perfection of a security interest in a controllable payment intangible created by a sale of the controllable payment intangible.”.

(16) Section 28:9-310(b) is amended as follows:

(A) Paragraph (8) is amended by striking the phrase “In deposit

accounts, electronic chattel paper;” and inserting the phrase “In controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts,” in its place.

(B) A new paragraph (8A) is added to read as follows:

“(8A) In chattel paper which is perfected by possession and control under § 28:9-314A;”.

(17) Section 28:9-312 is amended as follows:

(A) The section heading is amended by striking the phrase “in chattel paper,” and inserting the phrase “in chattel paper, controllable accounts, controllable electronic records, controllable payment intangibles,” in its place.

(B) Subsection (a) is amended to read as follows:

“(a) A security interest in chattel paper, controllable accounts, controllable electronic records, controllable payment intangibles, instruments, investment property, or negotiable documents may be perfected by filing.”.

(C) Subsection (b) is amended as follows:

(i) Paragraph (2) is amended by striking the word “and”.

(ii) Paragraph (3) is amended to read as follows:

“(3) a security interest in tangible money may be perfected only by the secured party’s taking possession under § 28:9-313; and”.

(iii) A new paragraph (4) is added to read as follows:

“(4) A security interest in electronic money may be perfected only by control under § 28:9-314.”.

(D) Subsection (e) is amended by striking the phrase “an authenticated” and inserting the phrase “a signed” in its place.

(18) Section 28:9-313 is amended as follows:

(A) Subsection (a) is amended by striking the phrase “in tangible negotiable documents, goods, instruments, money, or tangible chattel paper” and inserting the phrase “in goods, instruments, negotiable tangible documents, or tangible money” in its place.

(B) Subsection (c) is amended as follows:

(i) Paragraph (1) is amended by striking the word “authenticates” and inserting the word “signs” in its place.

(ii) Paragraph (2) is amended to read as follows:

“(2) The person takes possession of the collateral after having signed a record acknowledging that it will hold possession of the collateral for the secured party’s benefit.”.

(C) Subsection (d) is amended by striking the phrase “no earlier than” and inserting the word “not earlier than” in its place.

(19) Section 28:9-314 is amended as follows:

(A) Subsections (a) and (b) are amended to read as follows:

“(a) A security interest in controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic documents, electronic money, investment property, or letter-of-credit rights may be perfected by control of the collateral under § 28:7-106, § 28:9-104, § 28:9-105A, § 28:9-106, § 28:9-107, or § 28:9-107A.

“(b) A security interest in controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic documents, electronic money, or letter-of-credit rights is perfected by control under § 28:7-106, § 28:9-104, § 28:9-105A, § 28:9-107, or § 28:9-107A not earlier than the time the secured party obtains control and remains perfected by control only while the secured party retains control.”

(B) Subsection (c) is amended by striking the word “from the time” and inserting the phrase “not earlier than the time” in its place.

(20) A new section 28:9-314A is added to read as follows:

“§ 28:9-314A. Perfection by possession and control of chattel paper.

“(a) A secured party may perfect a security interest in chattel paper by taking possession of each authoritative tangible copy of the record evidencing the chattel paper and obtaining control of each authoritative electronic copy of the electronic record evidencing the chattel paper.

“(b) A security interest is perfected under subsection (a) of this section not earlier than the time the secured party takes possession and obtains control and remains perfected under subsection (a) of this section only while the secured party retains possession and control.

“(c) § 28:9-313(c) and (f) through (i) applies to perfection by possession of an authoritative tangible copy of a record evidencing chattel paper.”.

(21) Section 28:9-316 is amended as follows:

(A) Subsection (a) is amended by striking the phrase “or § 28:9-305(c)” and inserting the phrase “, § 28:9-305(c), § 28:9-306A(d), or § 28:9-306B(b)” in its place.

(B) Subsection (f) is amended striking the phrase “deposit accounts, letter-of-credit rights, or investment property which is perfected under the law of” and inserting the phrase “chattel paper, controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, letter-of-credit rights, or investment property which is perfected under the law of the chattel paper’s jurisdiction, the controllable electronic record’s jurisdiction,” in its place.

(22) Section 28:9-317 is amended as follows:

(A) Subsection (b) is amended by striking the phrase “of tangible chattel paper, tangible documents, goods, instruments,” and inserting the phrase “of goods, instruments, tangible documents,” in its place.

(B) Subsection (d) is amended to read as follows:

“(d) Subject to subsections (f) through (i) of this section, a licensee of a general

intangible or a buyer, other than a secured party, of collateral other than electronic money, goods, instruments, tangible documents, or a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.”.

(C) New subsections (f), (g), (h), and (i) are added to read as follows:

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

“(1) Receives delivery of each authoritative tangible copy of the record evidencing the chattel paper; and

“(2) If each authoritative electronic copy of the record evidencing the chattel paper can be subjected to control under § 28:9-105, obtains control of each authoritative electronic copy.

“(g) A buyer of an electronic document takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and, if each authoritative electronic copy of the document can be subjected to control under § 28:7-106, obtains control of each authoritative electronic copy.

“(h) A buyer of a controllable electronic record takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and obtains control of the controllable electronic record.

“(i) A buyer, other than a secured party, of a controllable account or a controllable payment intangible takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and obtains control of the controllable account or controllable payment intangible.”.

(23) Section 28:9-323 is amended as follows:

(A) Subsection (d) is amended by striking the phrase “other than a buyer in the ordinary course of business”.

(B) Subsection (f) is amended by striking the phrase “, other than a lessee in ordinary course of business”.

(24) Section 28:9-324 is amended as follows:

(A) Subsection (b)(2) is amended by striking the phrase “an authenticated” and inserting the phrase “a signed” in its place.

(B) Subsection (d)(2) is amended by striking the phrase “an authenticated” and inserting the phrase “a signed” in its place.

(25) A new section 28:9-326A is added to read as follows:

“§ 28:9-326A. Priority of security interest in controllable account, controllable electronic record, and controllable payment intangible.

“A security interest in a controllable account, controllable electronic record, or controllable payment intangible held by a secured party having control of the account,



electronic record, or payment intangible has priority over a conflicting security interest held by a secured party that does not have control.”.

(26) Section 28:9-330 is amended as follows:

(A) Subsections (a) and (b) are amended to read as follows:

“(a) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed merely as proceeds of inventory subject to a security interest if:

“(1) in good faith and in the ordinary course of the purchaser’s business, the purchaser gives new value, takes possession of each authoritative tangible copy of the record evidencing the chattel paper, and obtains control under § 28:9-105 of each authoritative electronic copy of the record evidencing the chattel paper; and

“(2) the authoritative copies of the record evidencing the chattel paper do not indicate that the chattel paper has been assigned to an identified assignee other than the purchaser.

“(b) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed other than merely as proceeds of inventory subject to a security interest if the purchaser gives new value, takes possession of each authoritative tangible copy of the record evidencing the chattel paper, and obtains control under § 28:9-105 of each authoritative electronic copy of the record evidencing the chattel paper in good faith, in the ordinary course of the purchaser’s business, and without knowledge that the purchase violates the rights of the secured party.”

(B) Subsection (f) is amended to read as follows:

“(f) For purposes of subsections (b) and (d) of this section, if the authoritative copies of the record evidencing chattel paper or an instrument indicate that the chattel paper or instrument has been assigned to an identified secured party other than the purchaser, a purchaser of the chattel paper or instrument has knowledge that the purchase violates the rights of the secured party.”.

(27) Section 28:9-331 is amended as follows:

(A) The section heading is amended to read as follows:

“§ 28:9-331. Priority of rights of purchasers of controllable accounts, controllable electronic records, controllable payment intangibles, documents, instruments, and securities under other articles; priority of interests in financial assets and security entitlements and protection against assertion of claim under Articles 8 and 12.”.

(B) Subsection (a) is amended to read as follows:

“(a) This article does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, a protected purchaser of a security, or a qualifying purchaser of a controllable account, controllable electronic record, or controllable payment intangible. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in Articles 3, 7, 8, and 12.”.

(C) Subsection (b) is amended striking the phrase “Article 8.” and inserting the phrase “Article 8 or 12.” in its place.

(28) Section 28:9-332 is amended as follows:

(A) Subsection (a) is amended to read as follows:

“(a) A transferee of tangible money takes the money free of a security interest if the transferee receives possession of the money without acting in collusion with the debtor in violating the rights of the secured party.”.

(B) Subsection (b) is amended by striking the phrase “unless the transferee acts” and inserting the phrase “if the transferee receives the funds without acting” in its place.

(C) A new subsection (c) is added to read as follows:

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

(29) Section 28:9-334(f)(1) is amended by striking the phrase “an authenticated” and inserting the phrase “a signed” in its place.

(30) Section 28:9-341 is amended by striking the phrase “an authenticated” and inserting the phrase “a signed” in its place.

(31) Section 28:9-404(a)(2) is amended by striking the phrase “authenticated” and inserting the phrase “signed” in its place.

(32) Section 28:9-406 is amended as follows:

(A) Subsection (a) is amended as follows:

(i) Strike the phrase “subsection (b) through (i)” and insert the phrase “subsections (b) through (k)” in its place.

(ii) Strike the word “authenticated” and insert the word “signed” in its place.

(B) Subsection (b) is amended by striking the phrase “subsection (h)” and inserting the phrase “subsections (h) and (k)” in its place.

(C) Subsection (c) is amended by striking the phrase “subsection (h)” and inserting the phrase “subsections (h) and (k)” in its place.

(D) Subsection (d) is amended striking the phrase “Except as otherwise provided in subsection (e)” and inserting the phrase “In this subsection, “promissory note” includes a negotiable instrument that evidences chattel paper. Except as otherwise provided in subsections of this section” in its place.

(E) Subsection (f) is amended by striking the phrase “§§ 28:2A-303 and 28:9-407” and inserting the phrase “subsection (j) of this section and §§ 28:2A-303 and 28:9-407”.

(F) Subsection (g) is amended by striking the phrase “subsection (h)” and inserting the phrase “subsections (h) and (k) of this section” in its place.

(G) New subsections (j) and (k) are added to read as follows:

“(j) Subsections (d) and (e) of this section do not apply to a security interest in an ownership interest in a general partnership, limited partnership, or limited liability company.

“(k) Subsections (a), (b), (c) and (g) of this section do not apply to a controllable account or controllable payment intangible.”.

(33) Section 28:9-408 is amended as follows:

(A) Subsection (a) is amended by striking the phrase “subsection (b)” and inserting the phrase “subsections (b) and (e) of this section” in its place.

(B) Subsection (c) is amended by striking the phrase “A rule of law” and inserting the phrase “Except as otherwise provided in subsection (e) of this section, a rule of law” in its place.

(C) New subsections (e) and (f) are added to read as follows:

“(e) This section does not apply to a security interest in an ownership interest in a general partnership, limited partnership, or limited liability company.

“(f) For the purposes of this section, “promissory note” includes a negotiable instrument that evidences chattel paper.”.

(34) Section 28:9-509 is amended as followed:

(A) Subsection (a)(1) is amended by striking the phrase “an authenticated” and inserting the phrase “a signed” in its place.

(B) Subsection (b) is amended by striking the word “authenticating” and inserting the word “signing” in its place.

(35) Section 28:9-513 is amended as follows:

(A) Subsection (b)(2) is amended by striking the phrase “an authenticated” and inserting the phrase “a signed” in its place.

(B) Subsection (c) is amended by striking the phrase “an authenticated” and inserting the phrase “a signed” in its place.

(36) Section 28:9-601(b) is amended by striking the phrase “28:7-106, § 28:9-104, § 28:9-105, § 28:9-107, or § 28:9-107” and inserting the phrase “28:7-106, § 28:9-104, § 28:9-105, § 28:9-105A, § 28:9-107, § 28:9-107, or § 28:9-107A,” in its place.

(37) Section 28:9-605 is amended as follows:

(A) The lead-in language is amended to read as follows:

“(a) Except as provided in subsection (b), a secured party does not owe a duty based on its status as a third party.”.

(B) A new subsection (b) is added to read as follows:

“(b) A secured party owes a duty based on its status as a secured party to a person if, at the time the secured party obtains control of collateral that is a controllable account, controllable electronic record, or controllable payment intangible or at the time the security interest attaches to the collateral, whichever is later:

“(1) The person is a debtor or obligor; and

“(2) The secured party knows that the information in subsection (a)(1)(A), (B), or (C) of this section relating to the person is not provided by the collateral, a record attached to or logically associated with the collateral, or the system in which the collateral is recorded.”.

(38) Section 28:9-608(a)(1)(C) is amended by striking the phrase “an authenticated”.

(39) Section 28:9-611 is amended as follows:

(A) Subsection (a)(1) is amended by striking the phrase “an authenticated” and inserting the phrase “a signed” in its place.

(B) Subsection (b) is amended by striking the phrase “authenticated” and inserting the phrase “signed” in its place.

(C) Subsection (c) is amended by striking the phrase “an authenticated” wherever it appears and inserting the phrase “a signed” in its place.

(D) Subsection (e)(2)(B) is amended by striking the phrase “an authenticated” and inserting the phrase “a signed” in its place.

(40) Section 28:9-613 is amended as follows:

(A) The existing text is designated as subsection (a).

(B) The newly designated subsection (a)(5) is amended to read as follows:

“(5) The following form of notification and the form appearing in § 28:9-614(a)(3), when completed in accordance with the instructions in subsection (b) of this section and § 28:9-614(b), each provides sufficient information:

“NOTIFICATION OF DISPOSITION OF COLLATERAL

“To: (Name of debtor, obligor, or other person to which the notification is sent)

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

“(1) Name of any debtor that is not an addressee: (Name of each debtor)

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

“(Date)

“(Time)

“(Place)

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

“(4) You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell or, as applicable, lease or license.

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

“(6) You may request an accounting by calling us at (telephone number).

“(End of Form)”.

(C) A new subsection (b) is added to read as follows:

“(b) The following instructions apply to the form of notification in subsection (a)(5) of this section:

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

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

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

“(4) Include and complete items (4) and (6).

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

(41) Section 28:9-614 is amended as follows:

(A) The existing text is designated as subsection (a).

(B) The newly designated subsection (a) is amended as follows:

(i) Paragraph (1)(A) is amended by striking the phrase “§ 28:9-613(1)” and inserting the phrase “§ 28:9-613(a)(1)” in its place.

(ii) Paragraph (3) is amended to read as follows:

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

“(Name and address of secured party)

“(Date)

“NOTICE OF OUR PLAN TO SELL PROPERTY

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

“Subject: (Identify transaction)

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

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

“(Date)

“(Time)

“(Place)

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

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

“(3) The money that we get from the sale, after paying our costs, will reduce the amount you owe. If we get less money than you owe, you (will or will not, as applicable) still

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

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

“(5) If you want us to explain to you in (writing) (writing or in (description of electronic record)) (description of electronic record) how we have figured the amount that you owe us,

“(6) call us at (telephone number) (or) (write us at (secured party’s address)) (or contact us by (description of electronic communication method)).

“(7) and request (a written explanation) (a written explanation or an explanation in (description of electronic record)) (an explanation in (description of electronic record)).

“(8) We will charge you \$ (amount) for the explanation if we have sent you another written explanation of the amount you owe us within the last six months.

“(9) If you need more information about the sale (call us at (telephone number)) (or) (write us at (secured party’s address)) (or contact us by (description of electronic communication method)).

“(10) We are sending this notice to the following other people who have an interest in (describe collateral) or who owe money under your agreement:

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

“[End of Form]”.

(C) A new subsection (b) is added to read as follows:

“(b) The following instructions apply to the form of notification in subsection (a)(3) of this section:

“(1) The instructions in this subsection refer to the numbers in braces before items in the form of notification in subsection (a)(3) of this section. Do not include the numbers or braces in the notification. The numbers and braces are used only for the purpose of these instructions.

“(2) Include and complete either item (1), if the notification relates to a public disposition of the collateral, or item (2), if the notification relates to a private disposition of the collateral.

“(3) Include and complete items (3), (4), (5), (6), and (7).

“(4) In item (5), include and complete any one of the three alternative methods for the explanation, writing, writing or electronic record, or electronic record.

“(5) In item (6), include the telephone number. In addition, the sender may include and complete either or both of the two additional alternative methods of communication, writing or electronic communication, for the recipient of the notification to communicate with the sender. Neither of the two additional methods of communication is required to be included.

“(6) In item (7), include and complete the method or methods for the explanation, writing, writing or electronic record, or electronic record, included in item (5).

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

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

“(9) If item (10) does not apply, insert “None” after “agreement:”.

(42) Section 28:9-615(a) is amended by striking the phrase “an authenticated” wherever it appears and inserting the phrase “a signed” in its place.

(43) Section 28:9-616 is amended as follows:

(A) Subsection (a) is amended as follows:

(i) Paragraph (1) is amended by striking the word “writing” and inserting the word “record” in its place.

(ii) Paragraph (2)(A) is amended by striking the word “authenticated” and inserting the word “signed” in its place.

(B) Subsection (b)(1)(A) is amended by striking the phrase “written demand” and inserting the phrase “demand in a record” in its place.

(C) Subsection (c) is amended by striking the phrase “a writing” and inserting the phrase “an explanation” in its place.

(44) Section 28:9-619(a) is amended by striking the word “authenticated” and inserting the word “signed” in its place.

(45) Section 28:9-620 is amended as follows:

(A) Subsection (a)(2) is amended by striking the word “authenticated” and inserting the word “signed” in its place.

(B) Subsection (b)(1) is amended by striking the phrase “an authenticated” and inserting the phrase “a signed” in its place.

(C) Subsection (c) is amended by striking the word “authenticated” wherever it appears and inserting the word “signed” in its place.

(D) Subsection (f)(2) is amended by striking the word “authenticated” and inserting the word “signed” in its place.

(46) Section 28:9-621(a)(1) is amended by striking the phrase “an authenticated” and inserting the phrase “a signed” in its place.

(47) Section 28:9-624 is amended by striking the word “authenticated” wherever it appears and inserting the word “signed” in its place.

(48) Section 28:9-628 is amended as follows:

(A) Subsection (a) is amended by striking the phrase “Unless a” and inserting the phrase “Subject to subsection (f), unless a” in its place.

(B) A new subsection (f) is added to read as follows:

“(f) Subsections (a) and (b) of this section do not apply to limit the liability of a secured party to a person if, at the time the secured party obtains control of collateral that is a controllable account, controllable electronic record, or controllable payment intangible or at the time the security interest attaches to the collateral, whichever is later:

“(1) The person is a debtor or obligor; and

“(2) The secured party knows that the information in subsection (b)(1)(A), (B), or (C) of this section relating to the person is not provided by the collateral, a record attached to or logically associated with the collateral, or the system in which the collateral is recorded.”.

(k) A new article 12 is added to read as follows:

“ARTICLE 12. CONTROLLABLE ELECTRONIC RECORDS.

“Part 1. General Provisions.

“§ 28:12-101. Short title.

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

“§ 28:12-102. Definitions.

“(a) For the purposes of this article, the term:

“(1) “Controllable electronic record” means a record stored in an electronic medium that can be subjected to control under § 28:12-105. The term does not include a controllable account, a controllable payment intangible, a deposit account, an electronic copy of a record evidencing chattel paper, an electronic document of title, electronic money, investment property, or a transferable record.

“(2) “Qualifying purchaser” means a purchaser of a controllable electronic record or an interest in a controllable electronic record that obtains control of the controllable electronic record for value, in good faith, and without notice of a claim of a property right in the controllable electronic record.

“(3) “Transferable record” has the meaning provided for that term in:

“(A) Section 201(a)(1) of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7021(a)(1); or

“(B) § 28-4915(a).

“(4) “Value” has the meaning provided in § 28:3-303(a), as if references in that section to an “instrument” were references to a controllable account, controllable electronic record, or controllable payment intangible.

“(b) The definitions in § 28:9-102 of “account debtor”, “controllable account”, “controllable payment intangible”, “chattel paper”, “deposit account”, “electronic money”, and “investment property” apply to this article.



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

“§ 28:12-103. Relation to Article 9 and consumer laws.

“(a) If there is conflict between this article and Article 9, Article 9 governs.

“(b) A transaction subject to this article is subject to any applicable rule of law that establishes a different rule for consumers and §§ 28-3301 to 28-3315.

“§ 28:12-104. Rights in controllable account, controllable electronic record, and controllable payment intangible.

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

“(b) To determine whether a purchaser of a controllable account or a controllable payment intangible is a qualifying purchaser, the purchaser obtains control of the account or payment intangible if it obtains control of the controllable electronic record that evidences the account or payment intangible.

“(c) Except as provided in this section, law other than this article determines whether a person acquires a right in a controllable electronic record and the right the person acquires.

“(d) A purchaser of a controllable electronic record acquires all rights in the controllable electronic record that the transferor had or had power to transfer, except that a purchaser of a limited interest in a controllable electronic record acquires rights only to the extent of the interest purchased.

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

“(f) Except as provided in subsections (a) and (e) of this section for a controllable account and a controllable payment intangible or law other than this article, a qualifying purchaser takes a right to payment, right to performance, or other interest in property evidenced by the controllable electronic record subject to a claim of a property right in the right to payment, right to performance, or other interest in property.

“(g) An action may not be asserted against a qualifying purchaser based on both a purchase by the qualifying purchaser of a controllable electronic record and a claim of a property right in another controllable electronic record, whether the action is framed in conversion, replevin, constructive trust, equitable lien, or other theory.

“(h) Filing of a financing statement under Article 9 is not notice of a claim of a property right in a controllable electronic record.

“§ 28:12-105. Control of controllable electronic record.

“(a) A person has control of a controllable electronic record if the electronic record, a record attached to or logically associated with the electronic record, or a system in which the electronic record is recorded:

“(1) Gives the person:

“(A) Power to avail itself of substantially all the benefit from the electronic record; and

“(B) Exclusive power, subject to subsection (b) of this section, to:

“(i) Prevent others from availing themselves of substantially all the benefit from the electronic record; and

“(ii) Transfer control of the electronic record to another person or cause another person to obtain control of another controllable electronic record as a result of the transfer of the electronic record; and

“(2) Enables the person readily to identify itself in any way, including by name, identifying number, cryptographic key, office, or account number, as having the powers specified in paragraph (1) of this subsection.

“(b) Subject to subsection (c) of this section, a power is exclusive under subsections (a)(1)(B)(i) and (ii) of this section even if:

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

“(2) The power is shared with another person.

“(c) A power of a person is not shared with another person under subsection (b)(2) of this section and the person’s power is not exclusive if:

“(1) The person can exercise the power only if the power also is exercised by the other person; and

“(2) The other person:

“(A) Can exercise the power without exercise of the power by the person; or

“(B) Is the transferor to the person of an interest in the controllable electronic record or a controllable account or controllable payment intangible evidenced by the controllable electronic record.

“(d) If a person has the powers specified in subsection (a)(1)(B)(i) and (ii) of this section, the powers are presumed to be exclusive.

“(e) A person has control of a controllable electronic record if another person, other than the transferor to the person of an interest in the controllable electronic record or a controllable account or controllable payment intangible evidenced by the controllable electronic record:

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

“(2) Obtains control of the electronic record after having acknowledged that it

will obtain control of the electronic record on behalf of the person.

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

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

“§ 28:12-106. Discharge of account debtor on controllable account or controllable payment intangible.

“(a) An account debtor on a controllable account or controllable payment intangible may discharge its obligation by paying:

“(1) The person having control of the controllable electronic record that evidences the controllable account or controllable payment intangible; or

“(2) Except as provided in subsection (b) of this section, a person that formerly had control of the controllable electronic record.

“(b) Subject to subsection (d) of this section, the account debtor may not discharge its obligation by paying a person that formerly had control of the controllable electronic record if the account debtor receives a notification that:

“(1) Is signed by a person that formerly had control or the person to which control was transferred;

“(2) Reasonably identifies the controllable account or controllable payment intangible;

“(3) Notifies the account debtor that control of the controllable electronic record that evidences the controllable account or controllable payment intangible was transferred;

“(4) Identifies the transferee, in any reasonable way, including by name, identifying number, cryptographic key, office, or account number; and

“(5) Provides a commercially reasonable method by which the account debtor is to pay the transferee.

“(c) After receipt of a notification that complies with subsection (b) of this section, the account debtor may discharge its obligation by paying in accordance with the notification and may not discharge the obligation by paying a person that formerly had control.

“(d) Subject to subsection (h) of this section, notification is ineffective under subsection (b) of this section:

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

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

“(3) At the option of the account debtor, if the notification notifies the account debtor to:

“(A) Divide a payment;

“(B) Make less than the full amount of an installment or other periodic payment; or

“(C) Pay any part of a payment by more than one method or to more than one person.

“(e) Subject to subsection (h) of this section, if requested by the account debtor, the person giving the notification under subsection (b) of this section seasonably shall furnish reasonable proof, using the method in the agreement referred to in subsection (d)(1) of this section, that control of the controllable electronic record has been transferred. Unless the person complies with the request, the account debtor may discharge its obligation by paying a person that formerly had control, even if the account debtor has received a notification under subsection (b) of this section.

“(f) A person furnishes reasonable proof under subsection (e) of this section that control has been transferred if the person demonstrates, using the method in the agreement referred to in subsection (d)(1) of this section, that the transferee has the power to:

“(1) Avail itself of substantially all the benefit from the controllable electronic record;

“(2) Prevent others from availing themselves of substantially all the benefit from the controllable electronic record; and

“(3) Transfer the powers specified in paragraphs (1) and (2) of this subsection to another person.

“(g) Subject to subsection (h) of this section, an account debtor may not waive or vary its rights under subsections (d)(1) and (e) of this section or its option under subsection (d)(3) of this section.

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

“§ 28:12-107. Governing law.

“(a) Except as provided in subsection (b) of this section, the local law of a controllable electronic record’s jurisdiction governs a matter covered by this article.

“(b) For a controllable electronic record that evidences a controllable account or controllable payment intangible, the local law of the controllable electronic record’s jurisdiction governs a matter covered by § 28:12-106 unless an effective agreement determines that the local law of another jurisdiction governs.

“(c) The following rules determine a controllable electronic record’s jurisdiction under this section:

“(1) If the controllable electronic record, or a record attached to or logically associated with the controllable electronic record and readily available for review, expressly provides that a particular jurisdiction is the controllable electronic record’s jurisdiction for purposes of this article or this subtitle, that jurisdiction is the controllable electronic record’s jurisdiction.

“(2) If paragraph (1) of this subsection does not apply and the rules of the system in which the controllable electronic record is recorded are readily available for review and expressly provide that a particular jurisdiction is the controllable electronic record’s jurisdiction for purposes of this article or this subtitle, that jurisdiction is the controllable electronic record’s jurisdiction.

“(3) If paragraphs (1) and (2) of this subsection do not apply and the controllable electronic record, or a record attached to or logically associated with the controllable electronic record and readily available for review, expressly provides that the controllable electronic record is governed by the law of a particular jurisdiction, that jurisdiction is the controllable electronic record’s jurisdiction.

“(4) If paragraphs (1), (2), and (3) of this subsection do not apply and the rules of the system in which the controllable electronic record is recorded are readily available for review and expressly provide that the controllable electronic record or the system is governed by the law of a particular jurisdiction, that jurisdiction is the controllable electronic record’s jurisdiction.

“(5) If paragraphs (1) through (4) of this subsection do not apply, the controllable electronic record’s jurisdiction is the District of Columbia.

“(d) To the extent subsections (a) and (b) of this section provide that the local law of the controllable electronic record’s jurisdiction governs a matter covered by this article, that law governs even if the matter or a transaction to which the matter relates does not bear any relation to the controllable electronic record’s jurisdiction.

“(e) The rights acquired under § 28:12-104 by a purchaser or qualifying purchaser are governed by the law applicable under this section at the time of purchase.

“Part 2. Transitional Provisions for Articles 9 and 12.

“§ 28:12-201. Definitions.

“(a) In this part, the term:

“(1) “Adjustment date” means July 1, 2025, or the date that is one year after the effective date of this act, whichever is later.

“(2) “Article 12 property” means a controllable account, controllable electronic record, or controllable payment intangible.

“(3) “2024 Act” means the Uniform Commercial Code Amendment Act of 2024, passed on 2nd reading on February 6, 2024 (Enrolled version of B25-5).

“(b) The following definitions in other articles of this subtitle apply to this part.

“(1) “Controllable account” § 28:9-102.

“(2) “Controllable electronic record” § 28:12-102.

“(3) “Controllable payment intangible” § 28:9-102.

“(4) “Electronic money” § 28:9-102.

“(5) “Financing statement” § 28:9-102.

“§ 28:12-202. Saving clause.

“(a) Except as provided in this part, a transaction validly entered into before the effective date of the 2024 Act and the rights, duties, and interests flowing from the transaction remain valid thereafter and may be terminated, completed, consummated, or enforced as required or permitted by law other than this subtitle or, if applicable, this subtitle, as though the 2024 Act had not taken effect.

“(b) Except as provided in this part, Article 9, as amended by the 2024 Act, and Article 12 apply to a transaction, lien, or other interest in property, even if the transaction, lien, or interest was entered into, created, or acquired before the effective date of this act.

“(c) Except as provided in subsection (d) of this section and §§ 28:12-203 to 12-208:

“(1) A transaction, lien, or interest in property that was validly entered into, created, or transferred before the effective date of the 2024 Act and was not governed by this subtitle, but would be subject to Article 9 as amended by the 2024 Act or Article 12 if it had been entered into, created, or transferred on or after the effective date of the 2024 Act, including the rights, duties, and interests flowing from the transaction, lien, or interest, remains valid on and after the effective date of the 2024 Act; and

“(2) The transaction, lien, or interest may be terminated, completed, consummated, and enforced as required or permitted by the 2024 Act or by the law that would apply if the 2024 Act had not taken effect.

“(d) The 2024 Act does not affect an action, case, or proceeding commenced before the effective date of the 2024 Act.

“§ 28:12-203. Security interest perfected before effective date of 2024 Act.

“(a) A security interest that is enforceable and perfected immediately before the effective date of the 2024 Act is a perfected security interest under the 2024 Act if, on the effective date of the 2024 Act, the requirements for enforceability and perfection under the 2024 Act are satisfied without further action.

“(b) If a security interest is enforceable and perfected immediately before the effective date of the 2024 Act, but the requirements for enforceability or perfection under the 2024 Act are not satisfied on the effective date of the 2024 Act, the security interest:

“(1) Is a perfected security interest until the earlier of the time perfection would have ceased under the law in effect immediately before the effective date of the 2024 Act or the adjustment date;

“(2) Remains enforceable thereafter only if the security interest satisfies the

requirements for enforceability under § 28:9-203, as amended by the 2024 Act, before the adjustment date; and

“(3) Remains perfected thereafter only if the requirements for perfection under the 2024 Act are satisfied before the time specified in paragraph (1) of this subsection.

“§ 28:12-204. Security interest unperfected before effective date of 2024 Act.

“A security interest that is enforceable immediately before the effective date of the 2024 Act but is unperfected at that time:

“(1) Remains an enforceable security interest until the adjustment date;

“(2) Remains enforceable thereafter if the security interest becomes enforceable under § 28:9-203, as amended by the 2024 Act, on the effective date of the 2024 Act or before the adjustment date; and

“(3) Becomes perfected:

“(A) Without further action, on the effective date of the 2024 Act if the requirements for perfection under the 2024 Act are satisfied before or at that time; or

“(B) When the requirements for perfection are satisfied if the requirements are satisfied after that time.

“§ 28:12-205. Effectiveness of actions taken before effective date of the 2024 Act.

“(a) If action, other than the filing of a financing statement, is taken before the effective date of the 2024 Act and the action would have resulted in perfection of the security interest had the security interest become enforceable before the effective date of the 2024 Act, the action is effective to perfect a security interest that attaches under the 2024 Act before the adjustment date. An attached security interest becomes unperfected on the adjustment date unless the security interest becomes a perfected security interest under the 2024 Act before the adjustment date.

“(b) The filing of a financing statement before the effective date of the 2024 Act is effective to perfect a security interest on the effective date of the 2024 Act to the extent the filing would satisfy the requirements for perfection under the 2024 Act.

“(c) The taking of an action before the effective date of the 2024 Act is sufficient for the enforceability of a security interest on the effective date of the 2024 Act if the action would satisfy the requirements for enforceability under the 2024 Act.

“§ 28:12-206. Priority.

“(a) Subject to subsections (b) and (c) of this section, the 2024 Act determines the priority of conflicting claims to collateral.

“(b) Subject to subsection (c) of this section, if the priorities of claims to collateral were established before the effective date of the 2024 Act, Article 9 as in effect before the effective date of the 2024 Act determines priority.

“(c) On the adjustment date, to the extent the priorities determined by Article 9 as amended by the 2024 Act modify the priorities established before the effective date of the 2024 Act, the priorities of claims to Article 12 property and electronic money established

before the effective date of the 2024 Act cease to apply.

“§ 28:12-207. Priority of claims when priority rules of Article 9 do not apply.

“(a) Subject to subsections (b) and (c) of this section, Article 12 determines the priority of conflicting claims to Article 12 property when the priority rules of Article 9 as amended by the 2024 Act do not apply.

“(b) Subject to subsection (c) of this section, when the priority rules of Article 9 as amended by the 2024 Act do not apply and the priorities of claims to Article 12 property were established before the effective date of the 2024 Act, law other than Article 12 determines priority.

“(c) When the priority rules of Article 9 as amended by the 2024 Act do not apply, to the extent the priorities determined by the 2024 Act modify the priorities established before the effective date of the 2024 Act, the priorities of claims to Article 12 property established before the effective date of the 2024 Act cease to apply on the adjustment date.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto) and a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)).

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia