



January 28, 2022

SENATE BILL No. 351

DIGEST OF SB 351 (Updated January 26, 2022 7:11 pm - DI 149)

Citations Affected: IC 26-1; IC 32-34.

Synopsis: Controllable electronic records. Adds a new chapter to the Uniform Commercial Code (UCC) that governs transactions involving controllable electronic records and that does the following: (1) Defines "controllable electronic records". (2) Establishes the following: (A) The extent to which a purchaser acquires rights and interests in controllable electronic records. (B) The circumstances under which a qualifying purchaser acquires rights in a controllable electronic record free of any adverse claim. (C) The conditions that must be satisfied for a person to be considered to have control over controllable electronic records. Amends certain sections in the UCC chapter concerning secured transactions to reference controllable electronic records and to provide for the perfection of a security interest in controllable electronic records by: (1) control; or (2) the filing of a financing statement. Amends the Indiana statute concerning unclaimed personal property to: (1) conform the definition of "controllable electronic record" in that statute to the new definition set forth in the UCC; and (2) authorize (rather than require, as specified in current law) the attorney general to adopt rules regarding controllable electronic records and digital assets, to the extent such rules are consistent with, and not otherwise covered by: (A) the bill's provisions; or (B) any other Indiana law concerning controllable electronic records or digital assets.

Effective: July 1, 2022.

Garten, Busch, Brown L, Koch

January 11, 2022, read first time and referred to Committee on Judiciary.
January 27, 2022, amended, reported favorably — Do Pass.

SB 351—LS 7118/DI 101



January 28, 2022

Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

SENATE BILL No. 351

A BILL FOR AN ACT to amend the Indiana Code concerning commercial law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 26-1-9.1-102, AS AMENDED BY P.L.54-2011,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2022]: Sec. 102. (a) In IC 26-1-9.1:

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

7 (2) "Account", except as used in "account for", means a right to
8 payment of a monetary obligation, whether or not earned by
9 performance:

10 (A) for property that has been or is to be sold, leased, licensed,
11 assigned, or otherwise disposed of;

12 (B) for services rendered or to be rendered;

13 (C) for a policy of insurance issued or to be issued;

14 (D) for a secondary obligation incurred or to be incurred;

15 (E) for energy provided or to be provided;

16 (F) for the use or hire of a vessel under a charter or other
17 contract;

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- 1 (G) arising out of the use of a credit or charge card or
 2 information contained on or for use with the card; or
 3 (H) as winnings in a lottery or other game of chance operated
 4 or sponsored by a state other than Indiana, a governmental unit
 5 of a state, or a person licensed or authorized to operate the
 6 game by a state or governmental unit of a state.
- 7 The term does not include a right to a payment of a prize awarded
 8 by the state lottery commission in the Indiana state lottery
 9 established under IC 4-30. The term includes **controllable**
 10 **accounts and** health-care-insurance receivables. The term does
 11 not include (i) rights to payment evidenced by chattel paper or an
 12 instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv)
 13 investment property, (v) letter-of-credit rights or letters of credit,
 14 or (vi) rights to payment for money or funds advanced or sold,
 15 other than rights arising out of the use of a credit or charge card
 16 or information contained on or for use with the card.
- 17 (3) "Account debtor" means a person obligated on an account,
 18 chattel paper, or general intangible. The term does not include
 19 persons obligated to pay a negotiable instrument, even if the
 20 instrument constitutes part of chattel paper.
- 21 (4) "Accounting", except as used in "accounting for", means a
 22 record:
- 23 (A) authenticated by a secured party;
 24 (B) indicating the aggregate unpaid secured obligations as of
 25 a date not more than thirty-five (35) days earlier or thirty-five
 26 (35) days later than the date of the record; and
 27 (C) identifying the components of the obligations in
 28 reasonable detail.
- 29 (5) "Agricultural lien" means an interest, other than a security
 30 interest, in farm products:
- 31 (A) that secures payment or performance of an obligation for:
 32 (i) goods or services furnished in connection with a debtor's
 33 farming operation; or
 34 (ii) rent on real property leased by a debtor in connection
 35 with the debtor's farming operation;
 36 (B) that is created by statute in favor of a person that:
 37 (i) in the ordinary course of its business furnished goods or
 38 services to a debtor in connection with the debtor's farming
 39 operation; or
 40 (ii) leased real property to a debtor in connection with the
 41 debtor's farming operation; and
 42 (C) whose effectiveness does not depend on the person's



- 1 possession of the personal property.
- 2 (6) "As-extracted collateral" means:
- 3 (A) oil, gas, or other minerals that are subject to a security
- 4 interest that:
- 5 (i) is created by a debtor having an interest in the minerals
- 6 before extraction; and
- 7 (ii) attaches to the minerals as extracted; or
- 8 (B) accounts arising out of the sale at the wellhead or
- 9 minehead of oil, gas, or other minerals in which the debtor had
- 10 an interest before extraction.
- 11 (7) "Authenticate" means:
- 12 (A) to sign; or
- 13 (B) with present intent to adopt or accept a record, to attach to
- 14 or logically associate with the record an electronic sound,
- 15 symbol, or process.
- 16 (8) "Bank" means an organization that is engaged in the business
- 17 of banking. The term includes savings banks, savings and loan
- 18 associations, credit unions, and trust companies.
- 19 (9) "Cash proceeds" means proceeds that are money, checks,
- 20 deposit accounts, or the like.
- 21 (10) "Certificate of title" means a certificate of title with respect
- 22 to which a statute provides for the security interest in question to
- 23 be indicated on the certificate as a condition or result of the
- 24 security interest's obtaining priority over the rights of a lien
- 25 creditor with respect to the collateral. The term includes another
- 26 record maintained as an alternative to a certificate of title by the
- 27 governmental unit that issues certificates of title if a statute
- 28 permits the security interest in question to be indicated on the
- 29 record as a condition or result of the security interest's obtaining
- 30 priority over the rights of a lien creditor with respect to the
- 31 collateral.
- 32 (11) "Chattel paper" means a record or records that evidence both
- 33 a monetary obligation and a security interest in specific goods, a
- 34 security interest in specific goods and software used in the goods,
- 35 a security interest in specific goods and license of software used
- 36 in the goods, a lease of specific goods, or a lease of specific goods
- 37 and license of software used in the goods. In this subdivision,
- 38 "monetary obligation" means a monetary obligation secured by
- 39 the goods or owed under a lease of the goods and includes a
- 40 monetary obligation with respect to software used in the goods.
- 41 The term "chattel paper" does not include: (i) charters or other
- 42 contracts involving the use or hire of a vessel; or (ii) records that



- 1 evidence a right to payment arising out of the use of a credit or
 2 charge card or information contained on or for use with the card.
 3 If a transaction is evidenced by records that include an instrument
 4 or series of instruments, the group of records taken together
 5 constitutes chattel paper.
 6 (12) "Collateral" means the property subject to a security interest
 7 or agricultural lien. The term includes:
 8 (A) proceeds to which a security interest attaches;
 9 (B) accounts, chattel paper, payment intangibles, and
 10 promissory notes that have been sold; and
 11 (C) goods that are the subject of a consignment.
 12 (13) "Commercial tort claim" means a claim arising in tort with
 13 respect to which:
 14 (A) the claimant is an organization; or
 15 (B) the claimant is an individual and the claim:
 16 (i) arose in the course of the claimant's business or
 17 profession; and
 18 (ii) does not include damages arising out of personal injury
 19 to or the death of an individual.
 20 (14) "Commodity account" means an account maintained by a
 21 commodity intermediary in which a commodity contract is carried
 22 for a commodity customer.
 23 (15) "Commodity contract" means a commodity futures contract,
 24 an option on a commodity futures contract, a commodity option,
 25 or another contract if the contract or option is:
 26 (A) traded on or subject to the rules of a board of trade that has
 27 been designated as a contract market for such a contract
 28 pursuant to federal commodities laws; or
 29 (B) traded on a foreign commodity board of trade, exchange,
 30 or market, and is carried on the books of a commodity
 31 intermediary for a commodity customer.
 32 (16) "Commodity customer" means a person for which a
 33 commodity intermediary carries a commodity contract on its
 34 books.
 35 (17) "Commodity intermediary" means a person that:
 36 (A) is registered as a futures commission merchant under
 37 federal commodities law; or
 38 (B) in the ordinary course of its business provides clearance or
 39 settlement services for a board of trade that has been
 40 designated as a contract market pursuant to federal
 41 commodities law.
 42 (18) "Communicate" means:



- 1 (A) to send a written or other tangible record;
 2 (B) to transmit a record by any means agreed upon by the
 3 persons sending and receiving the record; or
 4 (C) in the case of transmission of a record to or by a filing
 5 office, to transmit a record by any means prescribed by
 6 filing-office rule.
- 7 (19) "Consignee" means a merchant to which goods are delivered
 8 in a consignment.
- 9 (20) "Consignment" means a transaction, regardless of its form,
 10 in which a person delivers goods to a merchant for the purpose of
 11 sale and:
 12 (A) the merchant:
 13 (i) deals in goods of that kind under a name other than the
 14 name of the person making delivery;
 15 (ii) is not an auctioneer; and
 16 (iii) is not generally known by its creditors to be
 17 substantially engaged in selling the goods of others;
 18 (B) with respect to each delivery, the aggregate value of the
 19 goods is one thousand dollars (\$1,000) or more at the time of
 20 delivery;
 21 (C) the goods are not consumer goods immediately before
 22 delivery; and
 23 (D) the transaction does not create a security interest that
 24 secures an obligation.
- 25 (21) "Consignor" means a person that delivers goods to a
 26 consignee in a consignment.
- 27 (22) "Consumer debtor" means a debtor in a consumer
 28 transaction.
- 29 (23) "Consumer goods" means goods that are used or bought for
 30 use primarily for personal, family, or household purposes.
- 31 (24) "Consumer-goods transaction" means a consumer transaction
 32 in which:
 33 (A) an individual incurs an obligation primarily for personal,
 34 family, or household purposes; and
 35 (B) a security interest in consumer goods secures the
 36 obligation.
- 37 (25) "Consumer obligor" means an obligor who is an individual
 38 and who incurred the obligation as part of a transaction entered
 39 into primarily for personal, family, or household purposes.
- 40 (26) "Consumer transaction" means a transaction in which (i) an
 41 individual incurs an obligation primarily for personal, family, or
 42 household purposes, (ii) a security interest secures the obligation,



- 1 and (iii) the collateral is held or acquired primarily for personal,
 2 family, or household purposes. The term includes
 3 consumer-goods transactions.
- 4 (27) "Continuation statement" means an amendment of a
 5 financing statement that:
 6 (A) identifies, by its file number, the initial financing
 7 statement to which it relates; and
 8 (B) indicates that it is a continuation statement for, or that it is
 9 filed to continue the effectiveness of, the identified financing
 10 statement.
- 11 (28) "Debtor" means:
 12 (A) a person having an interest, other than a security interest
 13 or other lien, in the collateral, whether or not the person is an
 14 obligor;
 15 (B) a seller of accounts, chattel paper, payment intangibles, or
 16 promissory notes; or
 17 (C) a consignee.
- 18 (29) "Deposit account" means a demand, time, savings, passbook,
 19 or similar account maintained with a bank. The term does not
 20 include investment property or accounts evidenced by an
 21 instrument.
- 22 (30) "Document" means a document of title or a receipt of the
 23 type described in IC 26-1-7-201(b).
- 24 (31) "Electronic chattel paper" means chattel paper evidenced by
 25 a record or records consisting of information stored in an
 26 electronic medium.
- 27 (32) "Encumbrance" means a right, other than an ownership
 28 interest, in real property. The term includes mortgages and other
 29 liens on real property.
- 30 (33) "Equipment" means goods other than inventory, farm
 31 products, or consumer goods.
- 32 (34) "Farm products" means goods, other than standing timber,
 33 with respect to which the debtor is engaged in a farming operation
 34 and which are:
 35 (A) crops grown, growing, or to be grown, including:
 36 (i) crops produced on trees, vines, and bushes; and
 37 (ii) aquatic goods produced in aquacultural operations;
 38 (B) livestock, born or unborn, including aquatic goods
 39 produced in aquacultural operations;
 40 (C) supplies used or produced in a farming operation; or
 41 (D) products of crops or livestock in their unmanufactured
 42 states.



- 1 (35) "Farming operation" means raising, cultivating, propagating,
2 fattening, grazing, or any other farming, livestock, or aquacultural
3 operation.
- 4 (36) "File number" means the number assigned to an initial
5 financing statement pursuant to IC 26-1-9.1-519(a).
- 6 (37) "Filing office" means an office designated in IC 26-1-9.1-501
7 as the place to file a financing statement.
- 8 (38) "Filing-office rule" means a rule adopted pursuant to
9 IC 26-1-9.1-526.
- 10 (39) "Financing statement" means a record or records composed
11 of an initial financing statement and any filed record relating to
12 the initial financing statement.
- 13 (40) "Fixture filing" means the filing of a financing statement
14 covering goods that are or are to become fixtures and satisfying
15 IC 26-1-9.1-502(a) and IC 26-1-9.1-502(b). The term includes the
16 filing of a financing statement covering goods of a transmitting
17 utility which are or are to become fixtures.
- 18 (41) "Fixtures" means goods that have become so related to
19 particular real property that an interest in them arises under real
20 property law.
- 21 (42) "General intangible" means any personal property, including
22 things in action, other than accounts, chattel paper, commercial
23 tort claims, deposit accounts, documents, goods, instruments,
24 investment property, letter-of-credit rights, letters of credit,
25 money, and oil, gas, or other minerals before extraction. The term
26 includes payment intangibles and software.
- 27 (43) "Good faith" means honesty in fact and the observance of
28 reasonable commercial standards of fair dealing.
- 29 (44) "Goods" means all things that are movable when a security
30 interest attaches. The term includes (i) fixtures, (ii) standing
31 timber that is to be cut and removed under a conveyance or
32 contract for sale, (iii) the unborn young of animals, (iv) crops
33 grown, growing, or to be grown, even if the crops are produced on
34 trees, vines, or bushes, and (v) manufactured homes. The term
35 also includes a computer program embedded in goods and any
36 supporting information provided in connection with a transaction
37 relating to the program if (i) the program is associated with the
38 goods in such a manner that it customarily is considered part of
39 the goods, or (ii) by becoming the owner of the goods, a person
40 acquires a right to use the program in connection with the goods.
41 The term does not include a computer program embedded in
42 goods that consist solely of the medium in which the program is



- 1 embedded. The term also does not include accounts, chattel
 2 paper, commercial tort claims, deposit accounts, documents,
 3 general intangibles, instruments, investment property,
 4 letter-of-credit rights, letters of credit, money, or oil, gas, or other
 5 minerals before extraction.
- 6 (45) "Governmental unit" means a subdivision, agency,
 7 department, county, parish, municipality, or other unit of the
 8 government of the United States, a state, or a foreign country. The
 9 term includes an organization having a separate corporate
 10 existence if the organization is eligible to issue debt on which
 11 interest is exempt from income taxation under the laws of the
 12 United States.
- 13 (46) "Health-care-insurance receivable" means an interest in or
 14 claim under a policy of insurance that is a right to payment of a
 15 monetary obligation for health-care goods or services provided.
- 16 (47) "Instrument" means a negotiable instrument or any other
 17 writing that evidences a right to the payment of a monetary
 18 obligation, is not itself a security agreement or lease, and is of a
 19 type that in the ordinary course of business is transferred by
 20 delivery with any necessary endorsement or assignment. The term
 21 does not include (i) investment property, (ii) letters of credit, or
 22 (iii) writings that evidence a right to payment arising out of the
 23 use of a credit or charge card or information contained on or for
 24 use with the card.
- 25 (48) "Inventory" means goods, other than farm products, that:
 26 (A) are leased by a person as lessor;
 27 (B) are held by a person for sale or lease or to be furnished
 28 under a contract of service;
 29 (C) are furnished by a person under a contract of service; or
 30 (D) consist of raw materials, work in process, or materials
 31 used or consumed in a business.
- 32 (49) "Investment property" means a security, whether certificated
 33 or uncertificated, security entitlement, securities account,
 34 commodity contract, or commodity account.
- 35 (50) "Jurisdiction of organization", with respect to a registered
 36 organization, means the jurisdiction under whose law the
 37 organization is formed or organized.
- 38 (51) "Letter-of-credit right" means a right to payment or
 39 performance under a letter of credit, whether or not the
 40 beneficiary has demanded or is at the time entitled to demand
 41 payment or performance. The term does not include the right of
 42 a beneficiary to demand payment or performance under a letter of



- 1 credit.
- 2 (52) "Lien creditor" means:
- 3 (A) a creditor that has acquired a lien on the property involved
- 4 by attachment, levy, or the like;
- 5 (B) an assignee for benefit of creditors from the time of
- 6 assignment;
- 7 (C) a trustee in bankruptcy from the date of the filing of the
- 8 petition; or
- 9 (D) a receiver in equity from the time of appointment.
- 10 (53) "Manufactured home" means a structure, transportable in one
- 11 (1) or more sections, which, in the traveling mode, is eight (8)
- 12 body feet or more in width or forty (40) body feet or more in
- 13 length, or, when erected on site, is three hundred twenty (320) or
- 14 more square feet, and which is built on a permanent chassis and
- 15 designed to be used as a dwelling with or without a permanent
- 16 foundation when connected to the required utilities, and includes
- 17 the plumbing, heating, air conditioning, and electrical systems
- 18 contained therein. The term includes any structure that meets all
- 19 of the requirements of this subdivision except the size
- 20 requirements, and with respect to which the manufacturer
- 21 voluntarily files a certification required by the United States
- 22 Secretary of Housing and Urban Development and complies with
- 23 the standards established under Title 42 of the United States
- 24 Code.
- 25 (54) "Manufactured-home transaction" means a secured
- 26 transaction:
- 27 (A) that creates a purchase-money security interest in a
- 28 manufactured home, other than a manufactured home held as
- 29 inventory; or
- 30 (B) in which a manufactured home, other than a manufactured
- 31 home held as inventory, is the primary collateral.
- 32 (55) "Mortgage" means a consensual interest in real property,
- 33 including fixtures, that secures payment or performance of an
- 34 obligation.
- 35 (56) "New debtor" means a person that becomes bound as debtor
- 36 under IC 26-1-9.1-203(d) by a security agreement previously
- 37 entered into by another person.
- 38 (57) "New value" means (i) money, (ii) money's worth in
- 39 property, services, or new credit, or (iii) release by a transferee of
- 40 an interest in property previously transferred to the transferee.
- 41 The term does not include an obligation substituted for another
- 42 obligation.



- 1 (58) "Noncash proceeds" means proceeds other than cash
 2 proceeds.
 3 (59) "Obligor" means a person that, with respect to an obligation
 4 secured by a security interest in or an agricultural lien on the
 5 collateral, (i) owes payment or other performance of the
 6 obligation, (ii) has provided property other than the collateral to
 7 secure payment or other performance of the obligation, or (iii) is
 8 otherwise accountable in whole or in part for payment or other
 9 performance of the obligation. The term does not include issuers
 10 or nominated persons under a letter of credit.
 11 (60) "Original debtor", except as used in IC 26-1-9.1-310(c),
 12 means a person that, as debtor, entered into a security agreement
 13 to which a new debtor has become bound under
 14 IC 26-1-9.1-203(d).
 15 (61) "Payment intangible" means a general intangible under
 16 which the account debtor's principal obligation is a monetary
 17 obligation. **The term includes a controllable payment**
 18 **intangible.**
 19 (62) "Person related to", with respect to an individual, means:
 20 (A) the spouse of the individual;
 21 (B) a brother, brother-in-law, sister, or sister-in-law of the
 22 individual;
 23 (C) an ancestor or lineal descendant of the individual or the
 24 individual's spouse; or
 25 (D) any other relative, by blood or marriage, of the individual
 26 or the individual's spouse who shares the same home with the
 27 individual.
 28 (63) "Person related to", with respect to an organization, means:
 29 (A) a person directly or indirectly controlling, controlled by,
 30 or under common control with the organization;
 31 (B) an officer or director of, or a person performing similar
 32 functions with respect to, the organization;
 33 (C) an officer or director of, or a person performing similar
 34 functions with respect to, a person described in clause (A);
 35 (D) the spouse of an individual described in clause (A), (B), or
 36 (C); or
 37 (E) an individual who is related by blood or marriage to an
 38 individual described in clause (A), (B), (C), or (D) and shares
 39 the same home with the individual.
 40 (64) "Proceeds", except as used in IC 26-1-9.1-609(b), means the
 41 following property:
 42 (A) Whatever is acquired upon the sale, lease, license,



- 1 exchange, or other disposition of collateral.
- 2 (B) Whatever is collected on, or distributed on account of,
- 3 collateral.
- 4 (C) Rights arising out of collateral.
- 5 (D) To the extent of the value of collateral, claims arising out
- 6 of the loss, nonconformity, or interference with the use of,
- 7 defects or infringement of rights in, or damage to, the
- 8 collateral.
- 9 (E) To the extent of the value of collateral and to the extent
- 10 payable to the debtor or the secured party, insurance payable
- 11 by reason of the loss or nonconformity of, defects or
- 12 infringement of rights in, or damage to, the collateral.
- 13 (65) "Promissory note" means an instrument that evidences a
- 14 promise to pay a monetary obligation, does not evidence an order
- 15 to pay, and does not contain an acknowledgment by a bank that
- 16 the bank has received for deposit a sum of money or funds.
- 17 (66) "Proposal" means a record authenticated by a secured party
- 18 that includes the terms on which the secured party is willing to
- 19 accept collateral in full or partial satisfaction of the obligation it
- 20 secures pursuant to IC 26-1-9.1-620, IC 26-1-9.1-621, and
- 21 IC 26-1-9.1-622.
- 22 (67) "Public-finance transaction" means a secured transaction in
- 23 connection with which:
- 24 (A) debt securities are issued;
- 25 (B) all or a portion of the securities issued have an initial
- 26 stated maturity of at least twenty (20) years; and
- 27 (C) the debtor, obligor, secured party, account debtor, or other
- 28 person obligated on collateral, assignor or assignee of a
- 29 secured obligation, or assignor or assignee of a security
- 30 interest is a state or a governmental unit of a state.
- 31 (68) "Public organic record" means a record that is available to
- 32 the public for inspection and is:
- 33 (A) a record consisting of the record initially filed with or
- 34 issued by a state or the United States to form or organize an
- 35 organization and any record filed with or issued by the state or
- 36 the United States which amends or restates the initial record;
- 37 (B) an organic record of a business trust consisting of the
- 38 record initially filed with a state and any record filed with the
- 39 state which amends or restates the initial record, if a statute of
- 40 the state governing business trusts requires that the record be
- 41 filed with the state; or
- 42 (C) a record consisting of legislation enacted by the legislature



- 1 of a state or the Congress of the United States which forms or
 2 organizes an organization, any record amending the
 3 legislation, and any record filed with or issued by the state or
 4 the United States which amends or restates the name of the
 5 organization.
- 6 (69) "Pursuant to commitment", with respect to an advance made
 7 or other value given by a secured party, means pursuant to the
 8 secured party's obligation, whether or not a subsequent event of
 9 default or other event not within the secured party's control has
 10 relieved or may relieve the secured party from its obligation.
- 11 (70) "Record", except as used in "for record", "of record", "record
 12 or legal title", and "record owner", means information that is
 13 inscribed on a tangible medium or that is stored in an electronic
 14 or other medium and is retrievable in perceivable form.
- 15 (71) "Registered organization" means an organization formed or
 16 organized solely under the law of a single state or the United
 17 States by the filing of a public organic record with, the issuance
 18 of a public organic record by, or the enactment of legislation by
 19 the state or the United States. The term includes a business trust
 20 that is formed or organized under the law of a single state if a
 21 statute of the state governing business trusts requires that the
 22 business trust's organic record be filed with the state.
- 23 (72) "Secondary obligor" means an obligor to the extent that:
 24 (A) the obligor's obligation is secondary; or
 25 (B) the obligor has a right of recourse with respect to an
 26 obligation secured by collateral against the debtor, another
 27 obligor, or property of either.
- 28 (73) "Secured party" means:
 29 (A) a person in whose favor a security interest is created or
 30 provided for under a security agreement, whether or not any
 31 obligation to be secured is outstanding;
 32 (B) a person that holds an agricultural lien;
 33 (C) a consignor;
 34 (D) a person to which accounts, chattel paper, payment
 35 intangibles, or promissory notes have been sold;
 36 (E) a trustee, indenture trustee, agent, collateral agent, or other
 37 representative in whose favor a security interest or agricultural
 38 lien is created or provided for; or
 39 (F) a person that holds a security interest arising under
 40 IC 26-1-2-401, IC 26-1-2-505, IC 26-1-2-711(3),
 41 IC 26-1-2.1-508(5), IC 26-1-4-210, or IC 26-1-5.1-118.
- 42 (74) "Security agreement" means an agreement that creates or



- 1 provides for a security interest.
- 2 (75) "Send", in connection with a record or notification, means:
- 3 (A) to deposit in the mail, deliver for transmission, or transmit
- 4 by any other usual means of communication, with postage or
- 5 cost of transmission provided for, addressed to any address
- 6 reasonable under the circumstances; or
- 7 (B) to cause the record or notification to be received within the
- 8 time that it would have been received if properly sent under
- 9 clause (A).
- 10 (76) "Software" means a computer program and any supporting
- 11 information provided in connection with a transaction relating to
- 12 the program. The term does not include a computer program that
- 13 is included in the definition of goods.
- 14 (77) "State" means a state of the United States, the District of
- 15 Columbia, Puerto Rico, the United States Virgin Islands, or any
- 16 territory or insular possession subject to the jurisdiction of the
- 17 United States.
- 18 (78) "Supporting obligation" means a letter-of-credit right or
- 19 secondary obligation that supports the payment or performance of
- 20 an account, chattel paper, a document, a general intangible, an
- 21 instrument, or investment property.
- 22 (79) "Tangible chattel paper" means chattel paper evidenced by
- 23 a record or records consisting of information that is inscribed on
- 24 a tangible medium.
- 25 (80) "Termination statement" means an amendment of a financing
- 26 statement that:
- 27 (A) identifies, by its file number, the initial financing
- 28 statement to which it relates; and
- 29 (B) indicates either that it is a termination statement or that the
- 30 identified financing statement is no longer effective.
- 31 (81) "Transmitting utility" means a person primarily engaged in
- 32 the business of:
- 33 (A) operating a railroad, subway, street railway, or trolley bus;
- 34 (B) transmitting communications electrically,
- 35 electromagnetically, or by light;
- 36 (C) transmitting goods by pipeline or sewer; or
- 37 (D) transmitting or producing and transmitting electricity,
- 38 steam, gas, or water.
- 39 (b) "Control" as provided in IC 26-1-7-106 and the following
- 40 definitions outside IC 26-1-9.1 apply to IC 26-1-9.1:
- 41 "Applicant" IC 26-1-5.1-102.
- 42 "Beneficiary" IC 26-1-5.1-102.



- 1 "Broker" IC 26-1-8.1-102.
 2 "Certificated security" IC 26-1-8.1-102.
 3 "Check" IC 26-1-3.1-104.
 4 "Clearing corporation" IC 26-1-8.1-102.
 5 "Contract for sale" IC 26-1-2-106.
 6 **"Controllable account" IC 26-1-11-103.**
 7 **"Controllable electronic record" IC 26-1-11-104.**
 8 **"Controllable payment intangible" IC 26-1-11-105.**
 9 "Customer" IC 26-1-4-104.
 10 "Entitlement holder" IC 26-1-8.1-102.
 11 "Financial asset" IC 26-1-8.1-102.
 12 "Holder in due course" IC 26-1-3.1-302.
 13 "Issuer" (with respect to a letter of credit or letter-of-credit right)
 14 IC 26-1-5.1-102.
 15 "Issuer" (with respect to a security) IC 26-1-8.1-201.
 16 "Issuer" (with respect to documents of title) IC 26-1-7-102.
 17 "Lease" IC 26-1-2.1-103.
 18 "Lease agreement" IC 26-1-2.1-103.
 19 "Lease contract" IC 26-1-2.1-103.
 20 "Leasehold interest" IC 26-1-2.1-103.
 21 "Lessee" IC 26-1-2.1-103.
 22 "Lessee in ordinary course of business" IC 26-1-2.1-103.
 23 "Lessor" IC 26-1-2.1-103.
 24 "Lessor's residual interest" IC 26-1-2.1-103.
 25 "Letter of credit" IC 26-1-5.1-102.
 26 "Merchant" IC 26-1-2-104.
 27 "Negotiable instrument" IC 26-1-3.1-104.
 28 "Nominated person" IC 26-1-5.1-102.
 29 "Note" IC 26-1-3.1-104.
 30 "Proceeds of a letter of credit" IC 26-1-5.1-114.
 31 "Prove" IC 26-1-3.1-103.
 32 **"Qualifying purchaser" IC 26-1-11-106.**
 33 "Sale" IC 26-1-2-106.
 34 "Securities account" IC 26-1-8.1-501.
 35 "Securities intermediary" IC 26-1-8.1-102.
 36 "Security" IC 26-1-8.1-102.
 37 "Security certificate" IC 26-1-8.1-102.
 38 "Security entitlement" IC 26-1-8.1-102.
 39 "Uncertificated security" IC 26-1-8.1-102.
 40 (c) IC 26-1-1 contains general definitions and principles of
 41 construction and interpretation applicable throughout IC 26-1-9.1.
 42 SECTION 2. IC 26-1-9.1-107.1 IS ADDED TO THE INDIANA



1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2022]: **Sec. 107.1. (a) A secured party has**
 3 **control of a controllable electronic record as provided for in**
 4 **IC 26-1-11-108.**

5 **(b) A secured party has control of a controllable account or**
 6 **controllable payment intangible if the secured party has control of**
 7 **the controllable electronic record that evidences the controllable**
 8 **account or controllable payment intangible.**

9 SECTION 3. IC 26-1-9.1-310, AS AMENDED BY P.L.143-2007,
 10 SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2022]: Sec. 310. (a) Except as otherwise provided in
 12 subsection (b) and IC 26-1-9.1-312(b), a financing statement must be
 13 filed to perfect all security interests and agricultural liens.

14 (b) The filing of a financing statement is not necessary to perfect a
 15 security interest:

16 (1) that is perfected under IC 26-1-9.1-308(d),

17 IC 26-1-9.1-308(e), IC 26-1-9.1-308(f), or IC 26-1-9.1-308(g);

18 (2) that is perfected under IC 26-1-9.1-309 when it attaches;

19 (3) in property subject to a statute, regulation, or treaty described
 20 in IC 26-1-9.1-311(a);

21 (4) in goods in possession of a bailee that are perfected under
 22 IC 26-1-9.1-312(d)(1) or IC 26-1-9.1-312(d)(2);

23 (5) in certificated securities, documents, goods, or instruments
 24 which is perfected without filing, control, or possession under
 25 IC 26-1-9.1-312(e), IC 26-1-9.1-312(f), or IC 26-1-9.1-312(g);

26 (6) in collateral in the secured party's possession under
 27 IC 26-1-9.1-313;

28 (7) in a certificated security which is perfected by delivery of the
 29 security certificate to the secured party under IC 26-1-9.1-313;

30 (8) in **controllable accounts, controllable electronic records,**
 31 **controllable payment intangibles,** deposit accounts, electronic
 32 chattel paper, electronic documents, investment property, or
 33 letter-of-credit rights ~~which is that~~ **are** perfected by control under
 34 IC 26-1-9.1-314;

35 (9) in proceeds which is perfected under IC 26-1-9.1-315; or

36 (10) that is perfected under IC 26-1-9.1-316.

37 (c) If a secured party assigns a perfected security interest or
 38 agricultural lien, a filing under IC 26-1-9.1 is not required to continue
 39 the perfected status of the security interest against creditors of and
 40 transferees from the original debtor.

41 SECTION 4. IC 26-1-9.1-312, AS AMENDED BY P.L.143-2007,
 42 SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2022]: Sec. 312. (a) A security interest in chattel paper,
 2 **controllable accounts, controllable electronic records, controllable**
 3 **payment intangibles**, negotiable documents, instruments, or
 4 investment property may be perfected by filing.

5 (b) Except as otherwise provided in IC 26-1-9.1-315(c) and
 6 IC 26-1-9.1-315(d), for proceeds:

7 (1) a security interest in a deposit account may be perfected only
 8 by control under IC 26-1-9.1-314;

9 (2) and except as otherwise provided in IC 26-1-9.1-308(d), a
 10 security interest in a letter-of-credit right may be perfected only
 11 by control under IC 26-1-9.1-314; and

12 (3) a security interest in money may be perfected only by the
 13 secured party's taking possession under IC 26-1-9.1-313.

14 (c) While goods are in the possession of a bailee that has issued a
 15 negotiable document covering the goods:

16 (1) a security interest in the goods may be perfected by perfecting
 17 a security interest in the document; and

18 (2) a security interest perfected in the document has priority over
 19 any security interest that becomes perfected in the goods by
 20 another method during that time.

21 (d) While goods are in the possession of a bailee that has issued a
 22 nonnegotiable document covering the goods, a security interest in the
 23 goods may be perfected by:

24 (1) issuance of a document in the name of the secured party;

25 (2) the bailee's receipt of notification of the secured party's
 26 interest; or

27 (3) filing as to the goods.

28 (e) A security interest in certificated securities, negotiable
 29 documents, or instruments is perfected without filing or the taking of
 30 possession or control for a period of twenty (20) days from the time it
 31 attaches to the extent that it arises for new value given under an
 32 authenticated security agreement.

33 (f) A perfected security interest in a negotiable document or goods
 34 in possession of a bailee, other than one that has issued a negotiable
 35 document for the goods, remains perfected for twenty (20) days without
 36 filing if the secured party makes available to the debtor the goods or
 37 documents representing the goods for the purpose of:

38 (1) ultimate sale or exchange; or

39 (2) loading, unloading, storing, shipping, transshipping,
 40 manufacturing, processing, or otherwise dealing with them in a
 41 manner preliminary to their sale or exchange.

42 (g) A perfected security interest in a certificated security or



1 instrument remains perfected for twenty (20) days without filing if the
 2 secured party delivers the security certificate or instrument to the
 3 debtor for the purpose of:

- 4 (1) ultimate sale or exchange; or
 5 (2) presentation, collection, enforcement, renewal, or registration
 6 of transfer.

7 (h) After the twenty (20) day period specified in subsection (e), (f),
 8 or (g) expires, perfection depends upon compliance with IC 26-1-9.1.

9 SECTION 5. IC 26-1-9.1-314, AS AMENDED BY P.L.143-2007,
 10 SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2022]: Sec. 314. (a) A security interest in **controllable**
 12 **accounts, controllable electronic records, controllable payment**
 13 **intangibles**, investment property, deposit accounts, letter-of-credit
 14 rights, electronic chattel paper, or electronic documents may be
 15 perfected by control of the collateral under IC 26-1-7-106,
 16 IC 26-1-9.1-104, IC 26-1-9.1-105, IC 26-1-9.1-106, ~~or~~ IC 26-1-9.1-107,
 17 **or IC 26-1-9.1-107.1, as applicable.**

18 (b) A security interest in **controllable accounts, controllable**
 19 **electronic records, controllable payment intangibles**, deposit
 20 accounts, electronic chattel paper, letter-of-credit rights, or electronic
 21 documents is perfected by control under IC 26-1-7-106,
 22 IC 26-1-9.1-104, IC 26-1-9.1-105, ~~or~~ IC 26-1-9.1-107, **or**
 23 **IC 26-1-9.1-107.1, as applicable**, when the secured party obtains
 24 control and remains perfected by control only while the secured party
 25 retains control.

26 (c) A security interest in investment property is perfected by control
 27 under IC 26-1-9.1-106 from the time the secured party obtains control
 28 and remains perfected by control until:

- 29 (1) the secured party does not have control; and
 30 (2) one of the following occurs:
 31 (A) if the collateral is a certificated security, the debtor has or
 32 acquires possession of the security certificate;
 33 (B) if the collateral is an uncertificated security, the issuer has
 34 registered or registers the debtor as the registered owner; or
 35 (C) if the collateral is a security entitlement, the debtor is or
 36 becomes the entitlement holder.

37 SECTION 6. IC 26-1-9.1-331 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 331. (a) This article
 39 does not limit the rights of a holder in due course of a negotiable
 40 instrument, a holder to which a negotiable document of title has been
 41 duly negotiated, ~~or~~ a protected purchaser of a security, **or a qualifying**
 42 **purchaser (as defined in IC 26-1-11-106) of a controllable account,**



1 **controllable electronic record, or controllable payment intangible.**

2 These holders or purchasers take priority over an earlier security
3 interest, even if perfected, to the extent provided in IC 26-1-3.1,
4 IC 26-1-7, ~~and~~ IC 26-1-8.1, **and IC 26-1-11.**

5 (b) This article does not limit the rights of or impose liability on a
6 person to the extent that the person is protected against the assertion of
7 an adverse claim under IC 26-1-8.1 **or IC 26-1-11.**

8 (c) Filing under IC 26-1-9.1 does not constitute notice of a claim or
9 defense to the holders, purchasers, or persons described in subsections
10 (a) and (b).

11 SECTION 7. IC 26-1-11 IS ADDED TO THE INDIANA CODE AS
12 A **NEW CHAPTER TO READ AS FOLLOWS** [EFFECTIVE JULY
13 1, 2022]:

14 **Chapter 11. Controllable Electronic Records**

15 **Sec. 101. (a) This chapter applies to a transaction involving a**
16 **controllable electronic record that is entered into after June 30,**
17 **2022.**

18 (b) This chapter applies to the acquisition and purchase of
19 rights in a controllable account or controllable payment intangible,
20 including the rights of a purchaser and a qualifying purchaser
21 under section 107 of this chapter, in the same manner this chapter
22 applies to a controllable electronic record.

23 **Sec. 102. As used in this chapter, "adverse claim", with respect**
24 **to a controllable electronic record, means a claim:**

25 (1) that a claimant has a property interest in the controllable
26 electronic record; and

27 (2) that it is a violation of the rights of the claimant for
28 another person to hold, transfer, or deal with the controllable
29 electronic record.

30 **Sec. 103. As used in this chapter, "controllable account" means**
31 **an account evidenced by a controllable electronic record that**
32 **provides that the account debtor undertakes to pay the person that,**
33 **under section 108 of this chapter, has control of the controllable**
34 **electronic record.**

35 **Sec. 104. (a) As used in this chapter, "controllable electronic**
36 **record" means a record stored in an electronic medium that can be**
37 **subjected to control under section 108 of this chapter.**

38 (b) The term does not include:

39 (1) a deposit account;

40 (2) an electronic copy of a record evidencing chattel paper;

41 (3) an electronic document of title;

42 (4) electronic money;



1 (5) investment property; or

2 (6) a transferrable record (as defined in 15 U.S.C. 7021(a)(1)).

3 Sec. 105. As used in this chapter, "controllable payment
4 intangible" means a payment intangible evidenced by a
5 controllable electronic record that provides that the account debtor
6 undertakes to pay the person that, under section 108 of this
7 chapter, has control of the controllable electronic record.

8 Sec. 106. As used in this chapter, "qualifying purchaser", with
9 respect to a controllable electronic record, means a purchaser that
10 obtains control of the controllable electronic record for value and
11 without notice of any adverse claim.

12 Sec. 107. (a) Subject to subsections (b) through (e), laws other
13 than this chapter determine:

14 (1) whether a person acquires rights in a controllable
15 electronic record; and

16 (2) the rights the person acquires.

17 (b) A purchaser of a controllable electronic record acquires all
18 rights in the controllable electronic record that the transferor had
19 or had power to transfer.

20 (c) A purchaser of a limited interest in a controllable electronic
21 record acquires rights only to the extent of the interest purchased.

22 (d) In addition to acquiring the rights of a purchaser described
23 in subsections (b) and (c), a qualifying purchaser acquires rights in
24 the acquired controllable electronic record free of any adverse
25 claim.

26 (e) An action based on an adverse claim to a controllable
27 electronic record (whether based on conversion, a right of replevin,
28 a constructive trust, an equitable lien, or any other theory) may not
29 be asserted against a qualifying purchaser that acquires an interest
30 in, and obtains control of, the controllable electronic record for
31 value and without notice of the adverse claim. For purposes of this
32 subsection, a person has notice of an adverse claim if:

33 (1) the person knows of the adverse claim; or

34 (2) the person is aware of facts sufficient to indicate that there
35 is a significant probability that the adverse claim exists and
36 deliberately avoids information that would establish the
37 existence of the adverse claim.

38 The filing of a financing statement under IC 26-1-9.1 with respect
39 to a controllable electronic record does not constitute notice of the
40 existence of an adverse claim with respect to the controllable
41 electronic record.

42 Sec. 108. (a) A person has control of a controllable electronic



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record if the following conditions are met:

(1) The controllable electronic record or the system in which the controllable electronic record is recorded, if any, gives the person:

(A) the power to derive substantially all the benefit from the controllable electronic record;

(B) subject to subsection (b), the exclusive power to prevent others from deriving substantially all the benefit from the controllable electronic record; and

(C) subject to subsection (b), the exclusive power to transfer control of the controllable electronic record to another person or cause another person to obtain control of a controllable electronic record derived from the controllable electronic record.

(2) The controllable electronic record, a record attached to or logically associated with the controllable electronic record, or the system in which the controllable electronic record is recorded, if any, enables the person to readily identify the person as having the powers specified in subdivision (1). For purposes of this subdivision, a person may be identified in any way, including by name, identifying number, cryptographic key, office, or account number.

(b) A power described in subsection (a)(1)(B) or (a)(1)(C) may be considered exclusive even if:

(1) the controllable electronic record or the system in which the controllable electronic record is recorded, if any, limits the use to which the controllable electronic record may be put or has protocols that are programmed to result in a transfer of control; or

(2) the person has agreed to share the power with another person.

SECTION 8. IC 32-34-1.5-3, AS ADDED BY P.L.141-2021, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 3. The following definitions apply throughout this chapter:

(1) "Apparent owner" means a person whose name appears on the records of a holder as the owner of property held, issued, or owing by the holder.

(2) "Attorney general's agent" means a person with which the attorney general contracts to conduct an examination under section 53 of this chapter on behalf of the attorney general.

(3) "Business association" means a corporation, joint stock



1 company, investment company other than an investment company
 2 registered under the Investment Company Act of 1940 (15 U.S.C.
 3 80a-1 et seq.), partnership, unincorporated association, joint
 4 venture, limited liability company, business trust, trust company,
 5 land bank, safe deposit company, safekeeping depository,
 6 financial organization, insurance company, federally chartered
 7 entity, utility, sole proprietorship, or other business entity,
 8 whether or not for profit.

9 (4) "Confidential information" means records, reports, and
 10 information that are considered confidential under section 78 of
 11 this chapter.

12 **(5) "Controllable electronic record has the meaning set forth**
 13 **in IC 26-1-11-104.**

14 ~~(5)~~ (6) "Domicile" means the following:

15 (A) For a corporation, the state of its incorporation.

16 (B) For a business association other than a corporation whose
 17 formation requires a filing with a state, the state of its filing.

18 (C) For a federally chartered entity or an investment company
 19 registered under the Investment Company Act of 1940, as
 20 amended (15 U.S.C. 80a-1 et seq.), the state of its home office.

21 (D) For any other holder, the state of its principal place of
 22 business.

23 ~~(6)~~ (7) "Electronic" means relating to technology having
 24 electrical, digital, magnetic, wireless, optical, electromagnetic, or
 25 similar capabilities.

26 ~~(7)~~ (8) "Electronic mail" means a communication by electronic
 27 means which is automatically retained and stored and may be
 28 readily accessed or retrieved.

29 ~~(8)~~ (9) "Financial organization" means a savings and loan
 30 association, building and loan association, savings bank,
 31 industrial bank, bank, banking organization, or credit union.

32 ~~(9)~~ "Financial organization loyalty program" means a record given
 33 without direct monetary consideration, excluding an annual or
 34 periodic fee, under an award, reward, benefit, loyalty, incentive,
 35 rebate, or other promotional program established by a financial
 36 organization for the purpose of rewarding a relationship with the
 37 sponsoring financial organization. The term includes:

38 (A) both a physical card and an electronic record; and

39 (B) a program offering a record that is redeemable for money
 40 or cash or is otherwise monetized by the financial
 41 organization.

42 ~~(10)~~ "Game related digital content" means digital content that



1 exists only in an electronic game or electronic-game platform;
 2 The term includes game-play currency such as a virtual wallet;
 3 even if denominated in United States currency and, if for use or
 4 redemption only within the game or platform or another electronic
 5 game or electronic-game platform; points sometimes referred to
 6 as gems, tokens, gold, and similar names and digital codes. The
 7 term does not include an item that the issuer:

8 (A) permits to be redeemed for use outside a game or platform
 9 for money or goods or services that have more than minimal
 10 value; or

11 (B) otherwise monetizes for use outside a game or platform.

12 ~~(1)~~ **(10)** "Holder" means a person obligated to hold for the
 13 account of, or to deliver or pay to, the owner property subject to
 14 this chapter.

15 ~~(12)~~ **(11)** "Insurance company" means an association, corporation,
 16 or fraternal or mutual benefit organization, whether or not for
 17 profit, engaged in the business of providing life endowments,
 18 annuities, or insurance, including accident, burial, casualty, credit
 19 life, contract performance, dental, disability, fidelity, fire, health,
 20 hospitalization, illness, life, malpractice, marine, mortgage,
 21 surety, wage protection, and worker's compensation insurance.

22 ~~(13)~~ "Loyalty card" means a record given without direct monetary
 23 consideration under an award, reward, benefit, loyalty, incentive,
 24 rebate, or promotional program which may be used or redeemed
 25 only to obtain goods or services or a discount on goods or
 26 services. The term does not include a record that may be
 27 redeemed for money or otherwise monetized by the issuer.

28 ~~(14)~~ **(12)** "Mineral" means gas, oil, coal, oil shale, other gaseous
 29 liquid or solid hydrocarbon, cement material, sand and gravel,
 30 road material, building stone, chemical raw material, gemstone,
 31 fissionable and nonfissionable ores, colloidal and other clay,
 32 steam and other geothermal resources, and any other substance
 33 defined as a mineral by a law of this state other than this chapter.

34 ~~(15)~~ **(13)** "Mineral proceeds" means an amount payable for the
 35 extraction, production, or sale of minerals, or, on the
 36 abandonment of the amount, an amount that becomes payable
 37 after abandonment. The term includes an amount payable:

38 (A) for the acquisition and retention of a mineral lease,
 39 including a bonus, royalty, compensatory royalty, shut-in
 40 royalty, minimum royalty, and delay rental;

41 (B) for the extraction, production, or sale of minerals,
 42 including a net revenue interest, royalty, overriding royalty,



- 1 extraction payment, and production payment; and
 2 (C) under an agreement or option, including a joint-operation
 3 agreement, unit agreement, pooling agreement, and farm out
 4 agreement.
- 5 ~~(+6)~~ **(14)** "Money order" means a payment order for a specified
 6 amount of money. The term includes an express money order and
 7 a personal money order on which the remitter is the purchaser.
- 8 ~~(+7)~~ **(15)** "Municipal bond" means a bond or evidence of
 9 indebtedness issued by a municipality or other political
 10 subdivision of a state.
- 11 ~~(+8)~~ **(16)** "Non-freely transferable security" means a security that
 12 cannot be delivered to the attorney general by the Depository
 13 Trust & Clearing Corporation or similar custodian of securities
 14 providing post-trade clearing and settlement services to financial
 15 markets or cannot be delivered because there is no agent to effect
 16 transfer. The term includes a worthless security.
- 17 ~~(+9)~~ **(17)** "Owner" means a person that has a legal, beneficial, or
 18 equitable interest in property subject to this chapter or the
 19 person's legal representative when acting on behalf of the owner.
 20 The term includes:
- 21 (A) for a deposit, a depositor;
 22 (B) for a trust other than a deposit in trust, a beneficiary;
 23 (C) for other property, a creditor, claimant, or payee; and
 24 (D) the lawful bearer of a record that may be used to obtain
 25 money, a reward, or a thing of value.
- 26 ~~(+20)~~ **(18)** "Payroll card" means a record that evidences a payroll
 27 card account as defined in Regulation E (12 CFR Part 1005).
- 28 ~~(+21)~~ **(19)** "Person" means an individual, estate, business
 29 association, public corporation, government or governmental
 30 subdivision, agency, or instrumentality, or other legal entity.
- 31 ~~(+22)~~ **(20)** "Property" means tangible property described in section
 32 8 of this chapter or a fixed and certain interest in intangible
 33 property held, issued, or owed in the course of a holder's business
 34 or by a government or governmental subdivision, agency, or
 35 instrumentality. The term includes:
- 36 (A) all income from or increments to the property; and
 37 (B) property referred to as or evidenced by:
 38 (i) money, virtual currency, interest, or a dividend, check,
 39 draft, deposit, or payroll card;
 40 (ii) a credit balance, customer's overpayment, security
 41 deposit, refund, credit memorandum, unpaid wage, unused
 42 ticket for which the issuer has an obligation to provide a



- 1 refund, mineral proceeds, or unidentified remittance;
- 2 (iii) a security, except for a worthless security or a security
- 3 that is subject to a lien, legal hold, or restriction evidenced
- 4 on the records of the holder or imposed by operation of law,
- 5 if the lien, legal hold, or restriction restricts the holder's or
- 6 owner's ability to receive, transfer, sell, or otherwise
- 7 negotiate the security;
- 8 (iv) a bond, debenture, note, or other evidence of
- 9 indebtedness;
- 10 (v) money deposited to redeem a security, make a
- 11 distribution, or pay a dividend;
- 12 (vi) an amount due and payable under an annuity contract or
- 13 insurance policy; and
- 14 (vii) an amount distributable from a trust or custodial fund
- 15 established under a plan to provide health, welfare, pension,
- 16 vacation, severance, retirement, death, stock purchase, profit
- 17 sharing, employee savings, supplemental unemployment
- 18 insurance, or a similar benefit.

19 The term does not include property held in a plan described in
 20 Section 529A of the Internal Revenue Code, game related digital
 21 content, a financial organization loyalty program, a loyalty card,
 22 or an in-store credit for returned merchandise.

23 ~~(23)~~ **(21)** "Putative holder" means a person believed by the
 24 attorney general to be a holder, until the person pays or delivers
 25 to the attorney general property subject to this chapter or the
 26 attorney general or court makes a final determination that the
 27 person is or is not a holder.

28 ~~(24)~~ **(22)** "Record" means information that is inscribed on a
 29 tangible medium or that is stored in an electronic or other medium
 30 and is retrievable in perceivable form.

31 ~~(25)~~ **(23)** "Security" means:
 32 (A) a security (as defined in IC 26-1-8.1-102);
 33 (B) a security entitlement (as defined in IC 26-1-8.1-102),
 34 including a customer security account held by a registered
 35 broker-dealer, to the extent the financial assets held in the
 36 security account are not:
 37 (i) registered on the books of the issuer in the name of the
 38 person for which the broker-dealer holds the assets;
 39 (ii) payable to the order of the person; or
 40 (iii) specifically indorsed to the person; or
 41 (C) an equity interest in a business association not included in
 42 clause (A) or (B).



- 1 ~~(26)~~ **(24)** "Sign" means, with present intent to authenticate or
 2 adopt a record:
 3 (A) to execute or adopt a tangible symbol; or
 4 (B) to attach to or logically associate with the record an
 5 electronic symbol, sound, or process.
- 6 ~~(27)~~ **(25)** "State" means a state of the United States, the District
 7 of Columbia, the Commonwealth of Puerto Rico, the United
 8 States Virgin Islands, or any territory or insular possession subject
 9 to the jurisdiction of the United States.
- 10 ~~(28)~~ **(26)** "Utility" means a person that owns or operates for public
 11 use a plant, equipment, real property, franchise, or license for the
 12 following public services:
 13 (A) Transmission of communications or information.
 14 (B) Production, storage, transmission, sale, delivery, or
 15 furnishing of electricity, water, steam, or gas.
 16 (C) Provision of sewage or septic services, or trash, garbage,
 17 or recycling disposal.
- 18 ~~(29)~~ "Virtual currency" means a digital representation of value
 19 used as a medium of exchange, unit of account, or store of value;
 20 which does not have legal tender status recognized by the United
 21 States. The term does not include:
 22 ~~(A)~~ the software or protocols governing the transfer of the
 23 digital representation of value;
 24 ~~(B)~~ game related digital content;
 25 ~~(C)~~ a financial organization loyalty program; or
 26 ~~(D)~~ a loyalty card.
- 27 ~~(30)~~ **(27)** "Worthless security" means a security whose cost of
 28 liquidation and delivery to the attorney general would exceed the
 29 value of the security on the date a report is due under this chapter.
- 30 SECTION 9. IC 32-34-1.5-87, AS ADDED BY P.L.141-2021,
 31 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2022]: Sec. 87. (a) The attorney general may adopt rules under
 33 IC 4-22-2 to carry out the purposes of this chapter.
- 34 (b) The attorney general ~~shall~~ **may** adopt rules under IC 4-22-2
 35 regarding ~~virtual currency~~ **controllable electronic records** and digital
 36 assets, **to the extent such rules are consistent with, and not**
 37 **otherwise covered by, the following:**
 38 **(1) IC 26-1-9.1.**
 39 **(2) IC 26-1-11.**
 40 **(3) Any other Indiana law concerning controllable electronic**
 41 **records or digital assets.**



COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 351, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 9, after "includes" insert "**controllable accounts and**".

Page 10, line 17, after "obligation." insert "**The term includes a controllable payment intangible.**".

Page 14, between lines 4 and 5, begin a new line block indented and insert:

""Controllable account" IC 26-1-11-103.

"Controllable electronic record" IC 26-1-11-104.

"Controllable payment intangible" IC 26-1-11-105."

Page 14, between lines 27 and 28, begin a new line block indented and insert:

""Qualifying purchaser" IC 26-1-11-106."

Page 14, delete line 35.

Page 14, line 40, after "107.1." insert "(a)".

Page 14, line 41, delete "virtual currency as provided for in IC 26-1-11-106." and insert "**a controllable electronic record as provided for in IC 26-1-11-108.**".

Page 14, between lines 41 and 42, begin a new paragraph and insert:

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

Page 15, line 21, after "in" insert "**controllable accounts, controllable electronic records, controllable payment intangibles,**".

Page 15, line 22, delete "virtual currencies,".

Page 15, line 33, after "chattel paper," insert "**controllable accounts, controllable electronic records, controllable payment intangibles,**".

Page 15, line 34, after "instruments," reset in roman "or".

Page 15, line 34, delete "property, or virtual" and insert "property".

Page 15, line 35, delete "currencies".

Page 16, line 42, after "in" insert "**controllable accounts, controllable electronic records, controllable payment intangibles,**".

Page 17, line 1, reset in roman "or".

Page 17, line 2, delete "documents, or virtual currencies" and insert "documents".

Page 17, line 6, after "in" insert "**controllable accounts,**".



controllable electronic records, controllable payment intangibles,"

Page 17, line 7, reset in roman "or".

Page 17, line 7, delete "documents, or virtual currencies" and insert "documents".

Page 17, line 28, delete "IC 26-1-11-103) of a virtual currency." and insert **"IC 26-1-11-106) of a controllable account, controllable electronic record, or controllable payment intangible."**

Page 17, line 41, delete "Virtual Currency" and insert **"Controllable Electronic Records"**.

Page 17, line 42, after "101." insert **"(a)"**.

Page 17, line 42, delete "virtual" and insert **"a controllable electronic record"**.

Page 18, line 1, delete "currency".

Page 18, between lines 1 and 2, begin a new paragraph and insert:

"(b) This chapter applies to the acquisition and purchase of rights in a controllable account or controllable payment intangible, including the rights of a purchaser and a qualifying purchaser under section 107 of this chapter, in the same manner this chapter applies to a controllable electronic record."

Page 18, line 3, delete "virtual currency," and insert **"a controllable electronic record,"**

Page 18, line 4, delete "virtual" and insert **"controllable electronic record;"**

Page 18, line 5, delete "currency;"

Page 18, line 7, delete "virtual" and insert **"controllable electronic record."**

Page 18, delete line 8, begin a new paragraph and insert:

"Sec. 103. As used in this chapter, "controllable account" means an account evidenced by a controllable electronic record that provides that the account debtor undertakes to pay the person that, under section 108 of this chapter, has control of the controllable electronic record.

Sec. 104. (a) As used in this chapter, "controllable electronic record" means a record stored in an electronic medium that can be subjected to control under section 108 of this chapter.

(b) The term does not include:

- (1) a deposit account;**
- (2) an electronic copy of a record evidencing chattel paper;**
- (3) an electronic document of title;**
- (4) electronic money;**
- (5) investment property; or**
- (6) a transferrable record (as defined in 15 U.S.C. 7021(a)(1)).**



Sec. 105. As used in this chapter, "controllable payment intangible" means a payment intangible evidenced by a controllable electronic record that provides that the account debtor undertakes to pay the person that, under section 108 of this chapter, has control of the controllable electronic record."

Page 18, line 9, delete "103." and insert "106."

Page 18, line 10, delete "virtual currency," and insert "**a controllable electronic record,**".

Page 18, line 11, delete "virtual currency" and insert "**controllable electronic record**".

Page 18, delete lines 13 through 30.

Page 18, line 31, delete "105." and insert "107."

Page 18, line 33, delete "virtual currency;" and insert "**controllable electronic record;**".

Page 18, line 36, delete "virtual currency" and insert "**controllable electronic record**".

Page 18, line 37, delete "virtual currency" and insert "**controllable electronic record**".

Page 18, line 38, delete "virtual currency" and insert "**controllable electronic record**".

Page 18, line 42, delete "virtual currency" and insert "**controllable electronic record**".

Page 19, line 1, delete "virtual currency" and insert "**controllable electronic record**".

Page 19, line 5, delete "virtual currency" and insert "**controllable electronic record**".

Page 19, line 14, delete "virtual currency" and insert "**a controllable electronic record**".

Page 19, line 15, delete "virtual currency." and insert "**controllable electronic record.**".

Page 19, line 16, delete "106." and insert "108."

Page 19, line 16, delete "virtual currency" and insert "**a controllable electronic record**".

Page 19, line 18, delete "virtual currency or the system in which the virtual" and insert "**controllable electronic record or the system in which the controllable electronic record**".

Page 19, line 19, delete "currency".

Page 19, line 21, delete "virtual currency;" and insert "**controllable electronic record;**".

Page 19, line 24, delete "virtual currency;" and insert "**controllable electronic record;**".

Page 19, line 26, delete "virtual currency" and insert "**controllable**



electronic record".

Page 19, line 27, delete "virtual" and insert "**controllable electronic record**".

Page 19, line 28, delete "currency derived" and insert "**derived**".

Page 19, line 28, delete "virtual currency." and insert "**controllable electronic record.**".

Page 19, line 29, delete "virtual currency," and insert "**controllable electronic record,**".

Page 19, line 30, delete "virtual currency," and insert "**controllable electronic record,**".

Page 19, line 31, delete "virtual currency" and insert "**controllable electronic record**".

Page 19, line 38, delete "virtual currency" and insert "**controllable electronic record**".

Page 19, line 38, delete "virtual" and insert "**controllable electronic record**".

Page 19, line 39, delete "currency".

Page 19, line 39, delete "virtual" and insert "**controllable electronic record**".

Page 19, line 40, delete "currency".

Page 20, between lines 23 and 24, begin a new line block indented and insert:

"(5) "Controllable electronic record has the meaning set forth in IC 26-1-11-104."

Page 20, line 24, strike "(5)" and insert "**(6)**".

Page 20, line 33, strike "(6)" and insert "**(7)**".

Page 20, line 36, strike "(7)" and insert "**(8)**".

Page 20, line 39, strike "(8)" and insert "**(9)**".

Page 20, strike line 42.

Page 21, strike lines 1 through 21.

Page 21, line 22, strike "(11)" and insert "**(10)**".

Page 21, line 24, strike "(12)" and insert "**(11)**".

Page 21, strike lines 31 through 36.

Page 21, line 37, strike "(14)" and insert "**(12)**".

Page 22, line 1, strike "(15)" and insert "**(13)**".

Page 22, line 14, strike "(16)" and insert "**(14)**".

Page 22, line 17, strike "(17)" and insert "**(15)**".

Page 22, line 19, strike "(18)" and insert "**(16)**".

Page 22, line 25, strike "(19)" and insert "**(17)**".

Page 22, line 34, strike "(20)" and insert "**(18)**".

Page 22, line 36, strike "(21)" and insert "**(19)**".

Page 22, line 39, strike "(22)" and insert "**(20)**".



Page 23, line 31, strike "(23)" and insert "(21)".

Page 23, line 36, strike "(24)" and insert "(22)".

Page 23, line 39, strike "(25)" and insert "(23)".

Page 24, line 9, strike "(26)" and insert "(24)".

Page 24, line 14, strike "(27)" and insert "(25)".

Page 24, line 18, strike "(28)" and insert "(26)".

Page 24, line 26, strike "(29) "Virtual currency"".

Page 24, line 34, delete "has the meaning set forth in".

Page 24, delete line 35.

Page 24, line 36, strike "(30)" and insert "(27)".

Page 25, line 2, strike "virtual currency" and insert "**controllable electronic records**".

Page 25, line 6, delete "virtual currency" and insert "**controllable electronic records**".

and when so amended that said bill do pass.

(Reference is to SB 351 as introduced.)

BROWN L, Chairperson

Committee Vote: Yeas 9, Nays 1.

