

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1084 Session of
2024

INTRODUCED BY ROTHMAN, DUSH AND PENNYCUICK, MARCH 22, 2024

REFERRED TO BANKING AND INSURANCE, MARCH 22, 2024

AN ACT

1 Amending Titles 13 (Commercial Code) and 20 (Decedents, Estates
2 and Fiduciaries) of the Pennsylvania Consolidated Statutes,
3 extensively revising the Uniform Commercial Code to
4 accommodate emerging technologies utilized in commercial
5 transactions:

6 In general provisions:

7 Further providing for general definitions, for value,
8 for territorial applicability and parties' power to
9 choose applicable law and for waiver or renunciation of
10 claim or right after breach.

11 In sales:

12 Further providing for scope and certain security and
13 other transactions excluded from division, for
14 definitions of "contract," "agreement," "contract for
15 sale," "sale," "present sale," "conforming" to contract,
16 "termination" and "cancellation," for formal requirements
17 and statute of frauds, for final written expression and
18 parol or extrinsic evidence, for seals inoperative, for
19 firm offers and for modification, rescission and waiver.

20 In leases:

21 Further providing for scope, for definitions and
22 index of definitions, for waiver or renunciation of claim
23 or right after default, for statute of frauds, for final
24 written expression and parol or extrinsic evidence, for
25 seals inoperative, for firm offers, for modification,
26 rescission and waiver and for exclusion or modification
27 of warranties.

28 In negotiable instruments:

29 Further providing for negotiable instrument, for
30 issue of instrument, for signature and for discharge by
31 cancellation or renunciation.

1 In funds transfers:
2 Further providing for payment order and definitions,
3 for security procedure, for authorized and verified
4 payment orders, for unenforceability of certain verified
5 payment orders, for misdescription of beneficiary, for
6 misdescription of intermediary bank or beneficiary's
7 bank, for rejection of payment order, for cancellation
8 and amendment of payment order and for liability for late
9 or improper execution or failure to execute payment
10 order.
11 In letters of credit:
12 Further providing for formal requirements and for
13 choice of law and forum.
14 In warehouse receipts, bills of lading and other
15 documents of title:
16 Further providing for definitions and index of
17 definitions and for control of electronic document of
18 title.
19 In investment securities:
20 Further providing for definitions, for rules for
21 determining whether certain obligations and interests are
22 securities or financial assets, for control, for
23 applicability and choice of law and for protected
24 purchaser.
25 In secured transactions:
26 Further providing for definitions and index of
27 definitions, for control of deposit account and for
28 control of electronic chattel paper.
29 Providing for control of controllable electronic
30 record, controllable account or controllable payment
31 intangible.
32 Further providing for attachment and enforceability
33 of security interest, proceeds, supporting obligations
34 and formal requisites, for after-acquired property and
35 future advances, for rights and duties of secured party
36 having possession or control of collateral, for
37 additional duties of secured party having control of
38 collateral, for duties of secured party if account debtor
39 has been notified of assignment, for request for
40 accounting and request regarding list of collateral or
41 statement of account, for law governing perfection and
42 priority of security interests, for law governing
43 perfection and priority of security interests in deposit
44 accounts and for law governing perfection and priority of
45 security interests in investment property.
46 Providing for law governing perfection and priority
47 of security interests in chattel paper and for law
48 governing perfection and priority of security interests
49 in controllable accounts, controllable electronic records
50 and controllable payment intangibles.
51 Further providing for when filing required to perfect

1 security interest or agricultural lien and security
2 interests and agricultural liens to which filing
3 provisions do not apply, for perfection of security
4 interests in chattel paper, deposit accounts, documents,
5 goods covered by documents, instruments, investment
6 property, letter-of-credit rights and money, perfection
7 by permissive filing and temporary perfection without
8 filing or transfer of possession, for when possession by
9 or delivery to secured party perfects security interest
10 without filing and for perfection by control.

11 Providing for perfection by possession and control of
12 chattel paper.

13 Further providing for effect of change in governing
14 law, for interests which take priority over or take free
15 of security interest or agricultural lien, for priorities
16 among conflicting security interests in and agricultural
17 liens on same collateral, for future advances and for
18 priority of purchase-money security interests.

19 Providing for priority of security interest in
20 controllable account, controllable electronic record and
21 controllable payment intangible.

22 Further providing for priority of purchaser of
23 chattel paper or instrument, for priority of rights of
24 purchasers of instruments, documents and securities under
25 other divisions, priority of interests in financial
26 assets and security entitlements under Division 8, for
27 transfer of money and transfer of funds from deposit
28 account, for priority of security interests in fixtures
29 and crops, for bank's rights and duties with respect to
30 deposit account, for rights acquired by assignee and
31 claims and defenses against assignee, for discharge of
32 account debtor, notification of assignment,
33 identification and proof of assignment, restrictions on
34 assignment of accounts, chattel paper, payment
35 intangibles and promissory notes ineffective, for
36 restrictions on assignment of promissory notes, health-
37 care-insurance receivables and certain general
38 intangibles ineffective, for persons entitled to file a
39 record, for termination statement, for rights after
40 default, judicial enforcement and consignor or buyer of
41 accounts, chattel paper, payment intangibles or
42 promissory notes, for unknown debtor or secondary
43 obligor, for application of proceeds of collection or
44 enforcement and liability for deficiency and right to
45 surplus, for notification before disposition of
46 collateral, for contents and form of notification before
47 disposition of collateral, general, for contents and form
48 of notification before disposition of collateral,
49 consumer-goods transaction, for application of proceeds
50 of disposition and liability for deficiency and right to
51 surplus, for explanation of calculation of surplus or

1 deficiency, for transfer of record or legal title, for
2 acceptance of collateral in full or partial satisfaction
3 of obligation and compulsory disposition of collateral,
4 for notification of proposal to accept collateral, for
5 waiver and for nonliability and limitation on liability
6 of secured party and liability of secondary obligor.
7 In controllable electronic records:

8 Providing for short title of division, for
9 definitions, for relation to Division 9 and consumer
10 laws, for rights in controllable account, controllable
11 electronic record and controllable payment intangible,
12 for control of controllable electronic record, for
13 discharge of account debtor on controllable account or
14 controllable payment intangible and for governing law.
15 Providing for transition.

16 In decedents, estates and fiduciaries, in powers of
17 attorney:

18 Further providing for authority that requires
19 specific and general grant of authority.
20 Making editorial changes.

21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:

23 Section 1. The General Assembly finds and declares as
24 follows:

25 (1) It is necessary to expand Title 13 of the
26 Pennsylvania Consolidated Statutes to accommodate emerging
27 technologies which affect commercial transactions.

28 (2) Expansion under paragraph (1) necessitates
29 conforming amendments.

30 (3) Expansion under paragraph (1) requires coordinated
31 transition into the complex statutory regulation of
32 commercial law by the Commonwealth and other jurisdictions.

33 Section 2. Section 1201(b)(10), (15), (16.1), (21)(iii),
34 (24), (27), (36) and (37) of Title 13 of the Pennsylvania
35 Consolidated Statutes are amended and the subsection is amended
36 by adding paragraphs to read:

37 § 1201. General definitions.

38 * * *

1 (b) Definitions.--Subject to additional definitions
2 contained in subsequent provisions of this title which are
3 applicable to specific provisions of this title, the following
4 words and phrases when used in this title shall have, unless the
5 context clearly indicates otherwise, the meanings given to them
6 in this subsection:

7 * * *

8 (10) "Conspicuous." With reference to a term, means so
9 written, displayed or presented that, based on the totality
10 of the circumstances, a reasonable person against which it is
11 to operate ought to have noticed it. Whether a term is
12 "conspicuous" or not is a decision for the court.

13 [Conspicuous terms include the following:

14 (i) A heading in capitals equal to or greater in
15 size than the surrounding text, or in contrasting type,
16 font or color to the surrounding text of the same or
17 lesser size.

18 (ii) Language in the body of a record or display in
19 larger type than the surrounding text, in contrasting
20 type, font or color to the surrounding text of the same
21 size, or set off from surrounding text of the same size
22 by symbols or other marks that call attention to the
23 language.]

24 * * *

25 (15) "Delivery." With respect to an electronic document
26 of title, means voluntary transfer of control and with
27 respect to an instrument, a tangible document of title or an
28 authoritative tangible copy of a record evidencing chattel
29 paper, means voluntary transfer of possession.

30 * * *

1 [(16.1) "Electronic document of title." A document of
2 title evidenced by a record consisting of information stored
3 in an electronic medium.]

4 (16.2) "Electronic." Relating to technology having
5 electrical, digital, magnetic, wireless, optical,
6 electromagnetic or similar capabilities.

7 (16.3) "Electronic document of title." A document of
8 title evidenced by a record consisting of information stored
9 in an electronic medium.

10 * * *

11 (21) "Holder." As follows:

12 * * *

13 (iii) the person in control, other than under
14 section 7106(g) (relating to control of electronic
15 document of title), of a negotiable electronic document
16 of title.

17 * * *

18 (24) "Money." A medium of exchange that is currently
19 authorized or adopted by a domestic or foreign government.
20 The term includes a monetary unit of account established by
21 an intergovernmental organization or by agreement between two
22 or more countries. The term does not include a medium of
23 exchange in an electronic form.

24 * * *

25 (27) "Person." Any individual; corporation; business
26 trust; estate; trust; partnership; limited liability company;
27 association; joint venture; government; governmental
28 subdivision, agency or instrumentality, [public corporation;]
29 or other legal or commercial entity. The term includes a
30 protected series, however denominated, of an entity if the

1 protected series is established under law other than this
2 title which limits, or limits if conditions specified under
3 that law are satisfied, the ability of a creditor of the
4 entity or of any other protected series of the entity to
5 satisfy a claim from assets of the protected series.

6 * * *

7 (36) "Send." In connection with a [writing,] record or
8 [notice] notification:

9 (i) to deposit in the mail [or], deliver for
10 transmission or transmit by any other usual means of
11 communication, [:

12 (A) with postage or cost of transmission
13 provided for [;

14 (B) properly addressed; and

15 (C) in the case of an instrument:

16 (I) to an address specified thereon or
17 otherwise agreed upon; or

18 (II) if no address is specified or agreed
19 upon], and addressed to any address reasonable
20 under the circumstances; or

21 (ii) [in any other way to cause to be received any
22 record or notice within the time it would have arrived if
23 properly sent.] to cause the record or notification to be
24 received within the time it would have been received if
25 properly sent under subparagraph (i).

26 (37) "Signed." [Includes using any symbol executed or
27 adopted with present intention to adopt or accept a writing.]
28 Means, with present intent to authenticate or adopt a record:

29 (i) execute or adopt a tangible symbol; or

30 (ii) attach to or logically associate with the

1 record an electronic symbol, sound or process.

2 * * *

3 Section 3. Section 1204 introductory paragraph of Title 13
4 is amended to read:

5 § 1204. Value.

6 Except as otherwise provided in Divisions 3 (relating to
7 negotiable instruments), 4 (relating to bank deposits and
8 collections) [and], 5 (relating to letters of credit) and 12
9 (relating to controllable electronic records), a person gives
10 value for rights if the person acquires them:

11 * * *

12 Section 4. Section 1301(c) of Title 13 is amended by adding
13 a paragraph to read:

14 § 1301. Territorial applicability; parties' power to choose
15 applicable law.

16 * * *

17 (c) Mandatory applicability of title.--If one of the
18 following provisions of this title specifies the applicable law,
19 that provision governs, and a contrary agreement is effective
20 only to the extent permitted by the law so specified:

21 * * *

22 (8) Section 12107 (relating to governing law).

23 Section 5. Sections 1306 and 2102 of Title 13 are amended to
24 read:

25 § 1306. Waiver or renunciation of claim or right after breach.

26 A claim or right arising out of an alleged breach may be
27 discharged in whole or in part without consideration by
28 agreement of the aggrieved party in [an authenticated] a signed
29 record.

30 § 2102. Scope; certain security and other transactions excluded

1 from division.

2 [Unless the context otherwise requires, this division applies
3 to transactions in goods; it does not apply to any transaction
4 which although in the form of an unconditional contract to sell
5 or present sale is intended to operate only as a security
6 transaction, nor does this division impair or repeal any statute
7 regulating sales to consumers, farmers or other specified
8 classes of buyers.]

9 (a) Scope.--Unless the context otherwise requires, and
10 except as provided in subsection (c), this division applies to
11 transactions in goods and, in the case of a hybrid transaction,
12 this division applies to the extent provided in subsection (b).

13 (b) Hybrid transactions.--In a hybrid transaction:

14 (1) If the sale-of-goods aspects do not predominate,
15 only the provisions of this division which relate primarily
16 to the sale-of-goods aspects of the transaction apply, and
17 the provisions that relate primarily to the transaction as a
18 whole do not apply.

19 (2) If the sale-of-goods aspects predominate, this
20 division applies to the transaction but does not preclude
21 application in appropriate circumstances of other law to
22 aspects of the transaction which do not relate to the sale of
23 goods.

24 (c) Exclusions.--This division does not:

25 (1) apply to a transaction which, even though in the
26 form of an unconditional contract to sell or present sale,
27 operates only to create a security interest; or

28 (2) impair or repeal a statute regulating sales to
29 consumers, farmers or other specified classes of buyers.

30 Section 6. Section 2106 heading of Title 13 is amended and

1 the section is amended by adding a subsection to read:

2 § 2106. Definitions: "contract"; "agreement"; "contract for
3 sale"; "sale"; "present sale"; "conforming" to
4 contract; "termination"; ["cancellation."]
5 "cancellation"; "hybrid transaction."

6 * * *

7 (e) "Hybrid transaction".--A single transaction involving a
8 sale of goods and:

9 (1) the provision of services;

10 (2) a lease of other goods; or

11 (3) a sale, lease or license of property other than
12 goods.

13 Section 7. Sections 2201(a) and (b), 2202 heading,
14 introductory paragraph and (2), 2203, 2205, 2209(b) and 2A102 of
15 Title 13 are amended to read:

16 § 2201. Formal requirements; statute of frauds.

17 (a) General rule.--Except as otherwise provided in this
18 section a contract for the sale of goods for the price of \$500
19 or more is not enforceable by way of action or defense unless
20 there is [some writing] a record sufficient to indicate that a
21 contract for sale has been made between the parties and signed
22 by the party against whom enforcement is sought or by [his] the
23 party's authorized agent or broker. A [writing] record is not
24 insufficient because it omits or incorrectly states a term
25 agreed upon but the contract is not enforceable under this
26 subsection beyond the quantity of goods shown in [such writing]
27 the record.

28 (b) Writing confirming contract between merchants.--Between
29 merchants if within a reasonable time a [writing] record in
30 confirmation of the contract and sufficient against the sender

1 is received and the party receiving it has reason to know its
2 contents, it satisfies the requirements of subsection (a)
3 against [such] the party unless [written] notice in a record of
4 objection to its contents is given within ten days after it is
5 received.

6 * * *

7 § 2202. Final [written] expression: parol or extrinsic
8 evidence.

9 Terms with respect to which the confirmatory memoranda of the
10 parties agree or which are otherwise set forth in a [writing]
11 record intended by the parties as a final expression of their
12 agreement with respect to such terms as are included therein may
13 not be contradicted by evidence of any prior agreement or of a
14 contemporaneous oral agreement but may be explained or
15 supplemented:

16 * * *

17 (2) by evidence of consistent additional terms unless
18 the court finds the [writing] record to have been intended
19 also as a complete and exclusive statement of the terms of
20 the agreement.

21 § 2203. Seals inoperative.

22 The affixing of a seal to a [writing] record evidencing a
23 contract for sale or an offer to buy or sell goods does not
24 constitute the [writing] record a sealed instrument and the law
25 with respect to sealed instruments does not apply to such a
26 contract or offer.

27 § 2205. Firm offers.

28 An offer by a merchant to buy or sell goods in a signed
29 [writing] record which by its terms gives assurance that it will
30 be held open is not revocable, for lack of consideration, during

1 the time stated or if no time is stated for a reasonable time,
2 but in no event may such period of irrevocability exceed three
3 months; but any such term of assurance on a form supplied by the
4 offeree must be separately signed by the offeror.

5 § 2209. Modification, rescission and waiver.

6 * * *

7 (b) Writing excluding modification or rescission.--A signed
8 agreement which excludes modification or rescission except by a
9 signed writing or other signed record cannot be otherwise
10 modified or rescinded, but except as between merchants such a
11 requirement on a form supplied by the merchant must be
12 separately signed by the other party.

13 * * *

14 § 2A102. Scope.

15 (a) Leases generally.--This division applies to any
16 transaction, regardless of form, that creates a lease[.]; and,
17 in the case of a hybrid lease, this division applies to the
18 extent provided in subsection (b).

19 (b) Hybrid leases.--In a hybrid lease:

20 (1) if the lease-of-goods aspects do not predominate:

21 (i) only the provisions of this division which
22 relate primarily to the lease-of-goods aspects of the
23 transaction apply, and the provisions that relate
24 primarily to the transaction as a whole do not apply;

25 (ii) section 2A209 (relating to lessee under finance
26 lease as beneficiary of supply contract) applies if the
27 lease is a finance lease; and

28 (iii) section 2A407 (relating to irrevocable
29 promises: finance leases) applies to the promises of the
30 lessee in a finance lease to the extent the promises are

1 consideration for the right to possession and use of the
2 leased goods; and
3 (2) if the lease-of-goods aspects predominate, this
4 division applies to the transaction, but does not preclude
5 application in appropriate circumstances of other law to
6 aspects of the lease which do not relate to the lease of
7 goods.

8 Section 8. Section 2A103(a) of Title 13 is amended by adding
9 a definition to read:

10 § 2A103. Definitions and index of definitions.

11 (a) Definitions.--The following words and phrases when used
12 in this division shall have, unless the context clearly
13 indicates otherwise, the meanings given to them in this
14 subsection:

15 * * *

16 "Hybrid lease." A single transaction involving a lease of
17 goods and:

18 (1) the provision of services;

19 (2) a sale of other goods; or

20 (3) a sale, lease or license of property other than
21 goods.

22 * * *

23 Section 9. Sections 2A107, 2A201(a) (2), (c) and (e) (1),
24 2A202 heading, introductory paragraph and (2), 2A203, 2A205,
25 2A208 (b), 2A214 (a), 3104 (a) (3), 3105 (a), 3401 heading and (b),
26 3604, 4A103 (a) (1) introductory paragraph, 4A201, 4A202 (b) (2) and
27 (c) (2), 4A203 (a) (1), 4A207 (c) (2), 4A208 (b) (2), 4A210 (a),
28 4A211 (a), 4A305 (c) and (d), 5104 and 5116 of Title 13 are
29 amended to read:

30 § 2A107. Waiver or renunciation of claim or right after

1 default.

2 Any claim or right arising out of an alleged default or
3 breach of warranty may be discharged in whole or in part without
4 consideration by a [written] waiver or renunciation in a signed
5 [and] record delivered by the aggrieved party.

6 § 2A201. Statute of frauds.

7 (a) General rule.--A lease contract is not enforceable by
8 way of action or defense unless:

9 * * *

10 (2) there is a [writing] record, signed by the party
11 against whom enforcement is sought or by that party's
12 authorized agent, sufficient to indicate that a lease
13 contract has been made between the parties and to describe
14 the goods leased and the lease term.

15 * * *

16 (c) Omitted or incorrectly stated terms.--A [writing] record
17 is not insufficient because it omits or incorrectly states a
18 term agreed upon, but the lease contract is not enforceable
19 under subsection (a)(2) beyond the lease term and the quantity
20 of goods shown in the [writing] record.

21 * * *

22 (e) Term of lease not satisfying general requirements.--The
23 lease term under a lease contract referred to in subsection (d)
24 is:

25 (1) if there is a [writing] record signed by the party
26 against whom enforcement is sought or by that party's
27 authorized agent specifying the lease term, the term so
28 specified;

29 * * *

30 § 2A202. Final [written] expression: parol or extrinsic

1 evidence.

2 Terms with respect to which the confirmatory memoranda of the
3 parties agree or which are otherwise set forth in a [writing]
4 record intended by the parties as a final expression of their
5 agreement with respect to such terms as are included therein may
6 not be contradicted by evidence of any prior agreement or of a
7 contemporaneous oral agreement but may be explained or
8 supplemented:

9 * * *

10 (2) by evidence of consistent additional terms unless
11 the court finds the [writing] record to have been intended
12 also as a complete and exclusive statement of the terms of
13 the agreement.

14 § 2A203. Seals inoperative.

15 The affixing of a seal to a [writing] record evidencing a
16 lease contract or an offer to enter into a lease contract does
17 not render the [writing] record a sealed instrument, and the law
18 with respect to sealed instruments does not apply to the lease
19 contract or offer.

20 § 2A205. Firm offers.

21 An offer by a merchant to lease goods to or from another
22 person in a signed [writing] record that by its terms gives
23 assurance it will be held open is not revocable, for lack of
24 consideration, during the time stated or, if no time is stated,
25 for a reasonable time, but in no event may the period of
26 irrevocability exceed three months. Any such term of assurance
27 on a form supplied by the offeree must be separately signed by
28 the offeror.

29 § 2A208. Modification, rescission and waiver.

30 * * *

1 (b) Writing excluding modification or rescission.--A signed
2 lease agreement that excludes modification or rescission except
3 by a signed [writing] record may not be otherwise modified or
4 rescinded, but, except as between merchants, such a requirement
5 on a form supplied by a merchant must be separately signed by
6 the other party.

7 * * *

8 § 2A214. Exclusion or modification of warranties.

9 (a) Construction of words or conduct creating or limiting
10 warranties.--Words or conduct relevant to the creation of an
11 express warranty and words or conduct tending to negate or limit
12 a warranty must be construed wherever reasonable as consistent
13 with each other; but, subject to the provisions of section 2A202
14 (relating to final [written] expression: parol or extrinsic
15 evidence), negation or limitation is inoperative to the extent
16 that the construction is unreasonable.

17 * * *

18 § 3104. Negotiable instrument.

19 (a) Definition of "negotiable instrument".--Except as
20 provided in subsections (c) and (d), "negotiable instrument"
21 means an unconditional promise or order to pay a fixed amount of
22 money, with or without interest or other charges described in
23 the promise or order, if it:

24 * * *

25 (3) does not state any other undertaking or instruction
26 by the person promising or ordering payment to do any act in
27 addition to the payment of money, but the promise or order
28 may contain:

29 (i) an undertaking or power to give, maintain or
30 protect collateral to secure payment;

1 (ii) an authorization or power to the holder to
2 confess judgment or realize on or dispose of collateral;
3 [or]

4 (iii) a waiver of the benefit of any law intended
5 for the advantage or protection of an obligor[.];

6 (iv) a term which specifies the law that governs the
7 promise or order; or

8 (v) an undertaking to resolve in a specified forum a
9 dispute concerning the promise or order.

10 * * *

11 § 3105. Issue of instrument.

12 (a) Definition of "issue".--"Issue" means:

13 (1) the first delivery of an instrument by the maker or
14 drawer, whether to a holder or nonholder, for the purpose of
15 giving rights on the instrument to any person[.]; or

16 (2) if agreed by the payee, the first transmission by
17 the drawer to the payee of an image of an item and
18 information derived from the item which enables the
19 depository bank to collect the item by transferring or
20 presenting under Federal law an electronic check.

21 * * *

22 § 3401. Signature necessary for liability on instrument.

23 * * *

24 [(b) Form of signature.--A signature may be made:

25 (1) manually or by means of a device or machine; and

26 (2) by the use of any name, including a trade or assumed
27 name, or by a word, mark or symbol executed or adopted by a
28 person with present intention to authenticate a writing.]

29 § 3604. Discharge by cancellation or renunciation.

30 (a) Methods of discharge.--

1 (1) A person entitled to enforce an instrument, with or
2 without consideration, may discharge the obligation of a
3 party to pay the instrument:

4 [(1)] (i) by an intentional voluntary act, such as
5 surrender of the instrument to the party, destruction,
6 mutilation or cancellation of the instrument,
7 cancellation or striking out of the party's signature or
8 the addition of words to the instrument indicating
9 discharge; or

10 [(2)] (ii) by agreeing not to sue or otherwise
11 renouncing rights against the party by a signed writing.

12 (2) The obligation of a party to pay a check is not
13 discharged solely by destruction of the check in connection
14 with a process in which:

15 (i) information is extracted from the check, and an
16 image of the check is made; and

17 (ii) subsequently, the information and image are
18 transmitted for payment.

19 (b) Certain rights unaffected.--Cancellation or striking out
20 of an indorsement pursuant to subsection (a) does not affect the
21 status and rights of a party derived from the indorsement.

22 § 4A103. Payment order; definitions.

23 (a) Definition of "payment order" and related terms.--The
24 following words and phrases when used in this division shall
25 have the meanings given to them in this subsection:

26 (1) "Payment order." An instruction of a sender to a
27 receiving bank, transmitted orally[, electronically] or in
28 [writing] a record, to pay, or to cause another bank to pay,
29 a fixed or determinable amount of money to a beneficiary if:

30 * * *

1 § 4A201. Security procedure.

2 "Security procedure" means a procedure established by
3 agreement of a customer and a receiving bank for the purpose of:

4 (1) verifying that a payment order or communication
5 amending or canceling a payment order is that of the
6 customer; or

7 (2) detecting error in the transmission or the content
8 of the payment order or communication.

9 A security procedure may impose an obligation on the receiving
10 bank or the customer and may require the use of algorithms or
11 other codes, identifying words [or], numbers, symbols, sounds,
12 biometrics, encryption, callback procedures or similar security
13 devices. Comparison of a signature on a payment order or
14 communication with an authorized specimen signature of the
15 customer or requiring a payment order to be sent from a known
16 email address, IP address or telephone number is not by itself a
17 security procedure.

18 § 4A202. Authorized and verified payment orders.

19 * * *

20 (b) Verified payment order.--If a bank and its customer have
21 agreed that the authenticity of payment orders issued to the
22 bank in the name of the customer as sender will be verified
23 pursuant to a security procedure, a payment order received by
24 the receiving bank is effective as the order of the customer,
25 whether or not authorized, if:

26 * * *

27 (2) the bank proves that it accepted the payment order
28 in good faith and in compliance with the bank's obligations
29 under the security procedure and any [written] agreement or
30 instruction of the customer, evidenced by a record,

1 restricting acceptance of payment orders issued in the name
2 of the customer.

3 The bank is not required to follow an instruction that violates
4 [a written] an agreement with the customer, evidenced by a
5 record, or notice of which is not received at a time and in a
6 manner affording the bank a reasonable opportunity to act on it
7 before the payment order is accepted.

8 (c) Commercial reasonableness of security procedure.--

9 Commercial reasonableness of a security procedure is a question
10 of law to be determined by considering the wishes of the
11 customer expressed to the bank, the circumstances of the
12 customer known to the bank, including the size, type and
13 frequency of payment orders normally issued by the customer to
14 the bank, alternative security procedures offered to the
15 customer and security procedures in general use by customers and
16 receiving banks similarly situated. A security procedure is
17 deemed to be commercially reasonable if:

18 * * *

19 (2) the customer expressly agreed in [writing] a record
20 to be bound by any payment order, whether or not authorized,
21 issued in its name and accepted by the bank in compliance
22 with the bank's obligations under the security procedure
23 chosen by the customer.

24 * * *

25 § 4A203. Unenforceability of certain verified payment orders.

26 (a) General rule.--If an accepted payment order is not,
27 under section 4A202(a) (relating to authorized and verified
28 payment orders), an authorized order of a customer identified as
29 sender, but is effective as an order of the customer pursuant to
30 section 4A202(b), the following rules apply:

1 (1) By express [written] agreement evidenced by a
2 record, the receiving bank may limit the extent to which it
3 is entitled to enforce or retain payment of the payment
4 order.

5 * * *

6 § 4A207. Misdescription of beneficiary.

7 * * *

8 (c) Applicable rules when bank pays person identified by
9 number.--If a payment order described in subsection (b) is
10 accepted, the originator's payment order described the
11 beneficiary inconsistently by name and number and the
12 beneficiary's bank pays the person identified by number as
13 permitted by subsection (b) (1), the following rules apply:

14 * * *

15 (2) If the originator is not a bank and proves that the
16 person identified by number was not entitled to receive
17 payment from the originator, the originator is not obliged to
18 pay its order unless the originator's bank proves that the
19 originator, before acceptance of the originator's order, had
20 notice that payment of a payment order issued by the
21 originator might be made by the beneficiary's bank on the
22 basis of an identifying or bank account number even if it
23 identifies a person different from the named beneficiary.
24 Proof of notice may be made by any admissible evidence. The
25 originator's bank satisfies the burden of proof if it proves
26 that the originator, before the payment order was accepted,
27 signed a [writing] record stating the information to which
28 the notice relates.

29 * * *

30 § 4A208. Misdescription of intermediary bank or beneficiary's

1 bank.

2 * * *

3 (b) Identification by name and identifying number;
4 identification of different persons.--This subsection applies to
5 a payment order identifying an intermediary bank or the
6 beneficiary's bank both by name and an identifying number if the
7 name and number identify different persons:

8 * * *

9 (2) If the sender is not a bank and the receiving bank
10 proves that the sender, before the payment order was
11 accepted, had notice that the receiving bank might rely on
12 the number as the proper identification of the intermediary
13 or beneficiary's bank even if it identifies a person
14 different from the bank identified by name, the rights and
15 obligations of the sender and the receiving bank are governed
16 by paragraph (1), as though the sender were a bank. Proof of
17 notice may be made by any admissible evidence. The receiving
18 bank satisfies the burden of proof if it proves that the
19 sender, before the payment order was accepted, signed a
20 [writing] record stating the information to which the notice
21 relates.

22 * * *

23 § 4A210. Rejection of payment order.

24 (a) Manner of rejection.--A payment order is rejected by the
25 receiving bank by a notice of rejection transmitted to the
26 sender orally[, electronically] or in [writing] a record. A
27 notice of rejection need not use any particular words and is
28 sufficient if it indicates that the receiving bank is rejecting
29 the order or will not execute or pay the order. Rejection is
30 effective when the notice is given if transmission is by a means

1 that is reasonable in the circumstances. If notice of rejection
2 is given by a means that is not reasonable, rejection is
3 effective when the notice is received. If an agreement of the
4 sender and receiving bank establishes the means to be used to
5 reject a payment order, any means complying with the agreement
6 is reasonable and any means not complying is not reasonable
7 unless no significant delay in receipt of the notice resulted
8 from the use of the noncomplying means.

9 * * *

10 § 4A211. Cancellation and amendment of payment order.

11 (a) Communication.--A communication of the sender of a
12 payment order canceling or amending the order may be transmitted
13 to the receiving bank orally[, electronically] or in [writing] a
14 record. If a security procedure is in effect between the sender
15 and the receiving bank, the communication is not effective to
16 cancel or amend the order unless the communication is verified
17 pursuant to the security procedure or the bank agrees to the
18 cancellation or amendment.

19 * * *

20 § 4A305. Liability for late or improper execution or failure to
21 execute payment order.

22 * * *

23 (c) Additional damages.--In addition to the amounts payable
24 under subsections (a) and (b), damages, including consequential
25 damages, are recoverable to the extent provided in an express
26 [written] agreement of the receiving bank, evidenced by a
27 record.

28 (d) Failure to execute payment order.--If a receiving bank
29 fails to execute a payment order it was obliged by express
30 agreement to execute, the receiving bank is liable to the sender

1 for its expenses in the transaction and for incidental expenses
2 and interest losses resulting from the failure to execute.
3 Additional damages, including consequential damages, are
4 recoverable to the extent provided in an express [written]
5 agreement of the receiving bank, evidenced by a record, but are
6 not otherwise recoverable.

7 * * *

8 § 5104. Formal requirements.

9 A letter of credit, confirmation, advice, transfer, amendment
10 or cancellation may be issued in any form that is a signed
11 record, [and is authenticated:

12 (1) by a signature; or

13 (2) in accordance with the agreement of the parties or
14 the standard practice referred to in section 5108(e)
15 (relating to standard practice).]

16 § 5116. Choice of law and forum.

17 (a) Express choice of law.--The liability of an issuer,
18 nominated person or advisor for action or omission is governed
19 by the law of the jurisdiction chosen by an agreement in the
20 form of a record signed [or otherwise authenticated] by the
21 affected parties [in the manner provided in section 5104
22 (relating to formal requirements)] or by a provision in the
23 person's letter of credit, confirmation or other undertaking.
24 The jurisdiction whose law is chosen need not bear any relation
25 to the transaction.

26 (b) Governing law otherwise.--Unless subsection (a) applies,
27 the liability of an issuer, nominated person or adviser for
28 action or omission is governed by the law of the jurisdiction in
29 which the person is located. The person is considered to be
30 located at the address indicated in the person's undertaking. If

1 more than one address is indicated, the person is considered to
2 be located at the address from which the person's undertaking
3 was issued.

4 (c) Bank branches.--For the purpose of jurisdiction, choice
5 of law and recognition of interbranch letters of credit, but not
6 enforcement of a judgment, all branches of a bank are considered
7 separate juridical entities, and a bank is considered to be
8 located at the place where its relevant branch is considered to
9 be located under [this] subsection (d).

10 (d) Bank branch locations.--A branch of a bank is considered
11 to be located at the address indicated in the branch's
12 undertaking. If more than one address is indicated, the branch
13 is considered to be located at the address from which the
14 undertaking was issued.

15 [(c)] (e) Role of custom or practice.--Except as otherwise
16 provided in this subsection, the liability of an issuer,
17 nominated person or adviser is governed by any rules of custom
18 or practice, such as the Uniform Customs and Practice for
19 Documentary Credits, to which the letter of credit, confirmation
20 or other undertaking is expressly made subject. If:

21 (1) this division would govern the liability of an
22 issuer, nominated person or adviser under subsection (a) or
23 (b);

24 (2) the relevant undertaking incorporates rules of
25 custom or practice; and

26 (3) there is conflict between this division and those
27 rules as applied to that undertaking;

28 those rules govern except to the extent of any conflict with the
29 nonvariable provisions specified in section 5103(c) (relating to
30 variation by agreement or undertaking).

1 [(d)] (f) Conflict with certain other divisions.--If there
2 is conflict between this division and Division 3 (relating to
3 negotiable instruments), 4 (relating to bank deposits and
4 collections), 4A (relating to funds transfers) or 9 (relating to
5 secured transactions), this division governs.

6 [(e)] (g) Forum.--The forum for settling disputes arising
7 out of an undertaking within this division may be chosen in the
8 manner and with the binding effect that governing law may be
9 chosen in accordance with subsection (a).

10 Section 10. The definition of "sign" in section 7102(a) and
11 subsection (b)(1) of Title 13 are amended to read:

12 § 7102. Definitions and index of definitions.

13 (a) Division 7 definitions.--The following words and phrases
14 when used in this division shall have, unless the context
15 clearly indicates otherwise, the meanings given to them in this
16 subsection:

17 * * *

18 ["Sign." With present intent to authenticate or adopt a
19 record:

20 (1) to execute or adopt a tangible symbol; or

21 (2) to attach to or logically associate with the record
22 an electronic sound, symbol or process.]

23 * * *

24 (b) Definitions in other divisions.--Definitions in other
25 divisions applying to this division and the sections in which
26 they appear are:

27 (1) "Contract for sale." Section 2106 (relating to
28 definitions: "contract"; "agreement"; "contract for sale";
29 "sale"; "present sale"; "conforming" to contract;
30 "termination"; "cancellation"; "hybrid transaction").

1 * * *

2 Section 11. Section 7106(b) introductory paragraph and (4)
3 of Title 13 are amended and the section is amended by adding
4 subsections to read:

5 § 7106. Control of electronic document of title.

6 * * *

7 (b) Manner.--A system satisfies subsection (a) and a person
8 [is deemed to have] has control of an electronic document of
9 title if the document is created, stored and [assigned in such]
10 transferred in a manner that:

11 * * *

12 (4) copies or amendments that add or change an
13 identified [assignee] transferee of the authoritative copy
14 can be made only with the consent of the person asserting
15 control;

16 * * *

17 (c) Requirements.--A system satisfies subsection (a), and a
18 person has control of an electronic document of title, if an
19 authoritative electronic copy of the document, a record attached
20 to or logically associated with the electronic copy or a system
21 in which the electronic copy is recorded:

22 (1) enables the person readily to identify each
23 electronic copy as either an authoritative copy or a
24 nonauthoritative copy;

25 (2) enables the person readily to identify itself in any
26 way, including by name, identifying number, cryptographic
27 key, office or account number, as the person to whom or to
28 which each authoritative electronic copy was issued or
29 transferred; and

30 (3) gives the person exclusive power, subject to

1 subsection (d), to:

2 (i) prevent others from adding or changing the
3 person to whom or to which each authoritative electronic
4 copy has been issued or transferred; and

5 (ii) transfer control of each authoritative
6 electronic copy.

7 (d) Exclusive power.--Subject to subsection (e), a power is
8 exclusive under subsection (c) (3) even if:

9 (1) the authoritative electronic copy, a record attached
10 to or logically associated with the authoritative electronic
11 copy or a system in which the authoritative electronic copy
12 is recorded limits the use of the document of title or has a
13 protocol that is programmed to cause a change, including a
14 transfer or loss of control; or

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

16 (e) Shared power.--A power of a person is not shared with
17 another person under subsection (d) (2) and the person's power is
18 not exclusive if:

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

21 (2) the other person:

22 (i) can exercise the power without exercise of the
23 power by the person; or

24 (ii) is the transferor to the person of an interest
25 in the document of title.

26 (f) Presumption of exclusivity.--If a person has the powers
27 specified in subsection (c) (3), the powers are presumed to be
28 exclusive.

29 (g) Other parties.--A person has control of an electronic
30 document of title if another person, other than the transferor

1 to the person of an interest in the document:

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

4 (2) obtains control of the document after having
5 acknowledged that it will obtain control of the document on
6 behalf of the person.

7 (h) Acknowledgment not required.--A person that has control
8 under this section is not required to acknowledge that it has
9 control on behalf of another person.

10 (i) Duty to other parties.--If a person acknowledges that it
11 has or will obtain control on behalf of another person, unless
12 the person otherwise agrees or law other than this division or
13 Division 9 (relating to secured transactions) otherwise
14 provides, the person does not owe any duty to the other person
15 and is not required to confirm the acknowledgment to any other
16 person.

17 Section 12. Section 8102 heading, the definition of
18 "communicate" in subsection (a) and subsection (b) of Title 13
19 are amended to read:

20 § 8102. Definitions and index of definitions.

21 (a) Definitions.--The following words and phrases when used
22 in this division shall have the meanings given to them in this
23 subsection:

24 * * *

25 "Communicate." "Communicate" means to:

26 (1) send a signed [writing] record; or

27 (2) transmit information by any mechanism agreed upon by
28 the persons transmitting and receiving the information.

29 * * *

30 (b) Index of other definitions.--[Other] The following

1 definitions applying [to] in this division and [the sections in
2 which they appear] other divisions are:

3 "Appropriate person." Section 8107.

4 "Control." Section 8106.

5 "Controllable account." Section 9102.

6 "Controllable electronic record." Section 12102.

7 "Controllable payment intangible." Section 9102.

8 "Delivery." Section 8301.

9 "Investment company security." Section 8103.

10 "Issuer." Section 8201.

11 "Overissue." Section 8210.

12 "Protected purchaser." Section 8303.

13 "Securities account." Section 8501.

14 * * *

15 Section 13. Sections 8103(g) and 8106(d) (3) of Title 13 are
16 amended and the sections are amended by adding subsections to
17 read:

18 § 8103. Rules for determining whether certain obligations and
19 interests are securities or financial assets.

20 * * *

21 (g) [Financial asset] Documents of title.--A document of
22 title, as defined in section 1201 (relating to general
23 definitions), is not a financial asset unless paragraph (3) of
24 the definition of "financial asset" in section 8102 (relating to
25 definitions and index of definitions) applies.

26 (h) Controllable accounts, controllable electronic records
27 and controllable payment intangibles.--A controllable account,
28 controllable electronic record or controllable payment
29 intangible is not a financial asset unless the definition of
30 "financial asset" in section 8102 applies.

1 § 8106. Control.

2 * * *

3 (d) "Control" of security entitlement.--A purchaser has
4 "control" of a security entitlement if:

5 * * *

6 (3) another person, other than the transferor to the
7 purchaser of an interest in the security entitlement:

8 (i) has control of the security entitlement [on
9 behalf of the purchaser or, having previously acquired
10 control of the security entitlement,] and acknowledges
11 that it has control on behalf of the purchaser[.]; or

12 (ii) obtains control of the security entitlement
13 after having acknowledged that it will obtain control of
14 the security entitlement on behalf of the purchaser.

15 * * *

16 (h) Acknowledgment not required.--A person that has control
17 under this section is not required to acknowledge that it has
18 control on behalf of another person.

19 (i) Duty to other parties.--If a person acknowledges that it
20 has or will obtain control on behalf of another person, unless
21 the person otherwise agrees or law other than this division or
22 Division 9 (relating to secured transactions) otherwise
23 provides, the person does not owe any duty to the other person
24 and is not required to confirm the acknowledgment to any other
25 person.

26 Section 14. Section 8110 of Title 13 is amended by adding a
27 subsection to read:

28 § 8110. Applicability; choice of law.

29 * * *

30 (g) When local law of issuer's or securities intermediary's

1 jurisdiction governs.--The local law of the issuer's
2 jurisdiction or the securities intermediary's jurisdiction
3 governs a matter or transaction specified in subsection (a) or
4 (b) even if the matter or transaction does not bear any relation
5 to the jurisdiction.

6 Section 15. Section 8303(b) of Title 13 is amended to read:
7 § 8303. Protected purchaser.

8 * * *

9 (b) Rights acquired by protected purchaser.--[In addition to
10 acquiring the rights of a purchaser, a] A protected purchaser
11 also acquires its interest in the security free of any adverse
12 claim.

13 Section 16. The definitions of "account," "account debtor,"
14 "accounting," "authenticate," "chattel paper," "electronic
15 chattel paper," "general intangible," "instrument," "payment
16 intangible," "proposal," "send" and "tangible chattel paper" in
17 section 9102(a) and subsection (b) of Title 13 are amended and
18 subsection (a) is amended by adding definitions to read:

19 § 9102. Definitions and index of definitions.

20 (a) Division 9 definitions.--The following words and phrases
21 when used in this division shall have the meanings given to them
22 in this subsection:

23 * * *

24 "Account."

25 (1) Except as used in "account for," "account
26 statement," "account to," "commodity account," "customer's
27 account," "deposit account," "on account of" and "statement
28 of account," a right to payment of a monetary obligation,
29 whether or not earned by performance:

30 (i) for property which has been or is to be sold,

1 leased, licensed, assigned or otherwise disposed of;

2 (ii) for services rendered or to be rendered;

3 (iii) for a policy of insurance issued or to be
4 issued;

5 (iv) for a secondary obligation incurred or to be
6 incurred;

7 (v) for energy provided or to be provided;

8 (vi) for the use or hire of a vessel under a charter
9 or other contract;

10 (vii) arising out of the use of a credit or charge
11 card or information contained on or for use with the
12 card; or

13 (viii) as winnings in a lottery or other game of
14 chance operated or sponsored by a state, governmental
15 unit of a state or person licensed or authorized to
16 operate the game by a state or governmental unit of a
17 state.

18 (2) The term includes controllable accounts and health-
19 care-insurance receivables.

20 (3) The term does not include:

21 (i) [rights to payment evidenced by chattel paper or
22 an instrument] chattel paper;

23 (ii) commercial tort claims;

24 (iii) deposit accounts;

25 (iv) investment property;

26 (v) letter-of-credit right or letters of credit;

27 [or]

28 (vi) rights to payment for money or funds advanced
29 or sold, other than rights arising out of the use of a
30 credit or charge card or information contained on or for

1 use with the card[.]; or

2 (vii) rights to payment evidenced by an instrument.

3 "Account debtor." A person obligated on an account, chattel
4 paper or general intangible. The term does not include persons
5 obligated to pay a negotiable instrument even if the negotiable
6 instrument [constitutes part of] evidences chattel paper.

7 "Accounting." Except as used in "accounting for," a record:

8 (1) [authenticated] signed by a secured party;

9 (2) indicating the aggregate unpaid secured obligations
10 as of a date not more than 35 days earlier or 35 days later
11 than the date of the record; and

12 (3) identifying the components of the obligations in
13 reasonable detail.

14 * * *

15 "Assignee." Except as used in "assignee for benefit of
16 creditors," a person:

17 (1) in whose favor a security interest that secures an
18 obligation is created or provided for under a security
19 agreement, whether or not the obligation is outstanding; or

20 (2) to which an account, chattel paper, payment
21 intangible or promissory note has been sold.

22 The term includes a person to which a security interest has been
23 transferred by a secured party.

24 "Assignor." A person that:

25 (1) under a security agreement creates or provides for a
26 security interest that secures an obligation; or

27 (2) sells an account, chattel paper, payment intangible
28 or promissory note.

29 The term includes a secured party that has transferred a
30 security interest to another person.

1 ["Authenticate." To:

2 (i) sign; or

3 (ii) with present intent to adopt or accept a

4 record, attach to or logically associate with the record

5 an electrical sound, symbol or process.]

6 * * *

7 "Chattel paper." [A record or records which evidence both a

8 monetary obligation and a security interest in specific goods, a

9 security interest in specific goods and software used in the

10 goods, a security interest in specific goods and license of

11 software used in the goods, a lease of specific goods or a lease

12 of specific goods and license of software used in the goods. In

13 this definition, "monetary obligation" means a monetary

14 obligation secured by the goods or owed under a lease of the

15 goods and includes a monetary obligation with respect to

16 software used in the goods. The term does not include charters

17 or other contracts involving the use or hire of a vessel or

18 records which evidence a right to payment arising out of the use

19 of a credit or charge card or information contained on or for

20 use with the card. If a transaction is evidenced by records that

21 include an instrument or series of instruments, the group of

22 records taken together constitutes chattel paper.] Either:

23 (1) a right to payment of a monetary obligation secured
24 by specific goods, if the right to payment and security
25 agreement are evidenced by a record; or

26 (2) a right to payment of a monetary obligation owed by
27 a lessee under a lease agreement with respect to specific
28 goods and a monetary obligation owed by the lessee in
29 connection with the transaction giving rise to the lease, if:

30 (i) the right to payment and lease agreement are

1 evidenced by a record; and
2 (ii) the predominant purpose of the transaction
3 giving rise to the lease was to give the lessee the right
4 to possession and use of the goods.

5 The term does not include a right to payment arising out of a
6 charter or other contract involving the use or hire of a vessel
7 or a right to payment arising out of the use of a credit or
8 charge card or information contained on or for use with the
9 card.

10 * * *

11 "Controllable account." An account evidenced by a
12 controllable electronic record that provides that the account
13 debtor undertakes to pay the person that has control under
14 section 12105 (relating to control of controllable electronic
15 record) of the controllable electronic record.

16 "Controllable payment intangible." A payment intangible
17 evidenced by a controllable electronic record that provides that
18 the account debtor undertakes to pay the person that has control
19 under section 12105 of the controllable electronic record.

20 * * *

21 ["Electronic chattel paper." Chattel paper evidenced by a
22 record consisting of information stored in an electronic
23 medium.]

24 * * *

25 "General intangible." Any personal property, including
26 things in action, other than accounts, chattel paper, commercial
27 tort claims, deposit accounts, documents, goods, instruments,
28 investment property, letter-of-credit rights, letters of credit,
29 money and oil, gas or other minerals before extraction. The term
30 includes controllable electronic records, payment intangibles

1 and software.

2 * * *

3 "Instrument." A negotiable instrument or any other writing
4 which evidences a right to the payment of a monetary obligation,
5 is not itself a security agreement or lease and is of a type
6 which in ordinary course of business is transferred by delivery
7 with any necessary indorsement or assignment. The term does not
8 include:

9 (1) investment property;

10 (2) letters of credit; [or]

11 (3) writings which evidence a right to payment arising
12 out of the use of a credit or charge card or information
13 contained on or for use with the card[.]; or

14 (4) writings that evidence chattel paper.

15 * * *

16 "Money." Has the meaning in section 1201(b)(24) (relating to
17 general definitions), but does not include a deposit account.

18 * * *

19 "Payment intangible." A general intangible under which the
20 account debtor's principal obligation is a monetary obligation.
21 The term includes a controllable payment intangible.

22 * * *

23 "Proposal." A record [authenticated] signed by a secured
24 party which includes the terms on which the secured party is
25 willing to accept collateral in full or partial satisfaction of
26 the obligation it secures under sections 9620 (relating to
27 acceptance of collateral in full or partial satisfaction of
28 obligation; compulsory disposition of collateral), 9621
29 (relating to notification of proposal to accept collateral) and
30 9622 (relating to effect of acceptance of collateral).

1 * * *

2 ["Send." In connection with a record or notification:

3 (1) to deposit in the mail, deliver for transmission or
4 transmit by any other usual means of communication, with
5 postage or cost of transmission provided for, addressed to
6 any address reasonable under the circumstances; or

7 (2) to cause the record or notification to be received
8 within the time which it would have been received if properly
9 sent under paragraph (1).]

10 * * *

11 ["Tangible chattel paper." Chattel paper evidenced by a
12 record or records consisting of information which is inscribed
13 on a tangible medium.]

14 * * *

15 (b) Definitions in other divisions.--The following
16 definitions in other divisions apply to this division:

17 "Applicant." Section 5102.

18 "Beneficiary." Section 5102.

19 "Broker." Section 8102.

20 "Certificated security." Section 8102.

21 "Check." Section 3104.

22 "Clearing corporation." Section 8102.

23 "Contract for sale." Section 2106.

24 "Control." With respect to a document of title, section
25 7106.

26 "Controllable electronic record." Section 12102.

27 "Customer." Section 4104.

28 "Entitlement holder." Section 8102.

29 "Financial asset." Section 8102.

30 "Holder in due course." Section 3302.

1 "Issuer." With respect to a letter of credit or letter-of-
2 credit right, section 5102.
3 "Issuer." With respect to a document of title, section 7102.
4 "Issuer." With respect to a security, section 8201.
5 "Lease." Section 2A103.
6 "Lease agreement." Section 2A103.
7 "Lease contract." Section 2A103.
8 "Leasehold interest." Section 2A103.
9 "Lessee." Section 2A103.
10 "Lessee in ordinary course of business." Section 2A103.
11 "Lessor." Section 2A103.
12 "Lessor's residual interest." Section 2A103.
13 "Letter of credit." Section 5102.
14 "Merchant." Section 2104.
15 "Negotiable instrument." Section 3104.
16 "Nominated person." Section 5102.
17 "Note." Section 3104.
18 "Proceeds of a letter of credit." Section 5114.
19 "Protected purchaser." Section 8303.
20 "Prove." Section 3103.
21 "Qualifying purchaser." Section 12102.
22 "Sale." Section 2106.
23 "Securities account." Section 8501.
24 "Securities intermediary." Section 8102.
25 "Security." Section 8102.
26 "Security certificate." Section 8102.
27 "Security entitlement." Section 8102.
28 "Uncertificated security." Section 8102.
29 * * *
30 Section 17. Sections 9104(a) and 9105 of Title 13 are

1 amended to read:

2 § 9104. Control of deposit account.

3 (a) Requirements for control.--A secured party has control
4 of a deposit account if:

5 (1) the secured party is the bank with which the deposit
6 account is maintained;

7 (2) the debtor, secured party and bank have agreed in
8 [an authenticated] a signed record that the bank will comply
9 with instructions originated by the secured party directing
10 disposition of the funds in the deposit account without
11 further consent by the debtor; [or]

12 (3) the secured party becomes the bank's customer with
13 respect to the deposit account[.]; or

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

15 (i) has control of the deposit account and
16 acknowledges that it has control on behalf of the secured
17 party; or

18 (ii) obtains control of the deposit account after
19 having acknowledged that it will obtain control of the
20 deposit account on behalf of the secured party.

21 * * *

22 § 9105. Control of electronic copy of record evidencing chattel
23 paper.

24 (a) General rule; control of electronic copy of record
25 evidencing chattel paper.--A [secured party] purchaser has
26 control of [electronic] an authoritative electronic copy of a
27 record evidencing chattel paper if a system employed for
28 evidencing the [transfer] assignment of interests in the chattel
29 paper reliably establishes the [secured party] purchaser as the
30 person to which the [chattel paper] authoritative electronic

1 copy was assigned.

2 (b) [Specific facts giving control] Single authoritative
3 copy.--A system satisfies subsection (a) if the record or
4 records [comprising] evidencing the chattel paper are created,
5 stored and assigned in [such] a manner that:

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

9 (2) the authoritative copy identifies the [secured
10 party] purchaser as the assignee of the record or records;

11 (3) the authoritative copy is communicated to and
12 maintained by the [secured party] purchaser or its designated
13 custodian;

14 (4) copies or amendments which add or change an
15 identified assignee of the authoritative copy can be made
16 only with the consent of the [secured party] purchaser;

17 (5) each copy of the authoritative copy and any copy of
18 a copy is readily identifiable as a copy [which] that is not
19 the authoritative copy; and

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

22 (c) One or more authoritative copies.--A system satisfies
23 subsection (a) and a purchaser has control of an authoritative
24 electronic copy of a record evidencing chattel paper, if the
25 electronic copy, a record attached to or logically associated
26 with the electronic copy or a system in which the electronic
27 copy is recorded:

28 (1) enables the purchaser readily to identify each
29 electronic copy as either an authoritative copy or a
30 nonauthoritative copy;

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

5 (3) gives the purchaser exclusive power, subject to
6 subsection (d), to:

7 (i) prevent others from adding or changing an
8 identified assignee of the authoritative electronic copy;
9 and

10 (ii) transfer control of the authoritative
11 electronic copy.

12 (d) Meaning of exclusive.--Subject to subsection (e), a
13 power is exclusive under subsection (c) (3) even if:

14 (1) the authoritative electronic copy, a record attached
15 to or logically associated with the authoritative electronic
16 copy or a system in which the authoritative electronic copy
17 is recorded limits the use of the authoritative electronic
18 copy or has a protocol programmed to cause a change,
19 including a transfer or loss of control; or

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

21 (e) When power not shared with another person.--A power of a
22 purchaser is not shared with another person under subsection (d)
23 (2) and the purchaser's power is not exclusive if:

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

26 (2) the other person:

27 (i) can exercise the power without exercise of the
28 power by the purchaser; or

29 (ii) is the transferor to the purchaser of an
30 interest in the chattel paper.

1 (f) Presumption of exclusivity of certain powers.--If a
2 purchaser has the powers specified in subsection (c)(3), the
3 powers are presumed to be exclusive.

4 (g) Obtaining control through another person.--A purchaser
5 has control of an authoritative electronic copy of a record
6 evidencing chattel paper if another person, other than the
7 transferor to the purchaser of an interest in the chattel paper:

8 (1) has control of the authoritative electronic copy and
9 acknowledges that it has control on behalf of the purchaser;
10 or

11 (2) obtains control of the authoritative electronic copy
12 after having acknowledged that it will obtain control of the
13 electronic copy on behalf of the purchaser.

14 Section 18. Title 13 is amended by adding a section to read:

15 § 9107.1. Control of controllable electronic record,
16 controllable account or controllable payment
17 intangible.

18 (a) Control under section 12105.--A secured party has
19 control of a controllable electronic record as provided in
20 section 12105 (relating to control of controllable electronic
21 record).

22 (b) Control of controllable account and controllable payment
23 intangible.--A secured party has control of a controllable
24 account or controllable payment intangible if the secured party
25 has control of the controllable electronic record that evidences
26 the controllable account or controllable payment intangible.

27 Section 19. Section 9203(b)(3) of Title 13 is amended to
28 read:

29 § 9203. Attachment and enforceability of security interest;
30 proceeds; supporting obligations; formal requisites.

1 * * *

2 (b) Enforceability.--Except as otherwise provided in
3 subsections (c) through (i), a security interest is enforceable
4 against the debtor and third parties with respect to the
5 collateral only if all of the following apply:

6 * * *

7 (3) One of the following conditions is met:

8 (i) The debtor has [authenticated] signed a security
9 agreement which provides a description of the collateral
10 and, if the security interest covers timber to be cut, a
11 description of the land concerned.

12 (ii) The collateral is not a certificated security
13 and is in the possession of the secured party under
14 section 9313 (relating to when possession by or delivery
15 to secured party perfects security interest without
16 filing) pursuant to the debtor's security agreement.

17 (iii) The collateral is a certificated security in
18 registered form, and the security certificate has been
19 delivered to the secured party under section 8301
20 (relating to delivery) pursuant to the debtor's security
21 agreement.

22 (iv) The collateral is controllable accounts,
23 controllable electronic records, controlled payment
24 intangibles, deposit accounts, electronic [chattel
25 paper,] documents, investment property[,] or letter-of-
26 credit rights [or electronic documents,] and the secured
27 party has control under section 7106 (relating to control
28 of electronic document of title), 9104 (relating to
29 control of deposit account), [9105 (relating to control
30 of electronic chattel paper),] 9106 (relating to control

1 of investment property) [or], 9107 (relating to control
2 of letter-of-credit right) or 9107.1 (relating to control
3 of controllable electronic record, controllable account
4 or controllable payment intangible) pursuant to the
5 debtor's security agreement.

6 (v) The collateral is chattel paper and the secured
7 party has possession and control under section 9314.1
8 (relating to perfection by possession and control of
9 chattel paper) pursuant to the debtor's security
10 agreement.

11 * * *

12 Section 20. Section 9204(b) of Title 13 is amended and the
13 section is amended by adding a subsection to read:

14 § 9204. After-acquired property; future advances.

15 * * *

16 (b) When after-acquired property clause not effective.--[A]
17 Subject to subsection (b.1), a security interest does not attach
18 under a term constituting an after-acquired property clause to:

- 19 (1) consumer goods, other than an accession when given
20 as additional security, unless the debtor acquires rights in
21 them within ten days after the secured party gives value; or
22 (2) a commercial tort claim.

23 (b.1) Limitation.--Subsection (b) does not prevent a
24 security interest from attaching:

25 (1) to consumer goods as proceeds under section 9315(a)
26 (relating to secured party's rights on disposition of
27 collateral and in proceeds) or commingled goods under section
28 9336(c) (relating to commingled goods);

29 (2) to a commercial tort claim as proceeds under section
30 9315(a); or

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

4 * * *

5 Section 21. Sections 9207(c), 9208(b), 9209(b), 9210,
6 9301(c) and (e) and 9304(a) of Title 13 are amended to read:
7 § 9207. Rights and duties of secured party having possession or
8 control of collateral.

9 * * *

10 (c) Duties and rights when secured party in possession or
11 control.--Except as otherwise provided in subsection (d), a
12 secured party having possession of collateral or control of
13 collateral under section 7106 (relating to control of electronic
14 document of title), 9104 (relating to control of deposit
15 account), 9105 (relating to control of electronic copy of record
16 evidencing chattel paper), 9106 (relating to control of
17 investment property) [~~or~~], 9107 (relating to control of letter-
18 of-credit right) or 9107.1 (relating to control of controllable
19 electronic record, controllable account or controllable payment
20 intangible):

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

23 (2) shall apply money or funds received from the
24 collateral to reduce the secured obligation unless remitted
25 to the debtor; and

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

27 * * *

28 § 9208. Additional duties of secured party having control of
29 collateral.

30 * * *

1 (b) Duties of secured party after receiving demand from
2 debtor.--Within ten days after receiving [an authenticated] a
3 signed demand by the debtor:

4 (1) A secured party having control of a deposit account
5 under section 9104(a)(2) (relating to control of deposit
6 account) shall send to the bank with which the deposit
7 account is maintained [an authenticated statement] a signed
8 record which releases the bank from any further obligation to
9 comply with instructions originated by the secured party.

10 (2) A secured party having control of a deposit account
11 under section 9104(a)(3) shall:

12 (i) pay the debtor the balance on deposit in the
13 deposit account; or

14 (ii) transfer the balance on deposit into a deposit
15 account in the debtor's name.

16 (3) A secured party, other than a buyer, having control
17 [of electronic chattel paper] under section 9105 (relating to
18 control of electronic copy of record evidencing chattel
19 paper) of an authoritative electronic copy of a record
20 evidencing chattel paper shall[:

21 (i) communicate the authoritative copy of the
22 electronic chattel paper to the debtor or its designated
23 custodian;

24 (ii) if the debtor designates a custodian that is
25 the designated custodian with whom or which the
26 authoritative copy of the electronic chattel paper is
27 maintained for the secured party, communicate to the
28 custodian an authenticated record releasing the
29 designated custodian from any further obligation to
30 comply with instructions originated by the secured party

1 and instructing the custodian to comply with instructions
2 originated by the debtor; and

3 (iii) take appropriate action to enable the debtor
4 or its designated custodian to make copies of or
5 revisions to the authoritative copy which add or change
6 an identified assignee of the authoritative copy without
7 the consent of the secured party.] transfer control of
8 the electronic copy to the debtor or a person designated
9 by the debtor.

10 (4) A secured party having control of investment
11 property under section 8106(d)(2) (relating to control of
12 security entitlement) or 9106(b) (relating to control of
13 commodity contract) shall send to the securities intermediary
14 or commodity intermediary with which the security entitlement
15 or commodity contract is maintained [an authenticated] a
16 signed record which releases the securities intermediary or
17 commodity intermediary from any further obligation to comply
18 with entitlement orders or directions originated by the
19 secured party.

20 (5) A secured party having control of a letter-of-credit
21 right under section 9107 (relating to control of letter-of-
22 credit right) shall send to each person having an unfulfilled
23 obligation to pay or deliver proceeds of the letter of credit
24 to the secured party [an authenticated] a signed release from
25 any further obligation to pay or deliver proceeds of the
26 letter of credit to the secured party.

27 (6) A secured party having control [of an electronic
28 document shall:

29 (i) give control of the electronic document to the
30 debtor or its designated custodian;

1 (ii) if the debtor designates a custodian that is
2 the designated custodian with which the authoritative
3 copy of the electronic document is maintained for the
4 secured party, communicate to the custodian an
5 authenticated record releasing the designated custodian
6 from any further obligation to comply with instructions
7 originated by the secured party and instructing the
8 custodian to comply with instructions originated by the
9 debtor; and

10 (iii) take appropriate action to enable the debtor
11 or its designated custodian to make copies of or
12 revisions to the authoritative copy which add or change
13 an identified assignee of the authoritative copy without
14 the consent of the secured party.] under section 7106
15 (relating to control of electronic document of title) of
16 an authoritative electronic copy of an electronic
17 document of title shall transfer control of the
18 electronic copy to the debtor or a person designated by
19 the debtor.

20 (7) A secured party having control under section 12105
21 (relating to control of controllable electronic record) of a
22 controllable electronic record, other than a buyer of a
23 controllable account or controllable payment intangible
24 evidenced by the controllable electronic record, shall
25 transfer control of the controllable electronic record to the
26 debtor or a person designated by the debtor.

27 § 9209. Duties of secured party if account debtor has been
28 notified of assignment.

29 * * *

30 (b) Duties of secured party after receiving demand from

1 debtor.--Within ten days after receiving [an authenticated] a
2 signed demand by the debtor, a secured party shall send to an
3 account debtor that has received notification under section
4 9406(a) (relating to discharge of account debtor; notification
5 of assignment; identification and proof of assignment;
6 restrictions on assignment of accounts, chattel paper, payment
7 intangibles and promissory notes ineffective) or 12106(a)
8 (relating to discharge of account debtor on controllable account
9 or controllable electronic payment intangible) of an assignment
10 to the secured party as assignee [under section 9406(a)
11 (relating to discharge of account debtor; effect of
12 notification) an authenticated] a signed record which releases
13 the account debtor from any further obligation to the secured
14 party.

15 * * *

16 § 9210. Request for accounting; request regarding list of
17 collateral or statement of account.

18 (a) Definitions.--As used in this section, the following
19 words and phrases shall have the meanings given to them in this
20 subsection:

21 "Request." A:

- 22 (1) request for an accounting;
23 (2) request regarding a list of collateral; or
24 (3) request regarding a statement of account.

25 "Request for an accounting." A record [authenticated] signed
26 by a debtor requesting that the recipient provide an accounting
27 of the unpaid obligations secured by collateral and reasonably
28 identifying the transaction or relationship which is the subject
29 of the request.

30 "Request regarding a list of collateral." A record

1 [authenticated] signed by a debtor requesting that the recipient
2 approve or correct a list of what the debtor believes to be the
3 collateral securing an obligation and reasonably identifying the
4 transaction or relationship which is the subject of the request.

5 "Request regarding a statement of account." A record
6 [authenticated] signed by a debtor requesting that the recipient
7 approve or correct a statement indicating what the debtor
8 believes to be the aggregate amount of unpaid obligations
9 secured by collateral as of a specified date and reasonably
10 identifying the transaction or relationship which is the subject
11 of the request.

12 (b) Duty to respond to requests.--Subject to subsections
13 (c), (d), (e) and (f), a secured party, other than a buyer of
14 accounts, chattel paper, payment intangibles or promissory notes
15 or a consignor, shall comply with a request within 14 days after
16 receipt:

17 (1) in the case of a request for an accounting, by
18 [authenticating] signing and sending to the debtor an
19 accounting; and

20 (2) in the case of a request regarding a list of
21 collateral or a request regarding a statement of account, by
22 [authenticating] signing and sending to the debtor an
23 approval or correction.

24 (c) Request regarding list of collateral; statement
25 concerning type of collateral.--A secured party that claims a
26 security interest in all of a particular type of collateral
27 owned by the debtor may comply with a request regarding a list
28 of collateral by sending to the debtor [an authenticated] a
29 signed record including a statement to that effect within 14
30 days after receipt.

1 (d) Request regarding list of collateral; no interest
2 claimed.--A person that receives a request regarding a list of
3 collateral, claims no interest in the collateral when it
4 receives the request and claimed an interest in the collateral
5 at an earlier time shall comply with the request within 14 days
6 after receipt by sending to the debtor [an authenticated] a
7 signed record:

8 (1) disclaiming any interest in the collateral; and

9 (2) if known to the recipient, providing the name and
10 mailing address of any assignee of or successor to the
11 recipient's interest in the collateral.

12 (e) Request for accounting or regarding statement of
13 account; no interest in obligation claimed.--A person that
14 receives a request for an accounting or a request regarding a
15 statement of account, claims no interest in the obligations when
16 it receives the request and claimed an interest in the
17 obligations at an earlier time shall comply with the request
18 within 14 days after receipt by sending to the debtor [an
19 authenticated] a signed record:

20 (1) disclaiming any interest in the obligations; and

21 (2) if known to the recipient, providing the name and
22 mailing address of any assignee of or successor to the
23 recipient's interest in the obligations.

24 (f) Charges for responses.--A debtor is entitled without
25 charge to one response to a request under this section during
26 any six-month period. The secured party may require payment of a
27 charge not exceeding \$25 for each additional response.

28 § 9301. Law governing perfection and priority of security
29 interests.

30 * * *

1 (c) Fixture filings, timber to be cut, priority of
2 nonpossessory tangible personal property security interests;
3 location of collateral.--Except as otherwise provided in
4 subsection (d), while collateral is located in a jurisdiction,
5 the local law of that jurisdiction governs:

6 (1) perfection of a security interest in goods by filing
7 a fixture filing;

8 (2) perfection of a security interest in timber to be
9 cut; and

10 (3) the effect of perfection or nonperfection and the
11 priority of a nonpossessory security interest in tangible
12 negotiable documents, goods, instruments[,] or money [or
13 tangible chattel paper].

14 * * *

15 (e) Other exceptions.--The rules of this section are subject
16 to:

17 (1) Section 9303 (relating to law governing perfection
18 and priority of security interests in goods covered by
19 certificate of title).

20 (2) Section 9304 (relating to law governing perfection
21 and priority of security interests in deposit accounts).

22 (3) Section 9305 (relating to law governing perfection
23 and priority of security interests in investment property).

24 (4) Section [9306] 9306.1 (relating to law governing
25 perfection and priority of security interests in [letter-of-
26 credit rights] chattel paper).

27 § 9304. Law governing perfection and priority of security
28 interests in deposit accounts.

29 (a) Law of bank's jurisdiction governs.--The local law of a
30 bank's jurisdiction governs perfection, the effect of perfection

1 or nonperfection and the priority of a security interest in a
2 deposit account maintained with that bank even if the
3 transaction does not bear any relation to the bank's
4 jurisdiction.

5 * * *

6 Section 22. Section 9305(a) of Title 13 is amended by adding
7 a paragraph to read:

8 § 9305. Law governing perfection and priority of security
9 interests in investment property.

10 (a) Governing law; general rules.--Except as otherwise
11 provided in subsection (c), the following rules apply:

12 * * *

13 (5) Paragraphs (2), (3) and (4) apply even if the
14 transaction does not bear any relation to the jurisdiction.

15 * * *

16 Section 23. Title 13 is amended by adding sections to read:

17 § 9306.1. Law governing perfection and priority of security
18 interests in chattel paper.

19 (a) Chattel paper evidenced by authoritative electronic
20 copy.--Except as provided in subsection (d), if chattel paper is
21 evidenced only by an authoritative electronic copy of the
22 chattel paper or is evidenced by an authoritative electronic
23 copy and an authoritative tangible copy, the local law of the
24 chattel paper's jurisdiction governs perfection, the effect of
25 perfection or nonperfection and the priority of a security
26 interest in the chattel paper, even if the transaction does not
27 bear any relation to the chattel paper's jurisdiction.

28 (b) Chattel paper's jurisdiction.--The following rules
29 determine the chattel paper's jurisdiction under this section:

30 (1) If the authoritative electronic copy of the record

1 evidencing chattel paper, or a record attached to or
2 logically associated with the electronic copy and readily
3 available for review, expressly provides that a particular
4 jurisdiction is the chattel paper's jurisdiction for purposes
5 of this division or title, that jurisdiction is the chattel
6 paper's jurisdiction.

7 (2) If paragraph (1) does not apply and the rules of the
8 system in which the authoritative electronic copy is recorded
9 are readily available for review and expressly provide that a
10 particular jurisdiction is the chattel paper's jurisdiction
11 for purposes of this division or title, that jurisdiction is
12 the chattel paper's jurisdiction.

13 (3) If paragraphs (1) and (2) do not apply and the
14 authoritative electronic copy, or a record attached to or
15 logically associated with the electronic copy and readily
16 available for review, expressly provides that the chattel
17 paper is governed by the law of a particular jurisdiction,
18 that jurisdiction is the chattel paper's jurisdiction.

19 (4) If paragraphs (1), (2) and (3) do not apply and the
20 rules of the system in which the authoritative electronic
21 copy is recorded are readily available for review and
22 expressly provide that the chattel paper or the system is
23 governed by the law of a particular jurisdiction, that
24 jurisdiction is the chattel paper's jurisdiction.

25 (5) If paragraphs (1), (2), (3) and (4) do not apply,
26 the chattel paper's jurisdiction is the jurisdiction in which
27 the debtor is located.

28 (c) Chattel paper evidenced by authoritative tangible
29 copy.--If an authoritative tangible copy of a record evidences
30 chattel paper and the chattel paper is not evidenced by an

1 authoritative electronic copy, while the authoritative tangible
2 copy of the record evidencing chattel paper is located in a
3 jurisdiction, the local law of that jurisdiction governs:

4 (1) Perfection of a security interest in the chattel
5 paper by possession under section 9314.1 (relating to
6 perfection by possession and control of chattel paper).

7 (2) The effect of perfection or nonperfection and the
8 priority of a security interest in the chattel paper.

9 (d) When perfection governed by law of jurisdiction where
10 debtor located.--The local law of the jurisdiction in which the
11 debtor is located governs perfection of a security interest in
12 chattel paper by filing.

13 § 9306.2. Law governing perfection and priority of security
14 interests in controllable accounts, controllable
15 electronic records and controllable payment
16 intangibles.

17 (a) General rule.--Except as provided in subsection (b), the
18 local law of the controllable electronic record's jurisdiction
19 specified in section 12107(c) and (d) (relating to governing
20 law) governs perfection, the effect of perfection or
21 nonperfection and the priority of a security interest in a
22 controllable electronic record and a security interest in a
23 controllable account or controllable payment intangible
24 evidenced by the controllable electronic record.

25 (b) When perfection governed by law of jurisdiction where
26 debtor located.--The local law of the jurisdiction in which the
27 debtor is located governs:

28 (1) Perfection of a security interest in a controllable
29 account, controllable electronic record or controllable
30 payment intangible by filing.

1 (2) Automatic perfection of a security interest in a
2 controllable payment intangible created by a sale of the
3 controllable payment intangible.

4 Section 24. Section 9310(a) and (b)(4), (5) and (8) of Title
5 13 are amended and subsection (b) is amended by adding a
6 paragraph to read:

7 § 9310. When filing required to perfect security interest or
8 agricultural lien; security interests and
9 agricultural liens to which filing provisions do not
10 apply.

11 (a) General rule: perfection by filing.--Except as otherwise
12 provided in subsection (b) and section 9312(b) (relating to
13 [control or possession of certain collateral] perfection of
14 security interests in chattel paper, controllable accounts,
15 controllable electronic records, controllable payment
16 intangibles, deposit accounts, documents, goods covered by
17 documents, instruments, investment property, letter-of-credit
18 rights and money; perfection by permissive filing; temporary
19 perfection without filing or transfer of possession), a
20 financing statement must be filed to perfect all security
21 interests and agricultural liens.

22 (b) Exceptions: filing not necessary.--The filing of a
23 financing statement is not necessary to perfect a security
24 interest:

25 * * *

26 (4) in goods in possession of a bailee which is
27 perfected under section 9312(d)(1) or (2) [(relating to goods
28 covered by nonnegotiable document)];

29 (5) in certificated securities, documents, goods or
30 instruments which is perfected without filing, control or

1 possession under section:

2 (i) 9312(e) [(relating to temporary perfection: new
3 value)];

4 (ii) 9312(f) [(relating to temporary perfection:
5 goods or documents made available to debtor)]; or

6 (iii) 9312(g) [(relating to temporary perfection:
7 delivery of security certificate or instrument to
8 debtor)];

9 * * *

10 (8) in controllable accounts, controllable electronic
11 records, controllable payment intangibles, deposit accounts,
12 [electronic chattel paper,] electronic documents, investment
13 property or letter-of-credit rights which is perfected by
14 control under section 9314 (relating to perfection by
15 control);

16 (8.1) in chattel paper which is perfected by possession
17 and control under section 9314.1 (relating to perfection by
18 possession and control of chattel paper);

19 * * *

20 Section 25. Sections 9312 heading, (a) and (e), 9313(a), (c)
21 and (d) and 9314 of Title 13 are amended to read:

22 § 9312. Perfection of security interests in chattel paper,
23 controllable accounts, controllable electronic
24 records, controllable payment intangibles, deposit
25 accounts, documents, goods covered by documents,
26 instruments, investment property, letter-of-credit
27 rights and money; perfection by permissive filing;
28 temporary perfection without filing or transfer of
29 possession.

30 (a) Perfection by filing permitted.--A security interest in

1 chattel paper, [negotiable documents,] controllable accounts,
2 controllable electronic records, controllable payment
3 intangibles, instruments [or], investment property or negotiable
4 documents may be perfected by filing.

5 * * *

6 (e) Temporary perfection: new value.--A security interest in
7 certificated securities, negotiable documents or instruments is
8 perfected without filing or the taking of possession or control
9 for a period of 20 days from the time it attaches to the extent
10 that it arises for new value given under [an authenticated] a
11 signed security agreement.

12 * * *

13 § 9313. When possession by or delivery to secured party
14 perfects security interest without filing.

15 (a) Perfection by possession or delivery.--Except as
16 otherwise provided in subsection (b), a secured party may
17 perfect a security interest in [tangible negotiable documents,]
18 goods, instruments, negotiable tangible documents or money [or
19 tangible chattel paper] by taking possession of the collateral.
20 A secured party may perfect a security interest in certificated
21 securities by taking delivery under section 8301 (relating to
22 delivery).

23 * * *

24 (c) Collateral in possession of person other than debtor.--
25 With respect to collateral other than certificated securities
26 and goods covered by a document, a secured party takes
27 possession of collateral in the possession of a person other
28 than the debtor, the secured party or a lessee of the collateral
29 from the debtor in the ordinary course of the debtor's business
30 when:

1 (1) the person in possession [authenticates] signs a
2 record acknowledging that the person holds possession of the
3 collateral for the secured party's benefit; or

4 (2) the person takes possession of the collateral after
5 having [authenticated] signed a record acknowledging that the
6 person will hold possession of the collateral for the secured
7 party's benefit.

8 (d) Time of perfection by possession; continuation of
9 perfection.--If perfection of a security interest depends upon
10 possession of the collateral by a secured party, perfection
11 occurs [no] not earlier than the time the secured party takes
12 possession and continues only while the secured party retains
13 possession.

14 * * *

15 § 9314. Perfection by control.

16 (a) Perfection by control.--A security interest in
17 [investment property, deposit accounts, letter-of-credit rights,
18 electronic chattel paper or electronic documents] controllable
19 accounts, controllable electronic records, controllable payment
20 intangibles, deposit accounts, electronic documents, investment
21 property or letter-of-credit rights may be perfected by control
22 of the collateral under section 7106 (relating to control of
23 electronic document of title), 9104 (relating to control of
24 deposit account), [9105 (relating to control of electronic
25 chattel paper),] 9106 (relating to control of investment
26 property) [or], 9107 (relating to control of letter-of-credit
27 right) or 9107.1 (relating to control of controllable electronic
28 record, controllable account or controllable payment
29 intangible).

30 (b) Specified collateral: time of perfection by control;

1 continuation of perfection.--A security interest in [deposit
2 accounts, electronic chattel paper, letter-of-credit rights or
3 electronic documents] controllable accounts, controllable
4 electronic records, controllable payment intangibles, deposit
5 accounts, electronic documents or letter-of-credit rights is
6 perfected by control under section 7106, 9104, [9105 or 9107
7 when] 9107 or 9107.1 not earlier than the time the secured party
8 obtains control and remains perfected by control only while the
9 secured party retains control.

10 (c) Investment property: time of perfection by control;
11 continuation of perfection.--A security interest in investment
12 property is perfected by control under section 9106 [from] not
13 earlier than the time the secured party obtains control and
14 remains perfected by control until both of the following
15 paragraphs apply:

16 (1) The secured party does not have control.

17 (2) One of the following occurs:

18 (i) If the collateral is a certificated security,
19 the debtor has or acquires possession of the security
20 certificate.

21 (ii) If the collateral is an uncertificated
22 security, the issuer has registered or registers the
23 debtor as the registered owner.

24 (iii) If the collateral is a security entitlement,
25 the debtor is or becomes the entitlement holder.

26 Section 26. Title 13 is amended by adding a section to read:

27 § 9314.1. Perfection by possession and control of chattel
28 paper.

29 (a) Perfection by possession and control.--A secured party
30 may perfect a security interest in chattel paper by taking

1 possession of each authoritative tangible copy of the record
2 evidencing the chattel paper and obtaining control of each
3 authoritative electronic copy of the electronic record
4 evidencing the chattel paper.

5 (b) Time of perfection; continuation of perfection.--A
6 security interest is perfected under subsection (a) not earlier
7 than the time the secured party takes possession and obtains
8 control and remains perfected under subsection (a) only while
9 the secured party retains possession and control.

10 (c) Application of section 9313 to perfection by possession
11 of chattel paper.--Section 9313(c), (f), (g), (h) and (i)
12 (relating to when possession by or delivery to secured party
13 perfects security interest without filing) applies to perfection
14 by possession of an authoritative tangible copy of a record
15 evidencing chattel paper.

16 Section 27. Section 9316(a) and (f) of Title 13 are amended
17 to read:

18 § 9316. Effect of change in governing law.

19 (a) General rule: effect on perfection of change in
20 governing law.--A security interest perfected pursuant to the
21 law of the jurisdiction designated in section 9301(a) (relating
22 to general rule: location of debtor) [or], 9305(c) (relating to
23 when perfection governed by law of jurisdiction where debtor
24 located), 9306.1(d) (relating to law governing perfection and
25 priority of security interests in chattel paper) or 9306.2(b)
26 (relating to law governing perfection and priority of security
27 interests in controllable accounts, controllable electronic
28 records and controllable payment intangibles) remains perfected
29 until the earliest of:

30 (1) the time perfection would have ceased under the law

1 of that jurisdiction;

2 (2) the expiration of four months after a change of the
3 debtor's location to another jurisdiction; or

4 (3) the expiration of one year after a transfer of
5 collateral to a person that thereby becomes a debtor and is
6 located in another jurisdiction.

7 * * *

8 (f) Change in jurisdiction of chattel paper, controllable
9 electronic record, bank, issuer, nominated person, securities
10 intermediary or commodity intermediary.--A security interest in
11 chattel paper, controllable accounts, controllable electronic
12 records, controllable payment intangibles, deposit accounts,
13 letter-of-credit rights or investment property which is
14 perfected under the law of the chattel paper's jurisdiction, the
15 controllable electronic record's jurisdiction, the bank's
16 jurisdiction, the issuer's jurisdiction, a nominated person's
17 jurisdiction, the securities intermediary's jurisdiction or the
18 commodity intermediary's jurisdiction, as applicable, remains
19 perfected until the earlier of:

20 (1) the time the security interest would have become
21 unperfected under the law of that jurisdiction; or

22 (2) the expiration of four months after a change of the
23 applicable jurisdiction to another jurisdiction.

24 * * *

25 Section 28. Section 9317(b) and (d) of Title 13 are amended
26 and the section is amended by adding subsections to read:

27 § 9317. Interests which take priority over or take free of
28 security interest or agricultural lien.

29 * * *

30 (b) Buyers that receive delivery.--Except as otherwise

1 provided in subsection (e), a buyer, other than a secured party,
2 of [tangible chattel paper, tangible documents,] goods,
3 instruments, tangible documents or a certificated security takes
4 free of a security interest or agricultural lien if the buyer
5 gives value and receives delivery of the collateral without
6 knowledge of the security interest or agricultural lien and
7 before it is perfected.

8 * * *

9 (d) Licensees and buyers of certain collateral.--[A] Subject
10 to subsections (f), (g), (h) and (i), a licensee of a general
11 intangible or a buyer, other than a secured party, of collateral
12 other than [tangible chattel paper, tangible documents,] goods,
13 instruments, tangible documents or a certificated security takes
14 free of a security interest if the licensee or buyer gives value
15 without knowledge of the security interest and before it is
16 perfected.

17 * * *

18 (f) Buyers of chattel paper.--A buyer, other than a secured
19 party, of chattel paper takes free of a security interest if,
20 without knowledge of the security interest and before it is
21 perfected, the buyer gives value and:

22 (1) receives delivery of each authoritative tangible
23 copy of the record evidencing the chattel paper; and

24 (2) if each authoritative electronic copy of the record
25 evidencing the chattel paper can be subjected to control
26 under section 9105 (relating to control of electronic copy of
27 record evidencing chattel paper), obtains control of each
28 authoritative electronic copy.

29 (g) Buyers of electronic documents.--A buyer of an
30 electronic document takes free of a security interest if,

1 without knowledge of the security interest and before it is
2 perfected, the buyer gives value and, if each authoritative
3 electronic copy of the document can be subjected to control
4 under section 7106 (relating to control of electronic document
5 of title), obtains control of each authoritative electronic
6 copy.

7 (h) Buyers of controllable electronic records.--A buyer of a
8 controllable electronic record takes free of a security interest
9 if, without knowledge of the security interest and before it is
10 perfected, the buyer gives value and obtains control of the
11 controllable electronic record.

12 (i) Buyers of controllable accounts and controllable payment
13 intangibles.--A buyer, other than a secured party, of a
14 controllable account or a controllable payment intangible takes
15 free of a security interest if, without knowledge of the
16 security interest and before it is perfected, the buyer gives
17 value and obtains control of the controllable account or
18 controllable payment intangible.

19 Section 29. Sections 9322(c), 9323(a)(1)(ii), (d) and (f)
20 and 9324(b), (c)(2) and (d) of Title 13 are amended to read:
21 § 9322. Priorities among conflicting security interests in and
22 agricultural liens on same collateral.

23 * * *

24 (c) Special priority rules: proceeds and supporting
25 obligations.--Except as otherwise provided in subsection (f), a
26 security interest in collateral which qualifies for priority
27 over a conflicting security interest under section 9327
28 (relating to priority of security interests in deposit account),
29 9328 (relating to priority of security interests in investment
30 property), 9329 (relating to priority of security interests in

1 letter-of-credit right), 9330 (relating to priority of purchaser
2 of chattel paper or instrument) or 9331 (relating to priority of
3 rights of purchasers of [instruments, documents] controllable
4 accounts, controllable electronic records, controllable payment
5 intangibles, documents, instruments and securities under other
6 divisions; priority of interests in financial assets and
7 security entitlements and protection against assertion of claim
8 under [Division 8] Divisions 8 and 12) also has priority over a
9 conflicting security interest in all of the following:

- 10 (1) Any supporting obligation for the collateral.
- 11 (2) Proceeds of the collateral if:
- 12 (i) the security interest in proceeds is perfected;
- 13 (ii) the proceeds are cash proceeds or of the same
14 type as the collateral; and
- 15 (iii) in the case of proceeds which are proceeds of
16 proceeds, all intervening proceeds are:
- 17 (A) cash proceeds;
- 18 (B) proceeds of the same type as the collateral;
- 19 or
- 20 (C) an account relating to the collateral.

21 * * *

22 § 9323. Future advances.

23 (a) When priority based on time of advance.--Except as
24 otherwise provided in subsection (c), for purposes of
25 determining the priority of a perfected security interest under
26 section 9322(a)(1) (relating to general priority rules),
27 perfection of the security interest dates from the time an
28 advance is made to the extent that the security interest secures
29 an advance which:

- 30 (1) is made while the security interest is perfected

1 only:

2 * * *

3 (ii) temporarily under any of the following
4 sections:

5 (A) 9312(e) (relating to [temporary perfection:
6 new value] perfection of security interests in
7 chattel paper, controllable accounts, controllable
8 electronic records, controllable payment intangibles,
9 deposit accounts, documents, goods covered by
10 documents, instruments, investment property, letter-
11 of-credit rights and money; perfection by permissive
12 filing; temporary perfection without filing or
13 transfer of possession);

14 (B) 9312(f) [(relating to temporary perfection:
15 goods or documents made available to debtor)]; or

16 (C) 9312(g) [(relating to temporary perfection:
17 delivery of security certificate or instrument to
18 debtor)]; and

19 * * *

20 (d) Buyer of goods.--Except as otherwise provided in
21 subsection (e), a buyer of goods [other than a buyer in ordinary
22 course of business] takes free of a security interest to the
23 extent that it secures advances made after the earlier of:

24 (1) the time the secured party acquires knowledge of the
25 buyer's purchase; or

26 (2) 45 days after the purchase.

27 * * *

28 (f) Lessee of goods.--Except as otherwise provided in
29 subsection (g), a lessee of goods[, other than a lessee in
30 ordinary course of business,] takes the leasehold interest free

1 of a security interest to the extent that it secures advances
2 made after the earlier of:

3 (1) the time the secured party acquires knowledge of the
4 lease; or

5 (2) 45 days after the lease contract becomes
6 enforceable.

7 * * *

8 § 9324. Priority of purchase-money security interests.

9 * * *

10 (b) Inventory purchase-money priority.--Subject to
11 subsection (c) and except as otherwise provided in subsection
12 (g), a perfected purchase-money security interest in inventory
13 has priority over a conflicting security interest in the same
14 inventory; has priority over a conflicting security interest in
15 chattel paper or an instrument constituting proceeds of the
16 inventory and in proceeds of the chattel paper if so provided in
17 section 9330 (relating to priority of purchaser of chattel paper
18 or instrument); and, except as otherwise provided in section
19 9327, also has priority in identifiable cash proceeds of the
20 inventory to the extent the identifiable cash proceeds are
21 received on or before the delivery of the inventory to a buyer,
22 if:

23 (1) the purchase-money security interest is perfected
24 when the debtor receives possession of the inventory;

25 (2) the purchase-money secured party sends [an
26 authenticated] a signed notification to the holder of the
27 conflicting security interest;

28 (3) the holder of the conflicting security interest
29 receives the notification within five years before the debtor
30 receives possession of the inventory; and

1 (4) the notification states that the person sending the
2 notification has or expects to acquire a purchase-money
3 security interest in inventory of the debtor and describes
4 the inventory.

5 (c) Holders of conflicting inventory security interests to
6 be notified.--Subsection (b) (2) through (4) apply only if the
7 holder of the conflicting security interest had filed a
8 financing statement covering the same types of inventory:

9 * * *

10 (2) if the purchase-money security interest is
11 temporarily perfected without filing or possession under
12 section 9312(f) (relating to [temporary perfection: goods or
13 documents made available to debtor] perfection of security
14 interests in chattel paper, controllable accounts,
15 controllable electronic records, controllable payment
16 intangibles, deposit accounts, documents, goods covered by
17 documents, instruments, investment property, letter-of-credit
18 rights and money; perfection by permissive filing; temporary
19 perfection without filing or transfer of possession), before
20 the beginning of the 20-day period thereunder.

21 (d) Livestock purchase-money priority.--Subject to
22 subsection (e) and except as otherwise provided in subsection
23 (g), a perfected purchase-money security interest in livestock
24 which are farm products has priority over a conflicting security
25 interest in the same livestock; and, except as otherwise
26 provided in section 9327, a perfected security interest in their
27 identifiable proceeds and identifiable products in their
28 unmanufactured state also has priority, if:

29 (1) the purchase-money security interest is perfected
30 when the debtor receives possession of the livestock;

1 (2) the purchase-money secured party sends [an
2 authenticated] a signed notification to the holder of the
3 conflicting security interest;

4 (3) the holder of the conflicting security interest
5 receives the notification within six months before the debtor
6 receives possession of the livestock; and

7 (4) the notification states that the person sending the
8 notification has or expects to acquire a purchase-money
9 security interest in livestock of the debtor and describes
10 the livestock.

11 * * *

12 Section 30. Title 13 is amended by adding a section to read:

13 § 9326.1. Priority of security interest in controllable
14 account, controllable electronic record and
15 controllable payment intangible.

16 A security interest in a controllable account, controllable
17 electronic record or controllable payment intangible held by a
18 secured party having control of the account, electronic record
19 or payment intangible has priority over a conflicting security
20 interest held by a secured party that does not have control.

21 Section 31. Sections 9330(a), (b), (d) and (f), 9331
22 heading, (a) and (b), 9332, 9334(f), 9341 and 9404(a)(2) of
23 Title 13 are amended to read:

24 § 9330. Priority of purchaser of chattel paper or instrument.

25 (a) Purchaser's priority: security interest claimed merely
26 as proceeds.--A purchaser of chattel paper has priority over a
27 security interest in the chattel paper which is claimed merely
28 as proceeds of inventory subject to a security interest if:

29 (1) in good faith and in the ordinary course of the
30 purchaser's business, the purchaser gives new value [and],

1 takes possession of each authoritative tangible copy of the
2 record evidencing the chattel paper [or] and obtains control
3 [of] under section 9105 (relating to control of electronic
4 copy of record evidencing chattel paper) of each
5 authoritative electronic copy of the record evidencing the
6 chattel paper [under section 9105 (relating to control of
7 electronic chattel paper)]]; and

8 (2) the authoritative copies of the record evidencing
9 the chattel paper [does] do not indicate that [it] the
10 chattel paper has been assigned to an identified assignee
11 other than the purchaser.

12 (b) Purchaser's priority: other security interests.--A
13 purchaser of chattel paper has priority over a security interest
14 in the chattel paper which is claimed other than merely as
15 proceeds of inventory subject to a security interest if the
16 purchaser gives new value [and], takes possession of each
17 authoritative tangible copy of the record evidencing the chattel
18 paper [or] and obtains control [of] under section 9105 of each
19 authoritative electronic copy of the record evidencing the
20 chattel paper [under section 9105] in good faith, in the
21 ordinary course of the purchaser's business and without
22 knowledge that the purchase violates the rights of the secured
23 party.

24 * * *

25 (d) Instrument purchaser's priority.--Except as otherwise
26 provided in section 9331(a) (relating to priority of rights of
27 purchasers of controllable accounts, controllable electronic
28 records, controllable payment intangibles, documents,
29 instruments and securities under other divisions; priority of
30 interests in financial assets and security entitlements and

1 protection against assertion of claim under Divisions [3, 7 and]
2 8 [not limited] and 12), a purchaser of an instrument has
3 priority over a security interest in the instrument perfected by
4 a method other than possession if the purchaser gives value and
5 takes possession of the instrument in good faith and without
6 knowledge that the purchase violates the rights of the secured
7 party.

8 * * *

9 (f) Indication of assignment gives knowledge.--For purposes
10 of subsections (b) and (d), if the authoritative copies of the
11 record evidencing chattel paper or an instrument [indicates]
12 indicate that [it] the chattel paper or instrument has been
13 assigned to an identified secured party other than the
14 purchaser, a purchaser of the chattel paper or instrument has
15 knowledge that the purchase violates the rights of the secured
16 party.

17 § 9331. Priority of rights of purchasers of [instruments,
18 documents] controllable accounts, controllable
19 electronic records, controllable payment intangibles,
20 documents, instruments and securities under other
21 divisions; priority of interests in financial assets
22 and security entitlements and protection against
23 assertion of claim under [Division 8] Divisions 8 and
24 12.

25 (a) Rights under Divisions 3, 7 [and], 8 and 12 not
26 limited.--This division does not limit the rights of a holder in
27 due course of a negotiable instrument, a holder to which a
28 negotiable document of title has been duly negotiated [or], a
29 protected purchaser of a security or a qualifying purchaser of a
30 controllable account, controllable electronic record or

1 controllable payment intangible. These holders or purchasers
2 take priority over an earlier security interest, even if
3 perfected, to the extent provided in Divisions 3 (relating to
4 negotiable instruments), 7 (relating to warehouse receipts,
5 bills of lading and other documents of title) [and], 8 (relating
6 to investment securities) and 12 (relating to controllable
7 electronic records).

8 (b) Protection under [Division 8] Divisions 8 and 12.--This
9 division does not limit the rights of or impose liability on a
10 person to the extent that the person is protected against the
11 assertion of a claim under Division 8 or 12.

12 * * *

13 § 9332. Transfer of money; transfer of funds from deposit
14 account.

15 (a) Transferee of money.--A transferee of money takes the
16 money free of a security interest [unless the transferee acts]
17 if the transferee receives possession of the money without
18 acting in collusion with the debtor in violating the rights of
19 the secured party.

20 (b) Transferee of funds from deposit account.--A transferee
21 of funds from a deposit account takes the funds free of a
22 security interest in the deposit account [unless the transferee
23 acts] if the transferee receives the funds without acting in
24 collusion with the debtor in violating the rights of the secured
25 party.

26 § 9334. Priority of security interests in fixtures and crops.

27 * * *

28 (f) Priority based on consent, disclaimer or right to
29 remove.--A security interest in fixtures, whether or not
30 perfected, has priority over a conflicting interest of an

1 encumbrancer or owner of the real property if:

2 (1) the encumbrancer or owner has, in [an authenticated]
3 a signed record, consented to the security interest or
4 disclaimed an interest in the goods as fixtures; or

5 (2) the debtor has a right to remove the goods as
6 against the encumbrancer or owner.

7 * * *

8 § 9341. Bank's rights and duties with respect to deposit
9 account.

10 Except as otherwise provided in section 9340(c) (relating to
11 when set-off ineffective) and unless the bank otherwise agrees
12 in [an authenticated] a signed record, a bank's rights and
13 duties with respect to a deposit account maintained with the
14 bank are not terminated, suspended or modified by:

15 (1) the creation, attachment or perfection of a security
16 interest in the deposit account;

17 (2) the bank's knowledge of the security interest; or

18 (3) the bank's receipt of instructions from the secured
19 party.

20 § 9404. Rights acquired by assignee; claims and defenses
21 against assignee.

22 (a) Assignee's rights subject to terms, claims and defenses;
23 exceptions.--Unless an account debtor has made an enforceable
24 agreement not to assert defenses or claims, and subject to
25 subsections (b) through (e), the rights of an assignee are
26 subject to:

27 * * *

28 (2) any other defense or claim of the account debtor
29 against the assignor which accrues before the account debtor
30 receives a notification of the assignment [authenticated]

1 signed by the assignor or the assignee.

2 * * *

3 Section 32. Section 9406(a), (b), (c), (d) and (g) of Title
4 13 are amended and the section is amended by adding subsections
5 to read:

6 § 9406. Discharge of account debtor; notification of
7 assignment; identification and proof of assignment;
8 restrictions on assignment of accounts, chattel
9 paper, payment intangibles and promissory notes
10 ineffective.

11 (a) Discharge of account debtor; effect of notification.--
12 Subject to subsections (b) through (i) and (l), an account
13 debtor on an account, chattel paper or a payment intangible may
14 discharge its obligation by paying the assignor until, but not
15 after, the account debtor receives a notification,
16 [authenticated] signed by the assignor or the assignee, that the
17 amount due or to become due has been assigned and that payment
18 is to be made to the assignee. After receipt of the
19 notification, the account debtor may discharge its obligation by
20 paying the assignee and may not discharge the obligation by
21 paying the assignor.

22 (b) When notification ineffective.--Subject to [subsection
23 (h)] subsections (h) and (l), notification is ineffective under
24 subsection (a):

25 (1) If it does not reasonably identify the rights
26 assigned.

27 (2) To the extent that an agreement between an account
28 debtor and a seller of a payment intangible limits the
29 account debtor's duty to pay a person other than the seller
30 and the limitation is effective under law other than this

1 division.

2 (3) At the option of an account debtor, if the
3 notification notifies the account debtor to make less than
4 the full amount of any installment or other periodic payment
5 to the assignee even if:

6 (i) only a portion of the account, chattel paper or
7 payment intangible has been assigned to that assignee;

8 (ii) a portion has been assigned to another
9 assignee; or

10 (iii) the account debtor knows that the assignment
11 to that assignee is limited.

12 (c) Proof of assignment.--Subject to [subsection (h)]
13 subsections (h) and (l), if requested by the account debtor, an
14 assignee shall seasonably furnish reasonable proof that the
15 assignment has been made. Unless the assignee complies, the
16 account debtor may discharge its obligation by paying the
17 assignor even if the account debtor has received a notification
18 under subsection (a).

19 (d) Term restricting assignment generally ineffective.--In
20 this subsection, "promissory note" includes a negotiable
21 instrument that evidences chattel paper. Except as otherwise
22 provided in subsections (e) and (j) and sections 2A303 (relating
23 to alienability of party's interest under lease contract or of
24 lessor's residual interest in goods; delegation of performance;
25 transfer of rights) and 9407 (relating to restrictions on
26 creation or enforcement of security interest in leasehold
27 interest or in lessor's residual interest) and subject to
28 subsection (h), a term in an agreement between an account debtor
29 and an assignor or in a promissory note is ineffective to the
30 extent that it:

1 (1) prohibits, restricts or requires the consent of the
2 account debtor or person obligated on the promissory note to
3 the assignment or transfer of, or the creation, attachment,
4 perfection or enforcement of a security interest in, the
5 account, chattel paper, payment intangible or promissory
6 note; or

7 (2) provides that the assignment or transfer or the
8 creation, attachment, perfection or enforcement of the
9 security interest may give rise to a default, breach, right
10 of recoupment, claim, defense, termination, right of
11 termination or remedy under the account, chattel paper,
12 payment intangible or promissory note.

13 * * *

14 (g) Subsection (b)(3) not waivable.--Subject to [subsection
15 (h)] subsections (h) and (l), an account debtor may not waive or
16 vary its option under subsection (b)(3).

17 * * *

18 (k) (Reserved).

19 (l) Inapplicability of certain subsections.--Subsections
20 (a), (b), (c) and (g) do not apply to a controllable account or
21 controllable payment intangible.

22 Section 33. Section 9408 of Title 13 is amended by adding
23 subsections to read:

24 § 9408. Restrictions on assignment of promissory notes, health-
25 care-insurance receivables and certain general
26 intangibles ineffective.

27 * * *

28 (f) (Reserved).

29 (g) "Promissory note".--In this section, "promissory note"
30 includes a negotiable instrument that evidences chattel paper.

1 Section 34. Sections 9509(a) and (b), 9513(b) and (c),
2 9601(b), 9605, 9608(a)(1), 9611(a), (b), (c) and (e), 9613,
3 9614, 9615(a), 9616(a), (b) and (c), 9619(a), 9620(a), (b), (c)
4 and (f), 9621(a) and 9624 of Title 13 are amended to read:

5 § 9509. Persons entitled to file a record.

6 (a) Person entitled to file record.--A person may file an
7 initial financing statement, amendment which adds collateral
8 covered by a financing statement or amendment which adds a
9 debtor to a financing statement only if:

10 (1) the debtor authorizes the filing in [an
11 authenticated] a signed record or pursuant to subsection (b)
12 or (c); or

13 (2) the person holds an agricultural lien which has
14 become effective at the time of filing and the financing
15 statement covers only collateral in which the person holds an
16 agricultural lien.

17 (b) Security agreement as authorization.--By
18 [authenticating] signing or becoming bound as debtor by a
19 security agreement, a debtor or new debtor authorizes the filing
20 of an initial financing statement and an amendment covering:

21 (1) the collateral described in the security agreement;
22 and

23 (2) property which becomes collateral under section
24 9315(a)(2) (relating to secured party's rights on disposition
25 of collateral and in proceeds), whether or not the security
26 agreement expressly covers proceeds.

27 * * *

28 § 9513. Termination statement.

29 * * *

30 (b) Time for compliance with subsection (a).--To comply with

1 subsection (a), a secured party shall cause the secured party of
2 record to file the termination statement:

3 (1) within one month after there is no obligation
4 secured by the collateral covered by the financing statement
5 and no commitment to make an advance, incur an obligation or
6 otherwise give value; or

7 (2) if earlier, within 20 days after the secured party
8 receives [an authenticated] a signed demand from a debtor.

9 (c) Other collateral.--In cases not governed by subsection
10 (a), within 20 days after a secured party receives [an
11 authenticated] a signed demand from a debtor, the secured party
12 shall cause the secured party of record for a financing
13 statement to send to the debtor a termination statement for the
14 financing statement or file the termination statement in the
15 filing office if:

16 (1) except in the case of a financing statement covering
17 accounts or chattel paper which has been sold or goods which
18 are the subject of a consignment, there is no obligation
19 secured by the collateral covered by the financing statement
20 and no commitment to make an advance, incur an obligation or
21 otherwise give value;

22 (2) the financing statement covers accounts or chattel
23 paper which has been sold but as to which the account debtor
24 or other person obligated has discharged its obligation;

25 (3) the financing statement covers goods which were the
26 subject of a consignment to the debtor but are not in the
27 debtor's possession; or

28 (4) the debtor did not authorize the filing of the
29 initial financing statement.

30 * * *

1 § 9601. Rights after default; judicial enforcement; consignor
2 or buyer of accounts, chattel paper, payment
3 intangibles or promissory notes.

4 * * *

5 (b) Rights and duties of secured party in possession or
6 control.--A secured party in possession of collateral or control
7 of collateral under section 7106 (relating to control of
8 electronic document of title), 9104 (relating to control of
9 deposit account), 9105 (relating to control of electronic copy
10 of record evidencing chattel paper), 9106 (relating to control
11 of investment property) [~~or~~], 9107 (relating to control of
12 letter-of-credit right) or 9107.1 (relating to control of
13 controllable electronic record, controllable account or
14 controllable payment intangible) has the rights and duties
15 provided in section 9207 (relating to rights and duties of
16 secured party having possession or control of collateral).

17 * * *

18 § 9605. Unknown debtor or secondary obligor.

19 [A] (a) In general: no duty owed by secured party.--Except
20 as provided in subsection (b), a secured party does not owe a
21 duty based on its status as secured party to any of the
22 following:

23 (1) A person that is a debtor or obligor unless the
24 secured party knows:

- 25 (i) that the person is a debtor or obligor;
26 (ii) the identity of the person; and
27 (iii) how to communicate with the person.

28 (2) A secured party or lienholder that has filed a
29 financing statement against a person unless the secured party
30 knows:

1 (i) that the person is a debtor; and

2 (ii) the identity of the person.

3 (b) Exception: secured party owes duty to debtor or
4 obligor.--A secured party owes a duty based on its status as a
5 secured party to a person if, at the time the secured party
6 obtains control of collateral that is a controllable account,
7 controllable electronic record or controllable payment
8 intangible or at the time the security interest attaches to the
9 collateral, whichever is later:

10 (1) the person is a debtor or obligor; and

11 (2) the secured party knows that the information in
12 subsection (a) (1) relating to the person is not provided by
13 the collateral, a record attached to or logically associated
14 with the collateral or the system in which the collateral is
15 recorded.

16 § 9608. Application of proceeds of collection or enforcement;
17 liability for deficiency and right to surplus.

18 (a) Application of proceeds, surplus and deficiency if
19 obligation secured.--If a security interest or agricultural lien
20 secures payment or performance of an obligation, the following
21 rules apply:

22 (1) A secured party shall apply or pay over for
23 application the cash proceeds of collection or enforcement
24 under section 9607 (relating to collection and enforcement by
25 secured party) in the following order to:

26 (i) the reasonable expenses of collection and
27 enforcement and, to the extent provided for by agreement
28 and not prohibited by law, reasonable attorney fees and
29 legal expenses incurred by the secured party;

30 (ii) the satisfaction of obligations secured by the

1 security interest or agricultural lien under which the
2 collection or enforcement is made; and

3 (iii) the satisfaction of obligations secured by any
4 subordinate security interest in or other lien on the
5 collateral subject to the security interest or
6 agricultural lien under which the collection or
7 enforcement is made if the secured party receives [an
8 authenticated] a signed demand for proceeds before
9 distribution of the proceeds is completed.

10 * * *

11 § 9611. Notification before disposition of collateral.

12 (a) Notification date.--As used in this section, the term
13 "notification date" means the earlier of the date on which:

14 (1) a secured party sends to the debtor and any
15 secondary obligor [an authenticated] a signed notification of
16 disposition; or

17 (2) the debtor and any secondary obligor waive the right
18 to notification.

19 (b) Notification of disposition required.--Except as
20 otherwise provided in subsection (d), a secured party that
21 disposes of collateral under section 9610 (relating to
22 disposition of collateral after default) shall send to the
23 persons specified in subsection (c) a reasonable [authenticated]
24 signed notification of disposition.

25 (c) Persons to be notified.--To comply with subsection (b),
26 the secured party shall send [an authenticated] a signed
27 notification of disposition to all of the following:

28 (1) The debtor.

29 (2) Any secondary obligor.

30 (3) If the collateral is other than consumer goods, all

1 of the following:

2 (i) Any other person from which the secured party
3 has received, before the notification date, [an
4 authenticated] a signed notification of a claim of an
5 interest in the collateral.

6 (ii) Any other secured party or lienholder that, ten
7 days before the notification date, held a security
8 interest in or other lien on the collateral perfected by
9 the filing of a financing statement which:

10 (A) identified the collateral;

11 (B) was indexed under the debtor's name as of
12 that date; and

13 (C) was filed in the office in which to file a
14 financing statement against the debtor covering the
15 collateral as of that date.

16 (iii) Any other secured party that, ten days before
17 the notification date, held a security interest in the
18 collateral perfected by compliance with a statute,
19 regulation or treaty described in section 9311(a)
20 (relating to security interest subject to other law).

21 * * *

22 (e) Compliance with subsection (c) (3) (ii).--A secured party
23 complies with the requirement for notification prescribed by
24 subsection (c) (3) (ii) if both of the following paragraphs apply:

25 (1) Not later than 20 days or earlier than 30 days
26 before the notification date, the secured party requests, in
27 a commercially reasonable manner, information concerning
28 financing statements indexed under the debtor's name in the
29 office indicated in subsection (c) (3) (ii).

30 (2) Before the notification date, the secured party:

1 (i) did not receive a response to the request for
2 information; or

3 (ii) received a response to the request for
4 information and sent [an authenticated] a signed
5 notification of disposition to each secured party or
6 other lienholder named in that response whose financing
7 statement covered the collateral.

8 § 9613. Contents and form of notification before disposition of
9 collateral: general.

10 (a) Contents and form of notification.--Except in a
11 consumer-goods transaction, the following rules apply:

12 (1) The contents of a notification of disposition are
13 sufficient if the notification:

14 (i) describes the debtor and the secured party;

15 (ii) describes the collateral which is the subject
16 of the intended disposition;

17 (iii) states the method of intended disposition;

18 (iv) states that the debtor is entitled to an
19 accounting of the unpaid indebtedness and states the
20 charge, if any, for an accounting; and

21 (v) states the time and place of a public
22 disposition or the time after which any other disposition
23 is to be made.

24 (2) Whether the contents of a notification which lacks
25 any of the information specified in paragraph (1) are
26 nevertheless sufficient is a question of fact.

27 (3) The contents of a notification providing
28 substantially the information specified in paragraph (1) are
29 sufficient even if the notification includes:

30 (i) information not specified by that paragraph; or

1 (ii) minor errors which are not seriously
2 misleading.

3 (4) A particular phrasing of the notification is not
4 required.

5 (5) The following form of notification and the form
6 appearing in section [9614(3)] 9614(a)(3) (relating to
7 contents and form of notification before disposition of
8 collateral: consumer-goods transaction), when completed in
9 accordance with the instructions in subsection (b) and
10 section 9614(b), each provides sufficient information:

11 NOTIFICATION OF DISPOSITION OF COLLATERAL

12 [To: _____ (Name of debtor, obligor or
13 other person to which the notification is sent)

14 From: _____ (Name, address and telephone
15 number of secured party)

16 Name of Debtor(s): _____ (include only if
17 debtor(s) are not an addressee)

18 (For a public disposition:)

19 We will sell (or lease or license, as applicable) the
20 _____ (describe collateral) (to the highest
21 qualified bidder) in public as follows:

22 Day and Date: _____

23 Time: _____

24 Place: _____

25 (For a private disposition:)

26 We will sell (or lease or license, as applicable) the
27 _____ (describe collateral) privately
28 sometime after _____ (day and date).

29 You are entitled to an accounting of the unpaid
30 indebtedness secured by the property that we intend to sell

1 (or lease or license, as applicable) (for a charge of
2 \$ _____). You may request an accounting by calling us at
3 _____ (telephone number).

4 (End of Form)]

5 To: (Name of debtor, obligor, or other person to which the
6 notification is sent)

7 From: (Name, address, and telephone number of secured party)

8 {1} Name of any debtor that is not an addressee: (Name
9 of each debtor)

10 {2} We will sell (describe collateral) (to the highest
11 qualified bidder) at public sale. A sale could include a
12 lease or license. The sale will be held as follows:

13 (Date)

14 (Time)

15 (Place)

16 {3} We will sell (describe collateral) at private sale
17 sometime after (date). A sale could include a lease or
18 license.

19 {4} You are entitled to an accounting of the unpaid
20 indebtedness secured by the property that we intend to sell
21 or, as applicable, lease or license.

22 {5} If you request an accounting you must pay a charge
23 of \$ (amount).

24 {6} You may request an accounting by calling us at
25 (telephone number).

26 (End of Form)

27 (b) Instructions for form of notification.--The following
28 instructions apply to the form of notification in subsection (a)

29 (5):

30 (1) The instructions in this subsection refer to the

1 numbers in braces before items in the form of notification in
2 subsection (a) (5). Do not include the numbers or braces in
3 the notification. The numbers and braces are used only for
4 the purpose of these instructions.

5 (2) Include and complete item {1} only if there is a
6 debtor that is not an addressee of the notification and list
7 the name or names.

8 (3) Include and complete either item {2}, if the
9 notification relates to a public disposition of the
10 collateral, or item {3}, if the notification relates to a
11 private disposition of the collateral. If item {2} is
12 included, include the words "to the highest qualified bidder"
13 only if applicable.

14 (4) Include and complete items {4} and {6}.

15 (5) Include and complete item {5} only if the sender
16 will charge the recipient for an accounting.

17 § 9614. Contents and form of notification before disposition of
18 collateral: consumer-goods transaction.

19 (a) Contents and form of notification.--In a consumer-goods
20 transaction, the following rules apply:

21 (1) A notification of disposition must provide the
22 following information:

23 (i) the information specified in section [9613(1)]
24 9613(a) (1) (relating to contents and form of notification
25 before disposition of collateral: general);

26 (ii) a description of any liability for a deficiency
27 of the person to which the notification is sent;

28 (iii) a telephone number from which the amount which
29 must be paid to the secured party to redeem the
30 collateral under section 9623 (relating to right to

1 redeem collateral) is available; and

2 (iv) a telephone number or mailing address from
3 which additional information concerning the disposition
4 and the obligation secured is available.

5 (2) A particular phrasing of the notification is not
6 required.

7 (3) The following form of notification, when completed
8 in accordance with the instructions in subsection (b),
9 provides sufficient information:

10 [_____ (Name and address of secured
11 party)

12 _____ (Date)

13 NOTICE OF OUR PLAN TO SELL PROPERTY

14 _____ (Name and address of any obligor
15 who is also a debtor)

16 Subject: _____ (Identification of
17 transaction)

18 We have your _____ (describe
19 collateral) because you broke promises in our agreement.
20 (For a public disposition:)

21 We will sell _____ (describe
22 collateral) at public sale. A sale could include a lease
23 or license. The sale will be held as follows:

24 Date: _____

25 Time: _____

26 Place: _____

27 You may attend the sale and bring bidders if you want.

28 (For a private disposition:)

29 We will sell _____ (describe collateral)
30 at private sale sometime after _____ (date). A

1 sale could include a lease or license. The money that we
2 get from the sale (after paying our costs) will reduce
3 the amount you owe. If we get less money than you owe,
4 you (will or will not, as applicable) still owe us the
5 difference. If we get more money than you owe, you will
6 get the extra money unless we must pay it to someone
7 else. You can get the property back at any time before we
8 sell it by paying us the full amount you owe (not just
9 the past due payments), including our expenses. To learn
10 the exact amount you must pay, call us at _____
11 (telephone number). If you want us to explain to you in
12 writing how we have figured the amount that you owe us,
13 you may call us at _____ (telephone number)
14 (or write us at _____ (secured party's
15 address)) and request a written explanation. (We will
16 charge you \$ _____ for the explanation if we sent
17 you another written explanation of the amount you owe us
18 within the last six months.) If you need more information
19 about the sale, call us at _____ (telephone
20 number) (or write us at _____ (secured
21 party's address)). We are sending this notice to the
22 following other people who have an interest in
23 _____ (describe collateral) or who owe
24 money under your agreement: _____ (Names of
25 all other debtors and obligors, if any)

26 (End of Form)

27 (4) A notification in the form of paragraph (3) is
28 sufficient even if additional information appears at the end
29 of the form.

30 (5) A notification in the form of paragraph (3) is

1 sufficient even if it includes errors in information not
2 required by paragraph (1) unless the error is misleading with
3 respect to rights arising under this division.

4 (6) If a notification under this section is not in the
5 form of paragraph (3), law other than this division
6 determines the effect of including information not required
7 by paragraph (1).]

8 (Name and address of secured party)

9 (Date)

10 NOTICE OF OUR PLAN TO SELL PROPERTY

11 (Name and address of any obligor who is also a debtor)

12 Subject: (Identify transaction)

13 We have your (describe collateral), because you broke
14 promises in our agreement.

15 {1} We will sell (describe collateral) at public sale. A
16 sale could include a lease or license. The sale will be held
17 as follows:

18 (Date)

19 (Time)

20 (Place)

21 You may attend the sale and bring bidders if you want.

22 {2} We will sell (describe collateral) at private sale
23 sometime after (date). A sale could include a lease or
24 license.

25 {3} The money that we get from the sale, after paying
26 our costs, will reduce the amount you owe. If we get less
27 money than you owe, you (will or will not, as applicable)
28 still owe us the difference. If we get more money than you
29 owe, you will get the extra money, unless we must pay it to
30 someone else.

1 subsection (a) (3). Do not include the numbers or braces in
2 the notification. The numbers and braces are used only for
3 the purpose of these instructions.

4 (2) Include and complete either item {1}, if the
5 notification relates to a public disposition of the
6 collateral, or item {2}, if the notification relates to a
7 private disposition of the collateral.

8 (3) Include and complete items {3}, {4}, {5}, {6} and
9 {7}.

10 (4) In item {5}, include and complete any one of the
11 three alternative methods for the explanation--writing,
12 writing or electronic record or electronic record.

13 (5) In item {6}, include the telephone number. In
14 addition, the sender may include and complete either or both
15 of the two additional alternative methods of communication--
16 writing or electronic communication--for the recipient of the
17 notification to communicate with the sender. Neither of the
18 two additional methods of communication is required to be
19 included.

20 (6) In item {7}, include and complete the method or
21 methods for the explanation--writing, writing or electronic
22 record or electronic record--included in item {5}.

23 (7) Include and complete item {8} only if a written
24 explanation is included in item {5} as a method for
25 communicating the explanation and the sender will charge the
26 recipient for another written explanation.

27 (8) In item {9}, include either the telephone number or
28 the address or both the telephone number and the address. In
29 addition, the sender may include and complete the additional
30 method of communication--electronic communication for the

1 recipient of the notification to communicate with the sender.
2 The additional method of electronic communication is not
3 required to be included.

4 (9) If item {10} does not apply, insert "None" after
5 "agreement:".

6 § 9615. Application of proceeds of disposition; liability for
7 deficiency and right to surplus.

8 (a) Application of proceeds.--A secured party shall apply or
9 pay over for application the cash proceeds of disposition under
10 section 9610 (relating to disposition of collateral after
11 default) in the following order to:

12 (1) The reasonable expenses of retaking, holding,
13 preparing for disposition, processing and disposing and, to
14 the extent provided for by agreement and not prohibited by
15 law, reasonable attorney fees and legal expenses incurred by
16 the secured party.

17 (2) The satisfaction of obligations secured by the
18 security interest or agricultural lien under which the
19 disposition is made.

20 (3) The satisfaction of obligations secured by any
21 subordinate security interest in or other subordinate lien on
22 the collateral if:

23 (i) the secured party receives from the holder of
24 the subordinate security interest or other lien [an
25 authenticated] a signed demand for proceeds before
26 distribution of the proceeds is completed; and

27 (ii) in a case in which a consignor has an interest
28 in the collateral, the subordinate security interest or
29 other lien is senior to the interest of the consignor.

30 (4) A secured party that is a consignor of the

1 collateral if the secured party receives from the consignor
2 [an authenticated] a signed demand for proceeds before
3 distribution of the proceeds is completed.

4 * * *

5 § 9616. Explanation of calculation of surplus or deficiency.

6 (a) Definitions.--As used in this section, the following
7 words and phrases shall have the meanings given to them in this
8 subsection:

9 "Explanation." A [writing] record which:

10 (1) states the amount of the surplus or deficiency;

11 (2) provides an explanation in accordance with
12 subsection (c) of how the secured party calculated the
13 surplus or deficiency;

14 (3) states, if applicable, that future debits, credits,
15 charges, including additional credit service charges or
16 interest, rebates and expenses may affect the amount of the
17 surplus or deficiency; and

18 (4) provides a telephone number or mailing address from
19 which additional information concerning the transaction is
20 available.

21 "Request." A record:

22 (1) [authenticated] signed by a debtor or consumer
23 obligor;

24 (2) requesting that the recipient provide an
25 explanation; and

26 (3) sent after disposition of the collateral under
27 section 9610 (relating to disposition of collateral after
28 default).

29 (b) Explanation of calculation.--In a consumer-goods
30 transaction in which the debtor is entitled to a surplus or a

1 consumer obligor is liable for a deficiency under section 9615
2 (relating to application of proceeds of disposition; liability
3 for deficiency and right to surplus), the secured party shall
4 comply with one of the following paragraphs:

5 (1) Send an explanation to the debtor or consumer
6 obligor, as applicable, after the disposition and:

7 (i) before or when the secured party accounts to the
8 debtor and pays any surplus or first makes [written]
9 demand in a record on the consumer obligor after the
10 disposition for payment of the deficiency; and

11 (ii) within 14 days after receipt of a request.

12 (2) In the case of a consumer obligor who is liable for
13 a deficiency, within 14 days after receipt of a request, send
14 to the consumer obligor a record waiving the secured party's
15 right to a deficiency.

16 (c) Required information.--To comply with paragraph (2) of
17 the definition of the term "explanation" in subsection (a), [a
18 writing] an explanation must provide the following information
19 in the following order:

20 (1) The aggregate amount of obligations secured by the
21 security interest under which the disposition was made and,
22 if the amount reflects a rebate of unearned interest or
23 credit service charge, an indication of that fact, calculated
24 as of a specified date:

25 (i) if the secured party takes or receives
26 possession of the collateral after default, not more than
27 35 days before the secured party takes or receives
28 possession; or

29 (ii) if the secured party takes or receives
30 possession of the collateral before default or does not

1 take possession of the collateral, not more than 35 days
2 before the disposition.

3 (2) The amount of proceeds of the disposition.

4 (3) The aggregate amount of the obligations after
5 deducting the amount of proceeds.

6 (4) The amount, in the aggregate or by type, and types
7 of expenses, including expenses of retaking, holding,
8 preparing for disposition, processing and disposing of the
9 collateral and attorney fees secured by the collateral which
10 are known to the secured party and relate to the current
11 disposition.

12 (5) The amount, in the aggregate or by type and types of
13 credits, including rebates of interest or credit service
14 charges, to which the obligor is known to be entitled and
15 which are not reflected in the amount in paragraph (1).

16 (6) The amount of the surplus or deficiency.

17 * * *

18 § 9619. Transfer of record or legal title.

19 (a) Transfer statement.--As used in this section, the term
20 "transfer statement" means a record [authenticated] signed by a
21 secured party stating:

22 (1) that the debtor has defaulted in connection with an
23 obligation secured by specified collateral;

24 (2) that the secured party has exercised its postdefault
25 remedies with respect to the collateral;

26 (3) that, by reason of the exercise, a transferee has
27 acquired the rights of the debtor in the collateral; and

28 (4) the name and mailing address of the secured party,
29 debtor and transferee.

30 * * *

1 § 9620. Acceptance of collateral in full or partial
2 satisfaction of obligation; compulsory disposition of
3 collateral.

4 (a) Conditions to acceptance in satisfaction.--Except as
5 otherwise provided in subsection (g), a secured party may accept
6 collateral in full or partial satisfaction of the obligation it
7 secures only if all of the following paragraphs apply:

8 (1) The debtor consents to the acceptance under
9 subsection (c).

10 (2) The secured party does not receive, within the time
11 set forth in subsection (d), a notification of objection to
12 the proposal [authenticated] signed by:

13 (i) a person to which the secured party was required
14 to send a proposal under section 9621 (relating to
15 notification of proposal to accept collateral); or

16 (ii) any other person, other than the debtor,
17 holding an interest in the collateral subordinate to the
18 security interest which is the subject of the proposal.

19 (3) If the collateral is consumer goods, the collateral
20 is not in the possession of the debtor when the debtor
21 consents to the acceptance.

22 (4) Subsection (e) does not require the secured party to
23 dispose of the collateral or the debtor waives the
24 requirement pursuant to section 9624 (relating to waiver).

25 (b) Purported acceptance ineffective.--A purported or
26 apparent acceptance of collateral under this section is
27 ineffective unless:

28 (1) the secured party consents to the acceptance in [an
29 authenticated] a signed record or sends a proposal to the
30 debtor; and

1 (2) the conditions of subsection (a) are met.

2 (c) Debtor's consent.--For purposes of this section:

3 (1) A debtor consents to an acceptance of collateral in
4 partial satisfaction of the obligation it secures only if the
5 debtor agrees to the terms of the acceptance in a record
6 [authenticated] signed after default.

7 (2) A debtor consents to an acceptance of collateral in
8 full satisfaction of the obligation it secures only if the
9 debtor agrees to the terms of the acceptance in a record
10 [authenticated] signed after default or the secured party:

11 (i) sends to the debtor after default a proposal
12 which is unconditional or subject only to a condition
13 that collateral not in the possession of the secured
14 party be preserved or maintained;

15 (ii) in the proposal, proposes to accept collateral
16 in full satisfaction of the obligation it secures; and

17 (iii) does not receive a notification of objection
18 [authenticated] signed by the debtor within 20 days after
19 the proposal is sent.

20 * * *

21 (f) Compliance with mandatory disposition requirement.--To
22 comply with subsection (e), the secured party shall dispose of
23 the collateral:

24 (1) within 90 days after taking possession; or

25 (2) within any longer period to which the debtor and all
26 secondary obligors have agreed in an agreement to that effect
27 entered into and [authenticated] signed after default.

28 * * *

29 § 9621. Notification of proposal to accept collateral.

30 (a) Persons to which proposal to be sent.--A secured party

1 that desires to accept collateral in full or partial
2 satisfaction of the obligation it secures shall send its
3 proposal to all of the following:

4 (1) Any person from which the secured party has
5 received, before the debtor consented to the acceptance, [an
6 authenticated] a signed notification of a claim of an
7 interest in the collateral.

8 (2) Any other secured party or lienholder that, ten days
9 before the debtor consented to the acceptance, held a
10 security interest in or other lien on the collateral
11 perfected by the filing of a financing statement which:

12 (i) identified the collateral;

13 (ii) was indexed under the debtor's name as of that
14 date; and

15 (iii) was filed in the office or offices in which to
16 file a financing statement against the debtor covering
17 the collateral as of that date.

18 (3) Any other secured party that, ten days before the
19 debtor consented to the acceptance, held a security interest
20 in the collateral perfected by compliance with a statute,
21 regulation or treaty described in section 9311(a) (relating
22 to security interest subject to other law).

23 * * *

24 § 9624. Waiver.

25 (a) Waiver of disposition notification.--A debtor or
26 secondary obligor may waive the right to notification of
27 disposition of collateral under section 9611 (relating to
28 notification before disposition of collateral) only by an
29 agreement to that effect entered into and [authenticated] signed
30 after default.

1 (b) Waiver of mandatory disposition.--A debtor may waive the
2 right to require disposition of collateral under section 9620(e)
3 (relating to mandatory disposition of consumer goods) only by an
4 agreement to that effect entered into and [authenticated] signed
5 after default.

6 (c) Waiver of redemption right.--Except in a consumer-goods
7 transaction, a debtor or secondary obligor may waive the right
8 to redeem collateral under section 9623 (relating to right to
9 redeem collateral) only by an agreement to that effect entered
10 into and [authenticated] signed after default.

11 Section 35. Section 9628(a) and (b) of Title 13 are amended
12 and the section is amended by adding a subsection to read:

13 § 9628. Nonliability and limitation on liability of secured
14 party; liability of secondary obligor.

15 (a) Limitation of liability of secured party for
16 noncompliance with division.--[Unless] Subject to subsection
17 (f), unless a secured party knows that a person is a debtor or
18 obligor, knows the identity of the person and knows how to
19 communicate with the person:

20 (1) the secured party is not liable to the person or to
21 a secured party or lienholder that has filed a financing
22 statement against the person for failure to comply with this
23 division; and

24 (2) the secured party's failure to comply with this
25 division does not affect the liability of the person for a
26 deficiency.

27 (b) Limitation of liability based on status as secured
28 party.--[A] Subject to subsection (f), a secured party is not
29 liable because of its status as secured party to any of the
30 following:

1 (1) A person that is a debtor or obligor unless the
2 secured party knows:

3 (i) that the person is a debtor or obligor;

4 (ii) the identity of the person; and

5 (iii) how to communicate with the person.

6 (2) A secured party or lienholder that has filed a
7 financing statement against a person unless the secured party
8 knows:

9 (i) that the person is a debtor; and

10 (ii) the identity of the person.

11 * * *

12 (f) Exception: limitation of liability under subsections (a)
13 and (b) does not apply.--Subsections (a) and (b) do not apply to
14 limit the liability of a secured party to a person if, at the
15 time the secured party obtains control of collateral that is a
16 controllable account, controllable electronic record or
17 controllable payment intangible or at the time the security
18 interest attaches to the collateral, whichever is later:

19 (1) the person is a debtor or obligor; and

20 (2) the secured party knows that the information in
21 subsection (b)(1) relating to the person is not provided by
22 the collateral, a record attached to or logically associated
23 with the collateral or the system in which the collateral is
24 recorded.

25 Section 36. Title 13 is amended by adding divisions to read:

26 DIVISION 12

27 CONTROLLABLE ELECTRONIC RECORDS

28 Chapter

29 121. General Provisions

30 123. (Reserved)

1 CHAPTER 121

2 GENERAL PROVISIONS

3 Sec.

4 12101. Short title of division.

5 12102. Definitions.

6 12103. Relation to Division 9 and consumer laws.

7 12104. Rights in controllable account, controllable electronic
8 record and controllable payment intangible.

9 12105. Control of controllable electronic record.

10 12106. Discharge of account debtor on controllable account or
11 controllable payment intangible.

12 12107. Governing law.

13 § 12101. Short title of division.

14 This division may be cited as Uniform Commercial Code -
15 Controllable Electronic Records.

16 § 12102. Definitions.

17 (a) Definitions.--In this division:

18 "Controllable electronic record" means a record stored in an
19 electronic medium that can be subjected to control under section
20 12105 (relating to control of controllable electronic record).

21 The term does not include a controllable account, a controllable
22 payment intangible, a deposit account, an electronic copy of a
23 record evidencing chattel paper, an electronic document of
24 title, investment property, a transferable record or an
25 electronic record that is currently authorized or adopted by a
26 domestic or foreign government and is not a medium of exchange
27 that was recorded and transferable in a system that existed and
28 operated for the medium of exchange before the medium of
29 exchange was authorized or adopted by a government.

30 "Qualifying purchaser" means a purchaser of a controllable

1 electronic record or an interest in a controllable electronic
2 record that obtains control of the controllable electronic
3 record for value, in good faith, and without notice of a claim
4 of a property right in the controllable electronic record.

5 "Transferable record" has the meaning provided for that term
6 in:

7 (1) Section 201(a)(1) of the Electronic Signatures in
8 Global and National Commerce Act (Public Law 106-229, 15
9 U.S.C. § 7021(a)(1)); or

10 (2) Section 312(f) of the act of December 16, 1999
11 (P.L.971, No.69), known as the Electronic Transactions Act.

12 "Value" has the meaning provided in section 3303(a) (relating
13 to value and consideration), as if references in that subsection
14 to an "instrument" were references to a controllable account,
15 controllable electronic record or controllable payment
16 intangible.

17 (b) Definitions in Division 9.--The definitions in Division
18 9 (relating to secured transactions) of "account debtor,"
19 "chattel paper," "controllable account," "controllable payment
20 intangible," "deposit account" and "investment property" apply
21 to this division.

22 (c) Definitions and principles in Division 1.--Division 1
23 (relating to general provisions) contains general definitions
24 and principles of construction and interpretation applicable
25 throughout this division.

26 § 12103. Relation to Division 9 and consumer laws.

27 (a) Division 9 governs in case of conflict.--If there is
28 conflict between this division and Division 9 (relating to
29 secured transactions), Division 9 governs.

30 (b) Applicable consumer law and other laws.--A transaction

1 subject to this division is subject to any applicable rule of
2 law that establishes a different rule for consumers and the act
3 of December 17, 1968 (P.L.1224, No.387), known as the Unfair
4 Trade Practices and Consumer Protection Law.

5 § 12104. Rights in controllable account, controllable
6 electronic record and controllable payment
7 intangible.

8 (a) Applicability of section to controllable account and
9 controllable payment intangible.--This section applies to the
10 acquisition and purchase of rights in a controllable account or
11 controllable payment intangible, including the rights and
12 benefits under subsections (c), (d), (e), (g) and (h) of a
13 purchaser and qualifying purchaser, in the same manner this
14 section applies to a controllable electronic record.

15 (b) Control of controllable account and controllable payment
16 intangible.--To determine whether a purchaser of a controllable
17 account or a controllable payment intangible is a qualifying
18 purchaser, the purchaser obtains control of the account or
19 payment intangible if the purchaser obtains control of the
20 controllable electronic record that evidences the account or
21 payment intangible.

22 (c) Applicability of other law to acquisition of rights.--
23 Except as provided in this section, law other than this division
24 determines whether a person acquires a right in a controllable
25 electronic record and the right the person acquires.

26 (d) Shelter principle and purchase of limited interest.--A
27 purchaser of a controllable electronic record acquires all
28 rights in the controllable electronic record that the transferor
29 had or had power to transfer, except that a purchaser of a
30 limited interest in a controllable electronic record acquires

1 rights only to the extent of the interest purchased.

2 (e) Rights of qualifying purchaser.--A qualifying purchaser
3 acquires its rights in the controllable electronic record free
4 of a claim of a property right in the controllable electronic
5 record.

6 (f) Limitation of rights of qualifying purchaser in other
7 property.--Except as provided in subsections (a) and (e) for a
8 controllable account and a controllable payment intangible or
9 law other than this division, a qualifying purchaser takes a
10 right to payment, right to performance or other interest in
11 property evidenced by the controllable electronic record subject
12 to a claim of a property right in the right to payment, right to
13 performance or other interest in property.

14 (g) No-action protection for qualifying purchaser.--An
15 action may not be asserted against a qualifying purchaser based
16 on both a purchase by the qualifying purchaser of a controllable
17 electronic record and a claim of a property right in another
18 controllable electronic record, whether the action is framed in
19 conversion, replevin, constructive trust, equitable lien or
20 other theory.

21 (h) Filing not notice.--Filing of a financing statement
22 under Division 9 (relating to secured transactions) is not
23 notice of a claim of a property right in a controllable
24 electronic record.

25 § 12105. Control of controllable electronic record.

26 (a) General rule.--A person has control of a controllable
27 electronic record if the electronic record, a record attached to
28 or logically associated with the electronic record or a system
29 in which the electronic record is recorded:

30 (1) gives the person:

1 (i) power to avail itself of substantially all the
2 benefit from the electronic record; and

3 (ii) exclusive power, subject to subsection (b), to:

4 (A) prevent others from availing themselves of
5 substantially all the benefit from the electronic
6 record; and

7 (B) transfer control of the electronic record to
8 another person or cause another person to obtain
9 control of another controllable electronic record as
10 a result of the transfer of the electronic record;
11 and

12 (2) enables the person readily to identify itself in any
13 way, including by name, identifying number, cryptographic
14 key, office or account number, as having the powers specified
15 in paragraph (1).

16 (b) Meaning of exclusive.--Subject to subsection (c), a
17 power is exclusive under subsection (a)(1)(ii)(A) and (B) even
18 if:

19 (1) the controllable electronic record, a record
20 attached to or logically associated with the electronic
21 record or a system in which the electronic record is recorded
22 limits the use of the electronic record or has a protocol
23 programmed to cause a change, including a transfer or loss of
24 control or a modification of benefits afforded by the
25 electronic record; or

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

27 (c) When power not shared with another person.--A power of a
28 person is not shared with another person under subsection (b)(2)
29 and the person's power is not exclusive if:

30 (1) the person can exercise the power only if the power

1 also is exercised by the other person; and

2 (2) the other person:

3 (i) can exercise the power without exercise of the
4 power by the person; or

5 (ii) is the transferor to the person of an interest
6 in the controllable electronic record or a controllable
7 account or controllable payment intangible evidenced by
8 the controllable electronic record.

9 (d) Presumption of exclusivity of certain powers.--If a
10 person has the powers specified in subsection (a) (1) (ii) (A) and
11 (B), the powers are presumed to be exclusive.

12 (e) Control through another person.--A person has control of
13 a controllable electronic record if another person, other than
14 the transferor to the person of an interest in the controllable
15 electronic record or a controllable account or controllable
16 payment intangible evidenced by the controllable electronic
17 record:

18 (1) has control of the electronic record and
19 acknowledges that it has control on behalf of the person; or

20 (2) obtains control of the electronic record after
21 having acknowledged that it will obtain control of the
22 electronic record on behalf of the person.

23 (f) No requirement to acknowledge.--A person that has
24 control under this section is not required to acknowledge that
25 it has control on behalf of another person.

26 (g) No duties or confirmation.--If a person acknowledges
27 that it has or will obtain control on behalf of another person,
28 unless the person otherwise agrees or law other than this
29 division or Division 9 (relating to secured transactions)
30 otherwise provides, the person does not owe any duty to the

1 other person and is not required to confirm the acknowledgment
2 to any other person.

3 § 12106. Discharge of account debtor on controllable account or
4 controllable payment intangible.

5 (a) Discharge of account debtor.--An account debtor on a
6 controllable account or controllable payment intangible may
7 discharge its obligation by paying:

8 (1) the person having control of the controllable
9 electronic record that evidences the controllable account or
10 controllable payment intangible; or

11 (2) except as provided in subsection (b), a person that
12 formerly had control of the controllable electronic record.

13 (b) Content and effect of notification.--Subject to
14 subsection (d), the account debtor may not discharge its
15 obligation by paying a person that formerly had control of the
16 controllable electronic record if the account debtor receives a
17 notification that:

18 (1) is signed by a person that formerly had control or
19 the person to which control was transferred;

20 (2) reasonably identifies the controllable account or
21 controllable payment intangible;

22 (3) notifies the account debtor that control of the
23 controllable electronic record that evidences the
24 controllable account or controllable payment intangible was
25 transferred;

26 (4) identifies the transferee, in any reasonable way,
27 including by name, identifying number, cryptographic key,
28 office or account number; and

29 (5) provides a commercially reasonable method by which
30 the account debtor is to pay the transferee.

1 (c) Discharge following effective notification.--After
2 receipt of a notification that complies with subsection (b), the
3 account debtor may discharge its obligation by paying in
4 accordance with the notification and may not discharge the
5 obligation by paying a person that formerly had control.

6 (d) When notification ineffective.--Subject to subsection
7 (h), notification is ineffective under subsection (b):

8 (1) unless, before the notification is sent, the account
9 debtor and the person that, at that time, had control of the
10 controllable electronic record that evidences the
11 controllable account or controllable payment intangible agree
12 in a signed record to a commercially reasonable method by
13 which a person may furnish reasonable proof that control has
14 been transferred;

15 (2) to the extent an agreement between the account
16 debtor and seller of a payment intangible limits the account
17 debtor's duty to pay a person other than the seller and the
18 limitation is effective under law other than this division;
19 or

20 (3) at the option of the account debtor, if the
21 notification notifies the account debtor to:

22 (i) divide a payment;

23 (ii) make less than the full amount of an
24 installment or other periodic payment; or

25 (iii) pay any part of a payment by more than one
26 method or to more than one person.

27 (e) Proof of transfer of control.--Subject to subsection
28 (h), if requested by the account debtor, the person giving the
29 notification under subsection (b) seasonably shall furnish
30 reasonable proof, using the method in the agreement referred to

1 in subsection (d)(1), that control of the controllable
2 electronic record has been transferred. Unless the person
3 complies with the request, the account debtor may discharge its
4 obligation by paying a person that formerly had control, even if
5 the account debtor has received a notification under subsection
6 (b).

7 (f) What constitutes reasonable proof.--A person furnishes
8 reasonable proof under subsection (e) that control has been
9 transferred if the person demonstrates, using the method in the
10 agreement referred to in subsection (d)(1), that the transferee
11 has the power to:

12 (1) avail itself of substantially all the benefit from
13 the controllable electronic record;

14 (2) prevent others from availing themselves of
15 substantially all the benefit from the controllable
16 electronic record; and

17 (3) transfer the powers specified in paragraphs (1) and
18 (2) to another person.

19 (g) Rights not waivable.--Subject to subsection (h), an
20 account debtor may not waive or vary its rights under
21 subsections (d)(1) and (e) or its option under subsection (d)
22 (3).

23 (h) Rule for individual under other law.--This section is
24 subject to law other than this division which establishes a
25 different rule for an account debtor who is an individual and
26 who incurred the obligation primarily for personal, family or
27 household purposes.

28 § 12107. Governing law.

29 (a) General rule.--Except as provided in subsection (b), the
30 local law of a controllable electronic record's jurisdiction

1 governs a matter covered by this division.

2 (b) Exception.--For a controllable electronic record that
3 evidences a controllable account or controllable payment
4 intangible, the local law of the controllable electronic
5 record's jurisdiction governs a matter covered by section 12106
6 (relating to discharge of account debtor on controllable account
7 or controllable payment intangible) unless an effective
8 agreement determines that the local law of another jurisdiction
9 governs.

10 (c) Controllable electronic record's jurisdiction.--The
11 following rules determine a controllable electronic record's
12 jurisdiction under this section:

13 (1) If the controllable electronic record, or a record
14 attached to or logically associated with the controllable
15 electronic record and readily available for review, expressly
16 provides that a particular jurisdiction is the controllable
17 electronic record's jurisdiction for purposes of this
18 division or title, that jurisdiction is the controllable
19 electronic record's jurisdiction.

20 (2) If paragraph (1) does not apply and the rules of the
21 system in which the controllable electronic record is
22 recorded are readily available for review and expressly
23 provide that a particular jurisdiction is the controllable
24 electronic record's jurisdiction for purposes of this
25 division or title, that jurisdiction is the controllable
26 electronic record's jurisdiction.

27 (3) If paragraphs (1) and (2) do not apply and the
28 controllable electronic record, or a record attached to or
29 logically associated with the controllable electronic record
30 and readily available for review, expressly provides that the

1 controllable electronic record is governed by the law of a
2 particular jurisdiction, that jurisdiction is the
3 controllable electronic record's jurisdiction.

4 (4) If paragraphs (1), (2) and (3) do not apply and the
5 rules of the system in which the controllable electronic
6 record is recorded are readily available for review and
7 expressly provide that the controllable electronic record or
8 the system is governed by the law of a particular
9 jurisdiction, that jurisdiction is the controllable
10 electronic record's jurisdiction.

11 (5) If paragraphs (1), (2), (3) and (4) do not apply,
12 the controllable electronic record's jurisdiction is the
13 District of Columbia.

14 (d) Applicability of Article 12.--If subsection (c)(5)
15 applies and Article 12 of Uniform Commercial Code Amendments
16 (2022) is not in effect in the District of Columbia without
17 material modification, the governing law for a matter covered by
18 this division is the law of the District of Columbia as though
19 Article 12 were in effect in the District of Columbia without
20 material modification.

21 (e) Relation of matter or transaction to controllable
22 electronic record's jurisdiction not necessary.--To the extent
23 subsections (a) and (b) provide that the local law of the
24 controllable electronic record's jurisdiction governs a matter
25 covered by this division, that law governs even if the matter or
26 a transaction to which the matter relates does not bear any
27 relation to the controllable electronic record's jurisdiction.

28 (f) Rights of purchasers determined at time of purchase.--
29 The rights acquired under section 12104 (relating to rights in
30 controllable account, controllable electronic record and

1 controllable payment intangible) by a purchaser or qualifying
2 purchaser are governed by the law applicable under this section
3 at the time of purchase.

4 CHAPTER 123

5 (Reserved)

6 DIVISION 91

7 TRANSITIONAL PROVISIONS

8 Chapter

9 911. Transitional Provisions for 2022 Amendments

10 CHAPTER 911

11 TRANSITIONAL PROVISIONS FOR 2022 AMENDMENTS

12 Subchapter

13 A. General Provisions and Definitions

14 B. General Transitional Provision

15 C. Transitional Provisions for Divisions 9 and 12

16 SUBCHAPTER A

17 GENERAL PROVISIONS AND DEFINITIONS

18 Sec.

19 91101. Short title of chapter.

20 91102. Definitions.

21 § 91101. Short title of chapter.

22 This chapter may be cited as Transitional Provisions for 2022
23 Amendments.

24 § 91102. Definitions.

25 (a) Definitions.--In this chapter:

26 "Adjustment date" means July 1, 2025, or the date that is one
27 year after the effective date of this section, whichever is
28 later.

29 "Division 12 property" means a controllable account,
30 controllable electronic record or controllable payment

1 intangible.

2 (b) Definitions in other divisions.--The following
3 definitions in other divisions of this title apply to this
4 chapter.

5 "Controllable account." Section 9102 (relating to
6 definitions and index of definitions).

7 "Controllable electronic record." Section 12102 (relating to
8 definitions).

9 "Controllable payment intangible." Section 9102.

10 "Financing statement." Section 9102.

11 (c) Definitions and principles in Division 1.--Division 1
12 (relating to general provisions) contains general definitions
13 and principles of construction and interpretation applicable
14 throughout this chapter.

15 SUBCHAPTER B

16 GENERAL TRANSITIONAL PROVISION

17 Sec.

18 91121. Savings clause.

19 § 91121. Savings clause.

20 Except as provided in Subchapter C (relating to transitional
21 provisions for Divisions 9 and 12), a transaction validly
22 entered into before the effective date of this section and the
23 rights, duties and interests flowing from the transaction remain
24 valid thereafter and may be terminated, completed, consummated
25 or enforced as required or permitted by law other than this
26 title or, if applicable, this title, as though this section had
27 not taken effect.

28 SUBCHAPTER C

29 TRANSITIONAL PROVISIONS FOR DIVISIONS 9 AND 12

30 Sec.

1 91131. Savings clause.
2 91132. Security interest perfected before effective date.
3 91133. Security interest unperfected before effective date.
4 91134. Effectiveness of actions taken before effective date.
5 91135. Priority.

6 91136. Priority of claims when priority rules of Division 9 do
7 not apply.

8 § 91131. Savings clause.

9 (a) Pre-effective-date transaction, lien or interest.--

10 Except as provided in this subchapter, the amendments to
11 Division 9 (relating to secured transactions) that take effect
12 on the effective date of this section and Division 12 (relating
13 to controllable electronic records) apply to a transaction, lien
14 or other interest in property, even if the transaction, lien or
15 interest was entered into, created or acquired before the
16 effective date of this section.

17 (b) Continuing validity.--Except as provided in subsection

18 (c) and sections 91132 (relating to security interest perfected
19 before effective date), 91133 (relating to security interest
20 unperfected before effective date), 91134 (relating to
21 effectiveness of actions taken before effective date), 91135
22 (relating to priority) and 91136 (relating to priority of claims
23 when priority rules of Division 9 do not apply):

24 (1) a transaction, lien or interest in property that was
25 validly entered into, created or transferred before the
26 effective date of this section and was not governed by this
27 title, but would be subject to the amendments to Division 9
28 that take effect on the effective date of this section or
29 Division 12 if it had been entered into, created or
30 transferred on or after the effective date of this section,

1 including the rights, duties and interests flowing from the
2 transaction, lien or interest, remains valid on and after the
3 effective date of this section; and

4 (2) the transaction, lien or interest may be terminated,
5 completed, consummated and enforced as required or permitted
6 by the act adding this chapter or by the law that would apply
7 if the act adding this chapter had not taken effect.

8 (c) Pre-effective-date proceeding.--The act adding this
9 chapter does not affect an action, case or proceeding commenced
10 before the effective date of this section.

11 § 91132. Security interest perfected before effective date.

12 (a) Continuing perfection; perfection requirements
13 satisfied.--A security interest that is enforceable and
14 perfected immediately before the effective date of this section
15 is a perfected security interest under the act adding this
16 chapter if, on the effective date of this section, the
17 requirements for enforceability and perfection under the act
18 adding this chapter are satisfied without further action.

19 (b) Continuing perfection; enforceability or perfection
20 requirements not satisfied.--If a security interest is
21 enforceable and perfected immediately before the effective date
22 of this section, but the requirements for enforceability or
23 perfection under the act adding this chapter are not satisfied
24 on the effective date of this section, the security interest:

25 (1) is a perfected security interest until the earlier
26 of the time perfection would have ceased under the law in
27 effect immediately before the effective date of this section
28 or the adjustment date;

29 (2) remains enforceable thereafter only if the security
30 interest satisfies the requirements for enforceability under

1 section 9203 (relating to attachment and enforceability of
2 security interest; proceeds; supporting obligations; formal
3 requisites), as amended by the act adding this chapter,
4 before the adjustment date; and

5 (3) remains perfected thereafter only if the
6 requirements for perfection under the act adding this chapter
7 are satisfied before the time specified in paragraph (1).

8 § 91133. Security interest unperfected before effective date.

9 A security interest that is enforceable immediately before
10 the effective date of this section but is unperfected at that
11 time:

12 (1) remains an enforceable security interest until the
13 adjustment date;

14 (2) remains enforceable thereafter if the security
15 interest becomes enforceable under section 9203 (relating to
16 attachment and enforceability of security interest; proceeds;
17 supporting obligations; formal requisites), as amended by the
18 act adding this chapter, on the effective date of this
19 section or before the adjustment date; and

20 (3) becomes perfected:

21 (i) without further action, on the effective date of
22 this section if the requirements for perfection under
23 the act adding this chapter are satisfied before or at
24 that time; or

25 (ii) when the requirements for perfection are
26 satisfied if the requirements are satisfied after that
27 time.

28 § 91134. Effectiveness of actions taken before effective date.

29 (a) Pre-effective-date action; attachment and perfection
30 before adjustment date.--If action, other than the filing of a

1 financing statement, is taken before the effective date of this
2 section and the action would have resulted in perfection of the
3 security interest had the security interest become enforceable
4 before the effective date of this section, the action is
5 effective to perfect a security interest that attaches under
6 the act adding this chapter before the adjustment date. An
7 attached security interest becomes unperfected on the adjustment
8 date unless the security interest becomes a perfected security
9 interest under the act adding this chapter before the adjustment
10 date.

11 (b) Pre-effective-date filing.--The filing of a financing
12 statement before the effective date of this section is effective
13 to perfect a security interest on the effective date of this
14 section to the extent the filing would satisfy the requirements
15 for perfection under the act adding this chapter.

16 (c) Pre-effective-date enforceability action.--The taking of
17 an action before the effective date of this section is
18 sufficient for the enforceability of a security interest on the
19 effective date of this section if the action would satisfy the
20 requirements for enforceability under the act adding this
21 chapter.

22 § 91135. Priority.

23 (a) Determination of priority.--Subject to subsections (b)
24 and (c), the act adding this chapter determines the priority of
25 conflicting claims to collateral.

26 (b) Established priorities.--Subject to subsection (c), if
27 the priorities of claims to collateral were established before
28 the effective date of this section, Division 9 (relating to
29 secured transactions) as in effect before the effective date of
30 this section determines priority.

1 (c) Determination of certain priorities on adjustment
2 date.--On the adjustment date, to the extent the priorities
3 determined by Division 9 as amended by the act adding this
4 chapter modify the priorities established before the effective
5 date of this section, the priorities of claims to Division 12
6 (relating to controllable electronic records) property
7 established before the effective date of this section cease to
8 apply.

9 § 91136. Priority of claims when priority rules of Division 9
10 do not apply.

11 (a) Determination of priority.--Subject to subsections (b)
12 and (c), Division 12 (relating to controllable electronic
13 records) determines the priority of conflicting claims to
14 Division 12 property when the priority rules of Division 9
15 (relating to secured transactions) as amended by the act adding
16 this chapter do not apply.

17 (b) Established priorities.--Subject to subsection (c), when
18 the priority rules of Division 9 as amended by the act adding
19 this chapter do not apply and the priorities of claims to
20 Division 12 property were established before the effective date
21 of this section, law other than Division 12 determines priority.

22 (c) Determination of certain priorities on adjustment
23 date.--When the priority rules of Division 9 as amended by the
24 act adding this chapter do not apply, to the extent the
25 priorities determined by the act adding this chapter modify the
26 priorities established before the effective date of this
27 section, the priorities of claims to Division 12 property
28 established before the effective date of this section cease to
29 apply on the adjustment date.

30 Section 37. Section 5601.4(a) (9) of Title 20 is amended to

1 read:

2 § 5601.4. Authority that requires specific and general grant of
3 authority.

4 (a) General rule.--An agent under a power of attorney may do
5 the following on behalf of the principal or with the principal's
6 property only if the power of attorney expressly grants the
7 agent the authority and exercise of the authority is not
8 otherwise prohibited by another agreement or instrument to which
9 the authority or property is subject:

10 * * *

11 (9) Access the content of electronic communications [and
12 digital assets of] sent or received by the principal. As used
13 in this paragraph, the [following words and phrases shall
14 have the meanings given to them in this paragraph unless the
15 context clearly indicates otherwise:

16 "Digital asset." As defined in section 3902
17 (relating to definitions).

18 "Electronic communication." As defined in section
19 3902.] phrase "content of electronic communications"
20 shall have the same meaning as "content of an electronic
21 communication" as defined in section 3902 (relating to
22 definitions).

23 * * *

24 Section 38. The amendment of 20 Pa.C.S. § 5601.4(a)(9) shall
25 apply to a power of attorney executed on or after January 19,
26 2021.

27 Section 39. This act shall take effect in 60 days.