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HOUSE BILL 66

**55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

INTRODUCED BY

Greg Nibert

AN ACT

RELATING TO SECURED TRANSACTIONS; CONFORMING PROVISIONS OF THE  
UNIFORM COMMERCIAL CODE TO THE OFFICIAL TEXT; MAKING CONFORMING  
AMENDMENTS; REPEALING SECTION 55-1-110 NMSA 1978 (BEING LAWS  
2015, CHAPTER 54, SECTION 8).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 55-9-102 NMSA 1978 (being Laws 2001,  
Chapter 139, Section 2, as amended) is amended to read:

"55-9-102. DEFINITIONS AND INDEX OF DEFINITIONS.--

(a) In Chapter 55, Article 9 NMSA 1978:

(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":

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1 (A) means a right to payment of a  
2 monetary obligation, whether or not earned by performance:  
3 (i) for property that has been or  
4 is to be sold, leased, licensed, assigned or otherwise disposed  
5 of;  
6 (ii) for services rendered or to be  
7 rendered;  
8 (iii) for a policy of insurance  
9 issued or to be issued;  
10 (iv) for a secondary obligation  
11 incurred or to be incurred;  
12 (v) for energy provided or to be  
13 provided;  
14 (vi) for the use or hire of a  
15 vessel under a charter or other contract;  
16 (vii) arising out of the use of a  
17 credit or charge card or information contained on or for use  
18 with the card; or  
19 (viii) as winnings in a lottery or  
20 other game of chance operated or sponsored by a state,  
21 governmental unit of a state or person licensed or authorized  
22 to operate the game by a state or governmental unit of a state;  
23 and  
24 (B) includes health-care-insurance  
25 receivables; but

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- 1 (C) does not include:
- 2 (i) rights to payment evidenced by
- 3 chattel paper or an instrument;
- 4 (ii) commercial tort claims;
- 5 (iii) deposit accounts;
- 6 (iv) investment property;
- 7 (v) letter-of-credit rights or
- 8 letters of credit; or
- 9 (vi) rights to payment for money or
- 10 funds advanced or sold, other than rights arising out of the
- 11 use of a credit or charge card or information contained on or
- 12 for use with the card;
- 13 (3) "account debtor" means a person obligated
- 14 on an account, chattel paper or general intangible. The term
- 15 does not include persons obligated to pay a negotiable
- 16 instrument, even if the instrument constitutes part of chattel
- 17 paper;
- 18 (4) "accounting", except as used in
- 19 "accounting for", means a record:
- 20 (A) authenticated by a secured party;
- 21 (B) indicating the aggregate unpaid
- 22 secured obligations as of a date not more than thirty-five days
- 23 earlier or thirty-five days later than the date of the record;
- 24 and
- 25 (C) identifying the components of the

1 obligations in reasonable detail;

2 (5) "agricultural lien" means an interest in  
3 farm products:

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

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

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

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

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

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

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

19 (6) "as-extracted collateral" means:

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

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

24 (ii) attaches to the minerals as  
25 extracted; or

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1 (B) accounts arising out of the sale at  
2 the wellhead or minehead of oil, gas or other minerals in which  
3 the debtor had an interest before extraction;

4 (7) "authenticate" means to:

5 (A) sign; or

6 (B) with present intent to adopt or  
7 accept a record, to attach to or logically associate with the  
8 record an electronic sound, symbol or process;

9 (8) "bank" means an organization that is  
10 engaged in the business of banking and includes savings banks,  
11 savings and loan associations, credit unions and trust  
12 companies;

13 (9) "cash proceeds" means proceeds that are  
14 money, checks, deposit accounts or the like;

15 (10) "certificate of title" means a  
16 certificate of title with respect to which a statute provides  
17 for the security interest in question to be indicated on the  
18 certificate as a condition or result of the security interest's  
19 obtaining priority over the rights of a lien creditor with  
20 respect to the collateral. The term includes another record  
21 maintained as an alternative to a certificate of title by the  
22 governmental unit that issues certificates of title if a  
23 statute permits the security interest in question to be  
24 indicated on the record as a condition or result of the  
25 security interest's obtaining priority over the rights of a

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1 lien creditor with respect to the collateral;

2 (11) "chattel paper" means a record or records  
3 that evidence both a monetary obligation and a security  
4 interest in specific goods, a security interest in specific  
5 goods and software used in the goods, a security interest in  
6 specific goods and license of software used in the goods, a  
7 lease of specific goods or a lease of specific goods and  
8 license of software used in the goods. In this paragraph,  
9 "monetary obligation" means a monetary obligation secured by  
10 the goods or owed under a lease of the goods and includes a  
11 monetary obligation with respect to software used in the goods.

12 The term does not include:

13 (A) charters or other contracts  
14 involving the use or hire of a vessel; or

15 (B) records that evidence a right to  
16 payment arising out of the use of a credit or charge card or  
17 information contained on or for use with the card. If a  
18 transaction is evidenced by records that include an instrument  
19 or series of instruments, the group of records taken together  
20 constitutes chattel paper;

21 (12) "collateral" means the property subject  
22 to a security interest or agricultural lien and includes:

23 (A) proceeds to which a security  
24 interest attaches;

25 (B) accounts, chattel paper, payment

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1 intangibles and promissory notes that have been sold; and

2 (C) goods that are the subject of a  
3 consignment;

4 (13) "commercial tort claim" means a claim  
5 arising in tort with respect to which:

6 (A) the claimant is an organization; or

7 (B) the claimant is an individual and  
8 the claim:

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

11 (ii) does not include damages  
12 arising out of personal injury to or the death of an  
13 individual;

14 (14) "commodity account" means an account  
15 maintained by a commodity intermediary in which a commodity  
16 contract is carried for a commodity customer;

17 (15) "commodity contract" means a commodity  
18 futures contract, an option on a commodity futures contract, a  
19 commodity option or another contract if the contract or option  
20 is:

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

24 (B) traded on a foreign commodity board  
25 of trade, exchange or market, and is carried on the books of a

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1 commodity intermediary for a commodity customer;

2 (16) "commodity customer" means a person for  
3 which a commodity intermediary carries a commodity contract on  
4 its books;

5 (17) "commodity intermediary" means a person  
6 that:

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

9 (B) in the ordinary course of its  
10 business provides clearance or settlement services for a board  
11 of trade that has been designated as a contract market pursuant  
12 to federal commodities law;

13 (18) "communicate" means:

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

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

18 (C) in the case of transmission of a  
19 record to or by a filing office, to transmit a record by any  
20 means prescribed by filing-office rule;

21 (19) "consignee" means a merchant to which  
22 goods are delivered in a consignment;

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

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(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

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1 (B) a security interest in consumer  
2 goods secures the obligation;

3 (25) "consumer obligor" means an obligor who  
4 is an individual and who incurred the obligation as part of a  
5 transaction entered into primarily for personal, family or  
6 household purposes;

7 (26) "consumer transaction" means a  
8 transaction in which:

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

11 (B) a security interest secures the  
12 obligation; and

13 (C) the collateral is held or acquired  
14 primarily for personal, family or household purposes. The term  
15 includes consumer-goods transactions;

16 (27) "continuation statement" means an  
17 amendment of a financing statement that:

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

20 (B) indicates that it is a continuation  
21 statement for, or that it is filed to continue the  
22 effectiveness of, the identified financing statement;

23 (28) "debtor" means:

24 (A) a person having an interest, other  
25 than a security interest or other lien, in the collateral,

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1 whether or not the person is an obligor;

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

4 (C) a consignee;

5 (29) "deposit account" means a demand, time,  
6 savings, passbook or similar account maintained with a bank.

7 The term does not include investment property or accounts  
8 evidenced by an instrument;

9 (30) "document" means a document of title or a  
10 receipt of the type described in Subsection (b) of Section  
11 55-7-201 NMSA 1978;

12 (31) "electronic chattel paper" means chattel  
13 paper evidenced by a record or records consisting of  
14 information stored in an electronic medium;

15 (32) "encumbrance" means a right, other than  
16 an ownership interest, in real property. The term includes  
17 mortgages and other liens on real property;

18 (33) "equipment" means goods other than  
19 inventory, farm products or consumer goods;

20 (34) "farm products" means goods, other than  
21 standing timber, with respect to which the debtor is engaged in  
22 a farming operation and that are:

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

25 (i) crops produced on trees, vines

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1 and bushes; and

2 (ii) aquatic goods produced in  
3 aquacultural operations;

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

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

8 (D) products of crops or livestock in  
9 their unmanufactured states;

10 (35) "farming operation" means raising,  
11 cultivating, propagating, fattening, grazing or any other  
12 farming, livestock or aquacultural operation;

13 (36) "file number" means the number assigned  
14 to an initial financing statement pursuant to Subsection (a) of  
15 Section 55-9-519 NMSA 1978;

16 (37) "filing office" means an office  
17 designated in Section 55-9-501 NMSA 1978 as the place to file a  
18 financing statement;

19 (38) "filing-office rule" means a rule adopted  
20 pursuant to Section 55-9-526 NMSA 1978;

21 (39) "financing statement" means a record or  
22 records composed of an initial financing statement and any  
23 filed record relating to the initial financing statement;

24 (40) "fixture filing" means the filing of a  
25 financing statement covering goods that are or are to become

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1 fixtures and satisfying Subsections (a) and (b) of Section  
2 55-9-502 NMSA 1978. The term includes the filing of a  
3 financing statement covering goods of a transmitting utility  
4 that are or are to become fixtures;

5 (41) "fixtures" means goods that have become  
6 so related to particular real property that an interest in them  
7 arises under real property law;

8 (42) "general intangible" means any personal  
9 property, including things in action, other than accounts,  
10 chattel paper, commercial tort claims, deposit accounts,  
11 documents, goods, instruments, investment property, letter-of-  
12 credit rights, letters of credit, money and oil, gas or other  
13 minerals before extraction. The term includes payment  
14 intangibles and software;

15 (43) ~~[Reserved]~~ "good faith" means honesty in  
16 fact and the observance of reasonable commercial standards of  
17 fair dealing;

18 (44) "goods" means all things that are movable  
19 when a security interest attaches and:

20 (A) includes:

21 (i) fixtures;

22 (ii) standing timber that is to be  
23 cut and removed under a conveyance or contract for sale;

24 (iii) the unborn young of animals;

25 (iv) crops grown, growing or to be

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1 grown, even if the crops are produced on trees, vines or  
2 bushes;

3 (v) manufactured homes; and

4 (vi) a computer program embedded in  
5 goods and any supporting information provided in connection  
6 with a transaction relating to the program if the program is  
7 associated with the goods in such a manner that it customarily  
8 is considered part of the goods, or by becoming the owner of  
9 the goods, a person acquires a right to use the program in  
10 connection with the goods; but

11 (B) does not include:

12 (i) a computer program embedded in  
13 goods that consist solely of the medium in which the program is  
14 embedded; or

15 (ii) accounts, chattel paper,  
16 commercial tort claims, deposit accounts, documents, general  
17 intangibles, instruments, investment property, letter-of-credit  
18 rights, letters of credit, money or oil, gas or other minerals  
19 before extraction;

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

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1 laws of the United States;

2 (46) "health-care-insurance receivable" means  
3 an interest in or claim under a policy of insurance that is a  
4 right to payment of a monetary obligation for health care goods  
5 or services provided or to be provided;

6 (47) "instrument" means a negotiable  
7 instrument or any other writing that evidences a right to the  
8 payment of a monetary obligation, is not itself a security  
9 agreement or lease and is of a type that in ordinary course of  
10 business is transferred by delivery with any necessary  
11 indorsement or assignment. The term does not include:

12 (A) investment property;

13 (B) letters of credit; or

14 (C) writings that evidence a right to  
15 payment arising out of the use of a credit or charge card or  
16 information contained on or for use with the card;

17 (48) "inventory" means goods, other than farm  
18 products, that:

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

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

22 (C) are furnished by a person under a  
23 contract of service; or

24 (D) consist of raw materials, work in  
25 process or materials used or consumed in a business;

.218173.3

1 (49) "investment property" means a security,  
2 whether certificated or uncertificated, security entitlement,  
3 securities account, commodity contract or commodity account;

4 (50) "jurisdiction of organization", with  
5 respect to a registered organization, means the jurisdiction  
6 under whose law the organization is formed or organized;

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

13 (52) "lien creditor" means:

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

16 (B) an assignee for benefit of creditors  
17 from the time of assignment;

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

20 (D) a receiver in equity from the time  
21 of appointment;

22 (53) "manufactured home" means a structure,  
23 transportable in one or more sections, which, in the traveling  
24 mode, is eight body feet or more in width or forty body feet or  
25 more in length, or, when erected on site, is three hundred

1 twenty or more square feet, and which is built on a permanent  
2 chassis and designed to be used as a dwelling with or without a  
3 permanent foundation when connected to the required utilities,  
4 and includes the plumbing, heating, air-conditioning and  
5 electrical systems contained therein. The term includes any  
6 structure that meets all of the requirements of this paragraph  
7 except the size requirements and with respect to which the  
8 manufacturer voluntarily files a certification required by the  
9 United States secretary of housing and urban development and  
10 complies with the standards established under 42 USCA;

11 (54) "manufactured-home transaction" means a  
12 secured transaction:

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

16 (B) in which a manufactured home, other  
17 than a manufactured home held as inventory, is the primary  
18 collateral;

19 (55) "mortgage" means a consensual interest in  
20 real property, including fixtures, that secures payment or  
21 performance of an obligation;

22 (56) "new debtor" means a person that becomes  
23 bound as debtor under Subsection (d) of Section 55-9-203 NMSA  
24 1978 by a security agreement previously entered into by another  
25 person;

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1 (57) "new value" means:  
2 (A) money;  
3 (B) money's worth in property, services  
4 or new credit; or  
5 (C) release by a transferee of an  
6 interest in property previously transferred to the transferee.  
7 The term does not include an obligation substituted for another  
8 obligation;

9 (58) "noncash proceeds" means proceeds other  
10 than cash proceeds;

11 (59) "obligor" means a person that, with  
12 respect to an obligation secured by a security interest in or  
13 an agricultural lien on the collateral:

14 (A) owes payment or other performance of  
15 the obligation;

16 (B) has provided property other than the  
17 collateral to secure payment or other performance of the  
18 obligation; or

19 (C) is otherwise accountable in whole or  
20 in part for payment or other performance of the obligation.  
21 The term does not include issuers or nominated persons under a  
22 letter of credit;

23 (60) "original debtor", except as used in  
24 Subsection (c) of Section 55-9-310 NMSA 1978, means a person  
25 that, as debtor, entered into a security agreement to which a

.218173.3

1 new debtor has become bound under Subsection (d) of Section  
2 55-9-203 NMSA 1978;

3 (61) "payment intangible" means a general  
4 intangible under which the account debtor's principal  
5 obligation is a monetary obligation;

6 (62) "person related to", with respect to an  
7 individual, means:

8 (A) the spouse of the individual;

9 (B) a brother, brother-in-law, sister or  
10 sister-in-law of the individual;

11 (C) an ancestor or lineal descendant of  
12 the individual or the individual's spouse; or

13 (D) any other relative, by blood or  
14 marriage, of the individual or the individual's spouse who  
15 shares the same home with the individual;

16 (63) "person related to", with respect to an  
17 organization, means:

18 (A) a person directly or indirectly  
19 controlling, controlled by or under common control with the  
20 organization;

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

24 (C) an officer or director of, or a  
25 person performing similar functions with respect to, a person

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1 described in Subparagraph (A) of this paragraph;

2 (D) the spouse of an individual  
3 described in Subparagraph (A), (B) or (C) of this paragraph; or

4 (E) an individual who is related by  
5 blood or marriage to an individual described in Subparagraph  
6 (A), (B), (C) or (D) of this paragraph and shares the same home  
7 with the individual;

8 (64) "proceeds", except as used in Subsection  
9 (b) of Section 55-9-609 NMSA 1978, means:

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

12 (B) whatever is collected on, or  
13 distributed on account of, collateral;

14 (C) rights arising out of collateral;

15 (D) to the extent of the value of  
16 collateral, claims arising out of the loss, nonconformity or  
17 interference with the use of, defects or infringement of rights  
18 in, or damage to, the collateral; or

19 (E) to the extent of the value of  
20 collateral and to the extent payable to the debtor or the  
21 secured party, insurance payable by reason of the loss or  
22 nonconformity of, defects or infringement of rights in, or  
23 damage to, the collateral;

24 (65) "promissory note" means an instrument  
25 that evidences a promise to pay a monetary obligation, does not

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1 evidence an order to pay and does not contain an acknowledgment  
2 by a bank that the bank has received for deposit a sum of money  
3 or funds;

4 (66) "proposal" means a record authenticated  
5 by a secured party, which record includes the terms on which  
6 the secured party is willing to accept collateral in full or  
7 partial satisfaction of the obligation it secures pursuant to  
8 Sections 55-9-620 through 55-9-622 NMSA 1978;

9 (67) "public-finance transaction" means a  
10 secured transaction in connection with which:

11 (A) debt securities are issued;

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

15 (C) the debtor, obligor, secured party,  
16 account debtor or other person obligated on collateral,  
17 assignor or assignee of a secured obligation or assignor or  
18 assignee of a security interest is a state or a governmental  
19 unit of a state;

20 [~~67~~] (68) "public organic record" means a  
21 record that is available to the public for inspection and is:

22 (A) a record consisting of the record  
23 initially filed with or issued by a state or the United States  
24 to form or organize an organization and any record filed with  
25 or issued by the state or the United States that amends or

.218173.3

1 restates the initial record;

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

7 (C) a record consisting of legislation  
8 enacted by the legislature of a state or the congress of the  
9 United States that forms or organizes an organization; any  
10 record amending the legislation; and any record filed with or  
11 issued by the state or the United States that amends or  
12 restates the name of the organization;

13 [~~(68)~~] (69) "pursuant to commitment", with  
14 respect to an advance made or other value given by a secured  
15 party, means pursuant to the secured party's obligation,  
16 whether or not a subsequent event of default or other event not  
17 within the secured party's control has relieved or may relieve  
18 the secured party from its obligation;

19 [~~(69)~~] (70) "record", except as used in "for  
20 record", "of record", "record or legal title" and "record  
21 owner", means information that is inscribed on a tangible  
22 medium or that is stored in an electronic or other medium and  
23 is retrievable in perceivable form;

24 [~~(70)~~] (71) "registered organization" means an  
25 organization formed or organized solely under the law of a

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1 single state or the United States by the filing of a public  
2 organic record with, the issuance of a public organic record by  
3 or the enactment of legislation by the state or the United  
4 States. The term includes a business trust that is formed or  
5 organized under the law of a single state if a statute of the  
6 state governing business trusts requires that the business  
7 trust's organic record be filed with the state;

8 [~~(71)~~] (72) "secondary obligor" means an  
9 obligor to the extent that:

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

12 (B) the obligor has a right of recourse  
13 with respect to an obligation secured by collateral against the  
14 debtor, another obligor or property of either;

15 [~~(72)~~] (73) "secured party" means:

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

19 (B) a person that holds an agricultural  
20 lien;

21 (C) a consignor;

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

24 (E) a trustee, indenture trustee, agent,  
25 collateral agent or other representative in whose favor a

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1 security interest or agricultural lien is created or provided  
2 for; or

3 (F) a person that holds a security  
4 interest arising under Section 55-2-401, Section 55-2-505,  
5 Subsection (3) of Section 55-2-711, Subsection (5) of Section  
6 55-2A-508, Section 55-4-210 or Section 55-5-118 NMSA 1978;

7 [~~(73)~~] (74) "security agreement" means an  
8 agreement that creates or provides for a security interest;

9 [~~(74)~~] (75) "send", in connection with a  
10 record or notification, means:

11 (A) to deposit in the mail, deliver for  
12 transmission or transmit by any other usual means of  
13 communication, with postage or cost of transmission provided  
14 for, addressed to any address reasonable under the  
15 circumstances; or

16 (B) to cause the record or notification  
17 to be received within the time that it would have been received  
18 if properly sent under Subparagraph (A) of this paragraph;

19 [~~(75)~~] (76) "software" means a computer  
20 program and any supporting information provided in connection  
21 with a transaction relating to the program. The term does not  
22 include a computer program that is included in the definition  
23 of goods;

24 [~~(76)~~] (77) "state" means a state of the  
25 United States, the District of Columbia, Puerto Rico, the

.218173.3

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1 United States Virgin Islands or any territory or insular  
2 possession subject to the jurisdiction of the United States;

3 ~~[(77)]~~ (78) "supporting obligation" means a  
4 letter-of-credit right or secondary obligation that supports  
5 the payment or performance of an account, chattel paper, a  
6 document, a general intangible, an instrument or investment  
7 property;

8 ~~[(78)]~~ (79) "tangible chattel paper" means  
9 chattel paper evidenced by a record or records consisting of  
10 information that is inscribed on a tangible medium;

11 ~~[(79)]~~ (80) "termination statement" means an  
12 amendment of a financing statement that:

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

15 (B) indicates either that it is a  
16 termination statement or that the identified financing  
17 statement is no longer effective; and

18 ~~[(80)]~~ (81) "transmitting utility" means an  
19 organization primarily engaged in the business of:

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

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

24 (C) transmitting goods by pipeline or  
25 sewer; or

.218173.3

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

(b) "Control", as provided in Section 55-7-106 NMSA  
1978, and the following definitions in other articles apply to  
this article:

"applicant" . . . . . Section  
55-5-102 NMSA 1978;

"beneficiary" . . . . . Section  
55-5-102 NMSA 1978;

"broker" . . . . . Section  
55-8-102 NMSA 1978;

"certificated security" . . . . . Section  
55-8-102 NMSA 1978;

"check" . . . . . Section  
55-3-104 NMSA 1978;

"clearing corporation" . . . . . Section  
55-8-102 NMSA 1978;

"contract for sale" . . . . . Section  
55-2-106 NMSA 1978;

"customer" . . . . . Section  
55-4-104 NMSA 1978;

"entitlement holder" . . . . . Section  
55-8-102 NMSA 1978;

"financial asset" . . . . . Section  
55-8-102 NMSA 1978;

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1                   "holder in due course" . . . . . Section  
2 55-3-302 NMSA 1978;  
3                   "issuer" (with respect to a letter of credit or  
4 letter-of-credit right) . . . . . Section  
5 55-5-102 NMSA 1978;  
6                   "issuer" (with respect to a security). . . . Section  
7 55-8-201 NMSA 1978;  
8                   "issuer" (with respect to documents of  
9 title). . . . . Section  
10 55-7-102 NMSA 1978;  
11                   "lease". . . . . Section  
12 55-2A-103 NMSA 1978;  
13                   "lease agreement". . . . . Section  
14 55-2A-103 NMSA 1978;  
15                   "lease contract" . . . . . Section  
16 55-2A-103 NMSA 1978;  
17                   "leasehold interest" . . . . . Section  
18 55-2A-103 NMSA 1978;  
19                   "lessee" . . . . . Section  
20 55-2A-103 NMSA 1978;  
21                   "lessee in ordinary course of business". . . Section  
22 55-2A-103 NMSA 1978;  
23                   "lessor" . . . . . Section  
24 55-2A-103 NMSA 1978;  
25                   "lessor's residual interest" . . . . . Section

.218173.3

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- 1 55-2A-103 NMSA 1978;
- 2 "letter of credit" . . . . . Section
- 3 55-5-102 NMSA 1978;
- 4 "merchant" . . . . . Section
- 5 55-2-104 NMSA 1978;
- 6 "negotiable instrument". . . . . Section
- 7 55-3-104 NMSA 1978;
- 8 "nominated person" . . . . . Section
- 9 55-5-102 NMSA 1978;
- 10 "note" . . . . . Section
- 11 55-3-104 NMSA 1978;
- 12 "proceeds of a letter of credit" . . . . . Section
- 13 55-5-114 NMSA 1978;
- 14 "prove". . . . . Section
- 15 55-3-103 NMSA 1978;
- 16 "sale" . . . . . Section
- 17 55-2-106 NMSA 1978;
- 18 "securities account" . . . . . Section
- 19 55-8-501 NMSA 1978;
- 20 "securities intermediary". . . . . Section
- 21 55-8-102 NMSA 1978;
- 22 "security" . . . . . Section
- 23 55-8-102 NMSA 1978;
- 24 "security certificate" . . . . . Section
- 25 55-8-102 NMSA 1978;

.218173.3

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1 "security entitlement" . . . . . Section  
2 55-8-102 NMSA 1978; and  
3 "uncertificated security". . . . . Section  
4 55-8-102 NMSA 1978.

5 (c) [~~Chapter 12, Article 2A and~~] Chapter 55, Article  
6 1 NMSA 1978 [~~contain~~] contains general definitions and  
7 principles of construction and interpretation applicable  
8 throughout Chapter 55, Article 9 NMSA 1978."

9 SECTION 2. Section 55-9-109 NMSA 1978 (being Laws 2001,  
10 Chapter 139, Section 9) is amended to read:

11 "55-9-109. SCOPE.--

12 (a) Except as otherwise provided in Subsections (c)  
13 and (d) of this section, Chapter 55, Article 9 NMSA 1978  
14 applies to:

15 (1) a transaction, regardless of its form,  
16 that creates a security interest in personal property or  
17 fixtures by contract;

18 (2) an agricultural lien;

19 (3) a sale of accounts, chattel paper, payment  
20 intangibles or promissory notes;

21 (4) a consignment;

22 (5) a security interest arising under Section  
23 55-2-401, 55-2-505, Subsection (3) of Section 55-2-711 or  
24 Subsection (5) of Section 55-2A-508 NMSA 1978, as provided in  
25 Section 55-9-110 NMSA 1978; and

.218173.3

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~~[bracketed material] = delete~~

1 (6) a security interest arising under Section  
2 55-4-210 or 55-5-118 NMSA 1978.

3 (b) The application of Chapter 55, Article 9 NMSA  
4 1978 to a security interest in a secured obligation is not  
5 affected by the fact that the obligation is itself secured by a  
6 transaction or interest to which this article does not apply.

7 (c) Chapter 55, Article 9 NMSA 1978 does not apply  
8 to the extent that:

9 (1) a statute, regulation or treaty of the  
10 United States preempts the article;

11 (2) another statute of this state expressly  
12 governs the creation, perfection, priority or enforcement of a  
13 security interest created by this state or a governmental unit  
14 of this state;

15 (3) a statute of another state, a foreign  
16 country or a governmental unit of another state or a foreign  
17 country, other than a statute generally applicable to security  
18 interests, expressly governs creation, perfection, priority or  
19 enforcement of a security interest created by the state,  
20 country or governmental unit; or

21 (4) the rights of a transferee beneficiary or  
22 nominated person under a letter of credit are independent and  
23 superior under Section 55-5-114 NMSA 1978.

24 (d) Chapter 55, Article 9 NMSA 1978 does not apply  
25 to:

.218173.3

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~~[bracketed material] = delete~~

1 (1) a landlord's lien, other than an  
2 agricultural lien;

3 (2) a lien, other than an agricultural lien,  
4 given by statute or other rule of law for services or  
5 materials, but Section 55-9-333 NMSA 1978 applies with respect  
6 to priority of the lien;

7 (3) an assignment of a claim for wages, salary  
8 or other compensation of an employee;

9 (4) a sale of accounts, chattel paper, payment  
10 intangibles or promissory notes as part of a sale of the  
11 business out of which they arose;

12 (5) an assignment of accounts, chattel paper,  
13 payment intangibles or promissory notes which is for the  
14 purpose of collection only;

15 (6) an assignment of a right to payment under  
16 a contract to an assignee that is also obligated to perform  
17 under the contract;

18 (7) an assignment of a single account, payment  
19 intangible or promissory note to an assignee in full or partial  
20 satisfaction of a preexisting indebtedness;

21 (8) a transfer of an interest in or an  
22 assignment of a claim under a policy of insurance, other than  
23 an assignment by or to a health-care provider of a health-care-  
24 insurance receivable and any subsequent assignment of the right  
25 to payment, but Sections 55-9-315 and 55-9-322 NMSA 1978 apply

.218173.3

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~~[bracketed material] = delete~~

1 with respect to proceeds and priorities in proceeds;

2 (9) an assignment of a right represented by a  
3 judgment, other than a judgment taken on a right to payment  
4 that was collateral;

5 (10) a right of recoupment or set-off, but:

6 (A) Section 55-9-340 NMSA 1978 applies  
7 with respect to the effectiveness of rights of recoupment or  
8 set-off against deposit accounts; and

9 (B) Section 55-9-404 NMSA 1978 applies  
10 with respect to defenses or claims of an account debtor;

11 (11) the creation or transfer of an interest  
12 in or lien on real property, including a lease or rents  
13 thereunder, except to the extent that provision is made for:

14 (A) liens on real property in Sections  
15 55-9-203 and 55-9-308 NMSA 1978;

16 (B) fixtures in Section 55-9-334 NMSA  
17 1978;

18 (C) fixture filings in Sections  
19 55-9-501, 55-9-502, 55-9-512, 55-9-516 and 55-9-519 NMSA 1978;  
20 and

21 (D) security agreements covering  
22 personal and real property in Section 55-9-604 NMSA 1978;

23 (12) an assignment of a claim arising in tort,  
24 other than a commercial tort claim, but Sections 55-9-315 and  
25 55-9-322 NMSA 1978 apply with respect to proceeds and

.218173.3

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~~[bracketed material] = delete~~

1 priorities in proceeds;

2 (13) an assignment of a deposit account in a  
3 consumer transaction, but Sections 55-9-315 and 55-9-322 NMSA  
4 1978 apply with respect to proceeds and priorities in proceeds;  
5 or

6 (14) a public-finance transaction or other  
7 transfer by this state or a governmental unit of this state."

8 SECTION 3. Section 55-9-620 NMSA 1978 (being Laws 2001,  
9 Chapter 139, Section 117) is amended to read:

10 "55-9-620. ACCEPTANCE OF COLLATERAL IN FULL OR PARTIAL  
11 SATISFACTION OF OBLIGATION--COMPULSORY DISPOSITION OF  
12 COLLATERAL.--

13 (a) Except as otherwise provided in Subsection (g)  
14 of this section, a secured party may accept collateral in full  
15 or partial satisfaction of the obligation it secures only if:

16 (1) the debtor consents to the acceptance  
17 under Subsection (c) of this section;

18 (2) the secured party does not receive, within  
19 the time set forth in Subsection (d) of this section, a  
20 notification of objection to the proposal authenticated by:

21 (A) a person to which the secured party  
22 was required to send a proposal under Section 55-9-621 NMSA  
23 1978; or

24 (B) any other person, other than the  
25 debtor, holding an interest in the collateral subordinate to

.218173.3

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[bracketed material] = delete

1 the security interest that is the subject of the proposal;

2 (3) if the collateral is consumer goods, the  
3 collateral is not in the possession of the debtor when the  
4 debtor consents to the acceptance; and

5 (4) Subsection (e) of this section does not  
6 require the secured party to dispose of the collateral or the  
7 debtor waives the requirement pursuant to Section 55-9-624 NMSA  
8 1978.

9 (b) A purported or apparent acceptance of  
10 collateral under this section is ineffective unless:

11 (1) the secured party consents to the  
12 acceptance in an authenticated record or sends a proposal to  
13 the debtor; and

14 (2) the conditions of Subsection (a) of this  
15 section are met.

16 (c) For purposes of this section:

17 (1) a debtor consents to an acceptance of  
18 collateral in partial satisfaction of the obligation it secures  
19 only if the debtor agrees to the terms of the acceptance in a  
20 record authenticated after default; and

21 (2) a debtor consents to an acceptance of  
22 collateral in full satisfaction of the obligation it secures  
23 only if the debtor agrees to the terms of the acceptance in a  
24 record authenticated after default or the secured party:

25 (A) sends to the debtor after default a

.218173.3

1 proposal that is unconditional or subject only to a condition  
2 that collateral not in the possession of the secured party be  
3 preserved or maintained;

4 (B) in the proposal, proposes to accept  
5 collateral in full satisfaction of the obligation it secures;  
6 and

7 (C) does not receive a notification of  
8 objection authenticated by the debtor within twenty days after  
9 the proposal is sent.

10 (d) To be effective under Paragraph (2) of  
11 Subsection (a) of this section, a notification of objection  
12 must be received by the secured party:

13 (1) in the case of a person to which the  
14 proposal was sent pursuant to Section 55-9-621 NMSA 1978,  
15 within twenty days after notification was sent to that person;  
16 and

17 (2) in other cases:

18 (A) within twenty days after the last  
19 notification was sent pursuant to Section 55-9-621 NMSA 1978;  
20 or

21 (B) if a notification was not sent,  
22 before the debtor consents to the acceptance under Subsection  
23 (c) of this section.

24 (e) A secured party that has taken possession of  
25 collateral shall dispose of the collateral pursuant to Section

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1 55-9-610 NMSA 1978 within the time specified in Subsection (f)  
2 of this section if:

3 (1) sixty percent of the cash price has been  
4 paid in the case of a purchase-money security interest in  
5 consumer goods; or

6 (2) sixty percent of the principal amount of  
7 the obligation secured has been paid in the case of a non-  
8 purchase-money security interest in consumer goods.

9 (f) To comply with Subsection (e) of this section,  
10 the secured party shall dispose of the collateral:

11 (1) within ninety days after taking  
12 possession; or

13 (2) within any longer period to which the  
14 debtor and all secondary obligors have agreed in an agreement  
15 to that effect entered into and authenticated after default.

16 (g) In a consumer transaction, a secured party may  
17 not accept collateral in partial satisfaction of the obligation  
18 it secures."

19 SECTION 4. REPEAL.--Section 55-1-110 NMSA 1978 (being  
20 Laws 2015, Chapter 54, Section 8) is repealed.