

SB231 INTRODUCED



1 0ZXNCC-1
2 By Senator Smitherman
3 RFD: Judiciary
4 First Read: 20-Apr-23
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SYNOPSIS:

This bill would provide a substantial revision to the Uniform Commercial Code (UCC) by adopting the Uniform Commercial Code Amendments (2022), which includes a new UCC article that governs the transfer of property rights in certain intangible digital assets (controllable electronic records), including electronic rights to payment, and would provide for a manner to establish control of those assets, provide a mechanism for evidencing certain rights of payment, and adopt special rules with regard to the payment obligations and conditions of discharge of account debtors on controllable accounts and controllable payment obligations.

This bill would provide extensive amendments to Article 9 of the UCC to address security interests in controllable electronic records and the rights to payment for those records, including controllable accounts and controllable payment intangibles, and that a security interest in these assets may be perfected by a secured party obtaining control of the asset or by filing a financing statement.

This bill would also provide transitional provisions for the Uniform Commercial Code Amendments (2022).



SB231 INTRODUCED

29 A BILL
30 TO BE ENACTED
31 AN ACT

32
33 Relating to the Uniform Commercial Code; to add
34 Article 12 to the Uniform Commercial Code to govern the
35 property rights of certain intangible digital assets
36 (controllable electronic records), including electronic rights
37 to payment, to provide for a manner to establish the transfer
38 and control of those assets, to provide a mechanism for
39 evidencing certain rights of payment, and to adopt special
40 rules with regard to the payment obligations and conditions of
41 discharge of account debtors on controllable accounts and
42 controllable payment intangibles; to amend Sections 7-1-201,
43 7-1-204, 7-1-301, 7-1-306, 7-2-102, 7-2-106, 7-2-201, 7-2-202,
44 7-2-203, 7-2-205, 7-2-209, 7-2A-102, 7-2A-103, 7-2A-107,
45 7-2A-201, 7-2A-202, 7-2A-203, 7-2A-205, 7-2A-208, 7-3-104,
46 7-3-105, 7-3-401, 7-3-604, 7-4A-103, 7-4A-201, 7-4A-202,
47 7-4A-203, 7-4A-207, 7-4A-208, 7-4A-210, 7-4A-211, 7-4A-305,
48 7-5-104, 7-5-116, 7-7-102, 7-7-106, 7-8-102, 7-8-103, 7-8-106,
49 7-8-110, 7-8-303, 7-9A-102, 7-9A-104, 7-9A-105, 7-9A-203,
50 7-9A-204, 7-9A-207, 7-9A-208, 7-9A-209, 7-9A-210, 7-9A-301,
51 7-9A-304, 7-9A-305, 7-9A-310, 7-9A-312, 7-9A-313, 7-9A-314,
52 7-9A-316, 7-9A-317, 7-9A-323, 7-9A-324, 7-9A-330, 7-9A-331,
53 7-9A-332, 7-9A-334, 7-9A-341, 7-9A-404, 7-9A-406, 7-9A-408,
54 7-9A-509, 7-9A-513, 7-9A-601, 7-9A-605, 7-9A-608, 7-9A-611,
55 7-9A-613, 7-9A-614, 7-9A-615, 7-9A-616, 7-9A-619, 7-9A-620,
56 7-9A-621, 7-9A-624, and 7-9A-628, Code of Alabama 1975, and to



SB231 INTRODUCED

57 add Sections 7-9A-107A, 7-9A-107B, 7-9A-306A, 7-9A-306B,
58 7-9A-314A, and 7-9A-326A to the Code of Alabama 1975, to
59 provide a substantial revision to the Uniform Commercial Code
60 in conformity with a substantial portion of the Uniform
61 Commercial Code Amendments (2022), to clarify the meaning of
62 the term chattel paper and other definitions, to define and
63 provide for hybrid transactions, and to provide extensive
64 amendments to the Uniform Commercial Code providing for the
65 perfection of security interests in controllable electronic
66 records, documents of title, chattel paper, and other assets;
67 and to add Article 12A to the Uniform Commercial Code to
68 provide transitional provisions for the Uniform Commercial
69 Code Amendments (2022).Relating to the Uniform Commercial
70 Code; to add Article 12 to the Uniform Commercial Code to
71 govern the property rights of certain intangible digital
72 assets (controllable electronic records), including electronic
73 rights to payment, to provide for a manner to establish the
74 transfer and control of those assets, to provide a mechanism
75 for evidencing certain rights of payment, and to adopt special
76 rules with regard to the payment obligations and conditions of
77 discharge of account debtors on controllable accounts and
78 controllable payment intangibles; to amend Sections 7-1-201,
79 7-1-204, 7-1-301, 7-1-306, 7-2-102, 7-2-106, 7-2-201, 7-2-202,
80 7-2-203, 7-2-205, 7-2-209, 7-2A-102, 7-2A-103, 7-2A-107,
81 7-2A-201, 7-2A-202, 7-2A-203, 7-2A-205, 7-2A-208, 7-3-104,
82 7-3-105, 7-3-401, 7-3-604, 7-4A-103, 7-4A-201, 7-4A-202,
83 7-4A-203, 7-4A-207, 7-4A-208, 7-4A-210, 7-4A-211, 7-4A-305,
84 7-5-104, 7-5-116, 7-7-102, 7-7-106, 7-8-102, 7-8-103, 7-8-106,



SB231 INTRODUCED

85 7-8-110, 7-8-303, 7-9A-102, 7-9A-104, 7-9A-105, 7-9A-203,
86 7-9A-204, 7-9A-207, 7-9A-208, 7-9A-209, 7-9A-210, 7-9A-301,
87 7-9A-304, 7-9A-305, 7-9A-310, 7-9A-312, 7-9A-313, 7-9A-314,
88 7-9A-316, 7-9A-317, 7-9A-323, 7-9A-324, 7-9A-330, 7-9A-331,
89 7-9A-332, 7-9A-334, 7-9A-341, 7-9A-404, 7-9A-406, 7-9A-408,
90 7-9A-509, 7-9A-513, 7-9A-601, 7-9A-605, 7-9A-608, 7-9A-611,
91 7-9A-613, 7-9A-614, 7-9A-615, 7-9A-616, 7-9A-619, 7-9A-620,
92 7-9A-621, 7-9A-624, and 7-9A-628, Code of Alabama 1975, and to
93 add Sections 7-9A-107A, 7-9A-107B, 7-9A-306A, 7-9A-306B,
94 7-9A-314A, and 7-9A-326A to the Code of Alabama 1975, to
95 provide a substantial revision to the Uniform Commercial Code
96 in conformity with a substantial portion of the Uniform
97 Commercial Code Amendments (2022), to clarify the meaning of
98 the term chattel paper and other definitions, to define and
99 provide for hybrid transactions, and to provide extensive
100 amendments to the Uniform Commercial Code providing for the
101 perfection of security interests in controllable electronic
102 records, documents of title, chattel paper, and other assets;
103 and to add Article 12A to the Uniform Commercial Code to
104 provide transitional provisions for the Uniform Commercial
105 Code Amendments (2022).

106 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

107 Section 1. Sections 7-1-201, 7-1-204, 7-1-301,
108 7-1-306, 7-2-102, 7-2-106, 7-2-201, 7-2-202, 7-2-203, 7-2-205,
109 7-2-209, 7-2A-102, 7-2A-103, 7-2A-107, 7-2A-201, 7-2A-202,
110 7-2A-203, 7-2A-205, 7-2A-208, 7-3-104, 7-3-105, 7-3-401,
111 7-3-604, 7-4A-103, 7-4A-201, 7-4A-202, 7-4A-203, 7-4A-207,
112 7-4A-208, 7-4A-210, 7-4A-211, 7-4A-305, 7-5-104, 7-5-116,



SB231 INTRODUCED

113 7-7-102, 7-7-106, 7-8-102, 7-8-103, 7-8-106, 7-8-110, 7-8-303,
114 7-9A-102, 7-9A-104, 7-9A-105, 7-9A-203, 7-9A-204, 7-9A-207,
115 7-9A-208, 7-9A-209, 7-9A-210, 7-9A-301, 7-9A-304, 7-9A-305,
116 7-9A-310, 7-9A-312, 7-9A-313, 7-9A-314, 7-9A-316, 7-9A-317,
117 7-9A-323, 7-9A-324, 7-9A-330, 7-9A-331, 7-9A-332, 7-9A-334,
118 7-9A-341, 7-9A-404, 7-9A-406, 7-9A-408, 7-9A-509, 7-9A-513,
119 7-9A-601, 7-9A-605, 7-9A-608, 7-9A-611, 7-9A-613, 7-9A-614,
120 7-9A-615, 7-9A-616, 7-9A-619, 7-9A-620, 7-9A-621, 7-9A-624,
121 and 7-9A-628, Code of Alabama 1975, are amended to read as
122 follows:

123 "§7-1-201.General definitions.

124 (a) [Reserved].

125 (b) Subject to ~~additional~~ definitions contained in ~~the~~
126 ~~subsequent other~~ articles of ~~this title~~ the Uniform Commercial
127 Code ~~which are applicable that apply~~ to ~~specific particular~~
128 articles or parts thereof, ~~and unless the context otherwise~~
129 ~~requires, in this title:~~

130 (1) "Action," in the sense of a judicial proceeding,
131 includes recoupment, counterclaim, set-off, suit in equity,
132 and any other proceeding in which rights are determined.

133 (2) "Aggrieved party" means a party entitled to pursue
134 a remedy.

135 (3) "Agreement," as distinguished from "contract,"
136 means the bargain of the parties in fact, as found in their
137 language or inferred from other circumstances, including
138 course of performance, course of dealing, or usage of trade as
139 provided in Section 7-1-303.

140 (4) "Bank" means a person engaged in the business of



SB231 INTRODUCED

141 banking and includes a savings bank, savings and loan
142 association, credit union, and trust company.

143 (5) "Bearer" means a person in control of a negotiable
144 electronic document of title or a person in possession of a
145 negotiable instrument, negotiable tangible document of title,
146 or certificated security that is payable to bearer or indorsed
147 in blank.

148 (6) "Bill of lading" means a document of title
149 evidencing the receipt of goods for shipment issued by a
150 person engaged in the business of transporting or forwarding
151 goods. The term does not include a warehouse receipt.

152 (7) "Branch" includes a separately incorporated foreign
153 branch of a bank.

154 (8) "Burden of establishing" a fact means the burden of
155 persuading the trier of fact that the existence of the fact is
156 more probable than its nonexistence.

157 (9) "Buyer in ordinary course of business" means a
158 person that buys goods in good faith, without knowledge that
159 the sale violates the rights of another person in the goods,
160 and in the ordinary course from a person, other than a
161 pawnbroker, in the business of selling goods of that kind. A
162 person buys goods in the ordinary course if the sale to the
163 person comports with the usual or customary practices in the
164 kind of business in which the seller is engaged or with the
165 seller's own usual or customary practices. A person that sells
166 oil, gas, or other minerals at the wellhead or mine is a
167 person in the business of selling goods of that kind. A buyer
168 in ordinary course of business may buy for cash, by exchange



SB231 INTRODUCED

169 of other property, or on secured or unsecured credit, and may
170 acquire goods or documents of title under a preexisting
171 contract for sale. Only a buyer that takes possession of the
172 goods or has a right to recover the goods from the seller
173 under Article 2 may be a buyer in ordinary course of business.
174 "Buyer in ordinary course of business" does not include a
175 person that acquires goods in a transfer in bulk or as
176 security for or in total or partial satisfaction of a money
177 debt.

178 (10) "Conspicuous," with reference to a term, means so
179 written, displayed, or presented that, based on the totality
180 of the circumstances, a reasonable person against which it is
181 to operate ought to have noticed it. Whether a term is
182 "conspicuous" or not is a decision for the court as a matter
183 of law. ~~Conspicuous terms include the following:~~

184 ~~(A) A heading in capitals equal to or greater in size~~
185 ~~than the surrounding text, or in contrasting type, font, or~~
186 ~~color to the surrounding text of the same or lesser size; and~~

187 ~~(B) Language in the body of a record or display in~~
188 ~~larger type than the surrounding text, or in contrasting type,~~
189 ~~font, or color to the surrounding text of the same size, or~~
190 ~~set off from surrounding text of the same size by symbols or~~
191 ~~other marks that call attention to the language.~~

192 (11) "Consumer" means an individual who enters into a
193 transaction primarily for personal, family, or household
194 purposes.

195 (12) "Contract," as distinguished from "agreement,"
196 means the total legal obligation that results from the



SB231 INTRODUCED

197 parties' agreement as determined by this title as supplemented
198 by any other applicable laws.

199 (13) "Creditor" includes a general creditor, a secured
200 creditor, a lien creditor, and any representative of
201 creditors, including an assignee for the benefit of creditors,
202 a trustee in bankruptcy, a receiver in equity, and an executor
203 or administrator of an insolvent debtor's or assignor's
204 estate.

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

208 (15) "Delivery," with respect to an ~~instrument,~~
209 electronic document of title, ~~or chattel paper,~~ means
210 voluntary transfer of ~~possession~~ control and, with respect to
211 an instrument, a tangible document of title, or an
212 authoritative tangible copy of record evidencing chattel
213 paper, means voluntary transfer of possession.

214 (16) "Document of title" means a record (i) that in the
215 regular course of business or financing is treated as
216 adequately evidencing that the person in possession or control
217 of the record is entitled to receive, control, hold, and
218 dispose of the record and the goods the record covers and (ii)
219 that purports to be issued by or addressed to a bailee and to
220 cover goods in the bailee's possession which are either
221 identified or are fungible portions of an identifiable mass.
222 The term includes bill of lading, transport documents, dock
223 warrant, dock receipt, warehouse receipt ~~or,~~ and order for the
224 delivery of goods . ~~, and also any other document which in the~~



SB231 INTRODUCED

225 ~~regular course of business or financing is treated as~~
226 ~~adequately evidencing that the person in possession of it is~~
227 ~~entitled to receive, hold, and dispose of the document and the~~
228 ~~goods it covers. To be a document of title, a document must~~
229 ~~purport to be issued by or addressed to a bailee and purport~~
230 ~~to cover goods in the bailee's possession which are either~~
231 ~~identified or are fungible portions of an identified mass. An~~
232 electronic document of title means a document of title
233 evidenced by a record consisting of information stored in an
234 electronic medium. A tangible document of title means a
235 document of title evidenced by a record consisting of
236 information that is inscribed on a tangible medium.

237 (16A) "Electronic" means relating to technology having
238 electrical, digital, magnetic, wireless, optical,
239 electromagnetic, or similar capabilities.

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

242 (18) "Fungible goods" means:

243 (A) Goods of which any unit, by nature or usage of
244 trade, is the equivalent of any other like unit; or

245 (B) Goods that by agreement are treated as equivalent.

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

247 (20) "Good faith" means honesty in fact in the conduct
248 or transaction concerned.

249 (21) "Holder" means:

250 (A) ~~The~~the person in possession of a negotiable
251 instrument that is payable either to bearer or to an
252 identified person that is the person in possession; or



SB231 INTRODUCED

253 (B) ~~The~~the person in possession of a negotiable
254 tangible document of title if the goods are deliverable either
255 to bearer or to the order of the person in possession-~~;~~ or

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

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

262 (23) "Insolvent" means:

263 (A) Having generally ceased to pay debts in the
264 ordinary course of business other than as a result of bona
265 fide dispute;

266 (B) Being unable to pay debts as they become due; or

267 (C) Being insolvent within the meaning of federal
268 bankruptcy law.

269 (24) "Money" means a medium of exchange that is
270 currently authorized or adopted by a domestic or foreign
271 government and is not in an electronic form. The term includes
272 a monetary unit of account established by an intergovernmental
273 organization or ~~by~~ pursuant to an agreement between two or
274 more countries.

275 (25) "Organization" means a person other than an
276 individual.

277 (26) "Party," as distinguished from "third party,"
278 means a person that has engaged in a transaction or made an
279 agreement subject to this title.

280 (27) "Person" means an individual, corporation,



SB231 INTRODUCED

281 business trust, estate, trust, partnership, limited liability
282 company, association, joint venture, ~~public corporation,~~
283 government, governmental subdivision, agency, or
284 instrumentality, or any other legal or commercial entity. The
285 term includes a series or a protected series, however
286 denominated, of any entity if the series or protected series
287 is established under law other than the Uniform Commercial
288 Code that limits, or limits if conditions specified under the
289 law are satisfied, the ability of a creditor of the entity or
290 of any other series or protected series of the entity to
291 satisfy a claim from assets of the series or protected series.

292 (28) "Present value" means the amount as of a date
293 certain of one or more sums payable in the future, discounted
294 to the date certain by use of either an interest rate
295 specified by the parties if that rate is not manifestly
296 unreasonable at the time the transaction is entered into or,
297 if an interest rate is not so specified, a commercially
298 reasonable rate that takes into account the facts and
299 circumstances at the time the transaction is entered into.

300 (29) "Purchase" means taking by sale, lease, discount,
301 negotiation, mortgage, pledge, lien, security interest, issue
302 or reissue, gift, or any other voluntary transaction creating
303 an interest in property.

304 (30) "Purchaser" means a person that takes by purchase.

305 (31) "Record" means information that is inscribed on a
306 tangible medium or that is stored in an electronic or other
307 medium and is retrievable in perceivable form.

308 (32) "Remedy" means any remedial right to which an



SB231 INTRODUCED

309 aggrieved party is entitled with or without resort to a
310 tribunal.

311 (33) "Representative" means a person empowered to act
312 for another, including an agent, an officer of a corporation
313 or association, and a trustee, executor, or administrator of
314 an estate.

315 (34) "Right" includes remedy.

316 (35) "Security interest" means an interest in personal
317 property or fixtures which secures payment or performance of
318 an obligation. "Security interest" includes any interest of a
319 consignor and a buyer of accounts, chattel paper, a payment
320 intangible, or a promissory note in a transaction that is
321 subject to Article 9A. "Security interest" does not include
322 the special property interest of a buyer of goods on
323 identification of those goods to a contract for sale under
324 Section 7-2-401, but a buyer may also acquire a "security
325 interest" by complying with Article 9A. Except as otherwise
326 provided in Section 7-2-505, the right of a seller or lessor
327 of goods under Article 2 or 2A to retain or acquire possession
328 of the goods is not a "security interest," but a seller or
329 lessor may also acquire a "security interest" by complying
330 with Article 9A. The retention or reservation of title by a
331 seller of goods notwithstanding shipment or delivery to the
332 buyer under Section 7-2-401 is limited in effect to a
333 reservation of a "security interest." Whether a transaction in
334 the form of a lease creates a "security interest" is
335 determined pursuant to Section 7-1-203.

336 (36) "Send l," in connection with a ~~writing,~~ record, or



SB231 INTRODUCED

337 ~~notice~~ notification, means:

338 (A) ~~To~~ to deposit in the mail, or deliver for
339 transmission, or transmit by any other usual means of
340 communication, with postage or cost of transmission provided
341 for, ~~and properly addressed and, in the case of an instrument,~~
342 ~~to an address specified thereon or otherwise agreed, or if~~
343 ~~there be none~~ addressed to any address reasonable under the
344 circumstances; or

345 (B) ~~In any other way to cause to be received any record~~
346 ~~or notice within the time it would have arrived if properly~~
347 ~~sent.~~ to cause the record or notification to be received
348 within the time it would have been received if properly sent
349 under subparagraph (A).

350 (37) ~~"Signed" includes using any symbol executed or~~
351 ~~adopted with present intention to adopt or accept a writing.~~
352 "Sign" means, with present intent to authenticate or adopt a
353 record, to:

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

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

357 "Signed," "signing," and "signature" have corresponding
358 meanings.

359 (38) "State" means a State of the United States, the
360 District of Columbia, Puerto Rico, the United States Virgin
361 Islands, or any territory or insular possession subject to the
362 jurisdiction of the United States.

363 (39) "Surety" includes a guarantor or other secondary
364 obligor.



SB231 INTRODUCED

365 (40) "Term" means a portion of an agreement that
366 relates to a particular matter.

367 (41) "Unauthorized signature" means a signature made
368 without actual, implied, or apparent authority. The term
369 includes a forgery.

370 (42) "Warehouse receipt" means a receipt issued by a
371 person engaged in the business of storing goods for hire.

372 (43) "Writing" includes printing, typewriting, or any
373 other intentional reduction to tangible form. "Written" has a
374 corresponding meaning."

375 "§7-1-204. Value.

376 Except as otherwise provided in Articles 3, 4, ~~and~~ 5,
377 and 12, a person gives value for rights if the person acquires
378 them:

379 (1) In return for a binding commitment to extend credit
380 or for the extension of immediately available credit, whether
381 or not drawn upon and whether or not a charge-back is provided
382 for in the event of difficulties in collection;

383 (2) As security for, or in total or partial
384 satisfaction of, a preexisting claim;

385 (3) By accepting delivery under a preexisting contract
386 for purchase; or

387 (4) In return for any consideration sufficient to
388 support a simple contract."

389 "§7-1-301. Territorial applicability; parties' power to
390 choose applicable law.

391 (a) Except as otherwise provided in this section, when
392 a transaction bears a reasonable relation to this state and



SB231 INTRODUCED

393 also to another state or nation, the parties may agree that
394 the law either of this state or of such other state or nation
395 shall govern their rights and duties.

396 (b) In the absence of an agreement effective under
397 subsection (a), and except as provided in subsection (c), ~~this~~
398 ~~title~~ the Uniform Commercial Code applies to transactions
399 bearing an appropriate relation to this state.

400 (c) If one of the following provisions of ~~this title~~
401 the Uniform Commercial Code specifies the applicable law, that
402 provision governs and a contrary agreement is effective only
403 to the extent permitted by the law so specified:

404 (1) Section 7-2-402;

405 (2) Sections 7-2A-105 and 7-2A-106;

406 (3) Section 7-4-102;

407 (4) Section 7-4A-507;

408 (5) Section 7-5-116;

409 (6) [Reserved.]

410 ~~(6)~~ (7) Section 7-8-110;

411 ~~(7)~~ (8) Sections 7-9A-301 through 7-9A-307;

412 (9) Section 7-12-107.

413 "§7-1-306. Waiver or renunciation of claim or right
414 after breach.

415 A claim or right arising out of an alleged breach may
416 be discharged in whole or in part without consideration by
417 agreement of the aggrieved party in ~~an authenticated~~ a signed
418 record.

419 "§7-2-102. Scope; certain security and other
420 transactions excluded from this article.



SB231 INTRODUCED

421 ~~Unless the context otherwise requires, this article~~
422 ~~applies to transactions in goods; it does not apply to any~~
423 ~~transaction which although in the form of an unconditional~~
424 ~~contract to sell or present sale is intended to operate only~~
425 ~~as a security transaction nor does this article impair or~~
426 ~~repeal any statute regulating sales to consumers, farmers or~~
427 ~~other specified classes of buyers.~~

428 (1) Unless the context otherwise requires, and except
429 as provided in subsection (3), this article applies to
430 transactions in goods and, in the case of a hybrid
431 transaction, it applies to the extent provided in subsection
432 (2).

433 (2) In a hybrid transaction:

434 (a) If the sale-of-goods aspects do not predominate,
435 only the provisions of this article which relate primarily to
436 the sale-of-goods aspects of the transaction apply, and the
437 provisions that relate primarily to the transaction as a whole
438 do not apply.

439 (b) If the sale-of-goods aspects predominate, this
440 article applies to the transaction but does not preclude
441 application in appropriate circumstances of other law to
442 aspects of the transaction which do not relate to the sale of
443 goods.

444 (3) This article does not:

445 (a) apply to a transaction that, even though in the
446 form of an unconditional contract to sell or present sale,
447 operates only to create a security interest; or

448 (b) impair or repeal any statute regulating sales to



SB231 INTRODUCED

449 consumers, farmers, or other specified classes of buyers.

450 "§7-2-106. Definitions: "Contract"; "agreement";
451 "contract for sale"; "sale"; "present sale"; "conforming" to
452 contract; "termination"; "cancellation"; "hybrid
453 transaction"."

454 (1) In this article unless the context otherwise
455 requires "contract" and "agreement" are limited to those
456 relating to the present or future sale of goods. "Contract for
457 sale" includes both a present sale of goods and a contract to
458 sell goods at a future time. A "sale" consists in the passing
459 of title from the seller to the buyer for a price (Section
460 7-2-401). A "present sale" means a sale which is accomplished
461 by the making of the contract.

462 (2) Goods or conduct including any part of a
463 performance are "conforming" or "conform to the contract" when
464 they are in accordance with the obligations under the
465 contract.

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

472 (4) "Cancellation" occurs when either party puts an end
473 to the contract for breach by the other, and its effect is the
474 same as that of "termination" except that the cancelling party
475 also retains any remedy for breach of the whole contract or
476 any unperformed balance.



SB231 INTRODUCED

477 (5) "Hybrid transaction" means a single transaction
478 involving a sale of goods and:
479 (a) the provision of services;
480 (b) a lease of other goods; or
481 (c) a sale, lease, or license of property other than
482 goods.

483 "§7-2-201. Formal requirements; statute of frauds.

484 (1) Except as otherwise provided in this section, a
485 contract for the sale of goods for the price of ~~\$500~~five
486 hundred dollars (\$500) or more is not enforceable by way of
487 action or defense unless there is ~~some writing~~a record
488 sufficient to indicate that a contract for sale has been made
489 between the parties and signed by the party against whom
490 enforcement is sought or by ~~his~~ the party's authorized agent
491 or broker. A ~~writing~~record is not insufficient because it
492 omits or incorrectly states a term agreed upon, but the
493 contract is not enforceable under this ~~paragraph~~subsection
494 beyond the quantity of goods shown in ~~such writing~~the record.

495 (2) Between merchants if within a reasonable time a
496 ~~writing~~record in confirmation of the contract and sufficient
497 against the sender is received and the party receiving it has
498 reason to know its contents, it satisfies the requirements of
499 subsection (1) against ~~such~~ the party unless notice in a
500 record~~written notice~~ of objection to its contents is given
501 within 10 days after it is received.

502 (3) A contract which does not satisfy the requirements
503 of subsection (1) but which is valid in other respects is
504 enforceable:



SB231 INTRODUCED

505 (a) If the goods are to be specially manufactured for
506 the buyer and are not suitable for sale to others in the
507 ordinary course of the seller's business and the seller,
508 before notice of repudiation is received and under
509 circumstances which reasonably indicate that the goods are for
510 the buyer, has made either a substantial beginning of their
511 manufacture or commitments for their procurement; or

512 (b) If the party against whom enforcement is sought
513 admits in ~~his~~the party's pleading, testimony, or otherwise in
514 court that a contract for sale was made, but the contract is
515 not enforceable under this provision beyond the quantity of
516 goods admitted; or

517 (c) With respect to goods for which payment has been
518 made and accepted or which have been received and accepted
519 (Section 7-2-606)."

520 "§7-2-202. Final ~~written~~ expression: Parol or extrinsic
521 evidence.

522 Terms with respect to which the confirmatory memoranda
523 of the parties agree or which are otherwise set forth in a
524 ~~writing~~record intended by the parties as a final expression
525 of their agreement with respect to such terms as are included
526 therein may not be contradicted by evidence of any prior
527 agreement or of a contemporaneous oral agreement but may be
528 explained or supplemented:

529 (a) ~~By~~by course of performance, course of dealing, or
530 usage of trade (Section 7-1-303); and

531 (b) ~~By~~by evidence of consistent additional terms unless
532 the court finds the ~~writing~~record to have been intended also



SB231 INTRODUCED

533 as a complete and exclusive statement of the terms of the
534 agreement."

535 "§7-2-203. Seals inoperative.

536 The affixing of a seal to a ~~writing~~ record evidencing a
537 contract for sale or an offer to buy or sell goods does not
538 constitute the ~~writing~~ record a sealed instrument, and the law
539 with respect to sealed instruments does not apply to such a
540 contract or offer."

541 "§7-2-205. Firm offers.

542 An offer by a merchant to buy or sell goods in a signed
543 ~~writing~~ record which by its terms gives assurance that it will
544 be held open is not revocable, for lack of consideration,
545 during the time stated or if no time is stated for a
546 reasonable time, but in no event may such period of
547 irrevocability exceed three months; but any such term of
548 assurance on a form supplied by the offeree must be separately
549 signed by the offeror."

550 "§7-2-209. Modification, rescission and waiver.

551 (1) An agreement modifying a contract within this
552 article needs no consideration to be binding.

553 (2) A signed agreement which excludes modification or
554 rescission except by a signed writing or other signed record
555 cannot be otherwise modified or rescinded, but except as
556 between merchants such a requirement on a form supplied by the
557 merchant must be separately signed by the other party.

558 (3) The requirements of the statute of frauds section
559 of this article (Section 7-2-201) must be satisfied if the
560 contract as modified is within its provisions.



SB231 INTRODUCED

561 (4) Although an attempt at modification or rescission
562 does not satisfy the requirements of subsection (2) or (3) it
563 can operate as a waiver.

564 (5) A party who has made a waiver affecting an
565 executory portion of the contract may retract the waiver by
566 reasonable notification received by the other party that
567 strict performance will be required of any term waived, unless
568 the retraction would be unjust in view of a material change of
569 position in reliance on the waiver.

570 "§7-2A-102. Scope.

571 ~~This article applies to any transaction, regardless of~~
572 ~~form, that creates a lease, as defined in Section~~
573 ~~7-2A-103(1)(j).~~

574 (1) This article applies to any transaction, regardless
575 of form, that creates a lease and, in the case of a hybrid
576 lease, it applies to the extent provided in subsection (2).

577 (2) In a hybrid lease:

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

579 (i) only the provisions of this article which relate
580 primarily to the lease-of-goods aspect of the transaction
581 apply, and the provisions that relate primarily to the
582 transaction as a whole do not apply;

583 (ii) Section 7-2A-209 applies if the lease is a finance
584 lease; and

585 (iii) Section 7-2A-407 applies to the promise of the
586 lessee in a finance lease to the extent the promises are
587 consideration for the right to possession and use of the
588 leased goods; and



SB231 INTRODUCED

589 (b) if the lease-of-goods aspects predominate, this
590 article applies to the transaction, but does not preclude
591 application in appropriate circumstances of other law to
592 aspects of the lease which do not relate to the lease of
593 goods.

594 "§7-2A-103. Definitions and index of definitions.

595 (1) In this article unless the context otherwise
596 requires:

597 (a) "Buyer in ordinary course of business" means a
598 person who in good faith and without knowledge that the sale
599 to him or her is in violation of the ownership rights or
600 security interest or leasehold interest of a third party in
601 the goods, buys in ordinary course from a person in the
602 business of selling goods of that kind but does not include a
603 pawnbroker. "Buying" may be for cash or by exchange of other
604 property or on secured or unsecured credit and includes
605 receiving goods or documents of title under a pre-existing
606 contract for sale but does not include a transfer in bulk or
607 as security for or in total or partial satisfaction of a money
608 debt.

609 (b) "Cancellation" occurs when either party puts an end
610 to the lease contract for default by the other party.

611 (c) "Commercial unit" means such a unit of goods as by
612 commercial usage is a single whole for purposes of lease and
613 division of which materially impairs its character or value on
614 the market or in use. A commercial unit may be a single
615 article, as a machine, or a set of articles, as a suite of
616 furniture or a line of machinery, or a quantity, as a gross or



SB231 INTRODUCED

617 carload, or any other unit treated in use or in the relevant
618 market as a single whole.

619 (d) "Conforming" goods or performance under a lease
620 contract means goods or performance that are in accordance
621 with the obligations under the lease contract.

622 (e) "Consumer lease" means a lease that a lessor
623 regularly engaged in the business of leasing or selling makes
624 to a lessee who is an individual and who takes under the lease
625 primarily for a personal, family, or household purpose, if the
626 total payments to be made under the lease contract, excluding
627 payments for options to renew or buy, do not exceed
628 ~~\$100,000~~ one hundred thousand dollars (\$100,000).

629 (f) "Fault" means wrongful act, omission, breach, or
630 default.

631 (g) "Finance lease" means a lease with respect to
632 which:

633 (i) the lessor does not select, manufacture, or supply
634 the goods;

635 (ii) the lessor acquires the goods or the right to
636 possession and use of the goods in connection with the lease;
637 and

638 (iii) one of the following occurs:

639 (A) the lessee receives a copy of the contract by which
640 the lessor acquired the goods or the right to possession and
641 use of the goods before signing the lease contract;

642 (B) the lessee's approval of the contract by which the
643 lessor acquired the goods or the right to possession and use
644 of the goods is a condition to effectiveness of the lease



SB231 INTRODUCED

645 contract;

646 (C) the lease contract or a separate accurate and
647 complete statement delivered to the lessee discloses in
648 writing (a) all express warranties and other rights provided
649 to the lessee by the lessor and the supplier in connection
650 with the lease contract (b) that there are no other express
651 warranties or rights provided to the lessee by the lessor or
652 the supplier in connection with the lease contract, and (c) in
653 a consumer lease, any waiver, disclaimer, or other negation of
654 express or implied warranties and any limitation or
655 modification of remedy or liquidation of damages for breach of
656 those warranties or other rights of the lessee in a manner as
657 provided in this article or in Article 2, as applicable; or

658 (D) the lessor, before the lessee signs the lease
659 contract, informs the lessee in writing (a) of the identity of
660 the supplier, unless the lessee has selected the supplier and
661 directed the lessor to purchase the goods from the supplier,
662 (b) that the lessee is entitled under this article to all
663 warranties and other rights provided to the lessee by the
664 supplier in connection with the lease contract, and (c) to
665 contact the supplier to receive an accurate and complete
666 statement from the supplier of any such express warranties and
667 other rights and any disclaimers or limitations of them or of
668 remedies.

669 (h) "Goods" means all things that are movable at the
670 time of identification to the lease contract, or are fixtures
671 (Section 7-2A-309), but the term does not include money,
672 documents, instruments, accounts, chattel paper, general



SB231 INTRODUCED

673 intangibles, or minerals or the like, including oil and gas,
674 before extraction. The term also includes the unborn young of
675 animals.

676 (h.1) "Hybrid lease" means a single transaction
677 involving a lease of goods and:

678 (i) the provision of services;

679 (ii) a sale of other goods; or

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

682 (i) "Installment lease contract" means a lease contract
683 that authorizes or requires the delivery of goods in separate
684 lots to be separately accepted, even though the lease contract
685 contains a clause "each delivery is a separate lease" or its
686 equivalent.

687 (j) "Lease" means a transfer of the right to possession
688 and use of goods for a term in return for consideration, but a
689 sale, including a sale on approval or a sale or return, or
690 retention or creation of a security interest is not a lease.
691 Unless the context clearly indicates otherwise, the term
692 includes a sublease.

693 (k) "Lease agreement" means the bargain, with respect
694 to the lease, of the lessor and the lessee in fact as found in
695 their language or by implication from other circumstances
696 including course of dealing or usage of trade or course of
697 performance as provided in this article. Unless the context
698 clearly indicates otherwise, the term includes a sublease
699 agreement.

700 (l) "Lease contract" means the total legal obligation



SB231 INTRODUCED

701 that results from the lease agreement as affected by this
702 article and any other applicable rules of law. Unless the
703 context clearly indicates otherwise, the term includes a
704 sublease contract.

705 (m) "Leasehold interest" means the interest of the
706 lessor or the lessee under a lease contract.

707 (n) "Lessee" means a person who acquires the right to
708 possession and use of goods under a lease. Unless the context
709 clearly indicates otherwise, the term includes a sublessee.

710 (o) "Lessee in ordinary course of business" means a
711 person who in good faith and without knowledge that the lease
712 to him or her is in violation of the ownership rights or
713 security interest or leasehold interest of a third party in
714 the goods leases in ordinary course from a person in the
715 business of selling or leasing goods of that kind but does not
716 include a pawnbroker. "Leasing" may be for cash or by exchange
717 of other property or on secured or unsecured credit and
718 includes acquiring goods or documents of title under a
719 preexisting lease contract but does not include a transfer in
720 bulk or as security for or in total or partial satisfaction of
721 a money debt.

722 (p) "Lessor" means a person who transfers the right to
723 possession and use of goods under a lease. Unless the context
724 clearly indicates otherwise, the term includes a sublessor.

725 (q) "Lessor's residual interest" means the lessor's
726 interest in the goods after expiration, termination, or
727 cancellation of the lease contract.

728 (r) "Lien" means a charge against or interest in goods



SB231 INTRODUCED

729 to secure payment of a debt or performance of an obligation,
730 but the term does not include a security interest.

731 (s) "Lot" means a parcel or a single article that is
732 the subject matter of a separate lease or delivery, whether or
733 not it is sufficient to perform the lease contract.

734 (t) "Merchant lessee" means a lessee that is a merchant
735 with respect to goods of the kind subject to the lease.

736 (u) "Present value" means the amount as of a date
737 certain of one or more sums payable in the future, discounted
738 to the date certain. The discount is determined by the
739 interest rate specified by the parties if the rate was not
740 manifestly unreasonable at the time the transaction was
741 entered into; otherwise, the discount is determined by the
742 court as a matter of law as a commercially reasonable rate
743 that takes into account the facts and circumstances of each
744 case at the time the transaction was entered into.

745 (v) "Purchase" includes taking by sale, lease,
746 mortgage, security interest, pledge, gift, or any other
747 voluntary transaction creating an interest in goods.

748 (w) "Sublease" means a lease of goods the right to
749 possession and use of which was acquired by the lessor as a
750 lessee under an existing lease.

751 (x) "Supplier" means a person from whom a lessor buys
752 or leases goods to be leased under a finance lease.

753 (y) "Supply contract" means a contract under which a
754 lessor buys or leases goods to be leased.

755 (z) "Termination" occurs when either party pursuant to
756 a power created by agreement or law puts an end to the lease



SB231 INTRODUCED

757 contract otherwise than for default.

758 (2) Other definitions applying to this article and the
759 sections in which they appear are:

760 "Accessions." Section 7-2A-310(1).

761 "Construction mortgage." Section 7-2A-309(1)(d).

762 "Encumbrance." Section 7-2A-309(1)(e).

763 "Fixtures." Section 7-2A-309(1)(a).

764 "Fixture filing." Section 7-2A-309(1)(b).

765 "Purchase money lease." Section 7-2A-309(1)(c).

766 (3) The following definitions in sections of the Code
767 of Alabama 1975, apply to this article:

768 "Account." Section 7-9A-102(a)(2).

769 "Between merchants." Section 7-2-104(3).

770 "Buyer." Section 7-2-103(1)(a).

771 "Chattel paper." Section 7-9A-102(a)(11).

772 "Consumer goods." Section 7-9A-102(a)(23).

773 "Document." Section 7-9A-102(a)(30).

774 "Entrusting." Section 7-2-403(3).

775 "General intangible." Section 7-9A-102(a)(42).

776 "Good faith." Section 7-2-103(1)(b).

777 "Instrument." Section 7-9A-102(a)(47).

778 "Merchant." Section 7-2-104(1).

779 "Mortgage." Section 7-9A-102(a)(55).

780 "Pursuant to commitment." Section 7-9A-102(a)(68).

781 "Receipt." Section 7-2-103(1)(c).

782 "Sale." Section 7-2-106(1).

783 "Sale on approval." Section 7-2-326.

784 "Sale or return." Section 7-2-326.



SB231 INTRODUCED

785 "Seller." Section 7-2-103(1)(d).

786 (4) In addition, Section 7-1-201 contains general
787 definitions and principles of construction and interpretation
788 applicable throughout this article."

789 "§7-2A-107. Waiver or renunciation of claim or right
790 after default.

791 Any claim or right arising out of an alleged default or
792 breach of warranty may be discharged in whole or in part
793 without consideration by a ~~written~~ waiver or renunciation in a
794 signed ~~and~~ record delivered by the aggrieved party."

795 "§7-2A-201. Statute of frauds.

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

798 (a) the total payments to be made under the lease
799 contract, excluding payments for options to renew or buy, are
800 less than ~~\$1,000;~~ one thousand dollars (\$1,000) tangible or

801 (b) there is a ~~writing~~ record, signed by the party
802 against whom enforcement is sought or by that party's
803 authorized agent, sufficient to indicate that a lease contract
804 has been made between the parties and to describe the goods
805 leased and the lease term.

806 (2) Any description of leased goods or of the lease
807 term is sufficient and satisfies subsection (1)(b), whether or
808 not it is specific, if it reasonably identifies what is
809 described.

810 (3) A ~~writing~~ record is not insufficient because it
811 omits or incorrectly states a term agreed upon, but the lease
812 contract is not enforceable under subsection (1)(b) beyond the



SB231 INTRODUCED

813 lease term and the quantity of goods shown in the ~~writing~~
814 record.

815 (4) A lease contract that does not satisfy the
816 requirements of subsection (1), but which is valid in other
817 respects, is enforceable:

818 (a) if the goods are to be specially manufactured or
819 obtained for the lessee and are not suitable for lease or sale
820 to others in the ordinary course of the lessor's business, and
821 the lessor, before notice of repudiation is received and under
822 circumstances that reasonably indicate that the goods are for
823 the lessee, has made either a substantial beginning of their
824 manufacture or commitments for their procurement;

825 (b) if the party against whom enforcement is sought
826 admits in that party's pleading, testimony, or otherwise in
827 court that a lease contract was made, but the lease contract
828 is not enforceable under this provision beyond the quantity of
829 goods admitted; or

830 (c) with respect to goods that have been received and
831 accepted by the lessee.

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

834 (a) if there is a ~~writing~~ record signed by the party
835 against whom enforcement is sought or by that party's
836 authorized agent specifying the lease term, the term so
837 specified;

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



SB231 INTRODUCED

841 (c) a reasonable lease term."

842 "§7-2A-202. Final ~~written~~ expression: Parol or
843 extrinsic evidence.

844 Terms with respect to which the confirmatory memoranda
845 of the parties agree or which are otherwise set forth in a
846 ~~writing~~ record intended by the parties as a final expression
847 of their agreement with respect to such terms as are included
848 therein may not be contradicted by evidence of any prior
849 agreement or of a contemporaneous oral agreement but may be
850 explained or supplemented:

851 (a) by course of dealing or usage of trade or by course
852 of performance; and

853 (b) by evidence of consistent additional terms unless
854 the court finds the ~~writing~~record to have been intended also
855 as a complete and exclusive statement of the terms of the
856 agreement."

857 "§7-2A-203. Seals inoperative.

858 The affixing of a seal to a ~~writing~~ record evidencing a
859 lease contract or an offer to enter into a lease contract does
860 not render the ~~writing~~ record a sealed instrument and the law
861 with respect to sealed instruments does not apply to the lease
862 contract or offer."

863 "§7-2A-205. Firm offers.

864 An offer by a merchant to lease goods to or from
865 another person in a signed ~~writing~~ record that by its terms
866 gives assurance it will be held open is not revocable, for
867 lack of consideration, during the time stated or, if no time
868 is stated, for a reasonable time, but in no event may the



SB231 INTRODUCED

869 period of irrevocability exceed~~3~~ three months. Any such term
870 of assurance on a form supplied by the offeree must be
871 separately signed by the offeror."

872 "§7-2A-208. Modification, rescission and waiver.

873 (1) An agreement modifying a lease contract needs no
874 consideration to be binding.

875 (2) A signed lease agreement that excludes modification
876 or rescission except by a signed~~writing~~ record may not be
877 otherwise modified or rescinded, but, except as between
878 merchants, such a requirement on a form supplied by a merchant
879 must be separately signed by the other party.

880 (3) The requirements of the statute of frauds section
881 of this article (Section 7-2A-201) must be satisfied if the
882 contract as modified is within its provisions.

883 (4) Although an attempt at modification or rescission
884 does not satisfy the requirements of subsection (2), it may
885 operate as a waiver.

886 (5) A party who has made a waiver affecting an
887 executory portion of a lease contract may retract the waiver
888 by reasonable notification received by the other party that
889 strict performance will be required of any term waived, unless
890 the retraction would be unjust in view of a material change of
891 position in reliance on the waiver.

892 "§7-3-104. Negotiable instrument.

893 (a) Except as provided in subsections (c) and (d),
894 "negotiable instrument" means an unconditional promise or
895 order to pay a fixed amount of money, with or without interest
896 or other charges described in the promise or order, if it:



SB231 INTRODUCED

897 (1) ~~Is~~is payable to bearer or to order at the time it
898 is issued or first comes into possession of a holder;

899 (2) ~~Is~~is payable on demand or at a definite time; and

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

911 (b) "Instrument" means a negotiable instrument.

912 (c) An order that meets all of the requirements of
913 subsection (a), except subdivision (1), and otherwise falls
914 within the definition of "check" in subsection (f) is a
915 negotiable instrument and a check.

916 (d) A promise or order other than a check is not an
917 instrument if, at the time it is issued or first comes into
918 possession of a holder, it contains a conspicuous statement,
919 however expressed, to the effect that the promise or order is
920 not negotiable or is not an instrument governed by this
921 article.

922 (e) An instrument is a "note" if it is a promise and is
923 a "draft" if it is an order. If an instrument falls within the
924 definition of both "note" and "draft," a person entitled to



SB231 INTRODUCED

925 enforce the instrument may treat it as either.

926 (f) "Check" means (i) a draft, other than a documentary
927 draft, payable on demand and drawn on a bank or (ii) a
928 cashier's check or teller's check. An instrument may be a
929 check even though it is described on its face by another term,
930 such as "money order."

931 (g) "Cashier's check" means a draft with respect to
932 which the drawer and drawee are the same bank or branches of
933 the same bank.

934 (h) "Teller's check" means a draft drawn by a bank (i)
935 on another bank, or (ii) payable at or through a bank.

936 (i) "Traveler's check" means an instrument that (i) is
937 payable on demand, (ii) is drawn on or payable at or through a
938 bank, (iii) is designated by the term "traveler's check" or by
939 a substantially similar term, and (iv) requires, as a
940 condition to payment, a countersignature by a person whose
941 specimen signature appears on the instrument.

942 (j) "Certificate of deposit" means an instrument
943 containing an acknowledgment by a bank that a sum of money has
944 been received by the bank and a promise by the bank to repay
945 the sum of money. A certificate of deposit is a note of the
946 bank."

947 "§7-3-105. Issue of instrument.

948 (a) "Issue" means:

949 (1) the first delivery of an instrument by the maker or
950 drawer, whether to a holder or nonholder, for the purpose of
951 giving rights on the instrument to any person; or

952 (2) if agreed by the payee, the first transmission by



SB231 INTRODUCED

953 the drawer to the payee of an image of an item and information
954 derived from the item that enables the depository bank to
955 collect the item by transferring or presenting under federal
956 law an electronic check.

957 (b) An unissued instrument, or an unissued incomplete
958 instrument that is completed, is binding on the maker or
959 drawer, but nonissuance is a defense. An instrument that is
960 conditionally issued or is issued for a special purpose is
961 binding on the maker or drawer, but failure of the condition
962 or special purpose to be fulfilled is a defense.

963 (c) "Issuer" applies to issued and unissued instruments
964 and means a maker or drawer of an instrument."

965 "§7-3-401. Signature necessary for liability on
966 instrument.

967 ~~(a)~~ A person is not liable on an instrument unless (i)
968 the person signed the instrument, or (ii) the person is
969 represented by an agent or representative who signed the
970 instrument and the signature is binding on the represented
971 person under Section 7-3-402.

972 ~~(b) A signature may be made (i) manually or by means of~~
973 ~~a device or machine, and (ii) by the use of any name,~~
974 ~~including a trade or assumed name, or by a word, mark, or~~
975 ~~symbol executed or adopted by a person with present intention~~
976 ~~to authenticate a writing."~~

977 "§7-3-604. Discharge by cancellation or renunciation.

978 (a) A person entitled to enforce an instrument, with or
979 without consideration, may discharge the obligation of a party
980 to pay the instrument (i) by an intentional voluntary act,



SB231 INTRODUCED

981 such as surrender of the instrument to the party, destruction,
982 mutilation, or cancellation of the instrument, cancellation or
983 striking out of the party's signature, or the addition of
984 words to the instrument indicating discharge, or (ii) by
985 agreeing not to sue or otherwise renouncing rights against the
986 party by a signed ~~writing~~ record. The obligation of a party to
987 pay a check is not discharged solely by destruction of the
988 check in connection with a process in which information is
989 extracted from the check and an image of the check is made
990 and, subsequently, the information and image are transmitted
991 for payment.

992 (b) Cancellation or striking out of an indorsement
993 pursuant to subsection (a) does not affect the status and
994 rights of a party derived from the indorsement."

995 "§7-4A-103. Payment order - Definitions.

996 (a) In this article:

997 (1) "Payment order" means an instruction of a sender to
998 a receiving bank, transmitted orally, ~~electronically, or in~~
999 ~~writing~~ or in a record, to pay, or to cause another bank to
1000 pay, a fixed or determinable amount of money to a beneficiary
1001 if:

1002 (i) the instruction does not state a condition to
1003 payment to the beneficiary other than time of payment,

1004 (ii) the receiving bank is to be reimbursed by debiting
1005 an account of, or otherwise receiving payment from, the
1006 sender, and

1007 (iii) the instruction is transmitted by the sender
1008 directly to the receiving bank or to an agent, funds-transfer



SB231 INTRODUCED

1009 system, or communication system for transmittal to the
1010 receiving bank.

1011 (2) "Beneficiary" means the person to be paid by the
1012 beneficiary's bank.

1013 (3) "Beneficiary's bank" means the bank identified in a
1014 payment order in which an account of the beneficiary is to be
1015 credited pursuant to the order or which otherwise is to make
1016 payment to the beneficiary if the order does not provide for
1017 payment to an account.

1018 (4) "Receiving bank" means the bank to which the
1019 sender's instruction is addressed.

1020 (5) "Sender" means the person giving the instruction to
1021 the receiving bank.

1022 (b) If an instruction complying with subsection (a)(1)
1023 is to make more than one payment to a beneficiary, the
1024 instruction is a separate payment order with respect to each
1025 payment.

1026 (c) A payment order is issued when it is sent to the
1027 receiving bank."

1028 "§7-4A-201. Security procedure.

1029 "Security procedure" means a procedure established by
1030 agreement of a customer and a receiving bank for the purpose
1031 of (i) verifying that a payment order or communication
1032 amending or cancelling a payment order is that of the
1033 customer, or (ii) detecting error in the transmission or the
1034 content of the payment order or communication. A security
1035 procedure may impose an obligation on the receiving bank or
1036 the customer and may require the use of algorithms or other



SB231 INTRODUCED

1037 codes, identifying words, ~~or~~ numbers, symbols, sounds,
1038 biometrics, encryption, callback procedures, or similar
1039 security devices. Comparison of a signature on a payment order
1040 or communication with an authorized specimen signature of the
1041 customer or requiring a payment order to be sent from a known
1042 email address, IP address, or telephone number is not by
1043 itself a security procedure."

1044 "§7-4A-202. Authorized and verified payment orders.

1045 (a) A payment order received by the receiving bank is
1046 the authorized order of the person identified as sender if
1047 that person authorized the order or is otherwise bound by it
1048 under the law of agency.

1049 (b) If a bank and its customer have agreed that the
1050 authenticity of payment orders issued to the bank in the name
1051 of the customer as sender will be verified pursuant to a
1052 security procedure, a payment order received by the receiving
1053 bank is effective as the order of the customer, whether or not
1054 authorized, if (i) the security procedure is a commercially
1055 reasonable method of providing security against unauthorized
1056 payment orders, and (ii) the bank proves that it accepted the
1057 payment order in good faith and in compliance with the bank's
1058 obligations under the security procedure and any ~~written~~
1059 agreement or instruction of the customer, evidenced by a
1060 record, restricting acceptance of payment orders issued in the
1061 name of the customer. The bank is not required to follow an
1062 instruction that violates ~~a written an~~ agreement with the
1063 customer, evidenced by a record, ~~with the customer~~ or notice
1064 of which is not received at a time and in a manner affording



SB231 INTRODUCED

1065 the bank a reasonable opportunity to act on it before the
1066 payment order is accepted.

1067 (c) Commercial reasonableness of a security procedure
1068 is a question of law to be determined by considering the
1069 wishes of the customer expressed to the bank, the
1070 circumstances of the customer known to the bank, including the
1071 size, type, and frequency of payment orders normally issued by
1072 the customer to the bank, alternative security procedures
1073 offered to the customer, and security procedures in general
1074 use by customers and receiving banks similarly situated. A
1075 security procedure is deemed to be commercially reasonable if
1076 (i) the security procedure was chosen by the customer after
1077 the bank offered, and the customer refused, a security
1078 procedure that was commercially reasonable for that customer,
1079 and (ii) the customer expressly agreed in ~~writing~~ a record to
1080 be bound by any payment order, whether or not authorized,
1081 issued in its name, and accepted by the bank in compliance
1082 with the bank's obligations under the security procedure
1083 chosen by the customer.

1084 (d) The term "sender" in this article includes the
1085 customer in whose name a payment order is issued if the order
1086 is the authorized order of the customer under subsection (a),
1087 or it is effective as the order of the customer under
1088 subsection (b).

1089 (e) This section applies to amendments and
1090 cancellations of payment orders to the same extent it applies
1091 to payment orders.

1092 (f) Except as provided in this section and in Section



SB231 INTRODUCED

1093 7-4A-203(a)(1), rights and obligations arising under this
1094 section or Section 7-4A-203 may not be varied by agreement."

1095 "§7-4A-203. Unenforceability of certain verified
1096 payment orders.

1097 (a) If an accepted payment order is not, under Section
1098 7-4A-202(a), an authorized order of a customer identified as
1099 sender, but is effective as an order of the customer pursuant
1100 to Section 7-4A-202(b), the following rules apply:

1101 (1) By express ~~written~~ agreement evidenced by a record,
1102 the receiving bank may limit the extent to which it is
1103 entitled to enforce or retain payment of the payment order.

1104 (2) The receiving bank is not entitled to enforce or
1105 retain payment of the payment order if the customer proves
1106 that the order was not caused, directly or indirectly, by a
1107 person (i) entrusted at any time with duties to act for the
1108 customer with respect to payment orders or the security
1109 procedure, or (ii) who obtained access to transmitting
1110 facilities of the customer or who obtained, from a source
1111 controlled by the customer and without authority of the
1112 receiving bank, information facilitating breach of the
1113 security procedure, regardless of how the information was
1114 obtained or whether the customer was at fault. Information
1115 includes any access device, computer software, or the like.

1116 (b) This section applies to amendments of payment
1117 orders to the same extent it applies to payment orders."

1118 "§7-4A-207. Misdescription of beneficiary.

1119 (a) Subject to subsection (b), if, in a payment order
1120 received by the beneficiary's bank, the name, bank account



SB231 INTRODUCED

1121 number, or other identification of the beneficiary refers to a
1122 nonexistent or unidentifiable person or account, no person has
1123 rights as a beneficiary of the order and acceptance of the
1124 order cannot occur.

1125 (b) If a payment order received by the beneficiary's
1126 bank identifies the beneficiary both by name and by an
1127 identifying or bank account number and the name and number
1128 identify different persons, the following rules apply:

1129 (1) Except as otherwise provided in subsection (c), if
1130 the beneficiary's bank does not know that the name and number
1131 refer to different persons, it may rely on the number as the
1132 proper identification of the beneficiary of the order. The
1133 beneficiary's bank need not determine whether the name and
1134 number refer to the same person.

1135 (2) If the beneficiary's bank pays the person
1136 identified by name or knows that the name and number identify
1137 different persons, no person has rights as beneficiary except
1138 the person paid by the beneficiary's bank if that person was
1139 entitled to receive payment from the originator of the funds
1140 transfer. If no person has rights as beneficiary, acceptance
1141 of the order cannot occur.

1142 (c) If (i) a payment order described in subsection (b)
1143 is accepted, (ii) the originator's payment order described the
1144 beneficiary inconsistently by name and number, and (iii) the
1145 beneficiary's bank pays the person identified by number as
1146 permitted by subsection (b)(1), the following rules apply:

1147 (1) If the originator is a bank, the originator is
1148 obliged to pay its order.



SB231 INTRODUCED

1149 (2) If the originator is not a bank and proves that the
1150 person identified by number was not entitled to receive
1151 payment from the originator, the originator is not obliged to
1152 pay its order unless the originator's bank proves that the
1153 originator, before acceptance of the originator's order, had
1154 notice that payment of a payment order issued by the
1155 originator might be made by the beneficiary's bank on the
1156 basis of an identifying or bank account number even if it
1157 identifies a person different from the named beneficiary.
1158 Proof of notice may be made by any admissible evidence. The
1159 originator's bank satisfies the burden of proof if it proves
1160 that the originator, before the payment order was accepted,
1161 signed a ~~writing~~ record stating the information to which the
1162 notice relates.

1163 (d) In a case governed by subsection (b)(1), if the
1164 beneficiary's bank rightfully pays the person identified by
1165 number and that person was not entitled to receive payment
1166 from the originator, the amount paid may be recovered from
1167 that person to the extent allowed by the law governing mistake
1168 and restitution as follows:

1169 (1) If the originator is obliged to pay its payment
1170 order as stated in subsection (c), the originator has the
1171 right to recover.

1172 (2) If the originator is not a bank and is not obliged
1173 to pay its payment order, the originator's bank has the right
1174 to recover."

1175 "§7-4A-208. Misdescription of intermediary bank or
1176 beneficiary's bank.



SB231 INTRODUCED

1177 (a) This subsection applies to a payment order
1178 identifying an intermediary bank or the beneficiary's bank
1179 only by an identifying number.

1180 (1) The receiving bank may rely on the number as the
1181 proper identification of the intermediary or beneficiary's
1182 bank and need not determine whether the number identifies a
1183 bank.

1184 (2) The sender is obliged to compensate the receiving
1185 bank for any loss and expenses incurred by the receiving bank
1186 as a result of its reliance on the number in executing or
1187 attempting to execute the order.

1188 (b) This subsection applies to a payment order
1189 identifying an intermediary bank or the beneficiary's bank
1190 both by name and an identifying number if the name and number
1191 identify different persons.

1192 (1) If the sender is a bank, the receiving bank may
1193 rely on the number as the proper identification of the
1194 intermediary or beneficiary's bank if the receiving bank, when
1195 it executes the sender's order, does not know that the name
1196 and number identify different persons. The receiving bank need
1197 not determine whether the name and number refer to the same
1198 person or whether the number refers to a bank. The sender is
1199 obliged to compensate the receiving bank for any loss and
1200 expenses incurred by the receiving bank as a result of its
1201 reliance on the number in executing or attempting to execute
1202 the order.

1203 (2) If the sender is not a bank and the receiving bank
1204 proves that the sender, before the payment order was accepted,



SB231 INTRODUCED

1205 had notice that the receiving bank might rely on the number as
1206 the proper identification of the intermediary or beneficiary's
1207 bank even if it identifies a person different from the bank
1208 identified by name, the rights and obligations of the sender
1209 and the receiving bank are governed by subsection (b) (1), as
1210 though the sender were a bank. Proof of notice may be made by
1211 any admissible evidence. The receiving bank satisfies the
1212 burden of proof if it proves that the sender, before the
1213 payment order was accepted, signed a ~~writing~~ record stating
1214 the information to which the notice relates.

1215 (3) Regardless of whether the sender is a bank, the
1216 receiving bank may rely on the name as the proper
1217 identification of the intermediary or beneficiary's bank if
1218 the receiving bank, at the time it executes the sender's
1219 order, does not know that the name and number identify
1220 different persons. The receiving bank need not determine
1221 whether the name and number refer to the same person.

1222 (4) If the receiving bank knows that the name and
1223 number identify different persons, reliance on either the name
1224 or the number in executing the sender's payment order is a
1225 breach of the obligation stated in Section 7-4A-302(a) (1)."

1226 "§7-4A-210. Rejection of payment order.

1227 (a) A payment order is rejected by the receiving bank
1228 by a notice of rejection transmitted to the sender orally, ~~electronically,~~
1229 ~~electronically,~~ or in ~~writing~~ a record. A notice of rejection
1230 need not use any particular words and is sufficient if it
1231 indicates that the receiving bank is rejecting the order or
1232 will not execute or pay the order. Rejection is effective when



SB231 INTRODUCED

1233 the notice is given if transmission is by a means that is
1234 reasonable in the circumstances. If notice of rejection is
1235 given by a means that is not reasonable, rejection is
1236 effective when the notice is received. If an agreement of the
1237 sender and receiving bank establishes the means to be used to
1238 reject a payment order, (i) any means complying with the
1239 agreement is reasonable, and (ii) any means not complying is
1240 not reasonable unless no significant delay in receipt of the
1241 notice resulted from the use of the noncomplying means.

1242 (b) This subsection applies if a receiving bank other
1243 than the beneficiary's bank fails to execute a payment order
1244 despite the existence on the execution date of a withdrawable
1245 credit balance in an authorized account of the sender
1246 sufficient to cover the order. If the sender does not receive
1247 notice of rejection of the order on the execution date and the
1248 authorized account of the sender does not bear interest, the
1249 bank is obliged to pay interest to the sender on the amount of
1250 the order for the number of days elapsing after the execution
1251 date to the earlier of the day the order is canceled pursuant
1252 to Section 7-4A-211(d) or the day the sender receives notice
1253 or learns that the order was not executed, counting the final
1254 day of the period as an elapsed day. If the withdrawable
1255 credit balance during that period falls below the amount of
1256 the order, the amount of interest is reduced accordingly.

1257 (c) If a receiving bank suspends payments, all
1258 unaccepted payment orders issued to it are deemed rejected at
1259 the time the bank suspends payments.

1260 (d) Acceptance of a payment order precludes a later



SB231 INTRODUCED

1261 rejection of the order. Rejection of a payment order precludes
1262 a later acceptance of the order."

1263 "§7-4A-211. Cancellation and amendment of payment
1264 order.

1265 (a) A communication of the sender of a payment order
1266 cancelling or amending the order may be transmitted to the
1267 receiving bank orally, ~~electronically~~, or in ~~writing~~ a record.
1268 If a security procedure is in effect between the sender and
1269 the receiving bank, the communication is not effective to
1270 cancel or amend the order unless the communication is verified
1271 pursuant to the security procedure or the bank agrees to the
1272 cancellation or amendment.

1273 (b) Subject to subsection (a), a communication by the
1274 sender cancelling or amending a payment order is effective to
1275 cancel or amend the order if notice of the communication is
1276 received at a time and in a manner affording the receiving
1277 bank a reasonable opportunity to act on the communication
1278 before the bank accepts the payment order.

1279 (c) After a payment order has been accepted,
1280 cancellation or amendment of the order is not effective unless
1281 the receiving bank agrees or a funds-transfer system rule
1282 allows cancellation or amendment without agreement of the
1283 bank.

1284 (1) With respect to a payment order accepted by a
1285 receiving bank other than the beneficiary's bank, cancellation
1286 or amendment is not effective unless a conforming cancellation
1287 or amendment of the payment order issued by the receiving bank
1288 is also made.



SB231 INTRODUCED

1289 (2) With respect to a payment order accepted by the
1290 beneficiary's bank, cancellation or amendment is not effective
1291 unless the order was issued in execution of an unauthorized
1292 payment order, or because of a mistake by a sender in the
1293 funds transfer which resulted in the issuance of a payment
1294 order (i) that is a duplicate of a payment order previously
1295 issued by the sender, (ii) that orders payment to a
1296 beneficiary not entitled to receive payment from the
1297 originator, or (iii) that orders payment in an amount greater
1298 than the amount the beneficiary was entitled to receive from
1299 the originator. If the payment order is canceled or amended,
1300 the beneficiary's bank is entitled to recover from the
1301 beneficiary any amount paid to the beneficiary to the extent
1302 allowed by the law governing mistake and restitution.

1303 (d) An unaccepted payment order is canceled by
1304 operation of law at the close of the fifth funds-transfer
1305 business day of the receiving bank after the execution date or
1306 payment date of the order.

1307 (e) A canceled payment order cannot be accepted. If an
1308 accepted payment order is canceled, the acceptance is
1309 nullified and no person has any right or obligation based on
1310 the acceptance. Amendment of a payment order is deemed to be
1311 cancellation of the original order at the time of amendment
1312 and issue of a new payment order in the amended form at the
1313 same time.

1314 (f) Unless otherwise provided in an agreement of the
1315 parties or in a funds-transfer system rule, if the receiving
1316 bank, after accepting a payment order agrees to cancellation



SB231 INTRODUCED

1317 or amendment of the order by the sender or is bound by a
1318 funds-transfer system rule allowing cancellation or amendment
1319 without the bank's agreement, the sender, whether or not
1320 cancellation or amendment is effective, is liable to the bank
1321 for any loss and expenses, including reasonable attorney's
1322 fees, incurred by the bank as a result of the cancellation or
1323 amendment or attempted cancellation or amendment.

1324 (g) A payment order is not revoked by the death or
1325 legal incapacity of the sender unless the receiving bank knows
1326 of the death or of an adjudication of incapacity by a court of
1327 competent jurisdiction and has reasonable opportunity to act
1328 before acceptance of the order.

1329 (h) A funds-transfer system rule is not effective to
1330 the extent it conflicts with subsection (c) (2)."

1331 "§7-4A-305. Liability for late or improper execution or
1332 failure to execute payment order.

1333 (a) If a funds transfer is completed but execution of a
1334 payment order by the receiving bank in breach of Section
1335 7-4A-302 results in delay in payment to the beneficiary, the
1336 bank is obliged to pay interest to either the originator or
1337 the beneficiary of the funds transfer for the period of delay
1338 caused by the improper execution. Except as provided in
1339 subsection (c), additional damages are not recoverable.

1340 (b) If execution of a payment order by a receiving bank
1341 in breach of Section 7-4A-302 results in (i) noncompletion of
1342 the funds transfer, (ii) failure to use an intermediary bank
1343 designated by the originator, or (iii) issuance of a payment
1344 order that does not comply with the terms of the payment order



SB231 INTRODUCED

1345 of the originator, the bank is liable to the originator for
1346 its expenses in the funds transfer and for incidental expenses
1347 and interest losses, to the extent not covered by subsection
1348 (a), resulting from the improper execution. Except as provided
1349 in subsection (c), additional damages are not recoverable.

1350 (c) In addition to the amounts payable under
1351 subsections (a) and (b), damages, including consequential
1352 damages, are recoverable to the extent provided in an express
1353 ~~written~~ agreement of the receiving bank, evidenced by a
1354 record.

1355 (d) If a receiving bank fails to execute a payment
1356 order it was obliged by express agreement to execute, the
1357 receiving bank is liable to the sender for its expenses in the
1358 transaction and for incidental expenses and interest losses
1359 resulting from the failure to execute. Additional damages,
1360 including consequential damages, are recoverable to the extent
1361 provided in an express ~~written~~ agreement of the receiving
1362 bank, evidenced by a record, but are not otherwise
1363 recoverable.

1364 (e) Reasonable attorney's fees are recoverable if
1365 demand for compensation under subsection (a) or (b) is made
1366 and refused before an action is brought on the claim. If a
1367 claim is made for breach of an agreement under subsection (d)
1368 and the agreement does not provide for damages, reasonable
1369 attorney's fees are recoverable if demand for compensation
1370 under subsection (d) is made and refused before an action is
1371 brought on the claim.

1372 (f) Except as stated in this section, the liability of a



SB231 INTRODUCED

1373 receiving bank under subsections (a) and (b) may not be varied
1374 by agreement."

1375 "§7-5-104. Formal requirements.

1376 A letter of credit, confirmation, advice, transfer,
1377 amendment, or cancellation may be issued in any form that is a
1378 signed record ~~and is authenticated (i) by a signature or (ii)~~
1379 ~~in accordance with the agreement of the parties or the~~
1380 ~~standard practice referred to in Section 7-5-108(c)."~~

1381 "§7-5-116. Choice of law and forum.

1382 (a) The liability of an issuer, nominated person, or
1383 adviser for action or omission is governed by the law of the
1384 jurisdiction chosen by an agreement in the form of a record
1385 signed ~~or otherwise authenticated~~ by the affected parties ~~in~~
1386 ~~the manner provided in Section 7-5-104~~ or by a provision in
1387 the person's letter of credit, confirmation, or other
1388 undertaking. The jurisdiction whose law is chosen need not
1389 bear any relation to the transaction.

1390 (b) Unless subsection (a) applies, the liability of an
1391 issuer, nominated person, or adviser for action or omission is
1392 governed by the law of the jurisdiction in which the person is
1393 located. The person is considered to be located at the address
1394 indicated in the person's undertaking. If more than one
1395 address is indicated, the person is considered to be located
1396 at the address from which the person's undertaking was issued.

1397 (c) For the purpose of jurisdiction, choice of law, and
1398 recognition of interbranch letters of credit, but not
1399 enforcement of a judgment, all branches of a bank are
1400 considered separate juridical entities and a bank is



SB231 INTRODUCED

1401 considered to be located at the place where its relevant
1402 branch is considered to be located under ~~this~~ subsection (d).

1403 (d) A branch of a bank is considered to be located at
1404 the address indicated in the branch's undertaking. If more
1405 than one address is indicated, the branch is considered to be
1406 located at the address from which the undertaking was issued.

1407 ~~(e)~~ (e) Except as otherwise provided in this subsection,
1408 the liability of an issuer, nominated person, or adviser is
1409 governed by any rules of custom or practice, such as the
1410 Uniform Customs and Practice for Documentary Credits, to which
1411 the letter of credit, confirmation, or other undertaking is
1412 expressly made subject. If (i) this article would govern the
1413 liability of an issuer, nominated person, or adviser under
1414 subsection (a) or (b), (ii) the relevant undertaking
1415 incorporates rules of custom or practice, and (iii) there is
1416 conflict between this article and those rules as applied to
1417 that undertaking, those rules govern except to the extent of
1418 any conflict with the nonvariable provisions specified in
1419 Section 7-5-103(c).

1420 ~~(d)~~ (f) If there is conflict between this article and
1421 Article 3, 4, 4A, or 9, this article governs.

1422 ~~(e)~~ (g) The forum for settling disputes arising out of
1423 an undertaking within this article may be chosen in the manner
1424 and with the binding effect that governing law may be chosen
1425 in accordance with subsection (a)."

1426 "§7-7-102. Definitions and index of definitions.

1427 (a) In this article, unless the context otherwise
1428 requires:



SB231 INTRODUCED

1429 (1) "Bailee" means a person that by a warehouse
1430 receipt, bill of lading, or other document of title
1431 acknowledges possession of goods and contracts to deliver
1432 them.

1433 (2) A "carrier" means a person that issues a bill of
1434 lading.

1435 (3) "Consignee" means a person named in a bill of
1436 lading to which or to whose order the bill promises delivery.

1437 (4) "Consignor" means a person named in a bill of
1438 lading as the person from which the goods have been received
1439 for shipment.

1440 (5) "Delivery order" means a record that contains an
1441 order to deliver goods directed to a warehouse, carrier, or
1442 other person that in the ordinary course of business issues
1443 warehouse receipts or bills of lading.

1444 (6) "Good faith" means honesty in fact in the conduct
1445 or transaction concerned.

1446 (7) "Goods" means all things that are treated as
1447 movable for the purposes of a contract for storage or
1448 transportation.

1449 (8) "Issuer" means a bailee that issues a document of
1450 title or, in the case of an unaccepted delivery order, the
1451 person that orders the possessor of goods to deliver. The term
1452 includes a person for which an agent or employee purports to
1453 act in issuing a document if the agent or employee has real or
1454 apparent authority to issue documents, even if the issuer did
1455 not receive any goods, the goods were misdescribed, or in any
1456 other respect the agent or employee violated the issuer's



SB231 INTRODUCED

1457 instructions.

1458 (9) "Person entitled under the document" means the
1459 holder, in the case of a negotiable document of title, or the
1460 person to which delivery of the goods is to be made by the
1461 terms of, or pursuant to instructions in a record under, a
1462 nonnegotiable document of title.

1463 (10) ~~"Record" means information that is inscribed on a~~
1464 ~~tangible medium or that is stored in an electronic or other~~
1465 ~~medium and is retrievable in perceivable form.~~ [Reserved].

1466 (11) ~~"Sign" means, with present intent to authenticate~~
1467 ~~or adopt a record:~~

1468 ~~(A) To execute or adopt a tangible symbol; or~~

1469 ~~(B) To attach to or logically associate with the record~~
1470 ~~an electronic sound, symbol, or process.~~ [Reserved].

1471 (12) "Shipper" means a person that enters into a
1472 contract of transportation with a carrier.

1473 (13) "Warehouse" means a person engaged in the business
1474 of storing goods for hire.

1475 (b) Definitions in other articles applying to this
1476 article and the sections in which they appear are:

1477 (1) "Contract for sale," Section 7-2-106.

1478 (2) "Lessee in ordinary course," Section 7-2A-103.

1479 (3) "Receipt" of goods, Section 7-2-103.

1480 (c) In addition, Article 1 contains general definitions
1481 and principles of construction and interpretation applicable
1482 throughout this article."

1483 "§7-7-106. Control of electronic document of title.

1484 (a) A person has control of an electronic document of



SB231 INTRODUCED

1485 title if a system employed for evidencing the transfer of
1486 interests in the electronic document reliably establishes that
1487 person as the person to which the electronic document was
1488 issued or transferred.

1489 (b) A system satisfies subsection (a), and a person ~~is~~
1490 ~~deemed to have~~ has control of an electronic document of title,
1491 if the document is created, stored, and ~~assigned~~ transferred
1492 in such a manner that:

1493 (1) ~~A~~ a single authoritative copy of the document exists
1494 which is unique, identifiable, and, except as otherwise
1495 provided in subdivisions (4), (5), and (6), unalterable;

1496 (2) ~~The~~ the authoritative copy identifies the person
1497 asserting control as:

1498 a. ~~The~~ the person to which the document was issued; or

1499 b. ~~If~~ if the authoritative copy indicates that the
1500 document has been transferred, the person to which the
1501 document was most recently transferred;

1502 (3) ~~The~~ the authoritative copy is communicated to and
1503 maintained by the person asserting control or its designated
1504 custodian;

1505 (4) ~~Copies~~ copies or amendments that add or change an
1506 identified ~~assignee~~ transferee of the authoritative copy can be
1507 made only with the consent of the person asserting control;

1508 (5) ~~Each~~ each copy of the authoritative copy and any
1509 copy of a copy is readily identifiable as a copy that is not
1510 the authoritative copy; and

1511 (6) ~~Any~~ any amendment of the authoritative copy is
1512 readily identifiable as authorized or unauthorized.



SB231 INTRODUCED

1513 (c) A system satisfies subsection (a) and a person has
1514 control of an electronic document of title, if an
1515 authoritative electronic copy of the document, a record
1516 attached to or logically associated with the electronic copy,
1517 or a system in which the electronic copy is recorded:

1518 (1) enables the person readily to identify each
1519 electronic copy as either an authoritative copy or a
1520 nonauthoritative copy;

1521 (2) enables the person readily to identify itself in
1522 any way, including by name, identifying number, cryptographic
1523 key, office, or account number, as the person to which each
1524 authoritative electronic copy was issued or transferred; and

1525 (3) gives the person exclusive power, subject to
1526 subsection (d), to:

1527 (A) prevent others from adding or changing the person
1528 to which each authoritative electronic copy has been issued or
1529 transferred; and

1530 (B) transfer control of each authoritative electronic
1531 copy.

1532 (d) Subject to subsection (e), a power is exclusive
1533 under subsection (c) (3) (A) and (B), even if:

1534 (1) the authoritative electronic copy, a record
1535 attached to or logically associated with the authoritative
1536 electronic copy, or a system in which the authoritative
1537 electronic copy is recorded limits the use of the document of
1538 title or has a protocol that is programmed to cause a change,
1539 including a transfer or loss of control; or

1540 (2) the power is shared with another person.



SB231 INTRODUCED

1541 (e) A power of a person is not shared with another
1542 person under subsection (d) (2) and the person's power is not
1543 exclusive if:

1544 (1) the person can exercise the power only if the power
1545 also is exercised by the other person; and

1546 (2) the other person:

1547 (A) can exercise the power without exercise of the
1548 power by the person; or

1549 (B) is the transferor to the person of an interest in
1550 the document of title.

1551 (f) If a person has the powers specified in subsection
1552 (c) (3) (A) and (B), the powers are presumed to be exclusive.

1553 (g) A person has control of an electronic document of
1554 title if another person, other than the transferor to the
1555 person of an interest in the document:

1556 (1) has control of the document and acknowledges that
1557 it has control on behalf of the person; or

1558 (2) obtains control of the document after having
1559 acknowledged that it will obtain control of the document on
1560 behalf of the person.

1561 (h) A person that has control under this section is not
1562 required to acknowledge that it has control on behalf of
1563 another person.

1564 (i) If a person acknowledges that it has or will obtain
1565 control on behalf of another person, unless the person
1566 otherwise agrees or law other than this article or Article 9A
1567 otherwise provides, the person does not owe any duty to the
1568 other person and is not required to confirm the acknowledgment



SB231 INTRODUCED

1569 to any other person."

1570 "§7-8-102. Definitions and index of definitions.

1571 (a) In this article:

1572 (1) "Adverse claim" means a claim that a claimant has a
1573 property interest in a financial asset and that it is a
1574 violation of the rights of the claimant for another person to
1575 hold, transfer, or deal with the financial asset.

1576 (2) "Bearer form," as applied to a certificated
1577 security, means a form in which the security is payable to the
1578 bearer of the security certificate according to its terms but
1579 not by reason of an indorsement.

1580 (3) "Broker" means a person defined as a broker or
1581 dealer under the federal securities laws, but without
1582 excluding a bank acting in that capacity.

1583 (4) "Certificated security" means a security that is
1584 represented by a certificate.

1585 (5) "Clearing corporation" means:

1586 (i) a person that is registered as a "clearing agency"
1587 under the federal securities laws;

1588 (ii) a federal reserve bank; or

1589 (iii) any other person that provides clearance or
1590 settlement services with respect to financial assets that
1591 would require it to register as a clearing agency under the
1592 federal securities laws but for an exclusion or exemption from
1593 the registration requirement, if its activities as a clearing
1594 corporation, including ~~promulgation~~adoption of rules, are
1595 subject to regulation by a federal or state governmental
1596 authority.



SB231 INTRODUCED

1597 (6) "Communicate" means to:

1598 (i) send a signed ~~writing~~ record; or

1599 (ii) transmit information by any mechanism agreed upon
1600 by the persons transmitting and receiving the information.

1601 (7) "Entitlement holder" means a person identified in
1602 the records of a securities intermediary as the person having
1603 a security entitlement against the securities intermediary. If
1604 a person acquires a security entitlement by virtue of Section
1605 7-8-501(b) (2) or (3), that person is the entitlement holder.

1606 (8) "Entitlement order" means a notification
1607 communicated to a securities intermediary directing transfer
1608 or redemption of a financial asset to which the entitlement
1609 holder has a security entitlement.

1610 (9) "Financial asset," except as otherwise provided in
1611 Section 7-8-103, means:

1612 (i) a security;

1613 (ii) an obligation of a person or a share,
1614 participation, or other interest in a person or in property or
1615 an enterprise of a person, which is, or is of a type, dealt in
1616 or traded on financial markets, or which is recognized in any
1617 area in which it is issued or dealt in as a medium for
1618 investment; or

1619 (iii) any property that is held by a securities
1620 intermediary for another person in a securities account if the
1621 securities intermediary has expressly agreed with the other
1622 person that the property is to be treated as a financial asset
1623 under this article. As the context requires, the term means
1624 either the interest itself or the means by which a person's



SB231 INTRODUCED

1625 claim to it is evidenced, including a certificated or
1626 uncertificated security, a security certificate, or a security
1627 entitlement.

1628 (10) "Good faith," for purposes of the obligation of
1629 good faith in the performance or enforcement of contracts or
1630 duties within this article, means honesty in fact and the
1631 observance of reasonable commercial standards of fair dealing.

1632 (11) "Indorsement" means a signature that alone or
1633 accompanied by other words is made on a security certificate
1634 in registered form or on a separate document for the purpose
1635 of assigning, transferring, or redeeming the security or
1636 granting a power to assign, transfer, or redeem it.

1637 (12) "Instruction" means a notification communicated to
1638 the issuer of an uncertificated security which directs that
1639 the transfer of the security be registered or that the
1640 security be redeemed.

1641 (13) "Registered form," as applied to a certificated
1642 security, means a form in which:

1643 (i) the security certificate specifies a person
1644 entitled to the security; and

1645 (ii) a transfer of the security may be registered upon
1646 books maintained for that purpose by or on behalf of the
1647 issuer, or the security certificate so states.

1648 (14) "Securities intermediary" means:

1649 (i) a clearing corporation; or

1650 (ii) a person, including a bank or broker, that in the
1651 ordinary course of its business maintains securities accounts
1652 for others and is acting in that capacity.



SB231 INTRODUCED

1653 (15) "Security," except as otherwise provided in
1654 Section 7-8-103, means an obligation of an issuer or a share,
1655 participation, or other interest in an issuer or in property
1656 or an enterprise of an issuer:

1657 (i) which is represented by a security certificate in
1658 bearer or registered form, or the transfer of which may be
1659 registered upon books maintained for that purpose by or on
1660 behalf of the issuer;

1661 (ii) which is one of a class or series or by its terms
1662 is divisible into a class or series of shares, participations,
1663 interests, or obligations; and

1664 (iii) which:

1665 (A) is, or is of a type, dealt in or traded on
1666 securities exchanges or securities markets; or

1667 (B) is a medium for investment and by its terms
1668 expressly provides that it is a security governed by this
1669 article.

1670 (16) "Security certificate" means a certificate
1671 representing a security.

1672 (17) "Security entitlement" means the rights and
1673 property interest of an entitlement holder with respect to a
1674 financial asset specified in Part 5.

1675 (18) "Uncertificated security" means a security that is
1676 not represented by a certificate.

1677 (b) Other definitions applying to this article and the
1678 sections in which they appear are:

1679 "Appropriate person." Section 7-8-107.

1680 "Control." Section 7-8-106.



SB231 INTRODUCED

1681 "Delivery." Section 7-8-301.

1682 "Investment company security." Section 7-8-103.

1683 "Issuer." Section 7-8-201.

1684 "Overissue." Section 7-8-210.

1685 "Protected purchaser." Section 7-8-303.

1686 "Securities account." Section 7-8-501.

1687 (b.1) The following definitions in this article and
1688 other articles apply to this article:

1689 "Controllable account." Section 7-9A-102.

1690 "Controllable electronic record." Section 7-12-102.

1691 "Controllable payment intangible." Section 7-9A-102.

1692 (c) In addition, Article 1 contains general definitions
1693 and principles of construction and interpretation applicable
1694 throughout this article.

1695 (d) The characterization of a person, business, or
1696 transaction for purposes of this article does not determine
1697 the characterization of the person, business, or transaction
1698 for purposes of any other law, regulation, or rule."

1699 "§7-8-103. Rules for determining whether certain
1700 obligations and interests are securities or financial assets.

1701 (a) A share or similar equity interest issued by a
1702 corporation, business trust, joint stock company, or similar
1703 entity is a security.

1704 (b) An "investment company security" is a security.

1705 "Investment company security" means a share or similar equity
1706 interest issued by an entity that is registered as an
1707 investment company under the federal investment company laws,
1708 an interest in a unit investment trust that is so registered,



SB231 INTRODUCED

1709 or a face-amount certificate issued by a face-amount
1710 certificate company that is so registered. Investment company
1711 security does not include an insurance policy or endowment
1712 policy or annuity contract issued by an insurance company.

1713 (c) An interest in a partnership or limited liability
1714 company is not a security unless it is dealt in or traded on
1715 securities exchanges or in securities markets, its terms
1716 expressly provide that it is a security governed by this
1717 article, or it is an investment company security. However, an
1718 interest in a partnership or limited liability company is a
1719 financial asset if it is held in a securities account.

1720 (d) A writing that is a security certificate is
1721 governed by this article and not by Article 3, even though it
1722 also meets the requirements of that article. However, a
1723 negotiable instrument governed by Article 3 is a financial
1724 asset if it is held in a securities account.

1725 (e) An option or similar obligation issued by a
1726 clearing corporation to its participants is not a security,
1727 but is a financial asset.

1728 (f) A commodity contract, as defined in Section
1729 7-9A-102(a)(15), is not a security or a financial asset.

1730 (g) A document of title is not a financial asset unless
1731 Section 7-8-102(a)(9)(iii) applies.

1732 (h) A controllable account, controllable electronic
1733 record, or controllable payment intangible is not a financial
1734 asset unless Section 7-8-102(a)(9)(iii) applies."

1735 "§7-8-106. Control.

1736 (a) A purchaser has "control" of a certificated



SB231 INTRODUCED

1737 security in bearer form if the certificated security is
1738 delivered to the purchaser.

1739 (b) A purchaser has "control" of a certificated
1740 security in registered form if the certificated security is
1741 delivered to the purchaser, and:

1742 (1) the certificate is indorsed to the purchaser or in
1743 blank by an effective indorsement; or

1744 (2) the certificate is registered in the name of the
1745 purchaser, upon original issue or registration of transfer by
1746 the issuer.

1747 (c) A purchaser has "control" of an uncertificated
1748 security if:

1749 (1) the uncertificated security is delivered to the
1750 purchaser; or

1751 (2) the issuer has agreed that it will comply with
1752 instructions originated by the purchaser without further
1753 consent by the registered owner.

1754 (d) A purchaser has "control" of a security entitlement
1755 if:

1756 (1) the purchaser becomes the entitlement holder;

1757 (2) the securities intermediary has agreed that it will
1758 comply with entitlement orders originated by the purchaser
1759 without further consent by the entitlement holder; or

1760 (3) ~~another person has control of the security~~
1761 ~~entitlement on behalf of the purchaser or, having previously~~
1762 ~~acquired control of the security entitlement, acknowledges~~
1763 ~~that it has control on behalf of the purchaser.~~ person, other
1764 than the transferor to the purchaser of an interest in the



SB231 INTRODUCED

1765 security entitlement:

1766 (A) has control of the security entitlement and
1767 acknowledges that it has control on behalf of the purchaser;

1768 or

1769 (B) obtains control of the security entitlement after
1770 having acknowledged that it will obtain control of the
1771 security entitlement on behalf of the purchaser.

1772 (e) If an interest in a security entitlement is granted
1773 by the entitlement holder to the entitlement holder's own
1774 securities intermediary, the securities intermediary has
1775 control.

1776 (f) A purchaser who has satisfied the requirements of
1777 subsection (c) or (d) has control, even if the registered
1778 owner in the case of subsection (c) or the entitlement holder
1779 in the case of subsection (d) retains the right to make
1780 substitutions for the uncertificated security or security
1781 entitlement, to originate instructions or entitlement orders
1782 to the issuer or securities intermediary, or otherwise to deal
1783 with the uncertificated security or security entitlement.

1784 (g) An issuer or a securities intermediary may not
1785 enter into an agreement of the kind described in subsection
1786 (c) (2) or (d) (2) without the consent of the registered owner
1787 or entitlement holder, but an issuer or a securities
1788 intermediary is not required to enter into such an agreement
1789 even though the registered owner or entitlement holder so
1790 directs. An issuer or securities intermediary that has entered
1791 into such an agreement is not required to confirm the
1792 existence of the agreement to another party unless requested



SB231 INTRODUCED

1793 to do so by the registered owner or entitlement holder.

1794 (h) A person that has control under this section is not
1795 required to acknowledge that it has control on behalf of a
1796 purchaser.

1797 (i) If a person acknowledges that it has or will obtain
1798 control on behalf of a purchaser, unless the person otherwise
1799 agrees or law other than this article or Article 9A otherwise
1800 provides, the person does not owe any duty to the purchaser
1801 and is not required to confirm the acknowledgement to any
1802 other person."

1803 "§7-8-110. Applicability; choice of law.

1804 (a) The local law of the issuer's jurisdiction, as
1805 specified in subsection (d), governs:

1806 (1) the validity of a security;

1807 (2) the rights and duties of the issuer with respect to
1808 registration of transfer;

1809 (3) the effectiveness of registration of transfer by
1810 the issuer;

1811 (4) whether the issuer owes any duties to an adverse
1812 claimant to a security; and

1813 (5) whether an adverse claim can be asserted against a
1814 person to whom transfer of a certificated or uncertificated
1815 security is registered or a person who obtains control of an
1816 uncertificated security.

1817 (b) The local law of the securities intermediary's
1818 jurisdiction, as specified in subsection (e), governs:

1819 (1) acquisition of a security entitlement from the
1820 securities intermediary;



SB231 INTRODUCED

1821 (2) the rights and duties of the securities
1822 intermediary and entitlement holder arising out of a security
1823 entitlement;

1824 (3) whether the securities intermediary owes any duties
1825 to an adverse claimant to a security entitlement; and

1826 (4) whether an adverse claim can be asserted against a
1827 person who acquires a security entitlement from the securities
1828 intermediary or a person who purchases a security entitlement
1829 or interest therein from an entitlement holder.

1830 (c) The local law of the jurisdiction in which a
1831 security certificate is located at the time of delivery
1832 governs whether an adverse claim can be asserted against a
1833 person to whom the security certificate is delivered.

1834 (d) "Issuer's jurisdiction" means the jurisdiction
1835 under which the issuer of the security is organized or, if
1836 permitted by the law of that jurisdiction, the law of another
1837 jurisdiction specified by the issuer. An issuer organized
1838 under the law of this state may specify the law of another
1839 jurisdiction as the law governing the matters specified in
1840 subsection (a)(2) through (5).

1841 (e) The following rules determine a "securities
1842 intermediary's jurisdiction" for purposes of this section:

1843 (1) If an agreement between the securities intermediary
1844 and its entitlement holder governing the securities account
1845 expressly provides that a particular jurisdiction is the
1846 securities intermediary's jurisdiction for purposes of this
1847 part, this article, or this title, that jurisdiction is the
1848 securities intermediary's jurisdiction.



SB231 INTRODUCED

1849 (2) If paragraph (1) does not apply and an agreement
1850 between the securities intermediary and its entitlement holder
1851 governing the securities account expressly provides that the
1852 agreement is governed by the law of a particular jurisdiction,
1853 that jurisdiction is the securities intermediary's
1854 jurisdiction.

1855 (3) If neither paragraph (1) nor paragraph (2) applies
1856 and an agreement between the securities intermediary and its
1857 entitlement holder governing the securities account expressly
1858 provides that the securities account is maintained at an
1859 office in a particular jurisdiction, that jurisdiction is the
1860 securities intermediary's jurisdiction.

1861 (4) If none of the preceding paragraphs applies, the
1862 securities intermediary's jurisdiction is the jurisdiction in
1863 which the office identified in an account statement as the
1864 office serving the entitlement holder's account is located.

1865 (5) If none of the preceding paragraphs applies, the
1866 securities intermediary's jurisdiction is the jurisdiction in
1867 which the chief executive office of the securities
1868 intermediary is located.

1869 (f) A securities intermediary's jurisdiction is not
1870 determined by the physical location of certificates
1871 representing financial assets, or by the jurisdiction in which
1872 is organized the issuer of the financial asset with respect to
1873 which an entitlement holder has a security entitlement, or by
1874 the location of facilities for data processing or other record
1875 keeping concerning the account.

1876 [\(g\) The local law of the issuer's jurisdiction or the](#)



SB231 INTRODUCED

1877 securities intermediary's jurisdiction governs a matter or
1878 transaction specified in subsection (a) or (b) even if the
1879 matter or transaction does not bear any relation to that
1880 jurisdiction."

1881 "§7-8-303. Protected purchaser.

1882 (a) "Protected purchaser" means a purchaser of a
1883 certificated or uncertificated security, or of an interest
1884 therein, who:

1885 (1) gives value;

1886 (2) does not have notice of any adverse claim to the
1887 security; and

1888 (3) obtains control of the certificated or
1889 uncertificated security.

1890 (b) ~~In addition to acquiring the rights of a purchaser,~~
1891 a A protected purchaser ~~also~~ acquires its interest in the
1892 security free of any adverse claim.

1893 "§7-9A-102. Definitions and index of definitions.

1894 (a) Article 9A definitions. In this article:

1895 (1) "Accession" means goods that are physically united
1896 with other goods in such a manner that the identity of the
1897 original goods is not lost.

1898 (2) "Account," except as used in "account for,"

1899 "account statement," "account to," "commodity account" in
1900 paragraph (14), "customer's account," "deposit account" in
1901 paragraph (29), "on account of," and "statement of account,"

1902 means a right to payment of a monetary obligation, whether or
1903 not earned by performance, (i) for property that has been or
1904 is to be sold, leased, licensed, assigned, or otherwise



SB231 INTRODUCED

1905 disposed of, (ii) for services rendered or to be rendered,
1906 (iii) for a policy of insurance issued or to be issued, (iv)
1907 for a secondary obligation incurred or to be incurred, (v) for
1908 energy provided or to be provided, (vi) for the use or hire of
1909 a vessel under a charter or other contract, (vii) arising out
1910 of the use of a credit or charge card or information contained
1911 on or for use with the card, or (viii) as winnings in a
1912 lottery or other game of chance operated or sponsored by a
1913 State, governmental unit of a State, or person licensed or
1914 authorized to operate the game by a State or governmental unit
1915 of a State. The term includes controllable accounts and
1916 health-care-insurance receivables. The term does not include
1917 (i) ~~rights to payment evidenced by chattel paper or an~~
1918 ~~instrument~~ chattel paper, (ii) commercial tort claims, (iii)
1919 deposit accounts, (iv) investment property, (v)
1920 letter-of-credit rights or letters of credit, ~~or~~ (vi) rights
1921 to payment for money or funds advanced or sold, other than
1922 rights arising out of the use of a credit or charge card or
1923 information contained on or for use with the card, or (vii)
1924 rights to payment evidenced by an instrument.

1925 (3) "Account debtor" means a person obligated on an
1926 account, chattel paper, or general intangible. The term does
1927 not include persons obligated to pay a negotiable instrument,
1928 even if the negotiable instrument ~~constitutes part of~~
1929 evidences chattel paper.

1930 (4) "Accounting," except as used in "accounting for,"
1931 means a record:

1932 (A) ~~authenticated~~ signed by a secured party;



SB231 INTRODUCED

1933 (B) indicating the aggregate unpaid secured obligations
1934 as of a date not more than 35 days earlier or 35 days later
1935 than the date of the record; and

1936 (C) identifying the components of the obligations in
1937 reasonable detail.

1938 (5) "Agricultural lien" means an interest, other than a
1939 security interest, in farm products:

1940 (A) which secures payment or performance of an
1941 obligation for:

1942 (i) goods or services furnished in connection with a
1943 debtor's farming operation; or

1944 (ii) rent on real property leased by a debtor in
1945 connection with its farming operation;

1946 (B) which is created by statute in favor of a person
1947 that:

1948 (i) in the ordinary course of its business furnished
1949 goods or services to a debtor in connection with a debtor's
1950 farming operation; or

1951 (ii) leased real property to a debtor in connection
1952 with the debtor's farming operation; and

1953 (C) whose effectiveness does not depend on the person's
1954 possession of the personal property.

1955 (6) "As-extracted collateral" means:

1956 (A) oil, gas, or other minerals that are subject to a
1957 security interest that:

1958 (i) is created by a debtor having an interest in the
1959 minerals before extraction; and

1960 (ii) attaches to the minerals as extracted; or



SB231 INTRODUCED

1961 (B) accounts arising out of the sale at the wellhead or
1962 mine of oil, gas, or other minerals in which the debtor had an
1963 interest before extraction.

1964 (7) [Reserved]. ~~"Authenticate" means:~~

1965 ~~(A) to sign; or~~

1966 ~~(B) with present intent to adopt or accept a record, to~~
1967 ~~attach to or logically associate with the record an electronic~~
1968 ~~sound, symbol, or process.~~

1969 (7A) "Assignee," except as used in "assignee for
1970 benefit of creditors," means a person (i) in whose favor a
1971 security interest that secures an obligation is created or
1972 provided for under a security agreement, whether or not the
1973 obligation is outstanding or (ii) to which an account, chattel
1974 paper, payment intangible, or promissory note has been sold.
1975 The term includes a person to which a security interest has
1976 been transferred by a secured party.

1977 (7B) "Assignor" means a person that (i) under a
1978 security agreement creates or provides for a security interest
1979 that secures an obligation or (ii) sells an account, chattel
1980 paper, payment intangible, or promissory note. The term
1981 includes a secured party that has transferred a security
1982 interest to another person.

1983 (8) "Bank" means an organization that is engaged in the
1984 business of banking. The term includes savings banks, savings
1985 and loan associations, credit unions, and trust companies.

1986 (9) "Cash proceeds" means proceeds that are money,
1987 checks, deposit accounts, or the like.

1988 (10) "Certificate of title" means a certificate of



SB231 INTRODUCED

1989 title with respect to which a statute provides for the
1990 security interest in question to be indicated on the
1991 certificate as a condition or result of the security
1992 interest's obtaining priority over the rights of a lien
1993 creditor with respect to the collateral. The term includes
1994 another record maintained as an alternative to a certificate
1995 of title by the governmental unit that issues certificates of
1996 title if a statute permits the security interest in question
1997 to be indicated on the record as a condition or result of the
1998 security interest's obtaining priority over the rights of a
1999 lien creditor with respect to the collateral.

2000 ~~(11) "Chattel paper" means a record or records that~~
2001 ~~evidence both a monetary obligation and a security interest in~~
2002 ~~specific goods, a security interest in specific goods and~~
2003 ~~software used in the goods, a security interest in specific~~
2004 ~~goods and license of software used in the goods, a lease of~~
2005 ~~specific goods, or a lease of specific goods and license of~~
2006 ~~software used in the goods. In this paragraph, "monetary~~
2007 ~~obligation" means a monetary obligation secured by the goods~~
2008 ~~or owed under a lease of the goods and includes a monetary~~
2009 ~~obligation with respect to software used in the goods. The~~
2010 ~~term does not include (i) charters or other contracts~~
2011 ~~involving the use or hire of a vessel or (ii) records that~~
2012 ~~evidence a right to payment arising out of the use of a credit~~
2013 ~~or charge card or information contained on or for use with the~~
2014 ~~card. If a transaction is evidenced by records that include an~~
2015 ~~instrument or series of instruments, the group of records~~
2016 ~~taken together constitutes chattel paper.~~



SB231 INTRODUCED

2017 (11) "Chattel paper" means:

2018 (A) a right to payment of a monetary obligation secured
2019 by specific goods, if the right to payment and security
2020 agreement are evidenced by a record; or

2021 (B) a right to payment of a monetary obligation owed by
2022 a lessee under a lease agreement with respect to specific
2023 goods and a monetary obligation owed by the lessee in
2024 connection with the transaction giving rise to the lease, if:

2025 (i) the right to payment and lease agreement are
2026 evidenced by a record; and

2027 (ii) the predominant purpose of the transaction giving
2028 rise to the lease was to give the lessee the right to
2029 possession and use of the goods.

2030 The term does not include a right to payment arising
2031 out of a charter or other contract involving the use or hire
2032 of a vessel or a right to payment arising out of the use of a
2033 credit or charge card or information contained on or for use
2034 with the card.

2035 (12) "Collateral" means the property subject to a
2036 security interest or agricultural lien. The term includes:

2037 (A) proceeds to which a security interest attaches;

2038 (B) accounts, chattel paper, payment intangibles, and
2039 promissory notes that have been sold; and

2040 (C) goods that are the subject of a consignment.

2041 (13) "Commercial tort claim" means a claim arising in
2042 tort with respect to which:

2043 (A) the claimant is an organization; or

2044 (B) the claimant is an individual and the claim:



SB231 INTRODUCED

2045 (i) arose in the course of the claimant's business or
2046 profession; and

2047 (ii) does not include damages arising out of personal
2048 injury to or the death of an individual.

2049 (14) "Commodity account" means an account maintained by
2050 a commodity intermediary in which a commodity contract is
2051 carried for a commodity customer.

2052 (15) "Commodity contract" means a commodity futures
2053 contract, an option on a commodity futures contract, a
2054 commodity option, or another contract if the contract or
2055 option is:

2056 (A) traded on or subject to the rules of a board of
2057 trade that has been designated as a contract market for such a
2058 contract pursuant to federal commodities laws; or

2059 (B) traded on a foreign commodity board of trade,
2060 exchange, or market, and is carried on the books of a
2061 commodity intermediary for a commodity customer.

2062 (16) "Commodity customer" means a person for which a
2063 commodity intermediary carries a commodity contract on its
2064 books.

2065 (17) "Commodity intermediary" means a person that:

2066 (A) is registered as a futures commission merchant
2067 under federal commodities law; or

2068 (B) in the ordinary course of its business provides
2069 clearance or settlement services for a board of trade that has
2070 been designated as a contract market pursuant to federal
2071 commodities law.

2072 (18) "Communicate" means:



SB231 INTRODUCED

2073 (A) to send a written or other tangible record;

2074 (B) to transmit a record by any means agreed upon by
2075 the persons sending and receiving the record; or

2076 (C) in the case of transmission of a record to or by a
2077 filing office, to transmit a record by any means prescribed by
2078 filing-office rule.

2079 (19) "Consignee" means a merchant to which goods are
2080 delivered in a consignment.

2081 (20) "Consignment" means a transaction, regardless of
2082 its form, in which a person delivers goods to a merchant for
2083 the purpose of sale and:

2084 (A) the merchant:

2085 (i) deals in goods of that kind under a name other than
2086 the name of the person making delivery;

2087 (ii) is not an auctioneer; and

2088 (iii) is not generally known by its creditors to be
2089 substantially engaged in selling the goods of others;

2090 (B) with respect to each delivery, the aggregate value
2091 of the goods is ~~\$1,000~~ one thousand dollars (\$1,000) or more at
2092 the time of delivery;

2093 (C) the goods are not consumer goods immediately before
2094 delivery; and

2095 (D) the transaction does not create a security interest
2096 that secures an obligation.

2097 (21) "Consignor" means a person that delivers goods to
2098 a consignee in a consignment.

2099 (22) "Consumer debtor" means a debtor in a consumer
2100 transaction.



SB231 INTRODUCED

2101 (23) "Consumer goods" means goods that are used or
2102 bought for use primarily for personal, family, or household
2103 purposes.

2104 (24) "Consumer-goods transaction" means a consumer
2105 transaction in which:

2106 (A) an individual incurs an obligation primarily for
2107 personal, family, or household purposes; and

2108 (B) a security interest in consumer goods secures the
2109 obligation.

2110 (25) "Consumer obligor" means an obligor who is an
2111 individual and who incurred the obligation as part of a
2112 transaction entered into primarily for personal, family, or
2113 household purposes.

2114 (26) "Consumer transaction" means a transaction in
2115 which (i) an individual incurs an obligation primarily for
2116 personal, family, or household purposes, (ii) a security
2117 interest secures the obligation, and (iii) the collateral is
2118 held or acquired primarily for personal, family, or household
2119 purposes. The term includes consumer-goods transactions.

2120 (27) "Continuation statement" means an amendment of a
2121 financing statement which:

2122 (A) identifies, by its file number, the initial
2123 financing statement to which it relates; and

2124 (B) indicates that it is a continuation statement for,
2125 or that it is filed to continue the effectiveness of, the
2126 identified financing statement.

2127 (27A) "Controllable account" means an account evidenced
2128 by a controllable electronic record that provides that the



SB231 INTRODUCED

2129 account debtor undertakes to pay the person that has control
2130 under Section 7-12-105 of the controllable electronic record.

2131 (27B) "Controllable payment intangible" means a payment
2132 intangible evidenced by a controllable electronic record that
2133 provides that the account debtor undertakes to pay the person
2134 that has control under Section 7-12-105 of the controllable
2135 electronic record.

2136 (28) "Debtor" means:

2137 (A) a person having an interest, other than a security
2138 interest or other lien, in the collateral, whether or not the
2139 person is an obligor;

2140 (B) a seller of accounts, chattel paper, payment
2141 intangibles, or promissory notes; or

2142 (C) a consignee.

2143 (29) "Deposit account" means a demand, time, savings,
2144 passbook, or similar account maintained with a bank. The term
2145 does not include investment property or accounts evidenced by
2146 an instrument.

2147 (30) "Document" means a document of title or a receipt
2148 of the type described in Section 7-7-201(b).

2149 ~~(31) "Electronic chattel paper" means chattel paper~~
2150 ~~evidenced by a record or records consisting of information~~
2151 ~~stored in an electronic medium.~~ [Reserved].

2152 (32) "Encumbrance" means a right, other than an
2153 ownership interest, in real property. The term includes
2154 mortgages and other liens on real property.

2155 (33) "Equipment" means goods other than inventory, farm
2156 products, or consumer goods.



SB231 INTRODUCED

2157 (34) "Farm products" means goods, other than standing
2158 timber, with respect to which the debtor is engaged in a
2159 farming operation and which are:

2160 (A) crops grown, growing, or to be grown, including:

2161 (i) crops produced on trees, vines, and bushes; and

2162 (ii) aquatic goods produced in aquacultural operations;

2163 (B) livestock, born or unborn, including aquatic goods
2164 produced in aquacultural operations;

2165 (C) supplies used or produced in a farming operation;

2166 or

2167 (D) products of crops or livestock in their
2168 unmanufactured states.

2169 (35) "Farming operation" means raising, cultivating,
2170 propagating, fattening, grazing, or any other farming,
2171 livestock, or aquacultural operation.

2172 (36) "File number" means the number assigned to an
2173 initial financing statement pursuant to Section 7-9A-519(a).

2174 (37) "Filing office" means an office designated in
2175 Section 7-9A-501 as the place to file a financing statement.

2176 (38) "Filing-office rule" means a rule adopted pursuant
2177 to Section 7-9A-526.

2178 (39) "Financing statement" means a record or records
2179 composed of an initial financing statement and any filed
2180 record relating to the initial financing statement.

2181 (40) "Fixture filing" means the filing of a financing
2182 statement covering goods that are or are to become fixtures
2183 and satisfying Section 7-9A-502(a) and (b). The term includes
2184 the filing of a financing statement covering goods of a



SB231 INTRODUCED

2185 transmitting utility which are or are to become fixtures.

2186 (41) "Fixtures" means goods that have become so related
2187 to particular real property that an interest in them arises
2188 under real property law.

2189 (42) "General intangible" means any personal property,
2190 including things in action, other than accounts, chattel
2191 paper, commercial tort claims, deposit accounts, documents,
2192 goods, instruments, investment property, letter-of-credit
2193 rights, letters of credit, money, and oil, gas, or other
2194 minerals before extraction. The term includes controllable
2195 electronic records, payment intangibles, and software.

2196 (43) "Good faith" means honesty in fact in the conduct
2197 or transaction concerned.

2198 (44) "Goods" means all things that are movable when a
2199 security interest attaches. The term includes (i) fixtures,
2200 (ii) standing timber that is to be cut and removed under a
2201 conveyance or contract for sale, to the extent such standing
2202 timber and cutting rights with respect thereto are considered
2203 as chattels under Section 35-4-363, (iii) the unborn young of
2204 animals, (iv) crops grown, growing, or to be grown, even if
2205 the crops are produced on trees, vines, or bushes, and (v)
2206 manufactured homes. The term also includes a computer program
2207 embedded in goods and any supporting information provided in
2208 connection with a transaction relating to the program if (i)
2209 the program is associated with the goods in such a manner that
2210 it customarily is considered part of the goods, or (ii) by
2211 becoming the owner of the goods, a person acquires a right to
2212 use the program in connection with the goods. The term does



SB231 INTRODUCED

2213 not include a computer program embedded in goods that consist
2214 solely of the medium in which the program is embedded. The
2215 term also does not include accounts, chattel paper, commercial
2216 tort claims, deposit accounts, documents, general intangibles,
2217 instruments, investment property, letter-of-credit rights,
2218 letters of credit, money, or oil, gas, or other minerals
2219 before extraction.

2220 (45) "Governmental unit" means a subdivision, agency,
2221 department, county, parish, municipality, or other unit of the
2222 government of the United States, a state, or a foreign
2223 country. The term includes an organization having a separate
2224 corporate existence if the organization is eligible to issue
2225 debt on which interest is exempt from income taxation under
2226 the laws of the United States.

2227 (46) "Health-care-insurance receivable" means an
2228 interest in or claim under a policy of insurance which is a
2229 right to payment of a monetary obligation for health-care
2230 goods or services provided.

2231 (47) "Instrument" means a negotiable instrument or any
2232 other writing that evidences a right to the payment of a
2233 monetary obligation, is not itself a security agreement or
2234 lease, and is of a type that in ordinary course of business is
2235 transferred by delivery with any necessary indorsement or
2236 assignment. The term does not include (i) investment property,
2237 (ii) letters of credit, ~~or~~ (iii) writings that evidence a
2238 right to payment arising out of the use of a credit or charge
2239 card or information contained on or for use with the card, or
2240 (iv) writings that evidence chattel paper.



SB231 INTRODUCED

2241 (48) "Inventory" means goods, other than farm products,
2242 which:

2243 (A) are leased by a person as lessor;

2244 (B) are held by a person for sale or lease or to be
2245 furnished under a contract of service;

2246 (C) are furnished by a person under a contract of
2247 service; or

2248 (D) consist of raw materials, work in process, or
2249 materials used or consumed in a business.

2250 (49) "Investment property" means a security, whether
2251 certificated or uncertificated, security entitlement,
2252 securities account, commodity contract, or commodity account.

2253 (50) "Jurisdiction of organization," with respect to a
2254 registered organization, means the jurisdiction under whose
2255 law the organization is formed or organized.

2256 (51) "Letter-of-credit right" means a right to payment
2257 or performance under a letter of credit, whether or not the
2258 beneficiary has demanded or is at the time entitled to demand
2259 payment or performance. The term does not include the right of
2260 a beneficiary to demand payment or performance under a letter
2261 of credit.

2262 (52) "Lien creditor" means:

2263 (A) a creditor that has acquired a lien on the property
2264 involved by attachment, levy, or the like;

2265 (B) an assignee for benefit of creditors from the time
2266 of assignment;

2267 (C) a trustee in bankruptcy from the date of the filing
2268 of the petition; or



SB231 INTRODUCED

2269 (D) a receiver in equity from the time of appointment.

2270 (53) "Manufactured home" means a structure defined as a
2271 "manufactured home" in Section 32-8-2.

2272 (54) "Manufactured-home transaction" means a secured
2273 transaction:

2274 (A) that creates a purchase-money security interest in
2275 a manufactured home, other than a manufactured home held as
2276 inventory; or

2277 (B) in which a manufactured home, other than a
2278 manufactured home held as inventory, is the primary
2279 collateral.

2280 (54A) "Money" has the meaning as in Section
2281 7-1-201(b) (24), but does not include a deposit account.

2282 (55) "Mortgage" means a consensual interest in real
2283 property, including fixtures, which secures payment or
2284 performance of an obligation.

2285 (56) "New debtor" means a person that becomes bound as
2286 debtor under Section 7-9A-203(d) by a security agreement
2287 previously entered into by another person.

2288 (57) "New value" means (i) money, (ii) money's worth in
2289 property, services, or new credit, or (iii) release by a
2290 transferee of an interest in property previously transferred
2291 to the transferee. The term does not include an obligation
2292 substituted for another obligation.

2293 (58) "Noncash proceeds" means proceeds other than cash
2294 proceeds.

2295 (59) "Obligor" means a person that, with respect to an
2296 obligation secured by a security interest in or an



SB231 INTRODUCED

2297 agricultural lien on the collateral, (i) owes payment or other
2298 performance of the obligation, (ii) has provided property
2299 other than the collateral to secure payment or other
2300 performance of the obligation, or (iii) is otherwise
2301 accountable in whole or in part for payment or other
2302 performance of the obligation. The term does not include
2303 issuers or nominated persons under a letter of credit.

2304 (60) "Original debtor," except as used in Section
2305 7-9A-310(c), means a person that, as debtor, entered into a
2306 security agreement to which a new debtor has become bound
2307 under Section 7-9A-203(d).

2308 (61) "Payment intangible" means a general intangible
2309 under which the account debtor's principal obligation is a
2310 monetary obligation. The term includes a controllable payment
2311 intangible.

2312 (62) "Person related to," with respect to an
2313 individual, means:

2314 (A) the spouse of the individual;

2315 (B) a brother, brother-in-law, sister, or sister-in-law
2316 of the individual;

2317 (C) an ancestor or lineal descendant of the individual
2318 or the individual's spouse; or

2319 (D) any other relative, by blood or marriage, of the
2320 individual or the individual's spouse who shares the same home
2321 with the individual.

2322 (63) "Person related to," with respect to an
2323 organization, means:

2324 (A) a person directly or indirectly controlling,



SB231 INTRODUCED

2325 controlled by, or under common control with the organization;

2326 (B) an officer or director of, or a person performing
2327 similar functions with respect to, the organization;

2328 (C) an officer or director of, or a person performing
2329 similar functions with respect to, a person described in
2330 subparagraph (A);

2331 (D) the spouse of an individual described in
2332 subparagraph (A), (B), or (C); or

2333 (E) an individual who is related by blood or marriage
2334 to an individual described in subparagraph (A), (B), (C), or
2335 (D) and shares the same home with the individual.

2336 (64) "Proceeds," except as used in Section 7-9A-609(b),
2337 means the following property:

2338 (A) whatever is acquired upon the sale, lease, license,
2339 exchange, or other disposition of collateral;

2340 (B) whatever is collected on, or distributed on account
2341 of, collateral;

2342 (C) rights arising out of collateral;

2343 (D) to the extent of the value of collateral, claims
2344 arising out of the loss, nonconformity, or interference with
2345 the use of, defects or infringement of rights in, or damage
2346 to, the collateral; or

2347 (E) to the extent of the value of collateral and to the
2348 extent payable to the debtor or the secured party, insurance
2349 payable by reason of the loss or nonconformity of, defects or
2350 infringement of rights in, or damage to, the collateral.

2351 (65) "Promissory note" means an instrument that
2352 evidences a promise to pay a monetary obligation, does not



SB231 INTRODUCED

2353 evidence an order to pay, and does not contain an
2354 acknowledgment by a bank that the bank has received for
2355 deposit a sum of money or funds.

2356 (66) "Proposal" means a record ~~authenticated~~ signed by
2357 a secured party which includes the terms on which the secured
2358 party is willing to accept collateral in full or partial
2359 satisfaction of the obligation it secures pursuant to Sections
2360 7-9A-620, 7-9A-621, and 7-9A-622.

2361 (67) Omitted.

2362 (68) "Public organic record" means a record that is
2363 available to the public for inspection and that is:

2364 (A) a record consisting of the record initially filed
2365 with or issued by a state or the United States to form or
2366 organize an organization and any record filed with or issued
2367 by the state or the United States which amends or restates the
2368 initial record;

2369 (B) an organic record of a business trust consisting of
2370 the record initially filed with a state and any record filed
2371 with the state which amends or restates the initial record, if
2372 a statute of the state governing business trusts requires that
2373 the record be filed with the state; or

2374 (C) a record consisting of legislation enacted by the
2375 legislature of a state or the Congress of the United States
2376 which forms or organizes an organization, any record amending
2377 the legislation, and any record filed with or issued by the
2378 state or United States which amends or restates the name of
2379 the organization.

2380 For purposes of this definition and the definition of



SB231 INTRODUCED

2381 registered organization, a certificate of formation filed with
2382 a judge of probate pursuant to Section 10A-1-4.02(a) is filed
2383 with the state.

2384 (69) "Pursuant to commitment," with respect to an
2385 advance made or other value given by a secured party, means
2386 pursuant to the secured party's obligation, whether or not a
2387 subsequent event of default or other event not within the
2388 secured party's control has relieved or may relieve the
2389 secured party from its obligation.

2390 (70) "Record," except as used in "for record," "of
2391 record," "record or legal title," and "record owner," means
2392 information that is inscribed on a tangible medium or which is
2393 stored in an electronic or other medium and is retrievable in
2394 perceivable form.

2395 (71) "Registered organization" means an organization
2396 formed or organized solely under the law of a single State or
2397 the United States by the filing of a public organic record
2398 with, the issuance of a public organic record by, or the
2399 enactment of legislation by the state or the United States.
2400 The term ~~inudes~~includes a business trust that is formed or
2401 organized under the law of a single state if a statute of the
2402 state governing business trusts requires that the business
2403 trust's organic record be filed with the state.

2404 (72) "Secondary obligor" means an obligor to the extent
2405 that:

2406 (A) the obligor's obligation is secondary; or

2407 (B) the obligor has a right of recourse with respect to
2408 an obligation secured by collateral against the debtor,



SB231 INTRODUCED

2409 another obligor, or property of either.

2410 (73) "Secured party" means:

2411 (A) a person in whose favor a security interest is
2412 created or provided for under a security agreement, whether or
2413 not any obligation to be secured is outstanding;

2414 (B) a person that holds an agricultural lien;

2415 (C) a consignor;

2416 (D) a person to which accounts, chattel paper, payment
2417 intangibles, or promissory notes have been sold;

2418 (E) a trustee, indenture trustee, agent, collateral
2419 agent, or other representative in whose favor a security
2420 interest or agricultural lien is created or provided for; or

2421 (F) a person that holds a security interest arising
2422 under Section 7-2-401, 7-2-505, 7-2-711(3), 7-2A-508(5),
2423 7-4-210, or 7-5-118.

2424 (74) "Security agreement" means an agreement that
2425 creates or provides for a security interest.

2426 (75) ~~"Send," in connection with a record or
2427 notification, means:~~

2428 ~~(A) to deposit in the mail, deliver for transmission,
2429 or transmit by any other usual means of communication, with
2430 postage or cost of transmission provided for, addressed to any
2431 address reasonable under the circumstances; or~~

2432 ~~(B) to cause the record or notification to be received
2433 within the time that it would have been received if properly
2434 sent under subparagraph (A).~~ [Reserved.]

2435 (76) "Software" means a computer program and any
2436 supporting information provided in connection with a



SB231 INTRODUCED

2437 transaction relating to the program. The term does not include
2438 a computer program that is included in the definition of
2439 goods.

2440 (77) "State" means a state of the United States, the
2441 District of Columbia, Puerto Rico, the United States Virgin
2442 Islands, or any territory or insular possession subject to the
2443 jurisdiction of the United States.

2444 (78) "Supporting obligation" means a letter-of-credit
2445 right or secondary obligation that supports the payment or
2446 performance of an account, chattel paper, a document, a
2447 general intangible, an instrument, or investment property.

2448 (79) ~~"Tangible chattel paper" means chattel paper~~
2449 ~~evidenced by a record or records consisting of information~~
2450 ~~that is inscribed on a tangible medium.~~ [Reserved.]

2451 (80) "Termination statement" means an amendment of a
2452 financing statement which:

2453 (A) identifies, by its file number, the initial
2454 financing statement to which it relates; and

2455 (B) indicates either that it is a termination statement
2456 or that the identified financing statement is no longer
2457 effective.

2458 (81) "Transmitting utility" means a person primarily
2459 engaged in the business of:

2460 (A) operating a railroad, subway, street railway, or
2461 trolley bus;

2462 (B) transmitting communications electrically,
2463 electromagnetically, or by light;

2464 (C) transmitting goods by pipeline or sewer;



SB231 INTRODUCED

2465 (D) transmitting or producing or distributing
2466 electricity, steam, gas, or water; or
2467 (E) owning, operating, leasing or controlling a
2468 "utility" as defined in Section 37-1-30.
2469 (b) Definitions in other articles. "Control" as
2470 provided in Section 7-7-106 and the following definitions in
2471 other articles of this title apply to this article:
2472 "Applicant_." Section 7-5-102.
2473 "Beneficiary_." Section 7-5-102.
2474 "Broker_." Section 7-8-102.
2475 "Certificated security_." Section 7-8-102.
2476 "Check_." Section 7-3-104.
2477 "Clearing corporation_." Section 7-8-102.
2478 "Contract for sale_." Section 7-2-106.
2479 "Controllable electronic record." Section 7-12-102.
2480 "Customer_." Section 7-4-104.
2481 "Entitlement holder_." Section 7-8-102.
2482 "Financial asset_." Section 7-8-102.
2483 "Holder in due course_." Section 7-3-302.
2484 "Issuer" (with respect to a letter of credit or
2485 letter-of-credit right)_. Section 7-5-102.
2486 "Issuer" (with respect to a security)_. Section 7-8-201.
2487 "Issuer" (with respect to documents of title)_. Section
2488 7-7-102.
2489 "Lease_." Section 7-2A-103.
2490 "Lease agreement_." Section 7-2A-103.
2491 "Lease contract_." Section 7-2A-103.
2492 "Leasehold interest_." Section 7-2A-103.



SB231 INTRODUCED

2493 "Lessee." Section 7-2A-103.

2494 "Lessee in ordinary course of business." Section
2495 7-2A-103.

2496 "Lessor." Section 7-2A-103.

2497 "Lessor's residual interest." Section 7-2A-103.

2498 "Letter of credit." Section 7-5-102.

2499 "Merchant." Section 7-2-104.

2500 "Negotiable instrument." Section 7-3-104.

2501 "Nominated person." Section 7-5-102.

2502 "Note." Section 7-3-104.

2503 "Proceeds of a letter of credit." Section 7-5-114.

2504 "Protected purchaser." Section 7-8-303.

2505 "Prove." Section 7-3-103.

2506 "Qualifying purchaser." Section 7-12-102.

2507 "Sale." Section 7-2-106.

2508 "Securities account." Section 7-8-501.

2509 "Securities intermediary." Section 7-8-102.

2510 "Security." Section 7-8-102.

2511 "Security certificate." Section 7-8-102.

2512 "Security entitlement." Section 7-8-102.

2513 "Uncertificated security." Section 7-8-102.

2514 (c) Article 1 definitions and principles. Article 1
2515 contains general definitions and principles of construction
2516 and interpretation applicable throughout this article."

2517 "§7-9A-104. Control of deposit account.

2518 (a) Requirements for control. A secured party has
2519 control of a deposit account if:

2520 (1) the secured party is the bank with which the



SB231 INTRODUCED

2521 deposit account is maintained;

2522 (2) the debtor, secured party, and bank have agreed in
2523 ~~an authenticated~~ a signed record that the bank will comply
2524 with instructions originated by the secured party directing
2525 disposition of the funds in the deposit account without
2526 further consent by the debtor; ~~or~~

2527 (3) the secured party becomes the bank's customer with
2528 respect to the deposit account; ~~or~~ or

2529 (4) another person, other than the debtor:

2530 (A) has control of the deposit account and acknowledges
2531 that it has control on behalf of the secured party; or

2532 (B) obtains control of the deposit account after having
2533 acknowledged that it will obtain control of the deposit
2534 account on behalf of the secured party.

2535 (b) Debtor's right to direct disposition. A secured
2536 party that has satisfied subsection (a) has control, even if
2537 the debtor retains the right to direct the disposition of
2538 funds from the deposit account."

2539 "§7-9A-105. Control of electronic copy of record
2540 evidencing chattel paper.

2541 ~~(a) General rule: control of electronic chattel paper.~~
2542 ~~A secured party has control of electronic chattel paper if a~~
2543 ~~system employed for evidencing the transfer of interests in~~
2544 ~~the chattel paper reliably establishes the secured party as~~
2545 ~~the person to which the chattel paper was assigned.~~

2546 ~~(b) Specific facts giving control. A system satisfies~~
2547 ~~subsection (a) and a secured party has control of electronic~~
2548 ~~chattel paper if the record or records comprising the chattel~~



SB231 INTRODUCED

2549 ~~paper are created, stored, and assigned in such a manner that:~~

2550 ~~(1) a single authoritative copy of the record or~~
2551 ~~records exists which is unique, identifiable and, except as~~
2552 ~~otherwise provided in paragraphs (4), (5), and (6),~~
2553 ~~unalterable;~~

2554 ~~(2) the authoritative copy identifies the secured party~~
2555 ~~as the assignee of the record or records;~~

2556 ~~(3) the authoritative copy is communicated to and~~
2557 ~~maintained by the secured party or its designated custodian;~~

2558 ~~(4) copies or amendments that add or change an~~
2559 ~~identified assignee of the authoritative copy can be made only~~
2560 ~~with the consent of the secured party;~~

2561 ~~(5) each copy of the authoritative copy and any copy of~~
2562 ~~a copy is readily identifiable as a copy that is not the~~
2563 ~~authoritative copy; and~~

2564 ~~(6) any amendment of the authoritative copy is readily~~
2565 ~~identifiable as authorized or unauthorized.~~

2566 (a) General Rule: control of electronic copy of record
2567 evidencing chattel paper. A purchaser has control of an
2568 authoritative electronic copy of a record evidencing chattel
2569 paper if a system employed for evidencing the assignment of
2570 interests in the chattel paper reliably establishes the
2571 purchaser as the person to which the authoritative electronic
2572 copy was assigned.

2573 (b) Single authoritative copy. A system satisfies
2574 subsection (a) if the record or records evidencing chattel
2575 paper are created, stored, and assigned in a manner that:

2576 (1) a single authoritative copy of the record or



SB231 INTRODUCED

2577 records exists which is unique, identifiable, and, except as
2578 otherwise provided in paragraphs (4), (5), and (6),
2579 unalterable;

2580 (2) the authoritative copy identifies the purchaser as
2581 the assignee of the record or records;

2582 (3) the authoritative copy is communicated to and
2583 maintained by the purchaser or its designated custodian;

2584 (4) copies or amendments that add or change an
2585 identified assignee of the authoritative copy can be made only
2586 with the consent of the purchaser;

2587 (5) each copy of the authoritative copy and any copy of
2588 a copy is readily identifiable as a copy that is not the
2589 authoritative copy; and

2590 (6) any amendment of the authoritative copy is readily
2591 identifiable as authorized or unauthorized.

2592 (c) One or more authoritative copies. A system
2593 satisfies subsection (a), and a purchaser has control of an
2594 authoritative electronic copy of a record evidencing chattel
2595 paper, if the electronic copy, a record attached to or
2596 logically associated with the electronic copy, or a system in
2597 which the electronic copy is recorded:

2598 (1) enables the purchaser readily to identify each
2599 electronic copy as either an authoritative copy or a
2600 nonauthoritative copy;

2601 (2) enables the purchaser readily to identify itself in
2602 any way, including by name, identifying number, cryptographic
2603 key, office, or account number, as the assignee of the
2604 authoritative electronic copy; and



SB231 INTRODUCED

2605 (3) gives the purchaser exclusive power, subject to
2606 subsection (d), to:

2607 (A) prevent others from adding or changing an
2608 identified assignee of the authoritative electronic copy; and
2609 (B) transfer control of the authoritative electronic
2610 copy.

2611 (d) Meaning of exclusive. Subject to subsection (e), a
2612 power is exclusive under subsection (c) (3) (A) and (B) even if:

2613 (1) the authoritative electronic copy, a record
2614 attached to or logically associated with the authoritative
2615 electronic copy, or a system in which the authoritative
2616 electronic copy is recorded limits the use of the
2617 authoritative electronic copy or has a protocol programmed to
2618 cause a change, including a transfer or loss of control; or

2619 (2) the power is shared with another person.

2620 (e) When power not shared with another person. A power
2621 of a purchaser is not shared with another person under
2622 subsection (d) (2) and the purchaser's power is not exclusive
2623 if:

2624 (1) the purchaser can exercise the power only if the
2625 power also is exercised by the other person; and

2626 (2) the other person:

2627 (A) can exercise the power without exercise of the
2628 power by the purchaser; or

2629 (B) is the transferor to the purchaser of an interest
2630 in the chattel paper.

2631 (f) Presumption of exclusivity of certain powers. If a
2632 purchaser has the powers specified in subsection (c) (3) (A) and



SB231 INTRODUCED

2633 (B), the powers are presumed to be exclusive.

2634 (g) Obtaining control through another person. A
2635 purchaser has control of an authoritative electronic copy of a
2636 record evidencing chattel paper if another person, other than
2637 the transferor to the purchaser of an interest in the chattel
2638 paper:

2639 (1) has control of the authoritative electronic copy
2640 and acknowledges that it has control on behalf of the
2641 purchaser; or

2642 (2) obtains control of the authoritative electronic
2643 copy after having acknowledged that it will obtain control of
2644 the electronic copy on behalf of the purchaser."

2645 "§7-9A-203. Attachment and enforceability of security
2646 interest; proceeds; supporting obligations; formal requisites.

2647 (a) Attachment. A security interest attaches to
2648 collateral when it becomes enforceable against the debtor with
2649 respect to the collateral, unless an agreement expressly
2650 postpones the time of attachment.

2651 (b) Enforceability. Except as otherwise provided in
2652 subsections (c) through (i), a security interest is
2653 enforceable against the debtor and third parties with respect
2654 to the collateral only if:

2655 (1) value has been given;

2656 (2) the debtor has rights in the collateral or the
2657 power to transfer rights in the collateral to a secured party;
2658 and

2659 (3) one of the following conditions is met:

2660 (A) the debtor has ~~authenticated~~signed a security



SB231 INTRODUCED

2661 agreement that provides a description of the collateral and,
2662 if the security interest covers timber to be cut, a
2663 description of the land concerned;

2664 (B) the collateral is not a certificated security and
2665 is in the possession of the secured party under Section
2666 7-9A-313 pursuant to the debtor's security agreement;

2667 (C) the collateral is a certificated security in
2668 registered form and the security certificate has been
2669 delivered to the secured party under Section 7-8-301 pursuant
2670 to the debtor's security agreement; ~~or~~

2671 (D) the collateral is controllable accounts,
2672 controllable electronic records, controllable payment
2673 intangibles, deposit accounts, ~~electronic chattel paper,~~
2674 electronic documents, investment property, or letter-of-credit
2675 rights, and the secured party has control under Section
2676 7-7-106, 7-9A-104, ~~7-9A-105,~~ 7-9A-106, ~~or~~ 7-9A-107, or
2677 7-9A-107A, pursuant to the debtor's security agreement; ~~;~~ or

2678 (E) the collateral is chattel paper and the secured
2679 party has possession and control under Section 7-9A-314A
2680 pursuant to the debtor's security agreement.

2681 (c) Other UCC provisions. Subsection (b) is subject to
2682 Section 7-4-210 on the security interest of a collecting bank,
2683 Section 7-5-118 on the security interest of a letter-of-credit
2684 issuer or nominated person, Section 7-9A-110 on a security
2685 interest arising under Article 2 or 2A, and Section 7-9A-206
2686 on security interests in investment property.

2687 (d) When person becomes bound by another person's
2688 security agreement. A person becomes bound as debtor by a



SB231 INTRODUCED

2689 security agreement entered into by another person if, by
2690 operation of law other than this article or by contract:

2691 (1) the security agreement becomes effective to create
2692 a security interest in the person's property; or

2693 (2) the person becomes generally obligated for the
2694 obligations of the other person, including the obligation
2695 secured under the security agreement, and acquires or succeeds
2696 to all or substantially all of the assets of the other person.

2697 (e) Effect of new debtor becoming bound. If a new
2698 debtor becomes bound as debtor by a security agreement entered
2699 into by another person:

2700 (1) the agreement satisfies subsection (b)(3) with
2701 respect to existing or after-acquired property of the new
2702 debtor to the extent the property is described in the
2703 agreement; and

2704 (2) another agreement is not necessary to make a
2705 security interest in the property enforceable.

2706 (f) Proceeds and supporting obligations. The attachment
2707 of a security interest in collateral gives the secured party
2708 the rights to proceeds provided by Section 7-9A-315 and is
2709 also attachment of a security interest in a supporting
2710 obligation for the collateral.

2711 (g) Lien securing right to payment. The attachment of a
2712 security interest in a right to payment or performance secured
2713 by a security interest or other lien on personal or real
2714 property is also attachment of a security interest in the
2715 security interest, mortgage, or other lien.

2716 (h) Security entitlement carried in securities account.



SB231 INTRODUCED

2717 The attachment of a security interest in a securities account
2718 is also attachment of a security interest in the security
2719 entitlements carried in the securities account.

2720 (i) Commodity contracts carried in commodity account.

2721 The attachment of a security interest in a commodity account
2722 is also attachment of a security interest in the commodity
2723 contracts carried in the commodity account."

2724 "§7-9A-204. After-acquired property; future advances.

2725 (a) After-acquired collateral. Except as otherwise
2726 provided in subsection (b), a security agreement may create or
2727 provide for a security interest in after-acquired collateral.

2728 (b) When after-acquired property clause not effective.

2729 ~~A~~ Subject to subsection (b.1), a security interest does not
2730 attach under a term constituting an after-acquired property
2731 clause to:

2732 (1) consumer goods, other than an accession when given
2733 as additional security, unless the debtor acquires rights in
2734 them within 10 days after the secured party gives value; or

2735 (2) a commercial tort claim.

2736 (b.1) Limitation on subsection (b). Subsection (b) does
2737 not prevent a security interest from attaching:

2738 (1) to consumer goods as proceeds under Section
2739 7-9A-315(a) or commingled goods under Section 7-9A-336(c);

2740 (2) to a commercial tort claim as proceeds under
2741 Section 7-9A-315(a); or

2742 (3) under an after-acquired property clause to property
2743 that is proceeds of consumer goods or a commercial tort claim.

2744 (c) Future advances and other value. A security



SB231 INTRODUCED

2745 agreement may provide that collateral secures, or that
2746 accounts, chattel paper, payment intangibles, or promissory
2747 notes are sold in connection with, future advances or other
2748 value, whether or not the advances or value are given pursuant
2749 to commitment."

2750 "§7-9A-207. Rights and duties of secured party having
2751 possession or control of collateral.

2752 (a) Duty of care when secured party in possession.
2753 Except as otherwise provided in subsection (d), a secured
2754 party shall use reasonable care in the custody and
2755 preservation of collateral in the secured party's possession.
2756 In the case of chattel paper or an instrument, reasonable care
2757 includes taking necessary steps to preserve rights against
2758 prior parties unless otherwise agreed.

2759 (b) Expenses, risks, duties, and rights when secured
2760 party in possession. Except as otherwise provided in
2761 subsection (d), if a secured party has possession of
2762 collateral:

2763 (1) reasonable expenses, including the cost of
2764 insurance and payment of taxes or other charges, incurred in
2765 the custody, preservation, use, or operation of the collateral
2766 are chargeable to the debtor and are secured by the
2767 collateral;

2768 (2) the risk of accidental loss or damage is on the
2769 debtor to the extent of a deficiency in any effective
2770 insurance coverage;

2771 (3) the secured party shall keep the collateral
2772 identifiable, but fungible collateral may be commingled; and



SB231 INTRODUCED

2773 (4) the secured party may use or operate the
2774 collateral:

2775 (A) for the purpose of preserving the collateral or its
2776 value;

2777 (B) as permitted by an order of a court having
2778 competent jurisdiction; or

2779 (C) except in the case of consumer goods, in the manner
2780 and to the extent agreed by the debtor.

2781 (c) Duties and rights when secured party in possession
2782 or control. Except as otherwise provided in subsection (d), a
2783 secured party having possession of collateral or control of
2784 collateral under Section 7-7-106, 7-9A-104, 7-9A-105,
2785 7-9A-106, ~~or~~ 7-9A-107, or 7-9A-107A:

2786 (1) may hold as additional security any proceeds,
2787 except money or funds, received from the collateral;

2788 (2) shall apply money or funds received from the
2789 collateral to reduce the secured obligation, unless remitted
2790 to the debtor; and

2791 (3) may create a security interest in the collateral.

2792 (d) Buyer of certain rights to payment. If the secured
2793 party is a buyer of accounts, chattel paper, payment
2794 intangibles, or promissory notes or a consignor:

2795 (1) subsection (a) does not apply unless the secured
2796 party is entitled under an agreement:

2797 (A) to charge back uncollected collateral; or

2798 (B) otherwise to full or limited recourse against the
2799 debtor or a secondary obligor based on the nonpayment or other
2800 default of an account debtor or other obligor on the



SB231 INTRODUCED

2801 collateral; and

2802 (2) subsections (b) and (c) do not apply."

2803 "§7-9A-208. Additional duties of secured party having
2804 control of collateral.

2805 (a) Applicability of section. This section applies to
2806 cases in which there is no outstanding secured obligation and
2807 the secured party is not committed to make advances, incur
2808 obligations, or otherwise give value.

2809 (b) Duties of secured party after receiving demand from
2810 debtor. Within 10 days after receiving ~~an authenticated~~ a
2811 signed demand by the debtor:

2812 (1) a secured party having control of a deposit account
2813 under Section 7-9A-104(a) (2) shall send to the bank with which
2814 the deposit account is maintained ~~an authenticated~~ a signed
2815 record ~~statement~~ that releases the bank from any further
2816 obligation to comply with instructions originated by the
2817 secured party;

2818 (2) a secured party having control of a deposit account
2819 under Section 7-9A-104(a) (3) shall:

2820 (A) pay the debtor the balance on deposit in the
2821 deposit account; or

2822 (B) transfer the balance on deposit into a deposit
2823 account in the debtor's name;

2824 (3) a secured party, other than a buyer, having control
2825 ~~of electronic chattel paper~~ under Section 7-9A-105 of an
2826 authoritative electronic copy of a record evidencing chattel
2827 paper shall transfer control of the electronic copy to the
2828 debtor or a person designated by the debtor; ~~shall:~~



SB231 INTRODUCED

2829 ~~(A) communicate the authoritative copy of the~~
2830 ~~electronic chattel paper to the debtor or its designated~~
2831 ~~custodian;~~

2832 ~~(B) if the debtor designates a custodian that is the~~
2833 ~~designated custodian with which the authoritative copy of the~~
2834 ~~electronic chattel paper is maintained for the secured party,~~
2835 ~~communicate to the custodian an authenticated record releasing~~
2836 ~~the designated custodian from any further obligation to comply~~
2837 ~~with instructions originated by the secured party and~~
2838 ~~instructing the custodian to comply with instructions~~
2839 ~~originated by the debtor; and~~

2840 ~~(C) take appropriate action to enable the debtor or its~~
2841 ~~designated custodian to make copies of or revisions to the~~
2842 ~~authoritative copy which add or change an identified assignee~~
2843 ~~of the authoritative copy without the consent of the secured~~
2844 ~~party;~~

2845 (4) a secured party having control of investment
2846 property under Section 7-8-106(d) (2) or 7-9A-106(b) shall send
2847 to the securities intermediary or commodity intermediary with
2848 which the security entitlement or commodity contract is
2849 maintained ~~an authenticated~~ a signed record that releases the
2850 securities intermediary or commodity intermediary from any
2851 further obligation to comply with entitlement orders or
2852 directions originated by the secured party;

2853 (5) a secured party having control of a
2854 letter-of-credit right under Section 7-9A-107 shall send to
2855 each person having an unfulfilled obligation to pay or deliver
2856 proceeds of the letter of credit to the secured party ~~an~~



SB231 INTRODUCED

2857 ~~authenticated~~ a signed release from any further obligation to
2858 pay or deliver proceeds of the letter of credit to the secured
2859 party.;

2860 ~~(6) a secured party having control of an electronic~~
2861 ~~document shall:~~

2862 ~~a. Give control of the electronic document to the~~
2863 ~~debtor or its designated custodian;~~

2864 ~~b. If the debtor designates a custodian that is the~~
2865 ~~designated custodian with which the authoritative copy of the~~
2866 ~~electronic document is maintained for the secured party,~~
2867 ~~communicate to the custodian an authenticated record releasing~~
2868 ~~the designated custodian from any further obligation to comply~~
2869 ~~with instructions originated by the secured party and~~
2870 ~~instructing the custodian to comply with instructions~~
2871 ~~originated by the debtor; and~~

2872 ~~c. Take appropriate action to enable the debtor or its~~
2873 ~~designated custodian to make copies of or revisions to the~~
2874 ~~authoritative copy which add or change an identified assignee~~
2875 ~~of the authoritative copy without the consent of the secured~~
2876 ~~party.~~

2877 (6) a secured party having control under Section
2878 7-7-106 of an authoritative electronic copy of an electronic
2879 document shall transfer control of the electronic copy to the
2880 debtor or a person designated by the debtor; and

2881 (7) a secured party having control under Section
2882 7-12-105 of a controllable electronic record, other than a
2883 buyer of a controllable account or controllable payment
2884 intangible evidenced by the controllable electronic record,



SB231 INTRODUCED

2885 shall transfer control of the controllable electronic record
2886 to the debtor or a person designated by the debtor.

2887 (c) ~~Authenticated~~ Signed demand. In this section,
2888 "~~authenticated~~ signed demand" means a record ~~authenticated~~
2889 signed by the debtor demanding that the secured party take one
2890 or more of the specific actions described in subsection (b)
2891 and reasonably identifying the collateral that is the subject
2892 of the demand. The secured party may designate in a record
2893 sent to the debtor or as to which the debtor has notice an
2894 address to which such demands must be sent. A demand sent to
2895 another address of the secured party will be effective, but
2896 the 10-day period for action by the secured party does not
2897 begin until the person or department at the address specified
2898 by the secured party has notice of the demand."

2899 "§7-9A-209. Duties of secured party if account debtor
2900 has been notified of assignment.

2901 (a) Applicability of section. Except as otherwise
2902 provided in subsection (c), this section applies if:

2903 (1) there is no outstanding secured obligation; and

2904 (2) the secured party is not committed to make
2905 advances, incur obligations, or otherwise give value.

2906 (b) Duties of secured party after receiving demand from
2907 debtor. Within 10 days after receiving ~~an authenticated~~ a
2908 signed demand by the debtor, a secured party shall send to an
2909 account debtor that has received notification, under Section
2910 7-9A-406(a) or 7-12-106(b), of an assignment to the secured
2911 party as assignee ~~under Section 7-9A-406(a) an authenticated~~ a
2912 signed record that releases the account debtor from any



SB231 INTRODUCED

2913 further obligation to the secured party.

2914 (c) Inapplicability to sales. This section does not
2915 apply to an assignment constituting the sale of an account,
2916 chattel paper, or payment intangible.

2917 (d) ~~Authenticated~~ Signed demand. In this section,
2918 "~~authenticated~~ signed demand" means a record signed
2919 ~~authenticated~~ by the debtor demanding that the secured party
2920 take the action described in subsection (b). The secured party
2921 may designate in a record sent to the debtor or as to which
2922 the debtor has notice an address to which such demand must be
2923 sent. A demand sent to another address of the secured party
2924 will be effective, but the 10-day period for action by the
2925 secured party does not begin until the person or department at
2926 the address specified by the secured party has notice of the
2927 demand."

2928 "§7-9A-210. Request for accounting; request regarding
2929 list of collateral or statement of account.

2930 (a) Definitions. In this section:

2931 (1) "Request" means a record of a type described in
2932 paragraph (2), (3), or (4).

2933 (2) "Request for an accounting" means a record
2934 ~~authenticated~~ signed by a debtor requesting that the recipient
2935 provide an accounting of the unpaid obligations secured by
2936 collateral and reasonably identifying the transaction or
2937 relationship that is the subject of the request.

2938 (3) "Request regarding a list of collateral" means a
2939 record ~~authenticated~~ signed by a debtor requesting that the
2940 recipient approve or correct a list of what the debtor



SB231 INTRODUCED

2941 believes to be the collateral securing an obligation and
2942 reasonably identifying the transaction or relationship that is
2943 the subject of the request.

2944 (4) "Request regarding a statement of account" means a
2945 record ~~authenticated~~ signed by a debtor requesting that the
2946 recipient approve or correct a statement indicating what the
2947 debtor believes to be the aggregate amount of unpaid
2948 obligations secured by collateral as of a specified date and
2949 reasonably identifying the transaction or relationship that is
2950 the subject of the request.

2951 (b) Duty to respond to requests. Subject to subsections
2952 (c), (d), (e), and (f), a secured party, other than a buyer of
2953 accounts, chattel paper, payment intangibles, or promissory
2954 notes or a consignor, shall comply with a request within 14
2955 days after receipt:

2956 (1) in the case of a request for an accounting, by
2957 ~~authenticating~~ signing and sending to the debtor an
2958 accounting; and

2959 (2) in the case of a request regarding a list of
2960 collateral or a request regarding a statement of account, by
2961 ~~authenticating~~ signing and sending to the debtor an approval
2962 or correction.

2963 (c) Request regarding list of collateral; statement
2964 concerning type of collateral. A secured party that claims a
2965 security interest in all of a particular type of collateral
2966 owned by the debtor may comply with a request regarding a list
2967 of collateral by sending to the debtor ~~an authenticated~~ a
2968 signed record including a statement to that effect within 14



SB231 INTRODUCED

2969 days after receipt.

2970 (d) Request regarding list of collateral; no interest
2971 claimed. A person that receives a request regarding a list of
2972 collateral, claims no interest in the collateral when it
2973 receives the request, and claimed an interest in the
2974 collateral at an earlier time shall comply with the request
2975 within 14 days after receipt by sending to the debtor~~an~~
2976 ~~authenticated~~ a signed record:

2977 (1) disclaiming any interest in the collateral; and
2978 (2) if known to the recipient, providing the name and
2979 mailing address of any assignee of or successor to the
2980 recipient's interest in the collateral.

2981 (e) Request for accounting or regarding statement of
2982 account; no interest in obligation claimed. A person that
2983 receives a request for an accounting or a request regarding a
2984 statement of account, claims no interest in the obligations
2985 when it receives the request, and claimed an interest in the
2986 obligations at an earlier time shall comply with the request
2987 within 14 days after receipt by sending to the debtor~~an~~
2988 ~~authenticated~~ a signed record:

2989 (1) disclaiming any interest in the obligations; and
2990 (2) if known to the recipient, providing the name and
2991 mailing address of any assignee of or successor to the
2992 recipient's interest in the obligations.

2993 (f) Charges for responses. A debtor is entitled without
2994 charge to one response to a request under this section during
2995 any six-month period. The secured party may require payment of
2996 a charge not exceeding ~~\$25~~ twenty-five dollars (\$25) for each



SB231 INTRODUCED

2997 additional response.

2998 (g) Designation of address for request. The secured
2999 party may designate in a record sent to the debtor,
3000 ~~authenticated~~ signed by the debtor, or, as to which the debtor
3001 has notice, an address to which a request under this section
3002 must be sent. A request sent to another address of the secured
3003 party will be effective, but the 14-day period for action by
3004 the secured party does not begin until the person or
3005 department at the address specified by the secured party has
3006 notice of the request."

3007 "§7-9A-301. Law governing perfection and priority of
3008 security interests.

3009 Except as otherwise provided in Sections 7-9A-303
3010 through ~~7-9A-306~~ 7-9A-306B, the following rules determine the
3011 law governing perfection, the effect of perfection or
3012 nonperfection, and the priority of a security interest in
3013 collateral:

3014 (1) Except as otherwise provided in this section, while
3015 a debtor is located in a jurisdiction, the local law of that
3016 jurisdiction governs perfection, the effect of perfection or
3017 nonperfection, and the priority of a security interest in
3018 collateral.

3019 (2) While collateral is located in a jurisdiction, the
3020 local law of that jurisdiction governs perfection, the effect
3021 of perfection or nonperfection, and the priority of a
3022 possessory security interest in that collateral.

3023 (3) Except as otherwise provided in paragraph (4),
3024 while ~~tangible~~-negotiable tangible documents, goods,



SB231 INTRODUCED

3025 instruments, or money, ~~or tangible chattel paper~~ is located in
3026 a jurisdiction, the local law of that jurisdiction governs:

3027 (A) perfection of a security interest in the goods by
3028 filing a fixture filing;

3029 (B) perfection of a security interest in timber to be
3030 cut; and

3031 (C) the effect of perfection or nonperfection and the
3032 priority of a nonpossessory security interest in the
3033 collateral.

3034 (4) The local law of the jurisdiction in which the
3035 wellhead or mine is located governs perfection, the effect of
3036 perfection or nonperfection, and the priority of a security
3037 interest in as-extracted collateral."

3038 "§7-9A-304. Law governing perfection and priority of
3039 security interests in deposit accounts.

3040 (a) Law of bank's jurisdiction governs. The local law
3041 of a bank's jurisdiction governs perfection, the effect of
3042 perfection or nonperfection, and the priority of a security
3043 interest in a deposit account maintained with that bank even
3044 if the transaction does not bear any relation to the bank's
3045 jurisdiction.

3046 (b) Bank's jurisdiction. The following rules determine
3047 a bank's jurisdiction for purposes of this part:

3048 (1) If an agreement between the bank and the debtor
3049 governing the deposit account expressly provides that a
3050 particular jurisdiction is the bank's jurisdiction for
3051 purposes of this part, this article, or the Uniform Commercial
3052 Code, that jurisdiction is the bank's jurisdiction.



SB231 INTRODUCED

3053 (2) If paragraph (1) does not apply and an agreement
3054 between the bank and its customer governing the deposit
3055 account expressly provides that the agreement is governed by
3056 the law of a particular jurisdiction, that jurisdiction is the
3057 bank's jurisdiction.

3058 (3) If neither paragraph (1) nor paragraph (2) applies
3059 and an agreement between the bank and its customer governing
3060 the deposit account expressly provides that the deposit
3061 account is maintained at an office in a particular
3062 jurisdiction, that jurisdiction is the bank's jurisdiction.

3063 (4) If none of the preceding paragraphs applies, the
3064 bank's jurisdiction is the jurisdiction in which the office
3065 identified in an account statement as the office serving the
3066 customer's account is located.

3067 (5) If none of the preceding paragraphs applies, the
3068 bank's jurisdiction is the jurisdiction in which the chief
3069 executive office of the bank is located."

3070 "§7-9A-305. Law governing perfection and priority of
3071 security interests in investment property.

3072 (a) Governing law: General rules. Except as otherwise
3073 provided in subsection (c), the following rules apply:

3074 (1) While a security certificate is located in a
3075 jurisdiction, the local law of that jurisdiction governs
3076 perfection, the effect of perfection or nonperfection, and the
3077 priority of a security interest in the certificated security
3078 represented thereby.

3079 (2) The local law of the issuer's jurisdiction as
3080 specified in Section 7-8-110(d) governs perfection, the effect



SB231 INTRODUCED

3081 of perfection or nonperfection, and the priority of a security
3082 interest in an uncertificated security.

3083 (3) The local law of the securities intermediary's
3084 jurisdiction as specified in Section 7-8-110(e) governs
3085 perfection, the effect of perfection or nonperfection, and the
3086 priority of a security interest in a security entitlement or
3087 securities account.

3088 (4) The local law of the commodity intermediary's
3089 jurisdiction governs perfection, the effect of perfection or
3090 nonperfection, and the priority of a security interest in a
3091 commodity contract or commodity account.

3092 (5) Paragraphs (2), (3), and (4) apply even if the
3093 transaction does not bear any relation to the jurisdiction.

3094 (b) Commodity intermediary's jurisdiction. The
3095 following rules determine a commodity intermediary's
3096 jurisdiction for purposes of this part:

3097 (1) If an agreement between the commodity intermediary
3098 and commodity customer governing the commodity account
3099 expressly provides that a particular jurisdiction is the
3100 commodity intermediary's jurisdiction for purposes of this
3101 part, this article, or the Uniform Commercial Code, that
3102 jurisdiction is the commodity intermediary's jurisdiction.

3103 (2) If paragraph (1) does not apply and an agreement
3104 between the commodity intermediary and commodity customer
3105 governing the commodity account expressly provides that the
3106 agreement is governed by the law of a particular jurisdiction,
3107 that jurisdiction is the commodity intermediary's
3108 jurisdiction.



SB231 INTRODUCED

3109 (3) If neither paragraph (1) nor paragraph (2) applies
3110 and an agreement between the commodity intermediary and
3111 commodity customer governing the commodity account expressly
3112 provides that the commodity account is maintained at an office
3113 in a particular jurisdiction, that jurisdiction is the
3114 commodity intermediary's jurisdiction.

3115 (4) If none of the preceding paragraphs applies, the
3116 commodity intermediary's jurisdiction is the jurisdiction in
3117 which the office identified in an account statement as the
3118 office serving the commodity customer's account is located.

3119 (5) If none of the preceding paragraphs applies, the
3120 commodity intermediary's jurisdiction is the jurisdiction in
3121 which the chief executive office of the commodity intermediary
3122 is located.

3123 (c) When perfection governed by law of jurisdiction
3124 where debtor located. The local law of the jurisdiction in
3125 which the debtor is located governs:

3126 (1) perfection of a security interest in investment
3127 property by filing;

3128 (2) automatic perfection of a security interest in
3129 investment property created by a broker or securities
3130 intermediary; and

3131 (3) automatic perfection of a security interest in a
3132 commodity contract or commodity account created by a commodity
3133 intermediary."

3134 "§7-9A-310. When filing required to perfect security
3135 interest or agricultural lien; security interests and
3136 agricultural liens to which filing provisions do not apply.



SB231 INTRODUCED

3137 (a) General rule: Perfection by filing. Except as
3138 otherwise provided in subsection (b) and Section 7-9A-312(b),
3139 a financing statement must be filed to perfect all security
3140 interests and agricultural liens.

3141 (b) Exceptions: Filing not necessary. The filing of a
3142 financing statement is not necessary to perfect a security
3143 interest:

3144 (1) that is perfected under Section 7-9A-308(d), (e),
3145 (f), or (g);

3146 (2) that is perfected under Section 7-9A-309 when it
3147 attaches;

3148 (3) in property subject to a statute, regulation, or
3149 treaty described in Section 7-9A-311(a);

3150 (4) in goods in possession of a bailee which is
3151 perfected under Section 7-9A-312(d) (1) or (2);

3152 (5) in certificated securities, documents, goods, or
3153 instruments which is perfected without filing, control, or
3154 possession under Section 7-9A-312(e), (f), or (g);

3155 (6) in collateral in the secured party's possession
3156 under Section 7-9A-313;

3157 (7) in a certificated security which is perfected by
3158 delivery of the security certificate to the secured party
3159 under Section 7-9A-313;

3160 (8) in controllable accounts, controllable electronic
3161 records, controllable payment intangibles, deposit accounts,
3162 electronic documents, ~~electronic chattel paper,~~ investment
3163 property, or letter-of-credit rights which is perfected by
3164 control under Section 7-9A-314;



SB231 INTRODUCED

3165 (8A) in chattel paper which is perfected by possession
3166 and control under Section 7-9A-314A;

3167 (9) in proceeds which is perfected under Section
3168 7-9A-315; or

3169 (10) that is perfected under Section 7-9A-316.

3170 (c) Assignment of perfected security interest. If a
3171 secured party assigns a perfected security interest or
3172 agricultural lien, a filing under this article is not required
3173 to continue the perfected status of the security interest
3174 against creditors of and transferees from the original debtor.

3175 "§7-9A-312. ~~Perfection of certain security interests by~~
3176 ~~filing; temporary perfection~~Perfection of security interests
3177 in chattel paper, controllable accounts, controllable
3178 electronic records, controllable payment intangibles, deposit
3179 accounts, negotiable documents, goods covered by documents,
3180 instruments, investment property, letter-of-credit rights, and
3181 money; perfection by permissive filing; temporary without
3182 filing or transfer of possession.

3183 (a) Perfection by filing permitted. A security interest
3184 in chattel paper, controllable accounts, controllable
3185 electronic records, controllable payment intangibles,
3186 ~~negotiable documents,~~ instruments, ~~or~~ investment property, or
3187 negotiable documents may be perfected by filing.

3188 (b) Control or possession of certain collateral. Except
3189 as otherwise provided in Section 7-9A-315(c) and (d) for
3190 proceeds:

3191 (1) a security interest in a deposit account may be
3192 perfected only by control under Section 7-9A-314;



SB231 INTRODUCED

3193 (2) ~~and~~ except as otherwise provided in Section
3194 7-9A-308(d), a security interest in a letter-of-credit right
3195 may be perfected only by control under Section 7-9A-314; and

3196 (3) a security interest in money may be perfected only
3197 by the secured party's taking possession under Section
3198 7-9A-313.

3199 (c) Goods covered by negotiable document. While goods
3200 are in the possession of a bailee that has issued a negotiable
3201 document covering the goods:

3202 (1) a security interest in the goods may be perfected
3203 by perfecting a security interest in the document; and

3204 (2) a security interest perfected in the document has
3205 priority over any security interest that becomes perfected in
3206 the goods by another method during that time.

3207 (d) Goods covered by nonnegotiable document. While
3208 goods are in the possession of a bailee that has issued a
3209 nonnegotiable document covering the goods, a security interest
3210 in the goods may be perfected by:

3211 (1) issuance of a document in the name of the secured
3212 party;

3213 (2) the bailee's receipt of notification of the secured
3214 party's interest; or

3215 (3) filing as to the goods.

3216 (e) Temporary perfection: New value. A security
3217 interest in certificated securities, negotiable documents, or
3218 instruments is perfected without filing or the taking of
3219 possession or control for a period of 20 days from the time it
3220 attaches to the extent that it arises for new value given



SB231 INTRODUCED

3221 under ~~an authenticated~~ a signed security agreement.

3222 (f) Temporary perfection: Goods or documents made
3223 available to debtor. A perfected security interest in a
3224 negotiable document or goods in possession of a bailee, other
3225 than one that has issued a negotiable document for the goods,
3226 remains perfected for 20 days without filing if the secured
3227 party makes available to the debtor the goods or documents
3228 representing the goods for the purpose of:

3229 (1) ultimate sale or exchange; or

3230 (2) loading, unloading, storing, shipping,
3231 transshipping, manufacturing, processing, or otherwise dealing
3232 with them in a manner preliminary to their sale or exchange.

3233 (g) Temporary perfection: Delivery of security
3234 certificate or instrument to debtor. A perfected security
3235 interest in a certificated security or instrument remains
3236 perfected for 20 days without filing if the secured party
3237 delivers the security certificate or instrument to the debtor
3238 for the purpose of:

3239 (1) ultimate sale or exchange; or

3240 (2) presentation, collection, enforcement, renewal, or
3241 registration of transfer.

3242 (h) Expiration of temporary perfection. After the
3243 20-day period specified in subsection (e), (f), or (g)
3244 expires, perfection depends upon compliance with this
3245 article."

3246 "§7-9A-313. When possession by or delivery to secured
3247 party perfects security interest without filing.

3248 (a) Perfection by possession or delivery. Except as



SB231 INTRODUCED

3249 otherwise provided in subsection (b), a secured party may
3250 perfect a security interest in ~~tangible negotiable documents,~~
3251 goods, instruments, negotiable tangible documents, or money,
3252 ~~or tangible chattel paper~~ by taking possession of the
3253 collateral. A secured party may perfect a security interest in
3254 certificated securities by taking delivery of the certificated
3255 securities under Section 7-8-301.

3256 (b) Goods covered by certificate of title. With respect
3257 to goods covered by a certificate of title issued by this
3258 State, a secured party may perfect a security interest in the
3259 goods by taking possession of the goods only in the
3260 circumstances described in Section 7-9A-316(d).

3261 (c) Collateral in possession of person other than
3262 debtor. With respect to collateral other than certificated
3263 securities and goods covered by a document, a secured party
3264 takes possession of collateral in the possession of a person
3265 other than the debtor, the secured party, or a lessee of the
3266 collateral from the debtor in the ordinary course of the
3267 debtor's business, when:

3268 (1) the person in possession ~~authenticates~~ signs a
3269 record acknowledging that it holds possession of the
3270 collateral for the secured party's benefit; or

3271 (2) the person takes possession of the collateral after
3272 having ~~authenticated~~ signed a record acknowledging that it
3273 will hold possession of the collateral for the secured party's
3274 benefit.

3275 (d) Time of perfection by possession; continuation of
3276 perfection. If perfection of a security interest depends upon



SB231 INTRODUCED

3277 possession of the collateral by a secured party, perfection
3278 occurs ~~no~~ not earlier than the time the secured party takes
3279 possession and continues only while the secured party retains
3280 possession.

3281 (e) Time of perfection by delivery; continuation of
3282 perfection. A security interest in a certificated security in
3283 registered form is perfected by delivery when delivery of the
3284 certificated security occurs under Section 7-8-301 and remains
3285 perfected by delivery until the debtor obtains possession of
3286 the security certificate.

3287 (f) Acknowledgment not required. A person in possession
3288 of collateral is not required to acknowledge that it holds
3289 possession for a secured party's benefit.

3290 (g) Effectiveness of acknowledgment; no duties or
3291 confirmation. If a person acknowledges that it holds
3292 possession for the secured party's benefit:

3293 (1) the acknowledgment is effective under subsection
3294 (c) or Section 7-8-301(a), even if the acknowledgment violates
3295 the rights of a debtor; and

3296 (2) unless the person otherwise agrees or law other
3297 than this article otherwise provides, the person does not owe
3298 any duty to the secured party and is not required to confirm
3299 the acknowledgment to another person.

3300 (h) Secured party's delivery to person other than
3301 debtor. A secured party having possession of collateral does
3302 not relinquish possession by delivering the collateral to a
3303 person other than the debtor or a lessee of the collateral
3304 from the debtor in the ordinary course of the debtor's



SB231 INTRODUCED

3305 business if the person was instructed before the delivery or
3306 is instructed contemporaneously with the delivery:

3307 (1) to hold possession of the collateral for the
3308 secured party's benefit; or

3309 (2) to redeliver the collateral to the secured party.

3310 (i) Effect of delivery under subsection (h); no duties
3311 or confirmation. A secured party does not relinquish
3312 possession, even if a delivery under subsection (h) violates
3313 the rights of a debtor. A person to which collateral is
3314 delivered under subsection (h) does not owe any duty to the
3315 secured party and is not required to confirm the delivery to
3316 another person unless the person otherwise agrees or law other
3317 than this article otherwise provides."

3318 "§7-9A-314. Perfection by control.

3319 (a) Perfection by control. A security interest in
3320 ~~investment property, deposit accounts, letter-of-credit~~
3321 ~~rights, electronic chattel paper, or electronic documents~~
3322 controllable accounts, controllable electronic records,
3323 controllable payment intangibles, deposit accounts, electronic
3324 documents, investment property, or letter-of-credit rights may
3325 be perfected by control of the collateral under Section
3326 7-7-106, 7-9A-104, ~~7-9A-105~~, 7-9A-106, ~~or~~ 7-9A-107, or
3327 7-9A-107A.

3328 (b) Specified collateral: Time of perfection by
3329 control; continuation of perfection. A security interest in
3330 ~~deposit accounts, electronic chattel paper, letter-of-credit~~
3331 ~~rights, or electronic documents~~ controllable accounts,
3332 controllable electronic records, controllable payment



SB231 INTRODUCED

3333 intangibles, deposit accounts, electronic documents, or
3334 letter-of-credit rights is perfected by control under Section
3335 7-7-106, 7-9A-104, ~~7-9A-105, or~~ 7-9A-107, or 7-9A-107A ~~when~~
3336 not earlier than the time the secured party obtains control
3337 and remains perfected by control only while the secured party
3338 retains control.

3339 (c) Investment property: Time of perfection by control;
3340 continuation of perfection. A security interest in investment
3341 property is perfected by control under Section 7-9A-106 ~~from~~
3342 not earlier than the time the secured party obtains control
3343 and remains perfected by control until:

3344 (1) the secured party does not have control; and

3345 (2) one of the following occurs:

3346 (A) if the collateral is a certificated security, the
3347 debtor has or acquires possession of the security certificate;

3348 (B) if the collateral is an uncertificated security,
3349 the issuer has registered or registers the debtor as the
3350 registered owner; or

3351 (C) if the collateral is a security entitlement, the
3352 debtor is or becomes the entitlement holder.

3353 "§7-9A-316. ~~Effect of~~ Continued perfection of security
3354 interest following change in governing law.

3355 (a) General rule: Effect on ~~change in governing law~~
3356 ~~existing perfection of change in governing~~ law. A security
3357 interest perfected pursuant to the law of the jurisdiction
3358 designated in Section 7-9A-301(1), ~~or~~ 7-9A-305(c),
3359 7-9A-306A(d), or 7-9A-306B(b) remains perfected until the
3360 earliest of:



SB231 INTRODUCED

3361 (1) the time perfection would have ceased under the law
3362 of that jurisdiction;

3363 (2) the expiration of four months after a change of the
3364 debtor's location to another jurisdiction; or

3365 (3) the expiration of one year after a transfer of
3366 collateral to a person that thereby becomes a debtor and is
3367 located in another jurisdiction.

3368 (b) Security interest perfected or unperfected under
3369 law of new jurisdiction. If a security interest described in
3370 subsection (a) becomes perfected under the law of the other
3371 jurisdiction before the earliest time or event described in
3372 that subsection, it remains perfected thereafter. If the
3373 security interest does not become perfected under the law of
3374 the other jurisdiction before the earliest time or event, it
3375 becomes unperfected and is deemed never to have been perfected
3376 as against a purchaser of the collateral for value.

3377 (c) Possessory security interest in collateral moved to
3378 new jurisdiction. A possessory security interest in
3379 collateral, other than goods covered by a certificate of title
3380 and as-extracted collateral consisting of goods, remains
3381 continuously perfected if:

3382 (1) the collateral is located in one jurisdiction and
3383 subject to a security interest perfected under the law of that
3384 jurisdiction;

3385 (2) thereafter the collateral is brought into another
3386 jurisdiction; and

3387 (3) upon entry into the other jurisdiction, the
3388 security interest is perfected under the law of the other



SB231 INTRODUCED

3389 jurisdiction.

3390 (d) Goods covered by certificate of title from this
3391 State. Except as otherwise provided in subsection (e), a
3392 security interest in goods covered by a certificate of title
3393 which is perfected by any method under the law of another
3394 jurisdiction when the goods become covered by a certificate of
3395 title from this State remains perfected until the security
3396 interest would have become unperfected under the law of the
3397 other jurisdiction had the goods not become so covered.

3398 (e) When subsection (d) security interest becomes
3399 unperfected against purchasers. A security interest described
3400 in subsection (d) becomes unperfected as against a purchaser
3401 of the goods for value and is deemed never to have been
3402 perfected as against a purchaser of the goods for value if the
3403 applicable requirements for perfection under Section
3404 7-9A-311(b) or 7-9A-313 are not satisfied before the earlier
3405 of:

3406 (1) the time the security interest would have become
3407 unperfected under the law of the other jurisdiction had the
3408 goods not become covered by a certificate of title from this
3409 State; or

3410 (2) the expiration of four months after the goods had
3411 become so covered.

3412 (f) ~~Change in jurisdiction of bank, issuer, nominated~~
3413 ~~person, securities intermediary, or commodity~~
3414 ~~intermediary.~~ Change in jurisdiction of chattel paper,
3415 controllable electronic record, bank, issuer, nominated
3416 person, securities intermediary, or commodity intermediary. A



SB231 INTRODUCED

3417 security interest in chattel paper, controllable accounts,
3418 controllable electronic accounts, controllable payment
3419 intangibles, deposit accounts, letter-of-credit rights, or
3420 investment property which is perfected under the law of the
3421 chattel paper's jurisdiction, the controllable electronic
3422 record's jurisdiction, the bank's jurisdiction, the issuer's
3423 jurisdiction, a nominated person's jurisdiction, the
3424 securities intermediary's jurisdiction, or the commodity
3425 intermediary's jurisdiction, as applicable, remains perfected
3426 until the earlier of:

3427 (1) the time the security interest would have become
3428 unperfected under the law of that jurisdiction; or

3429 (2) the expiration of four months after a change of the
3430 applicable jurisdiction to another jurisdiction.

3431 (g) Subsection (f) security interest perfected or
3432 unperfected under law of new jurisdiction. If a security
3433 interest described in subsection (f) becomes perfected under
3434 the law of the other jurisdiction before the earlier of the
3435 time or the end of the period described in that subsection, it
3436 remains perfected thereafter. If the security interest does
3437 not become perfected under the law of the other jurisdiction
3438 before the earlier of that time or the end of that period, it
3439 becomes unperfected and is deemed never to have been perfected
3440 as against a purchaser of the collateral for value.

3441 (h) Effect on filed financing statement of change in
3442 governing law. The following rules apply to collateral to
3443 which a security interest attaches within four months after
3444 the debtor changes its location to another jurisdiction:



SB231 INTRODUCED

3445 (1) A financing statement filed before the change
3446 pursuant to the law of the jurisdiction designated in Section
3447 7-9A-301(1) or 7-9A-305(c) is effective to perfect a security
3448 interest in the collateral if the financing statement would
3449 have been effective to perfect a security interest in the
3450 collateral if the debtor had not changed its location.

3451 (2) If a security interest that is perfected by a
3452 financing statement that is effective under paragraph (1)
3453 becomes perfected under the law of the other jurisdiction
3454 before the earlier of the time the financing statement would
3455 have become ineffective under the law of the jurisdiction
3456 designated in Section 7-9A-301(1) or 7-9A-305(c) or the
3457 expiration of the four-month period, it remains perfected
3458 thereafter. If the security interest does not become perfected
3459 under the law of the other jurisdiction before the earlier
3460 time or event, it becomes unperfected and is deemed never to
3461 have been perfected as against a purchaser of the collateral
3462 for value.

3463 (i) Effect of change in governing law on financing
3464 statement filed against original debtor. If a financing
3465 statement naming an original debtor is filed pursuant to the
3466 law of the jurisdiction designated in Section 7-9A-301(1) or
3467 7-9A-305(c) and the new debtor is located in another
3468 jurisdiction, the following rules apply:

3469 (1) The financing statement is effective to perfect a
3470 security interest in collateral acquired by the new debtor
3471 before, and within four months after, the new debtor becomes
3472 bound under Section 7-9A-203(d), if the financing statement



SB231 INTRODUCED

3473 would have been effective to perfect a security interest in
3474 the collateral if the collateral had been acquired by the
3475 original debtor.

3476 (2) A security interest that is perfected by the
3477 financing statement and which becomes perfected under the law
3478 of the other jurisdiction before the earlier of the expiration
3479 of the four-month period or the time the financing statement
3480 would have become ineffective under the law of the
3481 jurisdiction designated in Section 7-9A-301(1) or 7-9A-305(c)
3482 remains perfected thereafter. A security interest that is
3483 perfected by the financing statement but which does not become
3484 perfected under the law of the other jurisdiction before the
3485 earlier time or event becomes unperfected and is deemed never
3486 to have been perfected as against a purchaser of the
3487 collateral for value."

3488 "§7-9A-317. Interests that take priority over or take
3489 free of security interest or agricultural lien.

3490 (a) Conflicting security interests and rights of lien
3491 creditors. A security interest or agricultural lien is
3492 subordinate to the rights of:

3493 (1) a person entitled to priority under Section
3494 7-9A-322; and

3495 (2) except as otherwise provided in subsection (e), a
3496 person that becomes a lien creditor before the earlier of the
3497 time:

3498 (A) the security interest or agricultural lien is
3499 perfected; or

3500 (B) one of the conditions specified in Section



SB231 INTRODUCED

3501 7-9A-203(b) (3) is met and a financing statement covering the
3502 collateral is filed.

3503 (b) Buyers that receive delivery. Except as otherwise
3504 provided in subsection (e), a buyer, other than a secured
3505 party, ~~of tangible chattel paper, tangible documents, of~~
3506 goods, instruments, tangible documents, or a certificated
3507 security takes free of a security interest or agricultural
3508 lien if the buyer gives value and receives delivery of the
3509 collateral without knowledge of the security interest or
3510 agricultural lien and before it is perfected.

3511 (c) Lessees that receive delivery. Except as otherwise
3512 provided in subsection (e), a lessee of goods takes free of a
3513 security interest or agricultural lien if the lessee gives
3514 value and receives delivery of the collateral without
3515 knowledge of the security interest or agricultural lien and
3516 before it is perfected.

3517 (d) Licensees and buyers of certain collateral. ~~A~~
3518 Subject to subsections (f) through (i), a licensee of a
3519 general intangible or a buyer, other than a secured party, of
3520 collateral other than ~~tangible chattel paper, tangible~~
3521 ~~documents,~~ goods, instruments, tangible documents, or a
3522 certificated security takes free of a security interest if the
3523 licensee or buyer gives value without knowledge of the
3524 security interest and before it is perfected.

3525 (e) Purchase-money security interest. Except as
3526 otherwise provided in Sections 7-9A-320 and 7-9A-321, if a
3527 person files a financing statement with respect to a
3528 purchase-money security interest before or within 20 days



SB231 INTRODUCED

3529 after the debtor receives delivery of the collateral, the
3530 security interest takes priority over the rights of a buyer,
3531 lessee, or lien creditor which arise between the time the
3532 security interest attaches and the time of filing.

3533 (f) Buyers of chattel paper. A buyer, other than a
3534 secured party, of chattel paper takes free of a security
3535 interest if, without knowledge of the security interest and
3536 before it is perfected, the buyer gives value and:

3537 (1) receives delivery of each authoritative tangible
3538 copy of the record evidencing the chattel paper; and

3539 (2) if each authoritative electronic copy of the record
3540 evidencing the chattel paper can be subjected to control under
3541 Section 7-9A-105, obtains control of each authoritative
3542 electronic copy.

3543 (g) Buyers of electronic documents. A buyer of an
3544 electronic document takes free of a security interest if,
3545 without knowledge of the security interest and before it is
3546 perfected, the buyer gives value and, if each authoritative
3547 electronic copy of the document can be subjected to control
3548 under Section 7-7-106, obtains control of each authoritative
3549 electronic copy.

3550 (h) Buyers of controllable electronic records. A buyer
3551 of a controllable electronic record takes free of a security
3552 interest if, without knowledge of the security interest and
3553 before it is perfected, the buyer gives value and obtains
3554 control of the controllable electronic record.

3555 (i) Buyers of controllable accounts and controllable
3556 payment intangibles. A buyer, other than a secured party, of a



SB231 INTRODUCED

3557 controllable account or a controllable payment intangible
3558 takes free of a security interest if, without knowledge of the
3559 security interest and before it is perfected, the buyer gives
3560 value and obtains control of the controllable account or
3561 controllable payment intangible."

3562 "§7-9A-323. Future advances.

3563 (a) When priority based on time of advance. Except as
3564 otherwise provided in subsection (c), for purposes of
3565 determining the priority of a perfected security interest
3566 under Section 7-9A-322(a)(1), perfection of the security
3567 interest dates from the time an advance is made to the extent
3568 that the security interest secures an advance that:

3569 (1) is made while the security interest is perfected
3570 only:

3571 (A) under Section 7-9A-309 when it attaches; or

3572 (B) temporarily under Section 7-9A-312(e), (f), or (g);

3573 and

3574 (2) is not made pursuant to a commitment entered into
3575 before or while the security interest is perfected by a method
3576 other than under Section 7-9A-309 or 7-9A-312(e), (f), or (g).

3577 (b) Lien creditor. Except as otherwise provided in
3578 subsection (c), a security interest is subordinate to the
3579 rights of a person that becomes a lien creditor to the extent
3580 that the security interest secures an advance made more than
3581 45 days after the person becomes a lien creditor unless the
3582 advance is made:

3583 (1) without knowledge of the lien; or

3584 (2) pursuant to a commitment entered into without



SB231 INTRODUCED

3585 knowledge of the lien.

3586 (c) Buyer of receivables. Subsections (a) and (b) do
3587 not apply to a security interest held by a secured party that
3588 is a buyer of accounts, chattel paper, payment intangibles, or
3589 promissory notes or a consignor.

3590 (d) Buyer of goods. Except as otherwise provided in
3591 subsection (e), a buyer of goods ~~other than a buyer in~~
3592 ~~ordinary course of business~~ takes free of a security interest
3593 to the extent that it secures advances made after the earlier
3594 of:

3595 (1) the time the secured party acquires knowledge of
3596 the buyer's purchase; or

3597 (2) 45 days after the purchase.

3598 (e) Advances made pursuant to commitment: Priority of
3599 buyer of goods. Subsection (d) does not apply if the advance
3600 is made pursuant to a commitment entered into without
3601 knowledge of the buyer's purchase and before the expiration of
3602 the 45-day period.

3603 (f) Lessee of goods. Except as otherwise provided in
3604 subsection (g), a lessee of goods, ~~other than a lessee in~~
3605 ~~ordinary course of business~~, takes the leasehold interest free
3606 of a security interest to the extent that it secures advances
3607 made after the earlier of:

3608 (1) the time the secured party acquires knowledge of
3609 the lease; or

3610 (2) 45 days after the lease contract becomes
3611 enforceable.

3612 (g) Advances made pursuant to commitment: Priority of



SB231 INTRODUCED

3613 lessee of goods. Subsection (f) does not apply if the advance
3614 is made pursuant to a commitment entered into without
3615 knowledge of the lease and before the expiration of the 45-day
3616 period."

3617 "§7-9A-324. Priority of purchase-money security
3618 interests.

3619 (a) General rule: Purchase-money priority. Except as
3620 otherwise provided in subsection (g), a perfected
3621 purchase-money security interest in goods other than inventory
3622 or livestock has priority over a conflicting security interest
3623 in the same goods, and, except as otherwise provided in
3624 Section 7-9A-327, a perfected security interest in its
3625 identifiable proceeds also has priority, if the purchase-money
3626 security interest is perfected when the debtor receives
3627 possession of the collateral or within 20 days thereafter.

3628 (b) Inventory purchase-money priority. Subject to
3629 subsection (c) and except as otherwise provided in subsection
3630 (g), a perfected purchase-money security interest in inventory
3631 has priority over a conflicting security interest in the same
3632 inventory, has priority over a conflicting security interest
3633 in chattel paper or an instrument constituting proceeds of the
3634 inventory and in proceeds of the chattel paper, if so provided
3635 in Section 7-9A-330, and, except as otherwise provided in
3636 Section 7-9A-327, also has priority in identifiable cash
3637 proceeds of the inventory to the extent the identifiable cash
3638 proceeds are received on or before the delivery of the
3639 inventory to a buyer, if:

3640 (1) the purchase-money security interest is perfected



SB231 INTRODUCED

3641 when the debtor receives possession of the inventory;

3642 (2) the purchase-money secured party sends ~~an~~
3643 ~~authenticated~~ a signed notification to the holder of the
3644 conflicting security interest;

3645 (3) the holder of the conflicting security interest
3646 receives the notification within five years before the debtor
3647 receives possession of the inventory; and

3648 (4) the notification states that the person sending the
3649 notification has or expects to acquire a purchase-money
3650 security interest in inventory of the debtor and describes the
3651 inventory.

3652 (c) Holders of conflicting inventory security interests
3653 to be notified. Subsections (b) (2) through (4) apply only if
3654 the holder of the conflicting security interest had filed a
3655 financing statement covering the same types of inventory:

3656 (1) if the purchase-money security interest is
3657 perfected by filing, before the date of the filing; or

3658 (2) if the purchase-money security interest is
3659 temporarily perfected without filing or possession under
3660 Section 7-9A-312(f), before the beginning of the 20-day period
3661 thereunder.

3662 (d) Livestock purchase-money priority. Subject to
3663 subsection (e) and except as otherwise provided in subsection
3664 (g), a perfected purchase-money security interest in livestock
3665 that are farm products has priority over a conflicting
3666 security interest in the same livestock, and, except as
3667 otherwise provided in Section 7-9A-327, a perfected security
3668 interest in their identifiable proceeds and identifiable



SB231 INTRODUCED

3669 products in their unmanufactured states also has priority, if:

3670 (1) the purchase-money security interest is perfected
3671 when the debtor receives possession of the livestock;

3672 (2) the purchase-money secured party sends ~~an~~
3673 ~~authenticated~~ a signed notification to the holder of the
3674 conflicting security interest;

3675 (3) the holder of the conflicting security interest
3676 receives the notification within six months before the debtor
3677 receives possession of the livestock; and

3678 (4) the notification states that the person sending the
3679 notification has or expects to acquire a purchase-money
3680 security interest in livestock of the debtor and describes the
3681 livestock.

3682 (e) Holders of conflicting livestock security interests
3683 to be notified. Subsections (d) (2) through (4) apply only if
3684 the holder of the conflicting security interest had filed a
3685 financing statement covering the same types of livestock:

3686 (1) if the purchase-money security interest is
3687 perfected by filing, before the date of the filing; or

3688 (2) if the purchase-money security interest is
3689 temporarily perfected without filing or possession under
3690 Section 7-9A-312(f), before the beginning of the 20-day period
3691 thereunder.

3692 (f) Software purchase-money priority. Except as
3693 otherwise provided in subsection (g), a perfected
3694 purchase-money security interest in software has priority over
3695 a conflicting security interest in the same collateral, and,
3696 except as otherwise provided in Section 7-9A-327, a perfected



SB231 INTRODUCED

3697 security interest in its identifiable proceeds also has
3698 priority, to the extent that the purchase-money security
3699 interest in the goods in which the software was acquired for
3700 use has priority in the goods and proceeds of the goods under
3701 this section.

3702 (g) Conflicting purchase-money security interests. If
3703 more than one security interest qualifies for priority in the
3704 same collateral under subsection (a), (b), (d), or (f):

3705 (1) a security interest securing an obligation incurred
3706 as all or part of the price of the collateral has priority
3707 over a security interest securing an obligation incurred for
3708 value given to enable the debtor to acquire rights in or the
3709 use of collateral; and

3710 (2) in all other cases, Section 7-9A-322(a) applies to
3711 the qualifying security interests.

3712 "§7-9A-330. Priority of purchaser of chattel paper or
3713 instrument.

3714 (a) Purchaser's priority: Security interest claimed
3715 merely as proceeds. A purchaser of chattel paper has priority
3716 over a security interest in the chattel paper which is claimed
3717 merely as proceeds of inventory subject to a security interest
3718 if:

3719 (1) in good faith and in the ordinary course of the
3720 purchaser's business, the purchaser gives new value and takes
3721 possession of each authoritative tangible copy of the record
3722 evidencing the chattel paper, ~~or~~ and obtains control under
3723 Section 7-9A-105 of each authoritative electronic copy of the
3724 record evidencing ~~of~~ the chattel paper ~~under Section 7-9A-105;~~



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3725 and

3726 (2) the ~~chattel paper does~~ authoritative copies of the
3727 record evidencing the chattel paper do not indicate that ~~it~~
3728 the chattel paper has been assigned to an identified assignee
3729 other than the purchaser.

3730 (b) Purchaser's priority: Other security interests. A
3731 purchaser of chattel paper has priority over a security
3732 interest in the chattel paper which is claimed other than
3733 merely as proceeds of inventory subject to a security interest
3734 if the purchaser gives new value and takes possession of each
3735 authoritative tangible copy of the record evidencing the
3736 chattel paper ~~or and~~ obtains control ~~of~~ under Section 7-9A-105
3737 of each authoritative electronic copy of the record evidencing
3738 the chattel paper ~~under Section 7-9A-105~~ in good faith, in the
3739 ordinary course of the purchaser's business, and without
3740 knowledge that the purchase violates the rights of the secured
3741 party.

3742 (c) Chattel paper purchaser's priority in proceeds.
3743 Except as otherwise provided in Section 7-9A-327, a purchaser
3744 having priority in chattel paper under subsection (a) or (b)
3745 also has priority in proceeds of the chattel paper to the
3746 extent that:

3747 (1) Section 7-9A-322 provides for priority in the
3748 proceeds; or

3749 (2) the proceeds consist of the specific goods covered
3750 by the chattel paper or cash proceeds of the specific goods,
3751 even if the purchaser's security interest in the proceeds is
3752 unperfected.



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3753 (d) Instrument purchaser's priority. Except as
3754 otherwise provided in Section 7-9A-331(a), a purchaser of an
3755 instrument has priority over a security interest in the
3756 instrument perfected by a method other than possession if the
3757 purchaser gives value and takes possession of the instrument
3758 in good faith and without knowledge that the purchase violates
3759 the rights of the secured party.

3760 (e) Holder of purchase-money security interest gives
3761 new value. For purposes of subsections (a) and (b), the holder
3762 of a purchase-money security interest in inventory gives new
3763 value for chattel paper constituting proceeds of the
3764 inventory.

3765 (f) Indication of assignment gives knowledge. For
3766 purposes of subsections (b) and (d), if the authoritative
3767 copies of the record evidencing chattel paper or an instrument
3768 ~~indicates~~ indicate that ~~it~~ the chattel paper or instrument
3769 has been assigned to an identified secured party other than
3770 the purchaser, a purchaser of the chattel paper or instrument
3771 has knowledge that the purchase violates the rights of the
3772 secured party."

3773 "§7-9A-331. Priority of rights of purchasers of
3774 controllable accounts, controllable electronic records,
3775 controllable payments intangibles, instruments, documents, and
3776 securities under other articles; priority of interests in
3777 financial assets and security entitlements and protection
3778 against assertion of claim under Articles 8 and 12.

3779 (a) Rights under Articles 3, 7, ~~and 8,~~ and 12 not
3780 limited. This article does not limit the rights of a holder in



SB231 INTRODUCED

3781 due course of a negotiable instrument, a holder to which a
3782 negotiable document of title has been duly negotiated, ~~or~~ a
3783 protected purchaser of a security ~~-,~~ or a qualifying purchaser
3784 of a controllable account, controllable electronic record, or
3785 controllable payment intangible. These holders or purchasers
3786 take priority over an earlier security interest, even if
3787 perfected, to the extent provided in Articles 3, 7, ~~and 8,~~ and
3788 12.

3789 (b) Protection under ~~Article~~ Articles 8 and 12. This
3790 article does not limit the rights of or impose liability on a
3791 person to the extent that the person is protected against the
3792 assertion of a claim under ~~Article~~ Articles 8 or 12.

3793 (c) Filing not notice. Filing under this article does
3794 not constitute notice of a claim or defense to the holders, or
3795 purchasers, or persons described in subsections (a) and (b)."

3796 "§7-9A-332. Transfer of money; transfer of funds from
3797 deposit account.

3798 (a) Transferee of money. A transferee of money takes
3799 the money free of a security interest ~~unless the transferee~~
3800 acts if the transferee receives possession of the money
3801 without acting in collusion with the debtor in violating the
3802 rights of the secured party.

3803 (b) Transferee of funds from deposit account. A
3804 transferee of funds from a deposit account takes the funds
3805 free of a security interest in the deposit account ~~unless the~~
3806 transferee acts if the transferee receives possession of the
3807 money without acting in collusion with the debtor in violating
3808 the rights of the secured party."



SB231 INTRODUCED

3809 "§7-9A-334. Priority of security interests in fixtures
3810 and crops.

3811 (a) Security interest in fixtures under this article. A
3812 security interest under this article may be created in goods
3813 that are fixtures or may continue in goods that become
3814 fixtures. A security interest does not exist under this
3815 article in ordinary building materials incorporated into an
3816 improvement on land.

3817 (b) Security interest in fixtures under real-property
3818 law. This article does not prevent creation of an encumbrance
3819 upon fixtures under real property law.

3820 (c) General rule: Subordination of security interest in
3821 fixtures. In cases not governed by subsections (d) through
3822 (h), a security interest in fixtures is subordinate to a
3823 conflicting interest of an encumbrancer or owner of the
3824 related real property other than the debtor.

3825 (d) Fixtures purchase-money priority. Except as
3826 otherwise provided in subsection (h), a perfected security
3827 interest in fixtures has priority over a conflicting interest
3828 of an encumbrancer or owner of the real property if the debtor
3829 has an interest of record in or is in possession of the real
3830 property and:

3831 (1) the security interest is a purchase-money security
3832 interest;

3833 (2) the interest of the encumbrancer or owner arises
3834 before the goods become fixtures; and

3835 (3) the security interest is perfected by a fixture
3836 filing before the goods become fixtures or within 20 days



SB231 INTRODUCED

3837 thereafter.

3838 (e) Priority of security interest in fixtures over
3839 interests in real property. A perfected security interest in
3840 fixtures has priority over a conflicting interest of an
3841 encumbrancer or owner of the real property if:

3842 (1) the debtor has an interest of record in the real
3843 property or is in possession of the real property and the
3844 security interest:

3845 (A) is perfected by a fixture filing before the
3846 interest of the encumbrancer or owner is of record; and

3847 (B) has priority over any conflicting interest of a
3848 predecessor in title of the encumbrancer or owner;

3849 (2) before the goods become fixtures, the security
3850 interest is perfected by any method permitted by this article
3851 and the fixtures are readily removable:

3852 (A) factory or office machines;

3853 (B) equipment that is not primarily used or leased for
3854 use in the operation of the real property; or

3855 (C) replacements of domestic appliances that are
3856 consumer goods;

3857 (3) the conflicting interest is a lien on the real
3858 property obtained by legal or equitable proceedings after the
3859 security interest was perfected by any method permitted by
3860 this article; or

3861 (4) the security interest is:

3862 (A) created in a manufactured home in a
3863 manufactured-home transaction; and

3864 (B) perfected pursuant to a statute described in



SB231 INTRODUCED

3865 Section 7-9A-311(a)(2).

3866 (f) Priority based on consent, disclaimer, or right to
3867 remove. A security interest in fixtures, whether or not
3868 perfected, has priority over a conflicting interest of an
3869 encumbrancer or owner of the real property if:

3870 (1) the encumbrancer or owner has, in ~~an authenticated~~
3871 a signed record, consented to the security interest or
3872 disclaimed an interest in the goods as fixtures; or

3873 (2) the debtor has a right to remove the goods as
3874 against the encumbrancer or owner.

3875 (g) Continuation of paragraph (f)(2) priority. The
3876 priority of the security interest under paragraph (f)(2)
3877 continues for a reasonable time if the debtor's right to
3878 remove the goods as against the encumbrancer or owner
3879 terminates.

3880 (h) Priority of construction mortgage. A mortgage is a
3881 construction mortgage to the extent that it secures an
3882 obligation incurred for the construction of an improvement on
3883 land, including the acquisition cost of the land, if a
3884 recorded record of the mortgage so indicates. Except as
3885 otherwise provided in subsections (e) and (f), a security
3886 interest in fixtures is subordinate to a construction mortgage
3887 if a record of the mortgage is recorded before the goods
3888 become fixtures and the goods become fixtures before the
3889 completion of the construction. A mortgage has this priority
3890 to the same extent as a construction mortgage to the extent
3891 that it is given to refinance a construction mortgage.

3892 (i) Priority of security interest in crops. A perfected



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3893 security interest in crops growing on real property has
3894 priority over a conflicting interest of an encumbrancer or
3895 owner of the real property if the debtor has an interest of
3896 record in or is in possession of the real property.

3897 (j) Subsection (i) prevails over inconsistent law.
3898 Subsection (i) prevails over any inconsistent provision of an
3899 existing or future statute, rule, or regulation of this State
3900 unless the provision is contained in a statute of this State,
3901 refers expressly to subsection (i), and states that the
3902 provision prevails over subsection (i)."

3903 "§7-9A-341. Bank's rights and duties with respect to
3904 deposit account.

3905 Except as otherwise provided in Section 7-9A-340(c),
3906 and unless the bank otherwise agrees in ~~an authenticated~~ a
3907 signed record, a bank's rights and duties with respect to a
3908 deposit account maintained with the bank are not terminated,
3909 suspended, or modified by:

3910 (1) the creation, attachment, or perfection of a
3911 security interest in the deposit account;

3912 (2) the bank's knowledge of the security interest; or
3913 (3) the bank's receipt of instructions from the secured
3914 party."

3915 "§7-9A-404. Rights acquired by assignee; claims and
3916 defenses against assignee.

3917 (a) Assignee's rights subject to terms, claims, and
3918 defenses; exceptions. Unless an account debtor has made an
3919 enforceable agreement not to assert defenses or claims, and
3920 subject to subsections (b) through (e), the rights of an



SB231 INTRODUCED

3921 assignee are subject to:

3922 (1) all terms of the agreement between the account
3923 debtor and assignor and any defense or claim in recoupment
3924 arising from the transaction that gave rise to the contract;
3925 and

3926 (2) any other defense or claim of the account debtor
3927 against the assignor which accrues before the account debtor
3928 receives a notification of the assignment ~~authenticated~~ signed
3929 by the assignor or the assignee.

3930 (b) Account debtor's claim reduces amount owed to
3931 assignee. Subject to subsection (c) and except as otherwise
3932 provided in subsection (d), the claim of an account debtor
3933 against an assignor may be asserted against an assignee under
3934 subsection (a) only to reduce the amount the account debtor
3935 owes.

3936 (c) Rule for individual under other law. This section
3937 is subject to law other than this article which establishes a
3938 different rule for an account debtor who is an individual and
3939 who incurred the obligation primarily for personal, family, or
3940 household purposes.

3941 (d) Omission of required statement in consumer
3942 transaction. In a consumer transaction, if a record evidences
3943 the account debtor's obligation, if law other than this
3944 article requires that the record include a statement to the
3945 effect that the account debtor's recovery against an assignee
3946 with respect to claims and defenses against the assignor may
3947 not exceed amounts paid by the account debtor under the
3948 record, and if the record does not include such a statement,



SB231 INTRODUCED

3949 the extent to which a claim of an account debtor against the
3950 assignor may be asserted against an assignee is determined as
3951 if the record included such a statement.

3952 (e) Inapplicability to health-care-insurance
3953 receivable. This section does not apply to an assignment of a
3954 health-care-insurance receivable."

3955 "§7-9A-406. Discharge of account debtor; notification
3956 of assignment; identification and proof of assignment;
3957 restrictions on assignment of accounts, chattel paper, payment
3958 intangibles, and promissory notes ineffective.

3959 (a) Discharge of account debtor; effect of
3960 notification. Subject to subsections (b) through (i) and
3961 subsection (1), an account debtor on an account, chattel
3962 paper, or a payment intangible may discharge its obligation by
3963 paying the assignor until, but not after, the account debtor
3964 receives a notification, ~~authenticated~~ signed by the assignor
3965 or the assignee, that the amount due or to become due has been
3966 assigned and that payment is to be made to the assignee. After
3967 receipt of the notification, the account debtor may discharge
3968 its obligation by paying the assignee and may not discharge
3969 the obligation by paying the assignor.

3970 (b) When notification ineffective. Subject to
3971 ~~subsection~~ subsections (h) and (1), notification is
3972 ineffective under subsection (a):

3973 (1) if it does not reasonably identify the rights
3974 assigned;

3975 (2) to the extent that an agreement between an account
3976 debtor and a seller of a payment intangible limits the account



SB231 INTRODUCED

3977 debtor's duty to pay a person other than the seller and the
3978 limitation is effective under law other than this article; or
3979 (3) at the option of an account debtor, if the
3980 notification notifies the account debtor to make less than the
3981 full amount of any installment or other periodic payment to
3982 the assignee, even if:

3983 (A) only a portion of the account, chattel paper, or
3984 payment intangible has been assigned to that assignee;

3985 (B) a portion has been assigned to another assignee; or

3986 (C) the account debtor knows that the assignment to
3987 that assignee is limited.

3988 (c) Proof of assignment. Subject to ~~subsection~~
3989 subsections (h) and (l), if requested by the account debtor,
3990 an assignee shall seasonably furnish reasonable proof that the
3991 assignment has been made. Unless the assignee complies, the
3992 account debtor may discharge its obligation by paying the
3993 assignor, even if the account debtor has received a
3994 notification under subsection (a).

3995 (d) Term restricting assignment generally ineffective.
3996 In this subsection, "promissory note" includes a negotiable
3997 instrument that evidences chattel paper. Except as otherwise
3998 provided in subsection (e) and Sections 7-2A-303 and 7-9A-407,
3999 and subject to subsection (h), a term in an agreement between
4000 an account debtor and an assignor or in a promissory note is
4001 ineffective to the extent that it:

4002 (1) prohibits, restricts, or requires the consent of
4003 the account debtor or person obligated on the promissory note
4004 to the assignment or transfer of, or the creation, attachment,



SB231 INTRODUCED

4005 perfection, or enforcement of a security interest in, the
4006 account, chattel paper, payment intangible, or promissory
4007 note; or

4008 (2) provides that the assignment or transfer or the
4009 creation, attachment, perfection, or enforcement of the
4010 security interest may give rise to a default, breach, right of
4011 recoupment, claim, defense, termination, right of termination,
4012 or remedy under the account, chattel paper, payment
4013 intangible, or promissory note.

4014 (e) Inapplicability of subsection (d) to certain sales.
4015 Subsection (d) does not apply to the sale of a payment
4016 intangible or promissory note, other than a sale pursuant to a
4017 disposition under Section 7-9A-610 or an acceptance of
4018 collateral under Section 7-9A-620.

4019 (f) Legal restrictions on assignment generally
4020 ineffective. Except as otherwise provided in Sections 7-2A-303
4021 and 7-9A-407 and subject to subsections (h) and (i), a rule of
4022 law, statute, or regulation that prohibits, restricts, or
4023 requires the consent of a government, governmental body or
4024 official, or account debtor to the assignment or transfer of,
4025 or creation of a security interest in, an account or chattel
4026 paper is ineffective to the extent that the rule of law,
4027 statute, or regulation:

4028 (1) prohibits, restricts, or requires the consent of
4029 the government, governmental body or official, or account
4030 debtor to the assignment or transfer of, or the creation,
4031 attachment, perfection, or enforcement of a security interest
4032 in the account or chattel paper; or



SB231 INTRODUCED

4033 (2) provides that the assignment or transfer or the
4034 creation, attachment, perfection, or enforcement of the
4035 security interest may give rise to a default, breach, right of
4036 recoupment, claim, defense, termination, right of termination,
4037 or remedy under the account or chattel paper.

4038 (g) Subsection (b) (3) not waivable. Subject to
4039 ~~subsection~~ subsections (h) and (1), an account debtor may not
4040 waive or vary its option under subsection (b) (3).

4041 (h) Rule for individual under other law. This section
4042 is subject to law other than this article which establishes a
4043 different rule for an account debtor who is an individual and
4044 who incurred the obligation primarily for personal, family, or
4045 household purposes.

4046 (i) Inapplicability to health-care-insurance
4047 receivable. This section does not apply to an assignment of a
4048 health-care-insurance receivable.

4049 (j) Section prevails over inconsistent law. This
4050 section prevails over any inconsistent provision of an
4051 existing or future statute, rule, or regulation of this State
4052 unless the provision is contained in a statute of this State,
4053 refers expressly to this section, and states that the
4054 provision prevails over this section.

4055 (k) [Reserved].

4056 (l) Inapplicability of certain subsections. Subsections
4057 (a), (b), (c), and (g) do not apply to a controllable account
4058 or controllable payment intangible.

4059 "§7-9A-408. Restrictions on assignment of promissory
4060 notes, health-care-insurance receivables, and certain general



SB231 INTRODUCED

4061 intangibles ineffective.

4062 (a) Term restricting assignment generally ineffective.

4063 Except as otherwise provided in subsection (b), a term in a
4064 promissory note or in an agreement between an account debtor
4065 and a debtor which relates to a health-care-insurance
4066 receivable or a general intangible, including a contract,
4067 permit, license, or franchise, and which term prohibits,
4068 restricts, or requires the consent of the person obligated on
4069 the promissory note or the account debtor to, the assignment
4070 or transfer of, or creation, attachment, or perfection of a
4071 security interest in, the promissory note,
4072 health-care-insurance receivable, or general intangible, is
4073 ineffective to the extent that the term:

4074 (1) would impair the creation, attachment, or
4075 perfection of a security interest; or

4076 (2) provides that the assignment or transfer or the
4077 creation, attachment, or perfection of the security interest
4078 may give rise to a default, breach, right of recoupment,
4079 claim, defense, termination, right of termination, or remedy
4080 under the promissory note, health-care-insurance receivable,
4081 or general intangible.

4082 (b) Applicability of subsection (a) to sales of certain
4083 rights to payment. Subsection (a) applies to a security
4084 interest in a payment intangible or promissory note only if
4085 the security interest arises out of a sale of the payment
4086 intangible or promissory note, other than a sale pursuant to a
4087 disposition under Section 7-9A-610 or an acceptance of
4088 collateral under Section 7-9A-620.



SB231 INTRODUCED

4089 (c) Legal restrictions on assignment generally
4090 ineffective. A rule of law, statute, or regulation that
4091 prohibits, restricts, or requires the consent of a government,
4092 governmental body or official, person obligated on a
4093 promissory note, or account debtor to the assignment or
4094 transfer of, or creation of a security interest in, a
4095 promissory note, health-care-insurance receivable, or general
4096 intangible, including a contract, permit, license, or
4097 franchise between an account debtor and a debtor, is
4098 ineffective to the extent that the rule of law, statute, or
4099 regulation:

4100 (1) would impair the creation, attachment, or
4101 perfection of a security interest; or

4102 (2) provides that the assignment or transfer or the
4103 creation, attachment, or perfection of the security interest
4104 may give rise to a default, breach, right of recoupment,
4105 claim, defense, termination, right of termination, or remedy
4106 under the promissory note, health-care-insurance receivable,
4107 or general intangible.

4108 (d) Limitation on ineffectiveness under subsections (a)
4109 and (c). To the extent that a term in a promissory note or in
4110 an agreement between an account debtor and a debtor which
4111 relates to a health-care-insurance receivable or general
4112 intangible or a rule of law, statute, or regulation described
4113 in subsection (c) would be effective under law other than this
4114 article but is ineffective under subsection (a) or (c), the
4115 creation, attachment, or perfection of a security interest in
4116 the promissory note, health-care-insurance receivable, or



SB231 INTRODUCED

4117 general intangible:

4118 (1) is not enforceable against the person obligated on
4119 the promissory note or the account debtor;

4120 (2) does not impose a duty or obligation on the person
4121 obligated on the promissory note or the account debtor;

4122 (3) does not require the person obligated on the
4123 promissory note or the account debtor to recognize the
4124 security interest, pay or render performance to the secured
4125 party, or accept payment or performance from the secured
4126 party;

4127 (4) does not entitle the secured party to use or assign
4128 the debtor's rights under the promissory note,
4129 health-care-insurance receivable, or general intangible,
4130 including any related information or materials furnished to
4131 the debtor in the transaction giving rise to the promissory
4132 note, health-care-insurance receivable, or general intangible;

4133 (5) does not entitle the secured party to use, assign,
4134 possess, or have access to any trade secrets or confidential
4135 information of the person obligated on the promissory note or
4136 the account debtor; and

4137 (6) does not entitle the secured party to enforce the
4138 security interest in the promissory note,
4139 health-care-insurance receivable, or general intangible.

4140 (e) Section prevails over inconsistent law. This
4141 section prevails over any inconsistent provision of an
4142 existing or future statute, rule, or regulation of this State
4143 unless the provision is contained in a statute of this State,
4144 refers expressly to this section, and states that the



SB231 INTRODUCED

4145 provision prevails over this section.

4146 (f) [Reserved.]

4147 (g) "Promissory note." In this section, "promissory
4148 note" includes a negotiable instrument that evidences chattel
4149 paper.

4150 "§7-9A-509. Persons entitled to file a record.

4151 (a) Person entitled to file record. A person may file
4152 an initial financing statement, amendment that adds collateral
4153 covered by a financing statement, or amendment that adds a
4154 debtor to a financing statement only if:

4155 (1) the debtor authorizes the filing in ~~an~~
4156 ~~authenticated~~ a signed record or pursuant to subsection (b) or
4157 (c); or

4158 (2) the person holds an agricultural lien that has
4159 become effective at the time of filing and the financing
4160 statement covers only collateral in which the person holds an
4161 agricultural lien.

4162 (b) Security agreement as authorization. By
4163 ~~authenticating~~ signing or becoming bound as debtor by a
4164 security agreement, a debtor or new debtor authorizes the
4165 filing of an initial financing statement, and an amendment,
4166 covering:

4167 (1) the collateral described in the security agreement;
4168 and

4169 (2) property that becomes collateral under Section
4170 7-9A-315(a)(2), whether or not the security agreement
4171 expressly covers proceeds.

4172 (c) Acquisition of collateral as authorization. By



SB231 INTRODUCED

4173 acquiring collateral in which a security interest or
4174 agricultural lien continues under Section 7-9A-315(a)(1), a
4175 debtor authorizes the filing of an initial financing
4176 statement, and an amendment, covering the collateral and
4177 property that becomes collateral under Section 7-9A-315(a)(2).

4178 (d) Person entitled to file certain amendments. A
4179 person may file an amendment other than an amendment that adds
4180 collateral covered by a financing statement or an amendment
4181 that adds a debtor to a financing statement only if:

4182 (1) the secured party of record authorizes the filing;

4183 or

4184 (2) the amendment is a termination statement for a
4185 financing statement as to which the secured party of record
4186 has failed to file or send a termination statement as required
4187 by Section 7-9A-513(a) or (c), the debtor authorizes the
4188 filing, and the termination statement indicates that the
4189 debtor authorized it to be filed.

4190 (e) Multiple secured parties of record. If there is
4191 more than one secured party of record for a financing
4192 statement, each secured party of record may authorize the
4193 filing of an amendment under subsection (d)."

4194 "§7-9A-513. Termination statement.

4195 (a) Consumer goods. A secured party shall cause the
4196 secured party of record for a financing statement to file a
4197 termination statement for the financing statement if the
4198 financing statement covers consumer goods and:

4199 (1) there is no obligation secured by the collateral
4200 covered by the financing statement and no commitment to make



SB231 INTRODUCED

4201 an advance, incur an obligation, or otherwise give value; or

4202 (2) the debtor did not authorize the filing of the
4203 initial financing statement.

4204 (b) Time for compliance with subsection (a). To comply
4205 with subsection (a), a secured party shall cause the secured
4206 party of record to file the termination statement:

4207 (1) within one month after there is no obligation
4208 secured by the collateral covered by the financing statement
4209 and no commitment to make an advance, incur an obligation, or
4210 otherwise give value; or

4211 (2) if earlier, within 20 days after the secured party
4212 receives ~~an authenticated~~ a signed demand from a debtor.

4213 (c) Other collateral. In cases not governed by
4214 subsection (a), within 20 days after a secured party receives
4215 ~~an authenticated~~ a signed demand from a debtor, the secured
4216 party shall cause the secured party of record for a financing
4217 statement to send to the debtor a termination statement for
4218 the financing statement or file the termination statement in
4219 the filing office if:

4220 (1) except in the case of a financing statement
4221 covering accounts or chattel paper that has been sold or goods
4222 that are the subject of a consignment, there is no obligation
4223 secured by the collateral covered by the financing statement
4224 and no commitment to make an advance, incur an obligation, or
4225 otherwise give value;

4226 (2) the financing statement covers accounts or chattel
4227 paper that has been sold but as to which the account debtor or
4228 other person obligated has discharged its obligation;



SB231 INTRODUCED

4229 (3) the financing statement covers goods that were the
4230 subject of a consignment to the debtor but are not in the
4231 debtor's possession; or

4232 (4) the debtor did not authorize the filing of the
4233 initial financing statement.

4234 (d) Effect of filing termination statement. Except as
4235 otherwise provided in Section 7-9A-510, upon the filing of a
4236 termination statement with the filing office, the financing
4237 statement to which the termination statement relates ceases to
4238 be effective. Except as otherwise provided in Section
4239 7-9A-510, for purposes of Sections 7-9A-519(g), 7-9A-522(a),
4240 and 7-9A-523(c), the filing with the filing office of a
4241 termination statement relating to a financing statement that
4242 indicates that the debtor is a transmitting utility also
4243 causes the effectiveness of the financing statement to lapse."

4244 "§7-9A-601. Rights after default; judicial enforcement;
4245 consignor or buyer of accounts, chattel paper, payment
4246 intangibles, or promissory notes.

4247 (a) Rights of secured party after default. After
4248 default, a secured party has the rights provided in this part
4249 and, except as otherwise provided in Section 7-9A-602, those
4250 provided by agreement of the parties. A secured party:

4251 (1) may reduce a claim to judgment, foreclose, or
4252 otherwise enforce the claim, security interest, or
4253 agricultural lien by any available judicial procedure; and

4254 (2) if the collateral is documents, may proceed either
4255 as to the documents or as to the goods they cover.

4256 (b) Rights and duties of secured party in possession or



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4257 control. A secured party in possession of collateral or
4258 control of collateral under Section 7-7-106, 7-9A-104,
4259 7-9A-105, 7-9A-106, ~~or~~ 7-9A-107, or 7-9A-107A has the rights
4260 and duties provided in Section 7-9A-207.

4261 (c) Rights cumulative; simultaneous exercise. The
4262 rights under subsections (a) and (b) are cumulative and may be
4263 exercised simultaneously.

4264 (d) Rights of debtor and obligor. Except as otherwise
4265 provided in subsection (g) and Section 7-9A-605, after
4266 default, a debtor and an obligor have the rights provided in
4267 this part and by agreement of the parties.

4268 (e) Lien of levy after judgment. If a secured party has
4269 reduced its claim to judgment, the lien of any levy that may
4270 be made upon the collateral by virtue of an execution based
4271 upon the judgment relates back to the earliest of:

4272 (1) the date of perfection of the security interest or
4273 agricultural lien in the collateral;

4274 (2) the date of filing a financing statement covering
4275 the collateral; or

4276 (3) any date specified in a statute under which the
4277 agricultural lien was created.

4278 (f) Execution sale. A sale pursuant to an execution is
4279 a foreclosure of the security interest or agricultural lien by
4280 judicial procedure within the meaning of this section. A
4281 secured party may purchase at the sale and thereafter hold the
4282 collateral free of any other requirements of this article.

4283 (g) Consignor or buyer of certain rights to payment.
4284 Except as otherwise provided in Section 7-9A-607(c), this part



SB231 INTRODUCED

4285 imposes no duties upon a secured party that is a consignor or
4286 is a buyer of accounts, chattel paper, payment intangibles, or
4287 promissory notes."

4288 "§7-9A-605. Unknown debtor or secondary obligor.

4289 A(a) In general: No duty owed by secured party. Except
4290 as provided in subsection (b), a secured party does not owe a
4291 duty based on its status as secured party:

4292 (1) to a person that is a debtor or obligor, unless the
4293 secured party knows:

4294 (A) that the person is a debtor or obligor;

4295 (B) the identity of the person; and

4296 (C) how to communicate with the person; or

4297 (2) to a secured party or lienholder that has filed a
4298 financing statement against a person, unless the secured party
4299 knows:

4300 (A) that the person is a debtor; and

4301 (B) the identity of the person.

4302 (b) Exception: Secured party owes duty to debtor or
4303 obligor. A secured party owes a duty based on its status as a
4304 secured party to a person if, at the time the secured party
4305 obtains control of collateral that is a controllable account,
4306 controllable electronic record, or controllable payment
4307 intangible or at the time the security interest attaches to
4308 the collateral, whichever is later:

4309 (1) the person is a debtor or obligor; and

4310 (2) the secured party knows that the information in
4311 subsection (a) (1) (A), (B), or (C) relating to the person is
4312 not provided by the collateral, a record attached to or



SB231 INTRODUCED

4313 logically associated with the collateral, or the system in
4314 which the collateral is recorded."

4315 "§7-9A-608. Application of proceeds of collection or
4316 enforcement; liability for deficiency and right to surplus.

4317 (a) Application of proceeds, surplus, and deficiency if
4318 obligation secured. If a security interest or agricultural
4319 lien secures payment or performance of an obligation, the
4320 following rules apply:

4321 (1) A secured party shall apply or pay over for
4322 application the cash proceeds of collection or enforcement
4323 under Section 7-9A-607 in the following order to:

4324 (A) the reasonable expenses of collection and
4325 enforcement and, to the extent provided for by agreement and
4326 not prohibited by law, reasonable attorney's fees and legal
4327 expenses incurred by the secured party;

4328 (B) the satisfaction of obligations secured by the
4329 security interest or agricultural lien under which the
4330 collection or enforcement is made; and

4331 (C) the satisfaction of obligations secured by any
4332 subordinate security interest in or other lien on the
4333 collateral subject to the security interest or agricultural
4334 lien under which the collection or enforcement is made if the
4335 secured party receives ~~an authenticated~~ a signed demand for
4336 proceeds before distribution of the proceeds is completed.

4337 (2) If requested by a secured party, a holder of a
4338 subordinate security interest or other lien shall furnish
4339 reasonable proof of the interest or lien within a reasonable
4340 time. Unless the holder complies, the secured party need not



SB231 INTRODUCED

4341 comply with the holder's demand under paragraph (1) (C).

4342 (3) A secured party need not apply or pay over for
4343 application noncash proceeds of collection and enforcement
4344 under Section 7-9A-607 unless the failure to do so would be
4345 commercially unreasonable. A secured party that applies or
4346 pays over for application noncash proceeds shall do so in a
4347 commercially reasonable manner.

4348 (4) A secured party shall account to and pay a debtor
4349 for any surplus, and the obligor is liable for any deficiency.

4350 (b) No surplus or deficiency in sales of certain rights
4351 to payment. If the underlying transaction is a sale of
4352 accounts, chattel paper, payment intangibles, or promissory
4353 notes, the debtor is not entitled to any surplus, and the
4354 obligor is not liable for any deficiency."

4355 "§7-9A-611. Notification before disposition of
4356 collateral.

4357 (a) "Notification date." In this section, "notification
4358 date" means the earlier of the date on which:

4359 (1) a secured party sends to the debtor and any
4360 secondary obligor ~~an authenticated~~ a signed notification of
4361 disposition; or

4362 (2) the debtor and any secondary obligor waive the
4363 right to notification.

4364 (b) Notification of disposition required. Except as
4365 otherwise provided in subsection (d), a secured party that
4366 disposes of collateral under Section 7-9A-610 shall send to
4367 the persons specified in subsection (c) a reasonable
4368 ~~authenticated~~ signed notification of disposition.



SB231 INTRODUCED

4369 (c) Persons to be notified. To comply with subsection
4370 (b), the secured party shall send ~~an authenticated~~ a signed
4371 notification of disposition to:

4372 (1) the debtor;

4373 (2) any secondary obligor; and

4374 (3) if the collateral is other than consumer goods:

4375 (A) any other person from which the secured party has
4376 received, before the notification date, ~~an authenticated~~ a
4377 signed notification of a claim of an interest in the
4378 collateral;

4379 (B) any other secured party or lienholder that, 10 days
4380 before the notification date, held a security interest in or
4381 other lien on the collateral perfected by the filing of a
4382 financing statement that:

4383 (i) identified the collateral;

4384 (ii) was indexed under the debtor's name as of that
4385 date; and

4386 (iii) was filed in the office in which to file a
4387 financing statement against the debtor covering the collateral
4388 as of that date; and

4389 (C) any other secured party that, 10 days before the
4390 notification date, held a security interest in the collateral
4391 perfected by compliance with a statute, regulation, or treaty
4392 described in Section 7-9A-311(a).

4393 (d) Subsection (b) inapplicable: Perishable collateral;
4394 recognized market. Subsection (b) does not apply if the
4395 collateral is perishable or threatens to decline speedily in
4396 value or is of a type customarily sold on a recognized market.



SB231 INTRODUCED

4397 (e) Compliance with subsection (c) (3) (B). A secured
4398 party complies with the requirement for notification
4399 prescribed by subsection (c) (3) (B) if:

4400 (1) not later than 20 days or earlier than 30 days
4401 before the notification date, the secured party requests, in a
4402 commercially reasonable manner, information concerning
4403 financing statements indexed under the debtor's name in the
4404 office indicated in subsection (c) (3) (B); and

4405 (2) before the notification date, the secured party:

4406 (A) did not receive a response to the request for
4407 information; or

4408 (B) received a response to the request for information
4409 and sent ~~an authenticated~~ a signed notification of disposition
4410 to each secured party or other lienholder named in that
4411 response whose financing statement covered the collateral."

4412 "§7-9A-613. Contents and form of notification before
4413 disposition of collateral: general.

4414 (a) Content and form of notification. Except in a
4415 consumer-goods transaction, the following rules apply:

4416 (1) The contents of a notification of disposition are
4417 sufficient if the notification:

4418 (A) describes the debtor and the secured party;

4419 (B) describes the collateral that is the subject of the
4420 intended disposition;

4421 (C) states the method of intended disposition;

4422 (D) states that the debtor is entitled to an accounting
4423 of the unpaid indebtedness and states the charge, if any, for
4424 an accounting; and



SB231 INTRODUCED

4425 (E) states the time and place of a public disposition
4426 or the time after which any other disposition is to be made.

4427 (2) Whether the contents of a notification that lacks
4428 any of the information specified in paragraph (1) are
4429 nevertheless sufficient is a question of fact.

4430 (3) The contents of a notification providing
4431 substantially the information specified in paragraph (1) are
4432 sufficient, even if the notification includes:

4433 (A) information not specified by that paragraph; or

4434 (B) minor errors that are not seriously misleading.

4435 (4) A particular phrasing of the notification is not
4436 required.

4437 (5) The following form of notification and the form
4438 appearing in Section 7-9A-614 (a) (3), when completed in
4439 accordance with the instructions in subsection (b) and Section
4440 7-9A-614 (b), each provides sufficient information:

4441 ~~NOTIFICATION OF DISPOSITION OF COLLATERAL~~

4442 ~~To: _____ (Name of debtor, obligor, or other~~
4443 ~~person to which the notification is sent)~~

4444 ~~From: _____ (Name, address, and telephone number~~
4445 ~~of secured party)~~

4446 ~~Name of Debtor(s): _____ (Include only if debtor(s)~~
4447 ~~are not an addressee)~~

4448 ~~For a public disposition:~~

4449 ~~We will sell or lease or license, as applicable, the~~
4450 ~~_____ (describe collateral) to the highest qualified bidder~~
4451 ~~in public as follows:~~

4452 ~~Day and Date:~~



SB231 INTRODUCED

4453 ~~Time:~~
 4454 ~~Place:~~
 4455 ~~For a private disposition:~~
 4456 ~~We will sell or lease or license, as applicable, the~~
 4457 ~~_____ (describe collateral) privately some time after~~
 4458 ~~_____ (day and date).~~
 4459 ~~You are entitled to an accounting of the unpaid~~
 4460 ~~indebtedness secured by the property that we intend to sell or~~
 4461 ~~lease or license, as applicable, for a charge of \$ _____. You~~
 4462 ~~may request an accounting by calling us at _____ (telephone~~
 4463 ~~number).~~

4464 ~~[End of Form]~~

NOTIFICATION OF DISPOSITION OF COLLATERAL

4465 To: (Name of debtor, obligor, or other person to which
 4466 the notification is sent)

4467 From: (Name, address, and telephone number of secured
 4468 party)

4469 {1} Name of any debtor that is not an addressee: (name
 4470 of each debtor)

4471 {2} We will sell (describe collateral) (to the highest
 4472 qualified bidder) at public sale. A sale could include a lease
 4473 or license. The sale will be held as follows:

4474 (Date)

4475 (Time)

4476 (Place)

4477 {3} We will sell (describe collateral) at private sale
 4478 sometime after (date). A sale could include a lease or
 4479 license.
 4480



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4481 {4} You are entitled to an accounting of the unpaid
4482 indebtedness secured by the property that we intend to sell
4483 or, as applicable, lease or license.

4484 {5} If you request an accounting you must pay a charge
4485 of \$ (amount).

4486 {6} You may request an accounting by calling us at
4487 (telephone number).

4488 [End of Form]

4489 (b) Instructions for form of notification. The
4490 following instructions apply to the form of notification in
4491 subsection (a) (5):

4492 (1) The instructions in this subsection refer to the
4493 numbers in braces before items in the form of notification in
4494 subsection (a) (5). Do not include the numbers or braces in the
4495 notification. The numbers and braces are used only for the
4496 purpose of these instructions.

4497 (2) Include and complete item {1} only if there is a
4498 debtor that is not an addressee of the notification and list
4499 the name or names.

4500 (3) Include and complete either item {2}, if the
4501 notification relates to a public disposition of the
4502 collateral, or item {3}, if the notification relates to a
4503 private disposition of the collateral. If item {2} is
4504 included, include the words "to the highest qualified bidder"
4505 only if applicable.

4506 (4) Include and complete items {4} and {6}.

4507 (5) Include and complete item {5} only if the sender
4508 will charge the recipient for an accounting."



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4509 "§7-9A-614. Contents and form of notification before
4510 disposition of collateral: consumer-goods transaction.

4511 (a) Content and form of notification. In a
4512 consumer-goods transaction, the following rules apply:

4513 (1) A notification of disposition must provide the
4514 following information:

4515 (A) the information specified in Section
4516 7-9A-613 (a) (1);

4517 (B) a description of any liability for a deficiency of
4518 the person to which the notification is sent;

4519 (C) a telephone number from which the amount that must
4520 be paid to the secured party to redeem the collateral under
4521 Section 7-9A-623 is available; and

4522 (D) a telephone number or mailing address from which
4523 additional information concerning the disposition and the
4524 obligation secured is available.

4525 (2) A particular phrasing of the notification is not
4526 required.

4527 (3) The following form of notification, when completed
4528 in accordance with instructions in subsection (b), provides
4529 sufficient information:

4530 ~~Name and address of secured party~~

4531 ~~Date~~

4532 ~~NOTICE OF OUR PLAN TO SELL PROPERTY~~

4533 ~~Name and address of any obligor who is also a debtor~~

4534 ~~Subject: _____ (Identification of Transaction)~~

4535 ~~We have your _____ (describe collateral), because~~
4536 ~~you broke promises in our agreement.~~



SB231 INTRODUCED

4537 ~~For a public disposition:~~
4538 ~~We will sell _____ (describe collateral) at~~
4539 ~~public sale. A sale could include a lease or license. The sale~~
4540 ~~will be held as follows:~~
4541 ~~Date:~~
4542 ~~Time:~~
4543 ~~Place:~~
4544 ~~You may attend the sale and bring bidders if you want.~~
4545 ~~For a private disposition:~~
4546 ~~We will sell _____ (describe collateral) at private~~
4547 ~~sale some time after _____ (date). A sale could include a~~
4548 ~~lease or license.~~
4549 ~~The money that we get from the sale (after paying our~~
4550 ~~costs) will reduce the amount you owe. If we get less money~~
4551 ~~than you owe, you _____ (will or will not, as~~
4552 ~~applicable) still owe us the difference. If we get more money~~
4553 ~~than you owe, you will get the extra money, unless we must pay~~
4554 ~~it to someone else.~~
4555 ~~You can get the property back at any time before we~~
4556 ~~sell it by paying us the full amount you owe (not just the~~
4557 ~~past due payments), including our expenses. To learn the exact~~
4558 ~~amount you must pay, call us at _____ (telephone number).~~
4559 ~~If you want us to explain to you in writing how we have~~
4560 ~~figured the amount that you owe us, you may call us at~~
4561 ~~_____ (telephone number) or write us at _____~~
4562 ~~(secured party's address) and request a written explanation.~~
4563 ~~We will charge you \$ _____ for the explanation if we sent you~~
4564 ~~another written explanation of the amount you owe us within~~



SB231 INTRODUCED

4565 ~~the last six months.~~

4566 ~~If you need more information about the sale call us at~~
4567 ~~_____ (telephone number) or write us at _____~~
4568 ~~(secured party's address).~~

4569 ~~We are sending this notice to the following other~~
4570 ~~people who have an interest in _____ (describe collateral)~~
4571 ~~or who owe money under your agreement:~~

4572 ~~_____ (Names of all other debtors and~~
4573 ~~obligors, if any)~~

4574 ~~[End of Form]~~

4575 (Name and address of secured party)

4576 (Date)

4577 NOTICE OF OUR PLAN TO SELL PROPERTY

4578 (Name and address of any obligor who is also a debtor)

4579 Subject: (Identify transaction)

4580 We have your (describe collateral) because you broke
4581 promises in our agreement.

4582 {1} We will sell (describe collateral) at public sale.

4583 A sale could include a lease or license. The sale will be held
4584 as follows:

4585 (Date)

4586 (Time)

4587 (Place)

4588 You may attend the sale and bring bidders if you want.

4589 {2} We will sell (describe collateral) at private sale
4590 sometime after (date). A sale could include a lease or
4591 license.

4592 {3} The money that we get from the sale, after paying



SB231 INTRODUCED

4593 our costs, will reduce the amount you owe. If we get less
4594 money than you owe, you (will or will not, as applicable) owe
4595 us the difference. If we get more money than you owe, you will
4596 get the extra money, unless we must pay it to someone else.

4597 {4} You can get the property back at any time before we
4598 sell it by paying us the full amount you owe, not just the
4599 past due payments, including our expenses. To learn the exact
4600 amount you must pay, call us at (telephone number).

4601 {5} If you want us to explain to you in (writing)
4602 (writing or in (description of electronic record))
4603 (description of electronic record) how we have figured the
4604 amount that you owe us, {6} call us at (telephone number) (or)
4605 (write us at (secured party's address)) (or contact us by
4606 (description of electronic communication method)) {7} and
4607 request (a written explanation) (a written explanation or an
4608 explanation in (description of electronic record)) (an
4609 explanation in (description of electronic record)).

4610 {8} We will charge you \$ (amount) for the explanation
4611 if we sent you another written explanation of the amount you
4612 owe us within the last six months.

4613 {9} If you need more information about the sale, (call
4614 us at (telephone number) (or) (write us at (secured party's
4615 address)) (or contact us by (description of electronic
4616 communication method)).

4617 {10} We are sending this notice to the following other
4618 people who have an interest in (describe collateral) or who
4619 owe money under your agreement:

4620 (Names of all other debtors and obligors, if any)



SB231 INTRODUCED

4621 [End of Form]

4622 (4) A notification in the form of paragraph (3) is
4623 sufficient, even if additional information appears at the end
4624 of the form.

4625 (5) A notification in the form of paragraph (3) is
4626 sufficient, even if it includes errors in information not
4627 required by paragraph (1), unless the error is misleading with
4628 respect to rights arising under this article.

4629 (6) If a notification under this section is not in the
4630 form of paragraph (3), law other than this article determines
4631 the effect of including information not required by paragraph
4632 (1).

4633 (b) Instructions for form of notification. The
4634 following instructions apply to the form of notification in
4635 subsection (a) (3):

4636 (1) The instructions in this subsection refer to the
4637 numbers in braces before items in the form of notification in
4638 subsection (a) (3). Do not include the numbers or braces in the
4639 notification. The numbers and braces are used only for the
4640 purpose of these instructions.

4641 (2) Include and complete either item {1}, if the
4642 notification relates to a public disposition of the
4643 collateral, or item {2}, if the notification relates to a
4644 private disposition of the collateral.

4645 (3) Include and complete items {3}, {4}, {5}, {6}, and
4646 {7}.

4647 (4) In item {5}, include and complete any one of the
4648 three alternative methods for the explanation: writing,



SB231 INTRODUCED

4649 writing or electronic record, or electronic record.

4650 (5) In item {6}, include the telephone number. In
4651 addition, the sender may include and complete either or both
4652 of the two additional alternative methods of communication,
4653 writing or electronic communication, for the recipient of the
4654 notification to communicate with the sender. Neither of the
4655 two additional methods of communication are required to be
4656 included.

4657 (6) In item {7}, include and complete the method or
4658 methods for the explanation, writing, writing or electronic
4659 record, or electronic record, which are included in item {5}.

4660 (7) Include and complete item {8} only if a written
4661 explanation is included in item {5} as a method for
4662 communicating the explanation and the sender will charge the
4663 recipient for another written explanation.

4664 (8) In item {9}, include either the telephone number or
4665 the address or both the telephone number and the address. In
4666 addition, the sender may include and complete the additional
4667 method of communication--electronic communication--for the
4668 recipient of the notification to communicate with the sender.
4669 The additional method of electronic communication is not
4670 required to be included.

4671 (9) If item {10} does not apply, insert "None" after
4672 "agreement:."

4673 "§7-9A-615. Application of proceeds of disposition;
4674 liability for deficiency and right to surplus.

4675 (a) Application of proceeds. A secured party shall
4676 apply or pay over for application the cash proceeds of



SB231 INTRODUCED

4677 disposition under Section 7-9A-610 in the following order to:

4678 (1) the reasonable expenses of retaking, holding,
4679 preparing for disposition, processing, and disposing, and, to
4680 the extent provided for by agreement and not prohibited by
4681 law, reasonable attorney's fees and legal expenses incurred by
4682 the secured party;

4683 (2) the satisfaction of obligations secured by the
4684 security interest or agricultural lien under which the
4685 disposition is made;

4686 (3) the satisfaction of obligations secured by any
4687 subordinate security interest in or other subordinate lien on
4688 the collateral if:

4689 (A) the secured party receives from the holder of the
4690 subordinate security interest or other lien ~~an authenticated~~ a
4691 signed demand for proceeds before distribution of the proceeds
4692 is completed; and

4693 (B) in a case in which a consignor has an interest in
4694 the collateral, the subordinate security interest or other
4695 lien is senior to the interest of the consignor; and

4696 (4) a secured party that is a consignor of the
4697 collateral if the secured party receives from the consignor ~~an~~
4698 ~~authenticated~~ a signed demand for proceeds before distribution
4699 of the proceeds is completed.

4700 (b) Proof of subordinate interest. If requested by a
4701 secured party, a holder of a subordinate security interest or
4702 other lien shall furnish reasonable proof of the interest or
4703 lien within a reasonable time. Unless the holder does so, the
4704 secured party need not comply with the holder's demand under



SB231 INTRODUCED

4705 subsection (a) (3).

4706 (c) Application of noncash proceeds. A secured party
4707 need not apply or pay over for application noncash proceeds of
4708 disposition under Section 7-9A-610 unless the failure to do so
4709 would be commercially unreasonable. A secured party that
4710 applies or pays over for application noncash proceeds shall do
4711 so in a commercially reasonable manner.

4712 (d) Surplus or deficiency if obligation secured. If the
4713 security interest under which a disposition is made secures
4714 payment or performance of an obligation, after making the
4715 payments and applications required by subsection (a) and
4716 permitted by subsection (c):

4717 (1) unless subsection (a) (4) requires the secured party
4718 to apply or pay over cash proceeds to a consignor, the secured
4719 party shall account to and pay a debtor for any surplus; and

4720 (2) the obligor is liable for any deficiency.

4721 (e) No surplus or deficiency in sales of certain rights
4722 to payment. If the underlying transaction is a sale of
4723 accounts, chattel paper, payment intangibles, or promissory
4724 notes:

4725 (1) the debtor is not entitled to any surplus; and

4726 (2) the obligor is not liable for any deficiency.

4727 (f) Calculation of surplus or deficiency in disposition
4728 to person related to secured party. The surplus or deficiency
4729 following a disposition is calculated based on the amount of
4730 proceeds that would have been realized in a disposition
4731 complying with this part to a transferee other than the
4732 secured party, a person related to the secured party, or a



SB231 INTRODUCED

4733 secondary obligor if:

4734 (1) the transferee in the disposition is the secured
4735 party, a person related to the secured party, or a secondary
4736 obligor; and

4737 (2) the amount of proceeds of the disposition is
4738 significantly below the range of proceeds that a complying
4739 disposition to a person other than the secured party, a person
4740 related to the secured party, or a secondary obligor would
4741 have brought.

4742 (g) Cash proceeds received by junior secured party. A
4743 secured party that receives cash proceeds of a disposition in
4744 good faith and without knowledge that the receipt violates the
4745 rights of the holder of a security interest or other lien that
4746 is not subordinate to the security interest or agricultural
4747 lien under which the disposition is made:

4748 (1) takes the cash proceeds free of the security
4749 interest or other lien;

4750 (2) is not obligated to apply the proceeds of the
4751 disposition to the satisfaction of obligations secured by the
4752 security interest or other lien; and

4753 (3) is not obligated to account to or pay the holder of
4754 the security interest or other lien for any surplus."

4755 "§7-9A-616. Explanation of calculation of surplus or
4756 deficiency.

4757 (a) Definitions. In this section:

4758 (1) "Explanation" means a ~~writing~~ record that:

4759 (A) states the amount of the surplus or deficiency;

4760 (B) provides an explanation in accordance with



SB231 INTRODUCED

4761 subsection (c) of how the secured party calculated the surplus
4762 or deficiency;

4763 (C) states, if applicable, that future debits, credits,
4764 charges, including additional credit service charges or
4765 interest, rebates, and expenses may affect the amount of the
4766 surplus or deficiency; and

4767 (D) provides a telephone number or mailing address from
4768 which additional information concerning the transaction is
4769 available.

4770 (2) "Request" means a record:

4771 (A) ~~authenticated~~ signed by a debtor or consumer
4772 obligor;

4773 (B) requesting that the recipient provide an
4774 explanation; and

4775 (C) sent after disposition of the collateral under
4776 Section 7-9A-610.

4777 (b) Explanation of calculation. In a consumer-goods
4778 transaction in which the debtor is entitled to a surplus or a
4779 consumer obligor is liable for a deficiency under Section
4780 7-9A-615, the secured party shall:

4781 (1) send an explanation to the debtor or consumer
4782 obligor, as applicable, after the disposition and:

4783 (A) before or when the secured party accounts to the
4784 debtor and pays any surplus or first makes ~~written~~ demand in a
4785 record on the consumer obligor after the disposition for
4786 payment of the deficiency; and

4787 (B) within 14 days after receipt of a request; or

4788 (2) in the case of a consumer obligor who is liable for



SB231 INTRODUCED

4789 a deficiency, within 14 days after receipt of a request, send
4790 to the consumer obligor a record waiving the secured party's
4791 right to a deficiency.

4792 (c) Required information. To comply with subsection
4793 (a) (1) (B), ~~a writing~~ an explanation must provide the following
4794 information in the following order:

4795 (1) the aggregate amount of obligations secured by the
4796 security interest under which the disposition was made, and,
4797 if the amount reflects a rebate of unearned interest or credit
4798 service charge, an indication of that fact, calculated as of a
4799 specified date:

4800 (A) if the secured party takes or receives possession
4801 of the collateral after default, not more than 35 days before
4802 the secured party takes or receives possession; or

4803 (B) if the secured party takes or receives possession
4804 of the collateral before default or does not take possession
4805 of the collateral, not more than 35 days before the
4806 disposition;

4807 (2) the amount of proceeds of the disposition;

4808 (3) the aggregate amount of the obligations after
4809 deducting the amount of proceeds;

4810 (4) the amount, in the aggregate or by type, and types
4811 of expenses, including expenses of retaking, holding,
4812 preparing for disposition, processing, and disposing of the
4813 collateral, and attorney's fees secured by the collateral
4814 which are known to the secured party and relate to the current
4815 disposition;

4816 (5) the amount, in the aggregate or by type, and types



SB231 INTRODUCED

4817 of credits, including rebates of interest or credit service
4818 charges, to which the obligor is known to be entitled and
4819 which are not reflected in the amount in paragraph (1); and

4820 (6) the amount of the surplus or deficiency.

4821 (d) Substantial compliance. A particular phrasing of
4822 the explanation is not required. An explanation complying
4823 substantially with the requirements of subsection (a) is
4824 sufficient, even if it includes minor errors that are not
4825 seriously misleading.

4826 (e) Charges for responses. A debtor or consumer obligor
4827 is entitled without charge to one response to a request under
4828 this section during any six-month period in which the secured
4829 party did not send to the debtor or consumer obligor an
4830 explanation pursuant to subsection (b)(1). The secured party
4831 may require payment of a charge not exceeding ~~\$25~~twenty-five
4832 dollars (\$25) for each additional response."

4833 "§7-9A-619. Transfer of record or legal title.

4834 (a) "Transfer statement." In this section, "transfer
4835 statement" means a record ~~authenticated~~ signed by a secured
4836 party stating:

4837 (1) that the debtor has defaulted in connection with an
4838 obligation secured by specified collateral;

4839 (2) that the secured party has exercised its
4840 post-default remedies with respect to the collateral;

4841 (3) that, by reason of the exercise, a transferee has
4842 acquired the rights of the debtor in the collateral; and

4843 (4) the name and mailing address of the secured party,
4844 debtor, and transferee.



SB231 INTRODUCED

4845 (b) Effect of transfer statement. A transfer statement
4846 entitles the transferee to the transfer of record of all
4847 rights of the debtor in the collateral specified in the
4848 statement in any official filing, recording, registration, or
4849 certificate-of-title system covering the collateral. If a
4850 transfer statement is presented with the applicable fee and
4851 request form to the official or office responsible for
4852 maintaining the system, the official or office shall:

- 4853 (1) accept the transfer statement;
4854 (2) promptly amend its records to reflect the transfer;
4855 and
4856 (3) if applicable, issue a new appropriate certificate
4857 of title in the name of the transferee.

4858 (c) Transfer not a disposition; no relief of secured
4859 party's duties. A transfer of the record or legal title to
4860 collateral to a secured party under subsection (b) or
4861 otherwise is not of itself a disposition of collateral under
4862 this article and does not of itself relieve the secured party
4863 of its duties under this article."

4864 "§7-9A-620. Acceptance of collateral in full or partial
4865 satisfaction of obligation; compulsory disposition of
4866 collateral.

4867 (a) Conditions to acceptance in satisfaction. Except as
4868 otherwise provided in subsection (g), a secured party may
4869 accept collateral in full or partial satisfaction of the
4870 obligation it secures only if:

- 4871 (1) the debtor consents to the acceptance under
4872 subsection (c);



SB231 INTRODUCED

4873 (2) the secured party does not receive, within the time
4874 set forth in subsection (d), a notification of objection to
4875 the proposal ~~authenticated~~ signed by:

4876 (A) a person to which the secured party was required to
4877 send a proposal under Section 7-9A-621; or

4878 (B) any other person, other than the debtor, holding an
4879 interest in the collateral subordinate to the security
4880 interest that is the subject of the proposal;

4881 (3) if the collateral is consumer goods, the collateral
4882 is not in the possession of the debtor when the debtor
4883 consents to the acceptance; and

4884 (4) subsection (e) does not require the secured party
4885 to dispose of the collateral or the debtor waives the
4886 requirement pursuant to Section 7-9A-624.

4887 (b) Purported acceptance ineffective. A purported or
4888 apparent acceptance of collateral under this section is
4889 ineffective unless:

4890 (1) the secured party consents to the acceptance in ~~an~~
4891 ~~authenticated~~ a signed record or sends a proposal to the
4892 debtor; and

4893 (2) the conditions of subsection (a) are met.

4894 (c) Debtor's consent. For purposes of this section:

4895 (1) a debtor consents to an acceptance of collateral in
4896 partial satisfaction of the obligation it secures only if the
4897 debtor agrees to the terms of the acceptance in a record
4898 ~~authenticated~~ signed after default; and

4899 (2) a debtor consents to an acceptance of collateral in
4900 full satisfaction of the obligation it secures only if the



SB231 INTRODUCED

4901 debtor agrees to the terms of the acceptance in a record
4902 ~~authenticated~~ signed after default or the secured party:

4903 (A) sends to the debtor after default a proposal that
4904 is unconditional or subject only to a condition that
4905 collateral not in the possession of the secured party be
4906 preserved or maintained;

4907 (B) in the proposal, proposes to accept collateral in
4908 full satisfaction of the obligation it secures; and

4909 (C) does not receive a notification of objection
4910 ~~authenticated~~ signed by the debtor within 20 days after the
4911 proposal is sent.

4912 (d) Effectiveness of notification. To be effective
4913 under subsection (a) (2), a notification of objection must be
4914 received by the secured party:

4915 (1) in the case of a person to which the proposal was
4916 sent pursuant to Section 7-9A-621, within 20 days after
4917 notification was sent to that person; and

4918 (2) in other cases:

4919 (A) within 20 days after the last notification was sent
4920 pursuant to Section 7-9A-621; or

4921 (B) if a notification was not sent, before the debtor
4922 consents to the acceptance under subsection (c).

4923 (e) Mandatory disposition of consumer goods. A secured
4924 party that has taken possession of collateral shall dispose of
4925 the collateral pursuant to Section 7-9A-610 within the time
4926 specified in subsection (f) if:

4927 (1) 60 percent of the cash price has been paid in the
4928 case of a purchase-money security interest in consumer goods;



SB231 INTRODUCED

4929 or

4930 (2) 60 percent of the principal amount of the
4931 obligation secured has been paid in the case of a
4932 non-purchase-money security interest in consumer goods.

4933 (f) Compliance with mandatory disposition requirement.
4934 To comply with subsection (e), the secured party shall dispose
4935 of the collateral:

4936 (1) within 90 days after taking possession; or

4937 (2) within any longer period to which the debtor and
4938 all secondary obligors have agreed in an agreement to that
4939 effect entered into and ~~authenticated~~ signed after default.

4940 (g) No partial satisfaction in consumer transaction. In
4941 a consumer transaction, a secured party may not accept
4942 collateral in partial satisfaction of the obligation it
4943 secures."

4944 "§7-9A-621. Notification of proposal to accept
4945 collateral.

4946 (a) Persons to which proposal to be sent. A secured
4947 party that desires to accept collateral in full or partial
4948 satisfaction of the obligation it secures shall send its
4949 proposal to:

4950 (1) any person from which the secured party has
4951 received, before the debtor consented to the acceptance, ~~an~~
4952 ~~authenticated~~ a signed notification of a claim of an interest
4953 in the collateral;

4954 (2) any other secured party or lienholder that, 10 days
4955 before the debtor consented to the acceptance, held a security
4956 interest in or other lien on the collateral perfected by the



SB231 INTRODUCED

4957 filing of a financing statement that:

4958 (A) identified the collateral;

4959 (B) was indexed under the debtor's name as of that
4960 date; and

4961 (C) was filed in the office or offices in which to file
4962 a financing statement against the debtor covering the
4963 collateral as of that date; and

4964 (3) any other secured party that, 10 days before the
4965 debtor consented to the acceptance, held a security interest
4966 in the collateral perfected by compliance with a statute,
4967 regulation, or treaty described in Section 7-9A-311(a).

4968 (b) Proposal to be sent to secondary obligor in partial
4969 satisfaction. A secured party that desires to accept
4970 collateral in partial satisfaction of the obligation it
4971 secures shall send its proposal to any secondary obligor in
4972 addition to the persons described in subsection (a)."

4973 "§7-9A-624. Waiver.

4974 (a) Waiver of disposition notification. A debtor or
4975 secondary obligor may waive the right to notification of
4976 disposition of collateral under Section 7-9A-611 only by an
4977 agreement to that effect entered into and ~~authenticated~~ signed
4978 after default.

4979 (b) Waiver of mandatory disposition. A debtor may waive
4980 the right to require disposition of collateral under Section
4981 7-9A-620(e) only by an agreement to that effect entered into
4982 and ~~authenticated~~ signed after default.

4983 (c) Waiver of redemption right. Except in a
4984 consumer-goods transaction, a debtor or secondary obligor may



SB231 INTRODUCED

4985 waive the right to redeem collateral under Section 7-9A-623
4986 only by an agreement to that effect entered into and
4987 ~~authenticated~~signed after default."

4988 "§7-9A-628. Nonliability and limitation on liability of
4989 secured party; liability of secondary obligor.

4990 (a) Limitation of liability of secured party for
4991 noncompliance with article. ~~Unless~~Subject to subsection (f),
4992 unless a secured party knows that a person is a debtor or
4993 obligor, knows the identity of the person, and knows how to
4994 communicate with the person:

4995 (1) the secured party is not liable to the person, or
4996 to a secured party or lienholder that has filed a financing
4997 statement against the person, for failure to comply with this
4998 article; and

4999 (2) the secured party's failure to comply with this
5000 article does not affect the liability of the person for a
5001 deficiency.

5002 (b) Limitation of liability based on status as secured
5003 party. Subject to subsection (f), a ~~A~~-secured party is not
5004 liable because of its status as secured party:

5005 (1) to a person that is a debtor or obligor, unless the
5006 secured party knows:

5007 (A) that the person is a debtor or obligor;

5008 (B) the identity of the person; and

5009 (C) how to communicate with the person; or

5010 (2) to a secured party or lienholder that has filed a
5011 financing statement against a person, unless the secured party
5012 knows:



SB231 INTRODUCED

5013 (A) that the person is a debtor; and

5014 (B) the identity of the person.

5015 (c) Limitation of liability if reasonable belief that
5016 transaction not a consumer-goods transaction or consumer
5017 transaction. A secured party is not liable to any person, and
5018 a person's liability for a deficiency is not affected, because
5019 of any act or omission arising out of the secured party's
5020 reasonable belief that a transaction is not a consumer-goods
5021 transaction or a consumer transaction or that goods are not
5022 consumer goods, if the secured party's belief is based on its
5023 reasonable reliance on:

5024 (1) a debtor's representation concerning the purpose
5025 for which collateral was to be used, acquired, or held; or

5026 (2) an obligor's representation concerning the purpose
5027 for which a secured obligation was incurred.

5028 (d) Limitation of liability for statutory damages. A
5029 secured party is not liable to any person under Section
5030 7-9A-625(c)(2) for its failure to comply with Section
5031 7-9A-616.

5032 (e) Limitation of multiple liability for statutory
5033 damages. A secured party is not liable under Section
5034 7-9A-625(c)(2) more than once with respect to any one secured
5035 obligation.

5036 (f) Exception: Limitation of liability under
5037 subsections (a) and (b) does not apply. Subsections (a) and
5038 (b) do not apply to limit the liability of a secured party to
5039 a person if, at the time the secured party obtains control of
5040 collateral that is a controllable account, controllable



SB231 INTRODUCED

5041 electronic record, or controllable payment intangible or at
5042 the time the security interest attaches to the collateral,
5043 whichever is later:

5044 (1) the person is a debtor or obligor; and
5045 (2) the secured party knows that the information in
5046 subsection (b) (1) (A), (B), or (C) relating to the person is
5047 not provided by the collateral, a record attached to or
5048 logically associated with the collateral, or the system in
5049 which the collateral is recorded.

5050 Section 2. Sections 7-9A-107A, 7-9A-107B, 7-9A-306A,
5051 7-9A-306B, 7-9A-314A, and 7-9A-326A are added to the Code of
5052 Alabama 1975, to read as follows:

5053 §7-9A-107A. Control of controllable electronic record,
5054 controllable account, or controllable payment intangible.

5055 (a) Control under Section 7-12-105. A secured party has
5056 control of a controllable electronic record as provided in
5057 Section 7-12-105.

5058 (b) Control of controllable account and controllable
5059 payment intangible. A secured party has control of a
5060 controllable account or controllable payment intangible if the
5061 secured party has control of the controllable electronic
5062 record that evidences the controllable account or controllable
5063 payment intangible.

5064 §7-9A-107B. No requirement to acknowledge or confirm;
5065 no duties.

5066 (a) No requirement to acknowledge. A person that has
5067 control under Section 7-9A-104, or 7-9A-105, is not required
5068 to acknowledge that it has control on behalf of another



SB231 INTRODUCED

5069 person.

5070 (b) No duties or confirmation. If a person acknowledges
5071 that it has or will obtain control on behalf of another
5072 person, unless the person otherwise agrees or law other than
5073 this article otherwise provides, the person does not owe any
5074 duty to the other person and is not required to confirm the
5075 acknowledgment to any other person.

5076 §7-9A-306A. Law governing perfection and priority of
5077 security interests in chattel paper.

5078 (a) Chattel paper evidenced by authoritative electronic
5079 copy. Except as provided in subsection (d), if chattel paper
5080 is evidenced only by an authoritative electronic copy of the
5081 chattel paper or is evidenced by an authoritative electronic
5082 copy and an authoritative tangible copy, the local law of the
5083 chattel paper's jurisdiction governs perfection, the effect of
5084 perfection or nonperfection, and the priority of a security
5085 interest in the chattel paper, even if the transaction does
5086 not bear any relation to the chattel paper's jurisdiction.

5087 (b) Chattel paper's jurisdiction. The following rules
5088 determine the chattel paper's jurisdiction under this section:

5089 (1) If the authoritative electronic copy of the record
5090 evidencing chattel paper, or a record attached to or logically
5091 associated with the electronic copy and readily available for
5092 review, expressly provides that a particular jurisdiction is
5093 the chattel paper's jurisdiction for purposes of this part,
5094 this article, or the Uniform Commercial Code, that
5095 jurisdiction is the chattel paper's jurisdiction.

5096 (2) If paragraph (1) does not apply and the rules of



SB231 INTRODUCED

5097 the system in which the authoritative electronic copy is
5098 recorded are readily available for review and expressly
5099 provide that a particular jurisdiction is the chattel paper's
5100 jurisdiction for purposes of this part, this article, or the
5101 Uniform Commercial Code, that jurisdiction is the chattel
5102 paper's jurisdiction.

5103 (3) If paragraphs (1) and (2) do not apply and the
5104 authoritative electronic copy, or a record attached to or
5105 logically associated with the electronic copy and readily
5106 available for review, expressly provides that the chattel
5107 paper is governed by the law of a particular jurisdiction,
5108 that jurisdiction is the chattel paper's jurisdiction.

5109 (4) If paragraphs (1), (2), and (3) do not apply and
5110 the rules of the system in which the authoritative electronic
5111 copy is recorded are readily available for review and
5112 expressly provide that the chattel paper or the system is
5113 governed by the law of a particular jurisdiction, that
5114 jurisdiction is the chattel paper's jurisdiction.

5115 (5) If paragraphs (1) through (4) do not apply, the
5116 chattel paper's jurisdiction is the jurisdiction in which the
5117 debtor is located.

5118 (c) Chattel paper evidenced by authoritative tangible
5119 copy. If an authoritative tangible copy of a record evidences
5120 chattel paper and the chattel paper is not evidenced by an
5121 authoritative electronic copy, while the authoritative
5122 tangible copy of the record evidencing chattel paper is
5123 located in a jurisdiction, the local law of that jurisdiction
5124 governs:



SB231 INTRODUCED

5125 (1) perfection of a security interest in the chattel
5126 paper by possession under Section 7-9A-314A; and

5127 (2) the effect of perfection or nonperfection and the
5128 priority of a security interest in the chattel paper.

5129 (d) When perfection governed by law of jurisdiction
5130 where debtor located. The local law of the jurisdiction in
5131 which the debtor is located governs perfection of a security
5132 interest in chattel paper by filing."

5133 §7-9A-306B. Law governing perfection and priority of
5134 security interests in controllable accounts, controllable
5135 electronic records, and controllable payment intangibles.

5136 (a) Governing law: general rules. Except as provided in
5137 subsection (b), the local law of the controllable electronic
5138 record's jurisdiction specified in Section 7-12-107(c) and (d)
5139 governs perfection, the effect of perfection or nonperfection,
5140 and the priority of a security interest in a controllable
5141 electronic record and a security interest in a controllable
5142 account or controllable payment intangible evidenced by the
5143 controllable electronic record.

5144 (b) When perfection governed by law of jurisdiction
5145 where the debtor is located. The local law of the jurisdiction
5146 in which the debtor is located governs:

5147 (1) perfection of a security interest in a controllable
5148 account, controllable electronic record, or controllable
5149 payment intangible by filing; and

5150 (2) automatic perfection of a security interest in a
5151 controllable payment intangible created by a sale of the
5152 controllable payment intangible.



SB231 INTRODUCED

5153 §7-9A-314A. Perfection by possession and control of
5154 chattel paper.

5155 (a) Perfection by possession and control. A secured
5156 party may perfect a security interest in chattel paper by
5157 taking possession of each authoritative tangible copy of the
5158 record evidencing the chattel paper and obtaining control of
5159 each authoritative electronic copy of the electronic record
5160 evidencing the chattel paper.

5161 (b) Time of perfection; continuation of perfection. A
5162 security interest is perfected under subsection (a) not
5163 earlier than the time the secured party takes possession and
5164 obtains control and remains perfected under subsection (a)
5165 only while the secured party retains possession and control.

5166 (c) Application of Section 7-9A-313 to perfection by
5167 possession of chattel paper. Subsections (c) and (f) through
5168 (i) of Section 7-9A-313 apply to perfection by possession of
5169 an authoritative tangible copy of a record evidencing chattel
5170 paper.

5171 §7-9A-326A. Priority of security interest in
5172 controllable account, controllable electronic record, and
5173 controllable payment intangible.

5174 A security interest in a controllable account,
5175 controllable electronic record, or controllable payment
5176 intangible held by a secured party having control of the
5177 account, electronic record, or payment intangible has priority
5178 over a conflicting security interest held by a secured party
5179 that does not have control.

5180 Section 3. Article 12 is added to Title 7 of the Code



SB231 INTRODUCED

5181 of Alabama 1975, to read as follows:

5182 ARTICLE 12

5183 CONTROLLABLE ELECTRONIC RECORDS

5184 §7-12-101. Short title.

5185 This article may be cited as Uniform Commercial
5186 Code—Controllable Electronic Records.

5187 §7-12-102. Definitions.

5188 (a) Article 12 definitions. In this article:

5189 (1) "Controllable electronic record" means a record
5190 stored in an electronic medium that can be subjected to
5191 control under Section 7-12-105. The term does not include a
5192 controllable account, a controllable payment intangible, a
5193 deposit account, an electronic copy of a record evidencing
5194 chattel paper, an electronic document of title, investment
5195 property, a transferable record, or an electronic record that
5196 is currently authorized or adopted by a domestic or foreign
5197 government and is not a medium of exchange that was recorded
5198 and transferable in a system that existed and operated for the
5199 medium of exchange before the medium of exchange was
5200 authorized or adopted by a government.

5201 (2) "Qualifying purchaser" means a purchaser of a
5202 controllable electronic record or an interest in a
5203 controllable electronic record that obtains control of the
5204 controllable electronic record for value, in good faith, and
5205 without notice of a claim of a property right in the
5206 controllable electronic record.

5207 (3) "Transferable record" has the meaning provided for
5208 that term in:



SB231 INTRODUCED

5209 (A) Section 201(a)(1) of the Electronic Signatures in
5210 Global and National Commerce Act, 15 U.S.C. § 7021(a)(1), as
5211 amended; or

5212 (B) Section 8-1A-16(a).

5213 (4) "Value" has the meaning provided in Section
5214 7-3-303(a), as if references in that subsection to an
5215 "instrument" were references to a controllable account,
5216 controllable electronic record, or controllable payment
5217 intangible.

5218 (b) Definitions in Article 9A. The definitions in
5219 Article 9A of "account debtor," "controllable account,"
5220 "controllable payment intangible," "chattel paper," "deposit
5221 account," and "investment property" apply to this article.

5222 (c) Article 1 definitions and principles. Article 1
5223 contains general definitions and principles of construction
5224 and interpretation applicable throughout this article.

5225 §7-12-103. Relation to Article 9A and consumer laws.

5226 (a) Article 9A governs in case of conflict. If there is
5227 conflict between this article and Article 9A, Article 9A
5228 governs.

5229 (b) Applicable consumer law and other laws. A
5230 transaction subject to this article is subject to any
5231 applicable rule of law that establishes a different rule for
5232 consumers and to (i) any other statute or regulation that
5233 regulates the rates, charges, agreements, and practices for
5234 loans, credit sales, or other extensions of credit and (ii)
5235 any consumer-protection statute or regulation.

5236 §7-12-104. Rights in controllable account, controllable



SB231 INTRODUCED

5237 electronic record, and controllable payment intangible.

5238 (a) Applicability of section to controllable account
5239 and controllable payment intangible. This section applies to
5240 the acquisition and purchase of rights in a controllable
5241 account or controllable payment intangible, including the
5242 rights and benefits under subsections (c), (d), (e), (g), and
5243 (h) of a purchaser and qualifying purchaser, in the same
5244 manner this section applies to a controllable electronic
5245 record.

5246 (b) Control of controllable account and controllable
5247 payment intangible. To determine whether a purchaser of a
5248 controllable account or a controllable payment intangible is a
5249 qualifying purchaser, the purchaser obtains control of the
5250 account or payment intangible if it obtains control of the
5251 controllable electronic record that evidences the account or
5252 payment intangible.

5253 (c) Applicability of other law to acquisition of
5254 rights. Except as provided in this section, law other than
5255 this article determines whether a person acquires a right in a
5256 controllable electronic record and the right the person
5257 acquires.

5258 (d) Shelter principle and purchase of limited interest.
5259 A purchaser of a controllable electronic record acquires all
5260 rights in the controllable electronic record that the
5261 transferor had or had power to transfer, except that a
5262 purchaser of a limited interest in a controllable electronic
5263 record acquires rights only to the extent of the interest
5264 purchased.



SB231 INTRODUCED

5265 (e) Rights of qualifying purchaser. A qualifying
5266 purchaser acquires its rights in the controllable electronic
5267 record free of a claim of a property right in the controllable
5268 electronic record.

5269 (f) Limitation of rights of qualifying purchaser in
5270 other property. Except as provided in subsections (a) and (e)
5271 for a controllable account and a controllable payment
5272 intangible or law other than this article, a qualifying
5273 purchaser takes a right to payment, right to performance, or
5274 other interest in property evidenced by the controllable
5275 electronic record subject to a claim of a property right in
5276 the right to payment, right to performance, or other interest
5277 in property.

5278 (g) No-action protection for qualifying purchaser. An
5279 action may not be asserted against a qualifying purchaser
5280 based on both a purchase by the qualifying purchaser of a
5281 controllable electronic record and a claim of a property right
5282 in another controllable electronic record, whether the action
5283 is framed in conversion, replevin, constructive trust,
5284 equitable lien, or other theory.

5285 (h) Filing not notice. Filing of a financing statement
5286 under Article 9A is not notice of a claim of a property right
5287 in a controllable electronic record.

5288 §7-12-105. Control of controllable electronic record.

5289 (a) General rule: control of controllable electronic
5290 record. A person has control of a controllable electronic
5291 record if the electronic record, a record attached to or
5292 logically associated with the electronic record, or a system



SB231 INTRODUCED

5293 in which the electronic record is recorded:

5294 (1) gives the person:

5295 (A) power to avail itself of substantially all the
5296 benefits from the electronic record; and

5297 (B) exclusive power, subject to subsection (b), to:

5298 (i) prevent others from availing themselves of
5299 substantially all the benefits from the electronic record; and

5300 (ii) transfer control of the electronic record to
5301 another person or cause another person to obtain control of
5302 another controllable electronic record as a result of the
5303 transfer of the electronic record; and

5304 (2) enables the person readily to identify itself in
5305 any way, including by name, identifying number, cryptographic
5306 key, office, or account number, as having the powers specified
5307 in paragraph (1).

5308 (b) Meaning of exclusive. Subject to subsection (c), a
5309 power is exclusive under subsection (a)(1)(B)(i) and (ii) even
5310 if:

5311 (1) the controllable electronic record, a record
5312 attached to or logically associated with the electronic
5313 record, or a system in which the electronic record is recorded
5314 limits the use of the electronic record or has a protocol
5315 programmed to cause a change, including a transfer or loss of
5316 control or a modification of benefits afforded by the
5317 electronic record; or

5318 (2) the power is shared with another person.

5319 (c) When power not shared with another person. A power
5320 of a person is not shared with another person under subsection



SB231 INTRODUCED

5321 (b) (2) and the person's power is not exclusive if:

5322 (1) the person can exercise the power only if the power
5323 also is exercised by the other person; and

5324 (2) the other person:

5325 (A) can exercise the power without exercise of the
5326 power by the person; or

5327 (B) is the transferor to the person of an interest in
5328 the controllable electronic record or a controllable account
5329 or controllable payment intangible evidenced by the
5330 controllable electronic record.

5331 (d) Presumption of exclusivity of certain powers. If a
5332 person has the powers specified in subsection (a) (1) (B) (i) and
5333 (ii), the powers are presumed to be exclusive.

5334 (e) Control through another person. A person has
5335 control of a controllable electronic record if another person,
5336 other than the transferor to the person of an interest in the
5337 controllable electronic record or a controllable account or
5338 controllable payment intangible evidenced by the controllable
5339 electronic record:

5340 (1) has control of the electronic record and
5341 acknowledges that it has control on behalf of the person; or

5342 (2) obtains control of the electronic record after
5343 having acknowledged that it will obtain control of the
5344 electronic record on behalf of the person.

5345 (f) No requirement to acknowledge. A person that has
5346 control under this section is not required to acknowledge that
5347 it has control on behalf of another person.

5348 (g) No duties or confirmation. If a person acknowledges



SB231 INTRODUCED

5349 that it has or will obtain control on behalf of another
5350 person, unless the person otherwise agrees or law other than
5351 this article or Article 9A otherwise provides, the person does
5352 not owe any duty to the other person and is not required to
5353 confirm the acknowledgment to any other person.

5354 §7-12-106. Discharge of account debtor on controllable
5355 account or controllable payment intangible.

5356 (a) Discharge of account debtor. An account debtor on a
5357 controllable account or controllable payment intangible may
5358 discharge its obligation by paying:

5359 (1) the person having control of the controllable
5360 electronic record that evidences the controllable account or
5361 controllable payment intangible; or

5362 (2) except as provided in subsection (b), a person that
5363 formerly had control of the controllable electronic record.

5364 (b) Content and effect of notification. Subject to
5365 subsection (d), the account debtor may not discharge its
5366 obligation by paying a person that formerly had control of the
5367 controllable electronic record if the account debtor receives
5368 a notification that:

5369 (1) is signed by a person that formerly had control or
5370 the person to which control was transferred;

5371 (2) reasonably identifies the controllable account or
5372 controllable payment intangible;

5373 (3) notifies the account debtor that control of the
5374 controllable electronic record that evidences the controllable
5375 account or controllable payment intangible was transferred;

5376 (4) identifies the transferee, in any reasonable way,



SB231 INTRODUCED

5377 including by name, identifying number, cryptographic key,
5378 office, or account number; and

5379 (5) provides a commercially reasonable method by which
5380 the account debtor is to pay the transferee.

5381 (c) Discharge following effective notification. After
5382 receipt of a notification that complies with subsection (b),
5383 the account debtor may discharge its obligation by paying in
5384 accordance with the notification and may not discharge the
5385 obligation by paying a person that formerly had control.

5386 (d) When notification ineffective. Subject to
5387 subsection (h), notification is ineffective under subsection
5388 (b):

5389 (1) unless, before the notification is sent, the
5390 account debtor and the person that, at that time, had control
5391 of the controllable electronic record that evidences the
5392 controllable account or controllable payment intangible agree
5393 in a signed record to a commercially reasonable method by
5394 which a person may furnish reasonable proof that control has
5395 been transferred;

5396 (2) to the extent an agreement between the account
5397 debtor and seller of a payment intangible limits the account
5398 debtor's duty to pay a person other than the seller and the
5399 limitation is effective under law other than this article; or

5400 (3) at the option of the account debtor, if the
5401 notification notifies the account debtor to:

5402 (A) divide a payment;

5403 (B) make less than the full amount of an installment or
5404 other periodic payment; or



SB231 INTRODUCED

5405 (C) pay any part of a payment by more than one method
5406 or to more than one person.

5407 (e) Proof of transfer of control. Subject to subsection
5408 (h), if requested by the account debtor, the person giving the
5409 notification under subsection (b) seasonably shall furnish
5410 reasonable proof, using the method in the agreement referred
5411 to in subsection (d)(1), that control of the controllable
5412 electronic record has been transferred. Unless the person
5413 complies with the request, the account debtor may discharge
5414 its obligation by paying a person that formerly had control,
5415 even if the account debtor has received a notification under
5416 subsection (b).

5417 (f) What constitutes reasonable proof. A person
5418 furnishes reasonable proof under subsection (e) that control
5419 has been transferred if the person demonstrates, using the
5420 method in the agreement referred to in subsection (d)(1), that
5421 the transferee has the power to:

5422 (1) avail itself of substantially all the benefits from
5423 the controllable electronic record;

5424 (2) prevent others from availing themselves of
5425 substantially all the benefits from the controllable
5426 electronic record; and

5427 (3) transfer the powers specified in paragraphs (1) and
5428 (2) to another person.

5429 (g) Rights not waivable. Subject to subsection (h), an
5430 account debtor may not waive or vary its rights under
5431 subsections (d)(1) and (e) or its option under subsection
5432 (d)(3).



SB231 INTRODUCED

5433 (h) Rule for individual under other law. This section
5434 is subject to law other than this article which establishes a
5435 different rule for an account debtor who is an individual and
5436 who incurred the obligation primarily for personal, family, or
5437 household purposes.

5438 §7-12-107. Governing law.

5439 (a) Governing law: general rule. Except as provided in
5440 subsection (b), the local law of a controllable electronic
5441 record's jurisdiction governs a matter covered by this
5442 article.

5443 (b) Governing law: Section 7-12-106. For a controllable
5444 electronic record that evidences a controllable account or
5445 controllable payment intangible, the local law of the
5446 controllable electronic record's jurisdiction governs a matter
5447 covered by Section 7-12-106 unless an effective agreement
5448 determines that the local law of another jurisdiction governs.

5449 (c) Controllable electronic record's jurisdiction. The
5450 following rules determine a controllable electronic record's
5451 jurisdiction under this section:

5452 (1) If the controllable electronic record, or a record
5453 attached to or logically associated with the controllable
5454 electronic record and readily available for review, expressly
5455 provides that a particular jurisdiction is the controllable
5456 electronic record's jurisdiction for purposes of this article
5457 or the Uniform Commercial Code, that jurisdiction is the
5458 controllable electronic record's jurisdiction.

5459 (2) If paragraph (1) does not apply and the rules of
5460 the system in which the controllable electronic record is



SB231 INTRODUCED

5461 recorded are readily available for review and expressly
5462 provide that a particular jurisdiction is the controllable
5463 electronic record's jurisdiction for purposes of this article
5464 or the Uniform Commercial Code, that jurisdiction is the
5465 controllable electronic record's jurisdiction.

5466 (3) If paragraphs (1) and (2) do not apply and the
5467 controllable electronic record, or a record attached to or
5468 logically associated with the controllable electronic record
5469 and readily available for review, expressly provides that the
5470 controllable electronic record is governed by the law of a
5471 particular jurisdiction, that jurisdiction is the controllable
5472 electronic record's jurisdiction.

5473 (4) If paragraphs (1), (2), and (3) do not apply and
5474 the rules of the system in which the controllable electronic
5475 record is recorded are readily available for review and
5476 expressly provide that the controllable electronic record or
5477 the system is governed by the law of a particular
5478 jurisdiction, that jurisdiction is the controllable electronic
5479 record's jurisdiction.

5480 (5) If paragraphs (1) through (4) do not apply, the
5481 controllable electronic record's jurisdiction is the District
5482 of Columbia.

5483 (d) Applicability of Article 12. If subsection (c) (5)
5484 applies and Article 12 is not in effect in the District of
5485 Columbia without material modification, the governing law for
5486 a matter covered by this article is the law of the District of
5487 Columbia as though Article 12 were in effect in the District
5488 of Columbia without material modification. In this subsection,



SB231 INTRODUCED

5489 "Article 12" means Article 12 of Uniform Commercial Code
5490 Amendments (2022).

5491 (e) Relation of matter or transaction to controllable
5492 electronic record's jurisdiction not necessary. To the extent
5493 subsections (a) and (b) provide that the local law of the
5494 controllable electronic record's jurisdiction governs a matter
5495 covered by this article, that law governs even if the matter
5496 or a transaction to which the matter relates does not bear any
5497 relation to the controllable electronic record's jurisdiction.

5498 (f) Rights of purchasers determined at time of
5499 purchase. The rights acquired under Section 7-12-104 by a
5500 purchaser or qualifying purchaser are governed by the law
5501 applicable under this section at the time of purchase.

5502 Section 4. Article 12A is added to Title 7, Code of
5503 Alabama 1975, to read as follows:

5504 Article 12A. Transitional Provisions for Uniform
5505 Commercial Code Amendments (2022).

5506 Part 1. General Provisions and Definitions.

5507 Section 7-12A-101. Short Title.

5508 This article may be cited as Transitional Provisions
5509 for Uniform Commercial Code Amendments (2022).

5510 Section 7-12A-102. Definitions.

5511 (a) Article 12A Definitions. In this article:

5512 (1) "Adjustment date" means July 1, 2025, or the date
5513 that is one year after the effective date of this act,
5514 whichever is later.

5515 (2) "Article 12" means Article 12 of the Uniform
5516 Commercial Code.



SB231 INTRODUCED

5517 (3) "Article 12 property" means a controllable account,
5518 controllable electronic record, or controllable payment
5519 intangible.

5520 (4) "Article 9A" means Article 9A of the Uniform
5521 Commercial Code.

5522 (b) Definitions in other articles. The following
5523 definitions in other articles of the Uniform Commercial Code
5524 apply to this article:

5525 "Controllable account." Section 7-9A-102.

5526 "Controllable electronic record." Section 7-12-102.

5527 "Controllable payment intangible." Section 7-9A-102.

5528 "Financing statement." Section 7-9A-102.

5529 (c) Article 1 definitions and principles. Article 1 of
5530 the Uniform Commercial Code contains general definitions and
5531 principles of construction and interpretation applicable
5532 throughout this article.

5533 Part 2. General Transitional Provision.

5534 Section 7-12A-201. Saving Clause.

5535 Except as provided in Part 3, a transaction validly
5536 entered into before the effective date of this act and the
5537 rights, duties, and interests flowing from the transaction
5538 remain valid thereafter and may be terminated, completed,
5539 consummated, or enforced as required or permitted by law other
5540 than the Uniform Commercial Code or, if applicable, the
5541 Uniform Commercial Code, as though this act had not taken
5542 effect.

5543 Part 3. Transitional Provisions for Articles 9A and 12.

5544 Section 7-12A-301. Saving Clause.



SB231 INTRODUCED

5545 (a) Pre-effective date transaction, lien, or interest.
5546 Except as provided in this part, Article 9A as amended by this
5547 act and Article 12 apply to a transaction, lien, or other
5548 interest in property, even if the transaction, lien, or
5549 interest was entered into, created, or acquired before the
5550 effective date of this act.

5551 (b) Continuing validity. Except as provided in
5552 subsection (c) and Sections 7-12A-302 through 7-12A-306:

5553 (1) a transaction, lien, or interest in property that
5554 was validly entered into, created, or transferred before the
5555 effective date of this act and was not governed by the Uniform
5556 Commercial Code, but would be subject to Article 9A as amended
5557 by this act or Article 12 if it had been entered into,
5558 created, or transferred on or after the effective date of this
5559 act, including the rights, duties, and interests flowing from
5560 the transaction, lien, or interest, remains valid on and after
5561 the effective date of this act; and

5562 (2) the transaction, lien, or interest may be
5563 terminated, completed, consummated, and enforced as required
5564 or permitted by this act or by the law that would apply if
5565 this act had not taken effect.

5566 (c) Pre-effective date proceeding. This act does not
5567 affect an action, case, or proceeding commenced before the
5568 effective date of this act.

5569 Section 7-12A-302. Security Interest Perfected Before
5570 Effective Date.

5571 (a) Continuing perfection: perfection requirements
5572 satisfied. A security interest that is enforceable and



SB231 INTRODUCED

5573 perfected immediately before the effective date of this act is
5574 a perfected security interest under this act if, on the
5575 effective date of this act, the requirements for
5576 enforceability and perfection under this act are satisfied
5577 without further action.

5578 (b) Continuing perfection: enforceability or perfection
5579 requirements not satisfied. If a security interest is
5580 enforceable and perfected immediately before the effective
5581 date of this act, but the requirements for enforceability or
5582 perfection under this act are not satisfied on the effective
5583 date of this act, the security interest:

5584 (1) is a perfected security interest until the earlier
5585 of the time perfection would have ceased under the law in
5586 effect immediately before the effective date of this act or
5587 the adjustment date;

5588 (2) remains enforceable thereafter only if the security
5589 interest satisfies the requirements for enforceability under
5590 Section 7-9A-203, as amended by this act, before the
5591 adjustment date; and

5592 (3) remains perfected thereafter only if the
5593 requirements for perfection under this act are satisfied
5594 before the time specified in paragraph (1).

5595 Section 7-12A-303. Security Interest Unperfected Before
5596 Effective Date.

5597 A security interest that is enforceable immediately
5598 before the effective date of this act but is unperfected at
5599 that time:

5600 (1) remains an enforceable security interest until the



SB231 INTRODUCED

5601 adjustment date;

5602 (2) remains enforceable thereafter if the security
5603 interest becomes enforceable under Section 7-9A-203, as
5604 amended by this act, on the effective date of this act or
5605 before the adjustment date; and

5606 (3) becomes perfected:

5607 (A) without further action, on the effective date of
5608 this act if the requirements for perfection under this act are
5609 satisfied before or at that time; or

5610 (B) when the requirements for perfection are satisfied
5611 if the requirements are satisfied after that time.

5612 Section 7-12A-304. Effectiveness of Actions Taken
5613 Before Effective Date.

5614 (a) Pre-effective-date action; attachment and
5615 perfection before adjustment date. If action, other than the
5616 filing of a financing statement, is taken before the effective
5617 date of this act and the action would have resulted in
5618 perfection of the security interest had the security interest
5619 become enforceable before the effective date of this act, the
5620 action is effective to perfect a security interest that
5621 attaches under this act before the adjustment date. An
5622 attached security interest becomes unperfected on the
5623 adjustment date unless the security interest becomes a
5624 perfected security interest under this act before the
5625 adjustment date.

5626 (b) Pre-effective-date filing. The filing of a
5627 financing statement before the effective date of this act is
5628 effective to perfect a security interest on the effective date



SB231 INTRODUCED

5629 of this act to the extent the filing would satisfy the
5630 requirements for perfection under this act.

5631 (c) Pre-effective-date enforceability action. The
5632 taking of an action before the effective date of this act is
5633 sufficient for the enforceability of a security interest on
5634 the effective date of this act if the action would satisfy the
5635 requirements for enforceability under this act.

5636 Section 7-12A-305. Priority.

5637 (a) Determination of priority. Subject to subsections
5638 (b) and (c), this act determines the priority of conflicting
5639 claims to collateral.

5640 (b) Established priorities. Subject to subsection (c),
5641 if the priorities of claims to collateral were established
5642 before the effective date of this act, Article 9A as in effect
5643 before the effective date of this act determines priority.

5644 (c) Determination of certain priorities on adjustment
5645 date. On the adjustment date, to the extent the priorities
5646 determined by Article 9A as amended by this act modify the
5647 priorities established before the effective date of this act,
5648 the priorities of claims to Article 12 property established
5649 before the effective date of this act cease to apply.

5650 Section 7-12A-306. Priority of Claims When Priority
5651 Rules of Article 9A Do Not Apply.

5652 (a) Determination of priority. Subject to subsections
5653 (b) and (c), Article 12 determines the priority of conflicting
5654 claims to Article 12 property when the priority rules of
5655 Article 9A as amended by this act do not apply.

5656 (b) Established priorities. Subject to subsection (c),



SB231 INTRODUCED

5657 when the priority rules of Article 9A as amended by this act
5658 do not apply and the priorities of claims to Article 12
5659 property were established before the effective date of this
5660 act, law other than Article 12 determines priority.

5661 (c) Determination of certain priorities on adjustment
5662 date. When the priority rules of Article 9A as amended by this
5663 act do not apply, to the extent the priorities determined by
5664 this act modify the priorities established before the
5665 effective date of this act, the priorities of claims to
5666 Article 12 property established before the effective date of
5667 this act cease to apply on the adjustment date.

5668 Section 5. This act shall become effective January 1,
5669 2024, following its passage and approval by the Governor, or
5670 its otherwise becoming law.