

Senate Bill 185

By: Senator Stone of the 23rd

**AS PASSED SENATE**

**A BILL TO BE ENTITLED**

**AN ACT**

1 To amend Article 9 of Title 11 of the Official Code of Georgia Annotated, relating to secured  
 2 transactions, so as to modernize the article; to change and provide for definitions; to change  
 3 provisions relating to electronic chattel paper; to change provisions relating to location of  
 4 debtor; to change provisions relating to perfection of security interests in property subject to  
 5 certain statutes, regulations, and treaties; to change provisions relating to the continued  
 6 perfection of security interest following a change in the governing law; to change provisions  
 7 relating to interests that take priority over or take free of security interests or agriculture  
 8 liens; to change provisions relating to the priority of security interests created by a new  
 9 debtor; to change provisions relating to the discharge of account debtors; to change  
 10 provisions relating to restrictions on assignment of promissory notes; to change provisions  
 11 relating to the contents of a financing statement; to change provisions relating to the name  
 12 of the debtor and secured party; to change provisions relating to the effect of certain events  
 13 on effectiveness of financing statements; to provide for record of mortgage as a financing  
 14 statement; to change provisions relating to what constitutes a filing; to change provisions  
 15 relating to inaccurate or wrongfully filed records; to change provisions relating to the  
 16 uniform form of written financing statement and amendment; to change provisions relating  
 17 to collection and enforcement by a secured party; to change provisions relating to remedies  
 18 for secured party's failure to comply with the article; to provide for a new part to the article;  
 19 to provide for a savings clause; to provide for a security interest perfected and unperfected  
 20 before the effective date of Part 8 of the article; to provide for priority of conflicting claims  
 21 to collateral; to provide for applicability relative to the new Part 8 of the article; to amend  
 22 Code Section 33-10-1 of the Official Code of Georgia Annotated, relating to assets  
 23 considered in determining financial condition of insurers, generally, so as to correct a  
 24 cross-reference; to provide for related matters; to provide for an effective date; to repeal  
 25 conflicting laws; and for other purposes.

26 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

S. B. 185

- 1 -

27 **SECTION 1.**

28 Article 9 of Title 11 of the Official Code of Georgia Annotated, relating to secured  
 29 transactions, is amended by revising paragraphs (7), (11), (51), and (67) through (69), and  
 30 by redesignating paragraphs (70) through (79) as paragraphs (71) through (80), respectively,  
 31 of subsection (a) of Code Section 11-9-102, relating to definitions and index of definitions,  
 32 as follows:

33 "(7) 'Authenticate' means:

34 (A) To sign; or

35 (B) ~~To execute or otherwise adopt a symbol, or encrypt or similarly process a record~~  
 36 ~~in whole or in part, with the present intent of the authenticating person to identify the~~  
 37 ~~person and~~ With present intent to adopt or accept a record, to attach to or logically  
 38 associate with such record an electronic sound, symbol, or process."

39 "(11) 'Certificate of title' means a certificate of title with respect to which a statute  
 40 provides for the security interest in question to be indicated on the certificate as a  
 41 condition or result of the security interest's obtaining priority over the rights of a lien  
 42 creditor with respect to the collateral. The term shall include another record maintained  
 43 as an alternative to a certificate of title by the governmental unit that issues certificates  
 44 of title if a statute permits the security interest in question to be indicated on the record  
 45 as a condition or result of the security interest's obtaining priority over the rights of a lien  
 46 creditor with respect to the collateral."

47 "(51) 'Jurisdiction of organization,' with respect to a registered organization, means the  
 48 jurisdiction under whose law the organization is formed or organized."

49 "(67) 'Public organic record' means a record that is available to the public for inspection  
 50 and is:

51 (A) A record consisting of the record initially filed with or issued by a state or the  
 52 United States to form or organize an organization and any record filed with or issued  
 53 by such state or the United States which amends or restates the initial record;

54 (B) An organic record of a business trust consisting of the record initially filed with a  
 55 state and any record filed with such state which amends or restates the initial record, if  
 56 a statute of such state governing business trusts requires that the record be filed with  
 57 such state; or

58 (C) A record consisting of legislation enacted by the legislature of a state or the  
 59 Congress of the United States which forms or organizes an organization, any record  
 60 amending the legislation, and any record filed with or issued by such state or the United  
 61 States which amends or restates the name of the organization.

62 ~~(67)~~(68) 'Pursuant to commitment,' with respect to an advance made or other value given  
 63 by a secured party, means pursuant to the secured party's obligation, whether or not a

64 subsequent event of default or other event not within the secured party's control has  
65 relieved or may relieve the secured party from its obligation.

66 ~~(68)~~(69) 'Record,' except as used in 'for record,' 'of record,' 'record or legal title,' and  
67 'record owner,' means information that is inscribed on a tangible medium or which is  
68 stored in an electronic or other medium and is retrievable in perceivable form.

69 ~~(69)~~(70) 'Registered organization' means an organization formed or organized solely  
70 under the law of a single state or the United States and as to which the state or the United  
71 States must maintain a public record showing the organization to have been organized by  
72 the filing of a public organic record with, the issuance of a public organic record by, or  
73 the enactment of legislation by a state or the United States. The term shall include a  
74 business trust that is formed or organized under the law of a single state if a statute of  
75 such state governing business trusts requires that the business trust's organic record be  
76 filed with such state."

77 **SECTION 2.**

78 Said article is further amended by revising Code Section 11-9-105, relating to control of  
79 electronic chattel, as follows:

80 "11-9-105. **Control of electronic chattel paper.**

81 **(a) General rule; control of electronic chattel paper.** A secured party has control of  
82 electronic chattel paper if a system employed for evidencing the transfer of interests in the  
83 chattel paper reliably establishes the secured party as the person to which the chattel paper  
84 was assigned.

85 **(b) Specific facts giving control.** A system satisfies the provisions of subsection (a) of  
86 this Code section if the record or records comprising the chattel paper are created, stored,  
87 and assigned in such a manner that:

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

91 (2) The authoritative copy identifies the secured party as the assignee of the record or  
92 records;

93 (3) The authoritative copy is communicated to and maintained by the secured party or  
94 its designated custodian;

95 (4) Copies or ~~revisions~~ amendments that add or change an identified assignee of the  
96 authoritative copy can be made only with the ~~participation~~ consent of the secured party;

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

99 (6) Any ~~revision~~ amendment of the authoritative copy is readily identifiable as an  
100 authorized or unauthorized ~~revision~~."

101 **SECTION 3.**

102 Said article is further amended by revising paragraph (2) of subsection (f) of Code Section  
103 11-9-307, relating to location of debtor, as follows:

104 "(2) In the state that the registered organization, branch, or agency designates, if the law  
105 of the United States authorizes the registered organization, branch, or agency to designate  
106 its state of location, including by designating its main office, home office, or other  
107 comparable office; or"

108 **SECTION 4.**

109 Said article is further amended by revising paragraph (3) of subsection (a) of Code Section  
110 11-9-311, relating to perfection of security interests in property subject to certain statutes,  
111 regulations, and treaties, as follows:

112 "(3) A ~~certificate of title~~ statute of another jurisdiction which provides for a security  
113 interest to be indicated on ~~the~~ a certificate of title as a condition or result of the security  
114 interest's obtaining priority over the rights of a lien creditor with respect to the property."

115 **SECTION 5.**

116 Said article is further amended in Code Section 11-9-316, relating to the continued perfection  
117 of security interest following change in governing law, by revising the internal catchline and  
118 by adding new subsections to read as follows:

119 "11-9-316. ~~**Effect of Continued perfection of security interest following change in**~~  
120 ~~**governing law.**~~"

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

124 (1) A financing statement filed before the change pursuant to the law of the jurisdiction  
125 designated in paragraph (1) of Code Section 11-9-301 or subsection (c) of Code Section  
126 11-9-305 is effective to perfect a security interest in the collateral if the financing  
127 statement would have been effective to perfect a security interest in the collateral had the  
128 debtor not changed its location; and

129 (2) If a security interest perfected by a financing statement that is effective under  
130 paragraph (1) of this subsection becomes perfected under the law of the other jurisdiction  
131 before the earlier of the time the financing statement would have become ineffective  
132 under the law of the jurisdiction designated in paragraph (1) of Code Section 11-9-301

133 or subsection (c) of Code Section 11-9-305 or the expiration of the four-month period,  
 134 it remains perfected thereafter. If the security interest does not become perfected under  
 135 the law of the other jurisdiction before the earlier time or event, it becomes unperfected  
 136 and is deemed never to have been perfected as against a purchaser of the collateral for  
 137 value.

138 **(i) Effect of change in governing law on financing statement filed against original**  
 139 **debtor.** If a financing statement naming an original debtor is filed pursuant to the law of  
 140 the jurisdiction designated in paragraph (1) of Code Section 11-9-301 or subsection (c) of  
 141 Code Section 11-9-305 and the new debtor is located in another jurisdiction, the following  
 142 rules apply:

143 (1) The financing statement is effective to perfect a security interest in collateral acquired  
 144 by the new debtor before, and within four months after, the new debtor becomes bound  
 145 under subsection (d) of Code Section 11-9-203 if the financing statement would have  
 146 been effective to perfect a security interest in the collateral had the collateral been  
 147 acquired by the original debtor; and

148 (2) A security interest perfected by the financing statement and which becomes perfected  
 149 under the law of the other jurisdiction before the earlier of the time the financing  
 150 statement would have become ineffective under the law of the jurisdiction designated in  
 151 paragraph (1) of Code Section 11-9-301 or subsection (c) of Code Section 11-9-305 or  
 152 the expiration of the four-month period remains perfected thereafter. A security interest  
 153 that is perfected by the financing statement but which does not become perfected under  
 154 the law of the other jurisdiction before the earlier time or event becomes unperfected and  
 155 is deemed never to have been perfected as against a purchaser of the collateral for value."

## 156 SECTION 6.

157 Said article is further amended by revising subsections (b) and (d) of Code Section 11-9-317,  
 158 relating to interests that take priority over or take free of security interest or agriculture liens,  
 159 as follows:

160 **"(b) Buyers that receive delivery.** Except as otherwise provided in subsection (e) of this  
 161 Code section, a buyer, other than a secured party, of tangible chattel paper, tangible  
 162 documents, goods, instruments, or a certificated security certificate takes free of a security  
 163 interest or agricultural lien if the buyer gives value and receives delivery of the collateral  
 164 without knowledge of the security interest or agricultural lien and before it is perfected."

165 **"(d) Licensees and buyers of certain collateral.** A licensee of a general intangible or a  
 166 buyer, other than a secured party, of accounts, electronic collateral other than tangible  
 167 chattel paper, electronic tangible documents, general intangibles, or investment property  
 168 other than goods, instruments, or a certificated security takes free of a security interest if

169 the licensee or buyer gives value without knowledge of the security interest and before it  
170 is perfected."

171 **SECTION 7.**

172 Said article is further amended by revising Code Section 11-9-326, relating to priority of  
173 security interests created by new debtor, as follows:

174 "11-9-326. **Priority of security interests created by new debtor.**

175 (a) **Subordination of security interest created by new debtor.** Subject to subsection (b)  
176 of this Code section, a security interest that is created by a new debtor which in collateral  
177 in which the new debtor has or acquires rights and is perfected solely by a filed financing  
178 statement that is effective solely under ~~would be ineffective to perfect the security interest~~  
179 but for the application of paragraph (1) of subsection (i) of Code Section 11-9-316 or Code  
180 Section 11-9-508 in collateral in which a new debtor has or acquires rights is subordinate  
181 to a security interest in the same collateral which is perfected other than by such a filed  
182 financing statement ~~that is effective solely under Code Section 11-9-508.~~

183 (b) **Priority under other provisions; multiple original debtors.** The other provisions  
184 of this part determine the priority among conflicting security interests in the same collateral  
185 perfected by filed financing statements ~~that are effective solely under Code Section~~  
186 ~~11-9-508~~ described in subsection (a) of this Code section. However, if the security  
187 agreements to which a new debtor became bound as debtor were not entered into by the  
188 same original debtor, the conflicting security interests rank according to priority in time of  
189 the new debtor's having become bound."

190 **SECTION 8.**

191 Said article is further amended by revising subsection (e) of Code Section 11-9-406, relating  
192 to discharge of account debtor, as follows:

193 "(e) **Inapplicability of subsection (d) of this Code section to certain sales.** Subsection  
194 (d) of this Code section does not apply to the sale of a payment intangible or promissory  
195 note, other than a sale pursuant to a disposition under Code Section 11-9-610 or an  
196 acceptance of collateral under Code Section 11-9-620."

197 **SECTION 9.**

198 Said article is further amended by revising subsection (b) of Code Section 11-9-408, relating  
199 to restrictions on assignment of promissory notes, health care insurance receivables, and  
200 certain general intangibles ineffective, as follows:

201 "(b) **Applicability of subsection (a) of this Code section to sales of certain rights to**  
202 **payment.** Subsection (a) of this Code section applies to a security interest in a payment

203 intangible or promissory note only if the security interest arises out of a sale of the payment  
 204 intangible or promissory note, other than a sale pursuant to a disposition under Code  
 205 Section 11-9-610 or an acceptance of collateral under Code Section 11-9-620."

206 **SECTION 10.**

207 Said article is further amended by revising subsection (c) of Code Section 11-9-502, relating  
 208 to the contents of a financing statement, as follows:

209 "(c) **Record of mortgage as fixture filing or financing statement.** ~~Real estate~~  
 210 ~~mortgages as fixture filings.~~ A real estate record of a mortgage may not be filed as a  
 211 fixture filing, but one filed prior to January 1, 1995, which was effective as a fixture filing  
 212 when filed, remains effective as a fixture filing until the mortgage is released or satisfied  
 213 of record or its effectiveness otherwise terminates as to the real estate when recorded  
 214 remains effective as a fixture filing, and a record of a mortgage recorded on or after July  
 215 1, 2013, is effective, from the date of recording, as a financing statement filed as a fixture  
 216 filing or as a financing statement covering as-extracted collateral or timber to be cut only  
 217 if:

- 218 (1) The record indicates the goods or accounts that it covers;  
 219 (2) The goods are or are to become fixtures related to the real property described in the  
 220 record or the collateral is related to the real property described in the record and is  
 221 as-extracted collateral or timber to be cut;  
 222 (3) The record satisfies the requirements for a financing statement in this Code section,  
 223 but:  
 224 (A) The record need not indicate that it is to be filed in the real property records; and  
 225 (B) The record sufficiently provides the name of a debtor who is an individual if it  
 226 provides the individual name of the debtor or the surname and first personal name of  
 227 the debtor, even if the debtor is an individual to whom paragraph (4) of subsection (a)  
 228 of Code Section 11-9-503 applies; and  
 229 (4) The record is duly recorded."

230 **SECTION 11.**

231 Said article is further amended by revising Code Section 11-9-503, relating to name of debtor  
 232 and secured party, as follows:

233 "11-9-503. **Name of debtor and secured party.**

234 (a) **Sufficiency of debtor's name.** A financing statement sufficiently provides the name  
 235 of the debtor:

- 236 (1) Except as otherwise provided in paragraph (3) of this subsection, if ~~if~~ the debtor is  
 237 a registered organization or the collateral is held in a trust that is a registered

238 organization, only if the financing statement provides the name of the debtor indicated  
 239 that is stated to be the registered organization's name on the public organic record of the  
 240 debtor's most recently filed with or issued or enacted by the registered organization's  
 241 jurisdiction of organization which shows the debtor to have been organized purports to  
 242 state, amend, or restate the registered organization's name;

243 (2) Subject to subsection (f) of this Code section, if the collateral is being administered  
 244 by the personal representative of a decedent, only if the financing statement provides, as  
 245 the name of the debtor, the name of the decedent and, in a separate part of the financing  
 246 statement, indicates that the collateral is being administered by a personal representative  
 247 If the debtor is a decedent's estate, only if the financing statement provides the name of  
 248 the decedent and indicates that the debtor is an estate;

249 (3) If the debtor is a trust or a trustee acting with respect to property held in collateral is  
 250 held in a trust that is not a registered organization, only if the financing statement:

251 ~~(A) Provides the name specified for the trust in its organic documents or, if no name~~  
 252 ~~is specified, provides the name of the settlor and additional information sufficient to~~  
 253 ~~distinguish the debtor from other trusts having one or more of the same settlors; and~~

254 ~~(B) Indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee~~  
 255 ~~acting with respect to property held in trust~~

256 (A) Provides, as the name of the debtor:

257 (i) If the organic record of the trust specifies a name for the trust, the name  
 258 specified; or

259 (ii) If the organic record of the trust does not specify a name for the trust, the name  
 260 of the settlor or testator; and

261 (B) In a separate part of the financing statement:

262 (i) If the name is provided in accordance with division (3)(A)(i) of this subsection,  
 263 indicates that the collateral is held in a trust; or

264 (ii) If the name is provided in accordance with division (3)(A)(ii) of this subsection,  
 265 provides additional information sufficient to distinguish the trust from other trusts  
 266 having one or more of the same settlors or the same testator and indicates that the  
 267 collateral is held in a trust, unless the additional information so indicates;

268 (4) Subject to subsection (g) of this Code section, if the debtor is an individual to whom  
 269 this state has issued a driver's license that has not expired, only if the financing statement  
 270 provides the name of the individual which is indicated on the driver's license;

271 (5) If the debtor is an individual to whom paragraph (4) of this subsection does not apply,  
 272 only if the financing statement provides the individual name of the debtor or the surname  
 273 and first personal name of the debtor; and

274 ~~(4)(6)~~ In other cases:



275 (A) If the debtor has a name, only if it the financing statement provides the individual  
 276 or organizational name of the debtor; and

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

280 (b) **Additional debtor related information.** A financing statement that provides the  
 281 name of the debtor in accordance with subsection (a) of this Code section is not rendered  
 282 ineffective by the absence of:

283 (1) A trade name or other name of the debtor; or

284 (2) Unless required under subparagraph ~~(a)(4)(B)~~ (a)(6)(B) of this Code section, names  
 285 of partners, members, associates, or other persons comprising the debtor.

286 (c) **Debtor's trade name insufficient.** A financing statement that provides only the  
 287 debtor's trade name does not sufficiently provide the name of the debtor.

288 (d) **Representative capacity.** Failure to indicate the representative capacity of a secured  
 289 party or representative of a secured party does not affect the sufficiency of a financing  
 290 statement.

291 (e) **Multiple debtors and secured parties.** A financing statement may provide the name  
 292 of more than one debtor and the name of more than one secured party.

293 (f) **Name of decedent.** The name of the decedent indicated on the order appointing the  
 294 personal representative of the decedent issued by the court having jurisdiction over the  
 295 collateral is sufficient as the 'name of the decedent' under paragraph (2) of subsection (a)  
 296 of this Code section.

297 (g) **Multiple driver's licenses.** If this state has issued to an individual more than one  
 298 driver's license of a kind described in paragraph (4) of subsection (a) of this Code section,  
 299 the one that was issued most recently is the one to which such paragraph refers.

300 (h) **Definition.** As used in this Code section, the term 'name of the settlor or testator'  
 301 means:

302 (1) If the settlor is a registered organization, the name that is stated to be the settlor's  
 303 name on the public organic record most recently filed with or issued or enacted by the  
 304 settlor's jurisdiction of organization which purports to state, amend, or restate the settlor's  
 305 name; or

306 (2) In other cases, the name of the settlor or testator indicated in the trust's organic  
 307 record."

## 308 SECTION 12.

309 Said article is further amended by revising subsection (c) of Code Section 11-9-507, relating  
 310 to the effect of certain events on effectiveness of a financing statement, as follows:

311 **"(c) Change in debtor's name.** ~~If a debtor so changes its name that a filed~~ the name that  
 312 a filed financing statement provides for a debtor becomes insufficient as the name of the  
 313 debtor under subsection (a) of Code Section 11-9-503 so that the financing statement  
 314 becomes seriously misleading under Code Section 11-9-506:

315 (1) The financing statement is effective to perfect a security interest in collateral acquired  
 316 by the debtor before, or within four months after, the ~~change~~ filed financing statement  
 317 becomes seriously misleading; and

318 (2) The financing statement is not effective to perfect a security interest in collateral  
 319 acquired by the debtor more than four months after the ~~change~~ filed financing statement  
 320 becomes seriously misleading, unless an amendment to the financing statement which  
 321 renders the financing statement not seriously misleading is filed within four months after  
 322 the ~~change~~ financing statement became seriously misleading."

### 323 SECTION 13.

324 Said article is further amended in Code Section 11-9-515, relating to duration and  
 325 effectiveness of financing statement, by adding a new subsection to read as follows:

326 **"(e) Record of mortgage as financing statement.** A record of a mortgage that is effective  
 327 as a financing statement filed as a fixture filing under subsection (c) of Code Section  
 328 11-9-502 remains effective as a financing statement filed as a fixture filing until the  
 329 mortgage is released or satisfied of record or its effectiveness otherwise terminates as to  
 330 the real property."

### 331 SECTION 14.

332 Said article is further amended by revising subparagraphs (b)(3)(B) and (b)(3)(C) and  
 333 paragraph (5) of subsection (b) of Code Section 11-9-516, relating to what constitutes a  
 334 filing, as follows:

335 **"(B)** In the case of an amendment or ~~correction~~ information statement, the record:

336 (i) Does not identify the initial financing statement as required by Code Section  
 337 11-9-512 or 11-9-518, as applicable;

338 (ii) Identifies an initial financing statement whose effectiveness has lapsed under  
 339 Code Section 11-9-515;

340 (iii) Identifies more than one initial financing statement; or

341 (iv) Indicates that it is presented to accomplish more than one action, such as  
 342 amendment and continuation;

343 **(C)** In the case of an initial financing statement that provides the name of a debtor  
 344 identified as an individual or an amendment that provides a name of a debtor identified

345 as an individual which was not previously provided in the financing statement to which  
 346 the record relates, the record does not identify the debtor's ~~last name~~ surname; or"  
 347 "(5) In the case of an initial financing statement or an amendment that provides a name  
 348 of a debtor which was not previously provided in the financing statement to which the  
 349 amendment relates, the record does not:

- 350 (A) Provide a mailing address for the debtor; or  
 351 (B) Indicate whether the name provided as the name of the debtor is the name of an  
 352 individual or an organization; or  
 353 ~~(C) If the financing statement indicates that the debtor is an organization, provide:~~  
 354 ~~(i) A type of organization for the debtor; or~~  
 355 ~~(ii) A jurisdiction of organization for the debtor; or"~~

356 **SECTION 15.**

357 Said article is further amended by revising Code Section 11-9-518, relating to inaccurate or  
 358 wrongfully filed record, as follows:

359 "11-9-518. **Inaccurate or wrongfully filed record.**

360 (a) **Statement with respect to record indexed under person's name. Correction**  
 361 **statement.** A person may file ~~a correction~~ an information statement  
 362 with respect to a record indexed under the person's name if the person believes that the  
 363 record is inaccurate or was wrongfully filed. The ~~correction~~ information statement shall  
 364 be filed in the filing office of the county where the record was filed.

365 (b) **Contents of statement under subsection (a) of this Code section. Sufficiency of**  
 366 **correction statement.** ~~A correction statement~~ An information statement under subsection  
 367 (a) of this Code section must:

- 368 (1) Identify the record to which it relates by the file number assigned to the initial  
 369 financing statement to which the record relates;  
 370 (2) Indicate that it is ~~a correction~~ an information statement; and  
 371 (3) Provide the basis for the person's belief that the record is inaccurate and indicate the  
 372 manner in which the person believes the record should be amended to cure any  
 373 inaccuracy or provide the basis for the person's belief that the record was wrongfully  
 374 filed.

375 (c) **Statement by secured party of record.** A person may file in the filing office an  
 376 information statement with respect to a record filed there if such person is a secured party  
 377 of record with respect to the financing statement to which the record relates and believes  
 378 that the person that filed the record was not entitled to do so under subsection (d) of Code  
 379 Section 11-9-509.

380 (d) Contents of statement under subsection (c) of this Code section. An information  
 381 statement under subsection (c) of this Code section must:

- 382 (1) Identify the record to which it relates by the file number assigned to the initial  
 383 financing statement to which the record relates;  
 384 (2) Indicate that it is an information statement; and  
 385 (3) Provide the basis for the person's belief that the person that filed the record was not  
 386 entitled to do so under subsection (d) of Code Section 11-9-509.

387 ~~(e)~~(e) Record not affected by correction information statement. The filing of a  
 388 ~~correction~~ an information statement does not affect the effectiveness of an initial financing  
 389 statement or other filed record."

### 390 SECTION 16.

391 Said article is further amended by revising subsections (a) and (b) of Code Section 11-9-521,  
 392 relating to the uniform form of written financing statement and amendment, as follows:

393 "(a) **Initial financing statement form.** Except for a reason set forth in subsection (b) of  
 394 Code Section 11-9-516, a filing office that accepts written records may not refuse to accept  
 395 a written initial financing statement in the form and format set ~~out in Section 9-521(a) of~~  
 396 ~~the Official Text of Revised Article 9, 2000 Revision,~~ forth in the final official text of the  
 397 2010 amendments to Article 9 of the Uniform Commercial Code promulgated by the  
 398 American Law Institute and the National Conference of Commissioners on Uniform State  
 399 Laws, and such form and format are incorporated into this subsection by reference.

400 (b) **Amendment form.** Except for a reason set forth in subsection (b) of Code Section  
 401 11-9-516, a filing office that accepts written records may not refuse to accept a written  
 402 record amending an initial financing statement if such record is in the form and format set  
 403 ~~out in Section 9-521(b) of the Official Text of Revised Article 9, 2000 Revision,~~ forth in  
 404 the final official text of the 2010 amendments to Article 9 of the Uniform Commercial  
 405 Code promulgated by the American Law Institute and the National Conference of  
 406 Commissioners on Uniform State Laws, and such form and format are incorporated into  
 407 this subsection by reference."

### 408 SECTION 17.

409 Said article is further amended by revising subparagraph (b)(2)(A) of Code Section 11-9-607,  
 410 relating to the collection and enforcement by secured party, as follows:

411 "(A) A default has occurred with respect to the obligation secured by the mortgage;  
 412 and"

413 **SECTION 18.**

414 Said article is further amended by revising the introductory language to subsection (c) of  
 415 Code Section 11-9-625, relating to remedies for secured party's failure to comply with article,  
 416 as follows:

417 "**(c) Persons entitled to recover damages; statutory damages in if collateral is**  
 418 **consumer goods transaction.** Except as otherwise provided in Code Section 11-9-628:"

419 **SECTION 19.**

420 Said article is further amended by renaming Part 7 as "2001 TRANSITION."

421 **SECTION 20.**

422 Said article is further amended by adding a new part to read as follows:

423 "Part 8  
 424 2013 TRANSITION

425 11-9-801.

426 Reserved.

427 11-9-802. Savings clause.

428 (a) Pre-effective date transactions or liens. Except as otherwise provided in this part,  
 429 this article, as in effect on July 1, 2013, applies to a transaction or lien within its scope,  
 430 even if the transaction or lien was entered into or created before July 1, 2013.

431 (b) Pre-effective date proceedings. This article, as in effect on July 1, 2013, does not  
 432 affect an action, case, or proceeding commenced before July 1, 2013.

433 11-9-803. Security interest perfected before effective date.

434 (a) Continuing perfection; perfection requirements satisfied. A security interest that  
 435 is a perfected security interest immediately before July 1, 2013, is a perfected security  
 436 interest under this article, as in effect on July 1, 2013, if, on July 1, 2013, the applicable  
 437 requirements for attachment and perfection under this article, as in effect on July 1, 2013,  
 438 are satisfied without further action.

439 (b) Continuing perfection; perfection requirements not satisfied. Except as otherwise  
 440 provided in Code Section 11-9-805, if, immediately before July 1, 2013, a security interest  
 441 is a perfected security interest, but the applicable requirements for perfection under this  
 442 article, as in effect on July 1, 2013, are not satisfied on July 1, 2013, the security interest

443 remains perfected thereafter only if the applicable requirements for perfection under this  
 444 article, as in effect on July 1, 2013, are satisfied before July 1, 2014.

445 **11-9-804. Security interest unperfected before effective date.**

446 A security interest that is an unperfected security interest immediately before July 1, 2013,  
 447 becomes a perfected security interest:

448 (1) Without further action, on July 1, 2013, if the applicable requirements for perfection  
 449 under this article, as in effect on July 1, 2013, are satisfied before or at that time; or

450 (2) When the applicable requirements for perfection are satisfied if the requirements are  
 451 satisfied after that time.

452 **11-9-805. Effectiveness of action taken before effective date.**

453 (a) **Pre-effective date filing effective.** The filing of a financing statement before July 1,  
 454 2013, is effective to perfect a security interest to the extent the filing would satisfy the  
 455 applicable requirements for perfection under this article, as in effect on July 1, 2013.

456 (b) **When pre-effective date filing becomes ineffective.** Changes made to this article  
 457 effective July 1, 2013, do not render ineffective an effective financing statement that,  
 458 before July 1, 2013, is filed and satisfies the applicable requirements for perfection under  
 459 the law of the jurisdiction governing perfection as provided under the former provisions  
 460 of this article in effect prior to July 1, 2013. However, except as otherwise provided in  
 461 subsections (c) and (d) of this Code section and Code Section 11-9-806, the financing  
 462 statement ceases to be effective:

463 (1) If the financing statement is filed in this state, at the time the financing statement  
 464 would have ceased to be effective under the former provisions of this article in effect  
 465 prior to July 1, 2013; or

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

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

469 (B) June 30, 2018.

470 (c) **Continuation statement.** The filing of a continuation statement on or after July 1,  
 471 2013, does not continue the effectiveness of a financing statement filed before July 1, 2013.

472 However, upon the timely filing of a continuation statement on or after July 1, 2013, and  
 473 in accordance with the law of the jurisdiction governing perfection as provided in this  
 474 article, as in effect on July 1, 2013, the effectiveness of a financing statement filed in the  
 475 same office in that jurisdiction before July 1, 2013, continues for the period provided by  
 476 the law of that jurisdiction.

477 **(d) Application of subparagraph (b)(2)(B) of this Code section to transmitting utility**  
 478 **financing statement.** Subparagraph (b)(2)(B) of this Code section shall apply to a  
 479 financing statement that, before July 1, 2013, is filed against a transmitting utility and  
 480 satisfies the applicable requirements for perfection under the law of the jurisdiction  
 481 governing perfection as provided in the former provisions of this article, as in effect prior  
 482 to July 1, 2013, only to the extent that the provisions of this article, as in effect on July 1,  
 483 2013, provide that the law of a jurisdiction other than the jurisdiction in which the  
 484 financing statement is filed governs perfection of a security interest in collateral covered  
 485 by the financing statement.

486 **(e) Application of Part 5 of this article.** A financing statement that includes a financing  
 487 statement filed before July 1, 2013, and a continuation statement filed on or after July 1,  
 488 2013, is effective only to the extent that it satisfies the requirements of Part 5 of this article,  
 489 as in effect on July 1, 2013, for an initial financing statement. A financing statement that  
 490 indicates that the debtor is a decedent's estate indicates that the collateral is being  
 491 administered by a personal representative within the meaning of paragraph (2) of  
 492 subsection (a) of Code Section 11-9-503, as in effect on July 1, 2013. A financing  
 493 statement that indicates that the debtor is a trust or is a trustee acting with respect to  
 494 property held in trust indicates that the collateral is held in a trust within the meaning of  
 495 paragraph (3) of subsection (a) of Code Section 11-9-503, as in effect on July 1, 2013.

496 **11-9-806. When initial financing statement suffices to continue effectiveness of**  
 497 **financing statement.**

498 **(a) Initial financing statement in lieu of continuation statement.** The filing of an initial  
 499 financing statement in the office specified in Code Section 11-9-501 continues the  
 500 effectiveness of a financing statement filed before July 1, 2013, if:

501 (1) The filing of an initial financing statement in that office would be effective to perfect  
 502 a security interest under this article, as in effect on July 1, 2013;

503 (2) The pre-effective date financing statement was filed in an office in another state; and

504 (3) The initial financing statement satisfies subsection (c) of this Code section.

505 **(b) Period of continued effectiveness.** The filing of an initial financing statement under  
 506 subsection (a) of this Code section continues the effectiveness of the pre-effective date  
 507 financing statement:

508 (1) If the initial financing statement is filed before July 1, 2013, for the period provided  
 509 in former Code Section 11-9-515, as in effect prior to July 1, 2013, with respect to an  
 510 initial financing statement; and

511 (2) If the initial financing statement is filed on or after July 1, 2013, for the period  
 512 provided in Code Section 11-9-515, as in effect on July 1, 2013, with respect to an initial  
 513 financing statement.

514 **(c) Requirements for initial financing statement under subsection (a) of this Code**  
 515 **section.** To be effective for purposes of subsection (a) of this Code section, an initial  
 516 financing statement must:

517 (1) Satisfy the requirements of Part 5 of this article, as in effect on July 1, 2013, for an  
 518 initial financing statement;

519 (2) Identify the pre-effective date financing statement by indicating the office in which  
 520 the financing statement was filed and providing the dates of filing and file numbers, if  
 521 any, of the financing statement and of the most recent continuation statement filed with  
 522 respect to the financing statement; and

523 (3) Indicate that the pre-effective date financing statement remains effective.

524 **11-9-807. Amendment of pre-effective date financing statement.**

525 **(a) 'Pre-effective date financing statement.'** As used in this Code section, the term  
 526 'pre-effective date financing statement' means a financing statement filed before July 1,  
 527 2013.

528 **(b) Applicable law.** On or after July 1, 2013, a person may add or delete collateral  
 529 covered by, continue or terminate the effectiveness of, or otherwise amend the information  
 530 provided in, a pre-effective date financing statement only in accordance with the law of the  
 531 jurisdiction governing perfection as provided in Part 3 of this article, as in effect on July  
 532 1, 2013. However, the effectiveness of a pre-effective date financing statement also may  
 533 be terminated in accordance with the law of the jurisdiction in which the financing  
 534 statement is filed.

535 **(c) Method of amending: general rule.** Except as otherwise provided in subsection (d)  
 536 of this Code section, if the law of this state governs perfection of a security interest, the  
 537 information in a pre-effective date financing statement may be amended on or after July  
 538 1, 2013, only if:

539 (1) The pre-effective date financing statement and an amendment are filed in the office  
 540 specified in Code Section 11-9-501;

541 (2) An amendment is filed in the office specified in Code Section 11-9-501 concurrently  
 542 with, or after the filing in that office of, an initial financing statement that satisfies  
 543 subsection (c) of Code Section 11-9-806; or

544 (3) An initial financing statement that provides the information as amended and satisfies  
 545 subsection (c) of Code Section 11-9-806 is filed in the office specified in Code Section  
 546 11-9-501.



547 (d) Method of amending: continuation. If the law of this state governs perfection of a  
 548 security interest, the effectiveness of a pre-effective date financing statement may be  
 549 continued only under subsections (c) and (e) of Code Section 11-9-805 or Code Section  
 550 11-9-806.

551 (e) Method of amending: additional termination rule. Whether or not the law of this  
 552 state governs perfection of a security interest, the effectiveness of a pre-effective date  
 553 financing statement filed in this state may be terminated on or after July 1, 2013, by filing  
 554 a termination statement in the office in which the pre-effective date financing statement is  
 555 filed, unless an initial financing statement that satisfies subsection (c) of Code Section  
 556 11-9-806 has been filed in the office specified by the law of the jurisdiction governing  
 557 perfection as provided in Part 3 of this article, as in effect on July 1, 2013, as the office in  
 558 which to file a financing statement.

559 11-9-808. Person entitled to file initial financing statement or continuation statement.  
 560 A person may file an initial financing statement or a continuation statement under this part  
 561 if:

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

563 (2) The filing is necessary under this part:

564 (A) To continue the effectiveness of a financing statement filed before July 1, 2013;

565 or

566 (B) To perfect or continue the perfection of a security interest.

567 11-9-809. Priority.

568 This article, as in effect on July 1, 2013, determines the priority of conflicting claims to  
 569 collateral. However, if the relative priorities of the claims were established before July 1,  
 570 2013, the former provisions of this article, as in effect prior to July 1, 2013, determine  
 571 priority."

## 572 SECTION 21.

573 Code Section 33-10-1 of the Official Code of Georgia Annotated, relating to assets  
 574 considered in determining financial condition of insurers, generally, is amended by revising  
 575 paragraph (3) as follows:

576 "(3) Electronic and mechanical machines and software, as such term is defined in  
 577 ~~paragraph (74)~~ of Code Section 11-9-102, constituting a data processing, record-keeping,  
 578 or accounting system if the cost of such system does not exceed 10 percent of admitted  
 579 assets or \$7,500,000.00, whichever is less;"

580 **SECTION 22.**

581 This Act shall become effective on July 1, 2013.

582 **SECTION 23.**

583 All laws and parts of laws in conflict with this Act are repealed.