

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 ENROLLED ACT No. 351

AN ACT to amend the Indiana Code concerning commercial law.

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

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

- (1) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.
- (2) "Account", except as used in "account for", means a right to payment of a monetary obligation, whether or not earned by performance:
 - (A) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of;
 - (B) for services rendered or to be rendered;
 - (C) for a policy of insurance issued or to be issued;
 - (D) for a secondary obligation incurred or to be incurred;
 - (E) for energy provided or to be provided;
 - (F) for the use or hire of a vessel under a charter or other contract;
 - (G) arising out of the use of a credit or charge card or information contained on or for use with the card; or
 - (H) as winnings in a lottery or other game of chance operated or sponsored by a state other than Indiana, a governmental unit of a state, or a person licensed or authorized to operate the

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game by a state or governmental unit of a state.

The term does not include a right to a payment of a prize awarded by the state lottery commission in the Indiana state lottery established under IC 4-30. The term includes **controllable accounts and** health-care-insurance receivables. The term does not include (i) rights to payment evidenced by chattel paper or an instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

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

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

(A) authenticated by a secured party;

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

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

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

(A) that secures payment or performance of an obligation for:

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

(ii) rent on real property leased by a debtor in connection with the debtor's farming operation;

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

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

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

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

(6) "As-extracted collateral" means:

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

(i) is created by a debtor having an interest in the minerals



- before extraction; and
- (ii) attaches to the minerals as extracted; or
- (B) accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.
- (7) "Authenticate" means:
- (A) to sign; or
 - (B) with present intent to adopt or accept a record, to attach to or logically associate with the record an electronic sound, symbol, or process.
- (8) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.
- (9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.
- (10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. The term includes another record maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest in question to be indicated on the record as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.
- (11) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this subdivision, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term "chattel paper" does not include: (i) charters or other contracts involving the use or hire of a vessel; or (ii) records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.



- (12) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:
- (A) proceeds to which a security interest attaches;
 - (B) accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and
 - (C) goods that are the subject of a consignment.
- (13) "Commercial tort claim" means a claim arising in tort with respect to which:
- (A) the claimant is an organization; or
 - (B) the claimant is an individual and the claim:
 - (i) arose in the course of the claimant's business or profession; and
 - (ii) does not include damages arising out of personal injury to or the death of an individual.
- (14) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.
- (15) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:
- (A) traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or
 - (B) traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.
- (16) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books.
- (17) "Commodity intermediary" means a person that:
- (A) is registered as a futures commission merchant under federal commodities law; or
 - (B) in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.
- (18) "Communicate" means:
- (A) to send a written or other tangible record;
 - (B) to transmit a record by any means agreed upon by the persons sending and receiving the record; or
 - (C) in the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by



filing-office rule.

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

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

(A) the merchant:

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

(ii) is not an auctioneer; and

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

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

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

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

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

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

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

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

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

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

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

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

(27) "Continuation statement" means an amendment of a financing statement that:



- (A) identifies, by its file number, the initial financing statement to which it relates; and
- (B) indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.
- (28) "Debtor" means:
- (A) a person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;
- (B) a seller of accounts, chattel paper, payment intangibles, or promissory notes; or
- (C) a consignee.
- (29) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.
- (30) "Document" means a document of title or a receipt of the type described in IC 26-1-7-201(b).
- (31) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.
- (32) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.
- (33) "Equipment" means goods other than inventory, farm products, or consumer goods.
- (34) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:
- (A) crops grown, growing, or to be grown, including:
- (i) crops produced on trees, vines, and bushes; and
- (ii) aquatic goods produced in aquacultural operations;
- (B) livestock, born or unborn, including aquatic goods produced in aquacultural operations;
- (C) supplies used or produced in a farming operation; or
- (D) products of crops or livestock in their unmanufactured states.
- (35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.
- (36) "File number" means the number assigned to an initial financing statement pursuant to IC 26-1-9.1-519(a).



- (37) "Filing office" means an office designated in IC 26-1-9.1-501 as the place to file a financing statement.
- (38) "Filing-office rule" means a rule adopted pursuant to IC 26-1-9.1-526.
- (39) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.
- (40) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying IC 26-1-9.1-502(a) and IC 26-1-9.1-502(b). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.
- (41) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.
- (42) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.
- (43) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.
- (44) "Goods" means all things that are movable when a security interest attaches. The term includes (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance or contract for sale, (iii) the unborn young of animals, (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes, and (v) manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if (i) the program is associated with the goods in such a manner that it customarily is considered part of the goods, or (ii) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.



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

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

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

(48) "Inventory" means goods, other than farm products, that:

- (A) are leased by a person as lessor;
- (B) are held by a person for sale or lease or to be furnished under a contract of service;
- (C) are furnished by a person under a contract of service; or
- (D) consist of raw materials, work in process, or materials used or consumed in a business.

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

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

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

(52) "Lien creditor" means:

- (A) a creditor that has acquired a lien on the property involved by attachment, levy, or the like;
- (B) an assignee for benefit of creditors from the time of



assignment;

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

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

(53) "Manufactured home" means a structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this subdivision except the size requirements, and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code.

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

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

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

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

(56) "New debtor" means a person that becomes bound as debtor under IC 26-1-9.1-203(d) by a security agreement previously entered into by another person.

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

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

(59) "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, (i) owes payment or other performance of the



obligation, (ii) has provided property other than the collateral to secure payment or other performance of the obligation, or (iii) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.

(60) "Original debtor", except as used in IC 26-1-9.1-310(c), means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under IC 26-1-9.1-203(d).

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

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

- (A) the spouse of the individual;
- (B) a brother, brother-in-law, sister, or sister-in-law of the individual;
- (C) an ancestor or lineal descendant of the individual or the individual's spouse; or
- (D) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

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

- (A) a person directly or indirectly controlling, controlled by, or under common control with the organization;
- (B) an officer or director of, or a person performing similar functions with respect to, the organization;
- (C) an officer or director of, or a person performing similar functions with respect to, a person described in clause (A);
- (D) the spouse of an individual described in clause (A), (B), or (C); or
- (E) an individual who is related by blood or marriage to an individual described in clause (A), (B), (C), or (D) and shares the same home with the individual.

(64) "Proceeds", except as used in IC 26-1-9.1-609(b), means the following property:

- (A) Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral.
- (B) Whatever is collected on, or distributed on account of, collateral.
- (C) Rights arising out of collateral.
- (D) To the extent of the value of collateral, claims arising out



of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral.

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

(65) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(66) "Proposal" means a record authenticated by a secured party that includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to IC 26-1-9.1-620, IC 26-1-9.1-621, and IC 26-1-9.1-622.

(67) "Public-finance transaction" means a secured transaction in connection with which:

(A) debt securities are issued;

(B) all or a portion of the securities issued have an initial stated maturity of at least twenty (20) years; and

(C) the debtor, obligor, secured party, account debtor, or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state.

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

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

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

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



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

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

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

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

- (A) the obligor's obligation is secondary; or
- (B) the obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

(73) "Secured party" means:

- (A) a person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;
- (B) a person that holds an agricultural lien;
- (C) a consignor;
- (D) a person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;
- (E) a trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or
- (F) a person that holds a security interest arising under IC 26-1-2-401, IC 26-1-2-505, IC 26-1-2-711(3), IC 26-1-2.1-508(5), IC 26-1-4-210, or IC 26-1-5.1-118.

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

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

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



reasonable under the circumstances; or

(B) to cause the record or notification to be received within the time that it would have been received if properly sent under clause (A).

(76) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

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

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

(79) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

(80) "Termination statement" means an amendment of a financing statement that:

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

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

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

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

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

(C) transmitting goods by pipeline or sewer; or

(D) transmitting or producing and transmitting electricity, steam, gas, or water.

(b) "Control" as provided in IC 26-1-7-106 and the following definitions outside IC 26-1-9.1 apply to IC 26-1-9.1:

"Applicant" IC 26-1-5.1-102.

"Beneficiary" IC 26-1-5.1-102.

"Broker" IC 26-1-8.1-102.

"Certificated security" IC 26-1-8.1-102.

"Check" IC 26-1-3.1-104.

"Clearing corporation" IC 26-1-8.1-102.

"Contract for sale" IC 26-1-2-106.



"Controllable account" IC 26-1-11-103.
"Controllable electronic record" IC 26-1-11-104.
"Controllable payment intangible" IC 26-1-11-105.
 "Customer" IC 26-1-4-104.
 "Entitlement holder" IC 26-1-8.1-102.
 "Financial asset" IC 26-1-8.1-102.
 "Holder in due course" IC 26-1-3.1-302.
 "Issuer" (with respect to a letter of credit or letter-of-credit right)
 IC 26-1-5.1-102.
 "Issuer" (with respect to a security) IC 26-1-8.1-201.
 "Issuer" (with respect to documents of title) IC 26-1-7-102.
 "Lease" IC 26-1-2.1-103.
 "Lease agreement" IC 26-1-2.1-103.
 "Lease contract" IC 26-1-2.1-103.
 "Leasehold interest" IC 26-1-2.1-103.
 "Lessee" IC 26-1-2.1-103.
 "Lessee in ordinary course of business" IC 26-1-2.1-103.
 "Lessor" IC 26-1-2.1-103.
 "Lessor's residual interest" IC 26-1-2.1-103.
 "Letter of credit" IC 26-1-5.1-102.
 "Merchant" IC 26-1-2-104.
 "Negotiable instrument" IC 26-1-3.1-104.
 "Nominated person" IC 26-1-5.1-102.
 "Note" IC 26-1-3.1-104.
 "Proceeds of a letter of credit" IC 26-1-5.1-114.
 "Prove" IC 26-1-3.1-103.
"Qualifying purchaser" IC 26-1-11-106.
 "Sale" IC 26-1-2-106.
 "Securities account" IC 26-1-8.1-501.
 "Securities intermediary" IC 26-1-8.1-102.
 "Security" IC 26-1-8.1-102.
 "Security certificate" IC 26-1-8.1-102.
 "Security entitlement" IC 26-1-8.1-102.
 "Uncertificated security" IC 26-1-8.1-102.

(c) IC 26-1-1 contains general definitions and principles of construction and interpretation applicable throughout IC 26-1-9.1.

SECTION 2. IC 26-1-9.1-107.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 107.1. (a) A secured party has control of a controllable electronic record as provided for in IC 26-1-11-108.**

(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.

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

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

- (1) that is perfected under IC 26-1-9.1-308(d), IC 26-1-9.1-308(e), IC 26-1-9.1-308(f), or IC 26-1-9.1-308(g);
- (2) that is perfected under IC 26-1-9.1-309 when it attaches;
- (3) in property subject to a statute, regulation, or treaty described in IC 26-1-9.1-311(a);
- (4) in goods in possession of a bailee that are perfected under IC 26-1-9.1-312(d)(1) or IC 26-1-9.1-312(d)(2);
- (5) in certificated securities, documents, goods, or instruments which is perfected without filing, control, or possession under IC 26-1-9.1-312(e), IC 26-1-9.1-312(f), or IC 26-1-9.1-312(g);
- (6) in collateral in the secured party's possession under IC 26-1-9.1-313;
- (7) in a certificated security which is perfected by delivery of the security certificate to the secured party under IC 26-1-9.1-313;
- (8) in **controllable accounts, controllable electronic records, controllable payment intangibles**, deposit accounts, electronic chattel paper, electronic documents, investment property, or letter-of-credit rights ~~which is that~~ **are** perfected by control under IC 26-1-9.1-314;
- (9) in proceeds which is perfected under IC 26-1-9.1-315; or
- (10) that is perfected under IC 26-1-9.1-316.

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

SECTION 4. IC 26-1-9.1-312, AS AMENDED BY P.L.143-2007, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 312. (a) A security interest in chattel paper, **controllable accounts, controllable electronic records, controllable payment intangibles**, negotiable documents, instruments, or investment property may be perfected by filing.

(b) Except as otherwise provided in IC 26-1-9.1-315(c) and



IC 26-1-9.1-315(d), for proceeds:

- (1) a security interest in a deposit account may be perfected only by control under IC 26-1-9.1-314;
- (2) and except as otherwise provided in IC 26-1-9.1-308(d), a security interest in a letter-of-credit right may be perfected only by control under IC 26-1-9.1-314; and
- (3) a security interest in money may be perfected only by the secured party's taking possession under IC 26-1-9.1-313.

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

- (1) a security interest in the goods may be perfected by perfecting a security interest in the document; and
- (2) a security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

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

- (1) issuance of a document in the name of the secured party;
- (2) the bailee's receipt of notification of the secured party's interest; or
- (3) filing as to the goods.

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

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

- (1) ultimate sale or exchange; or
- (2) loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their sale or exchange.

(g) A perfected security interest in a certificated security or instrument remains perfected for twenty (20) days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

- (1) ultimate sale or exchange; or
- (2) presentation, collection, enforcement, renewal, or registration

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of transfer.

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

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

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

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

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

SECTION 6. IC 26-1-9.1-331 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 331. (a) This article does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, ~~or~~ a protected purchaser of a security, **or a qualifying purchaser (as defined in IC 26-1-11-106) of a controllable account, controllable electronic record, or controllable payment intangible.** These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in IC 26-1-3.1, IC 26-1-7, ~~and~~ IC 26-1-8.1, **and IC 26-1-11.**

(b) This article does not limit the rights of or impose liability on a



person to the extent that the person is protected against the assertion of an adverse claim under IC 26-1-8.1 or **IC 26-1-11**.

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

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

Chapter 11. Controllable Electronic Records

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

(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.

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

- (1) that a claimant has a property interest in the controllable electronic record; and**
- (2) that it is a violation of the rights of the claimant for another person to hold, transfer, or deal with the controllable electronic record.**

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.

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

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

- (1) whether a person acquires rights in a controllable electronic record; and
- (2) the rights the person acquires.

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

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

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

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

- (1) the person knows of the adverse claim; or
- (2) the person is aware of facts sufficient to indicate that there is a significant probability that the adverse claim exists and deliberately avoids information that would establish the existence of the adverse claim.

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

Sec. 108. (a) A person has control of a controllable electronic 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 company, investment company other than an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, land bank, safe deposit company, safekeeping depository,



financial organization, insurance company, federally chartered entity, utility, sole proprietorship, or other business entity, whether or not for profit.

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

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

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

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

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

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

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

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

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

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

~~(9)~~ (10) "Financial organization loyalty program" means a record given without direct monetary consideration, excluding an annual or periodic fee, under an award, reward, benefit, loyalty, incentive, rebate, or other promotional program established by a financial organization for the purpose of rewarding a relationship with the sponsoring financial organization. The term includes:

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

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

~~(10)~~ (11) "Game related digital content" means digital content that exists only in an electronic game or electronic-game platform. The term includes game-play currency such as a virtual wallet, even if denominated in United States currency and, if for use or redemption only within the game or platform or another electronic game or electronic-game platform, points sometimes referred to



as gems, tokens, gold, and similar names and digital codes. The term does not include an item that the issuer:

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

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

~~(11)~~ **(12)** "Holder" means a person obligated to hold for the account of, or to deliver or pay to, the owner property subject to this chapter.

~~(12)~~ **(13)** "Insurance company" means an association, corporation, or fraternal or mutual benefit organization, whether or not for profit, engaged in the business of providing life endowments, annuities, or insurance, including accident, burial, casualty, credit life, contract performance, dental, disability, fidelity, fire, health, hospitalization, illness, life, malpractice, marine, mortgage, surety, wage protection, and worker's compensation insurance.

~~(13)~~ **(14)** "Loyalty card" means a record given without direct monetary consideration under an award, reward, benefit, loyalty, incentive, rebate, or promotional program which may be used or redeemed only to obtain goods or services or a discount on goods or services. The term does not include a record that may be redeemed for money or otherwise monetized by the issuer.

~~(14)~~ **(15)** "Mineral" means gas, oil, coal, oil shale, other gaseous liquid or solid hydrocarbon, cement material, sand and gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay, steam and other geothermal resources, and any other substance defined as a mineral by a law of this state other than this chapter.

~~(15)~~ **(16)** "Mineral proceeds" means an amount payable for the extraction, production, or sale of minerals, or, on the abandonment of the amount, an amount that becomes payable after abandonment. The term includes an amount payable:

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

(B) for the extraction, production, or sale of minerals, including a net revenue interest, royalty, overriding royalty, extraction payment, and production payment; and

(C) under an agreement or option, including a joint-operation agreement, unit agreement, pooling agreement, and farm out agreement.

~~(16)~~ **(17)** "Money order" means a payment order for a specified



amount of money. The term includes an express money order and a personal money order on which the remitter is the purchaser.

~~(17)~~ **(18)** "Municipal bond" means a bond or evidence of indebtedness issued by a municipality or other political subdivision of a state.

~~(18)~~ **(19)** "Non-freely transferable security" means a security that cannot be delivered to the attorney general by the Depository Trust & Clearing Corporation or similar custodian of securities providing post-trade clearing and settlement services to financial markets or cannot be delivered because there is no agent to effect transfer. The term includes a worthless security.

~~(19)~~ **(20)** "Owner" means a person that has a legal, beneficial, or equitable interest in property subject to this chapter or the person's legal representative when acting on behalf of the owner.

The term includes:

- (A) for a deposit, a depositor;
- (B) for a trust other than a deposit in trust, a beneficiary;
- (C) for other property, a creditor, claimant, or payee; and
- (D) the lawful bearer of a record that may be used to obtain money, a reward, or a thing of value.

~~(20)~~ **(21)** "Payroll card" means a record that evidences a payroll card account as defined in Regulation E (12 CFR Part 1005).

~~(21)~~ **(22)** "Person" means an individual, estate, business association, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

~~(22)~~ **(23)** "Property" means tangible property described in section 8 of this chapter or a fixed and certain interest in intangible property held, issued, or owed in the course of a holder's business or by a government or governmental subdivision, agency, or instrumentality. The term includes:

- (A) all income from or increments to the property; and
- (B) property referred to as or evidenced by:
 - (i) money, virtual currency, interest, or a dividend, check, draft, deposit, or payroll card;
 - (ii) a credit balance, customer's overpayment, security deposit, refund, credit memorandum, unpaid wage, unused ticket for which the issuer has an obligation to provide a refund, mineral proceeds, or unidentified remittance;
 - (iii) a security, except for a worthless security or a security that is subject to a lien, legal hold, or restriction evidenced on the records of the holder or imposed by operation of law, if the lien, legal hold, or restriction restricts the holder's or



owner's ability to receive, transfer, sell, or otherwise negotiate the security;

(iv) a bond, debenture, note, or other evidence of indebtedness;

(v) money deposited to redeem a security, make a distribution, or pay a dividend;

(vi) an amount due and payable under an annuity contract or insurance policy; and

(vii) an amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or a similar benefit.

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

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

~~(24)~~ **(25)** "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

~~(25)~~ **(26)** "Security" means:

(A) a security (as defined in IC 26-1-8.1-102);

(B) a security entitlement (as defined in IC 26-1-8.1-102), including a customer security account held by a registered broker-dealer, to the extent the financial assets held in the security account are not:

(i) registered on the books of the issuer in the name of the person for which the broker-dealer holds the assets;

(ii) payable to the order of the person; or

(iii) specifically indorsed to the person; or

(C) an equity interest in a business association not included in clause (A) or (B).

~~(26)~~ **(27)** "Sign" means, with present intent to authenticate or adopt a record:

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

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



~~(27)~~ **(28)** "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

~~(28)~~ **(29)** "Utility" means a person that owns or operates for public use a plant, equipment, real property, franchise, or license for the following public services:

- (A) Transmission of communications or information.
- (B) Production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.
- (C) Provision of sewage or septic services, or trash, garbage, or recycling disposal.

~~(29)~~ **(30)** "Virtual currency" means a digital representation of value used as a medium of exchange, unit of account, or store of value, which does not have legal tender status recognized by the United States. The term does not include:

- (A) the software or protocols governing the transfer of the digital representation of value;
- (B) game related digital content;
- (C) a financial organization loyalty program; or
- (D) a loyalty card.

~~(30)~~ **(31)** "Worthless security" means a security whose cost of liquidation and delivery to the attorney general would exceed the value of the security on the date a report is due under this chapter.

SECTION 9. IC 32-34-1.5-87, AS ADDED BY P.L.141-2021, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 87. (a) The attorney general may adopt rules under IC 4-22-2 to carry out the purposes of this chapter.

(b) The attorney general ~~shall~~ **may** adopt rules under IC 4-22-2 regarding virtual currency, **controllable electronic records**, and digital assets, **to the extent such rules are consistent with, and not otherwise covered by, the following:**

- (1) IC 26-1-9.1.**
- (2) IC 26-1-11.**
- (3) Any other Indiana law concerning virtual currency, controllable electronic records, or digital assets.**



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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