

HOUSE No. 28

So much of the recommendations of the Commission on Uniform State Laws (House, No. 26) as relates to making amendments to the Uniform Commercial Code covering general provisions, documents of title and secured transactions. Economic Development and Emerging Technologies.

The Commonwealth of Massachusetts

—————
In the Year Two Thousand Thirteen
—————

An Act making amendments to the Uniform Commercial Code covering general provisions, documents of title and secured transactions.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 FIRST SET OF AMENDMENTS

- 2 (UCC ARTICLES 1 AND 7 REVISIONS AND TECHNICAL AMENDMENTS TO UCC
- 3 ARTICLE 9)

- 4 SECTION 1. Section 28 of chapter 10 of the General Laws is hereby amended by striking out
- 5 “9-405” and by substituting in place thereof “9-406.”

- 6 SECTION 2. Chapter 106 of the General Laws is hereby amended by striking out article 1, as so
- 7 appearing, and by substituting in place thereof the following article 1:--

- 8 ARTICLE 1 – GENERAL PROVISIONS

- 9 PART 1

- 10 GENERAL PROVISIONS

- 11 SECTION 1 101. SHORT TITLES.

12 (a) This chapter may be cited as the Uniform Commercial Code.

13 (b) This article may be cited as Uniform Commercial Code – General Provisions.

14 SECTION 1 102. SCOPE OF ARTICLE. This article applies to a transaction to the extent that
15 it is governed by another article of this chapter.

16 SECTION 1 103. CONSTRUCTION OF THIS CHAPTER TO PROMOTE ITS PURPOSES
17 AND POLICIES; APPLICABILITY OF SUPPLEMENTAL PRINCIPLES OF LAW

18 (a) This chapter must be liberally construed and applied to promote its underlying purposes and
19 policies, which are:

20 (1) to simplify, clarify, and modernize the law governing commercial transactions;

21 (2) to permit the continued expansion of commercial practices through custom, usage, and
22 agreement of the parties; and

23 (3) to make uniform the law among the various jurisdictions.

24 (b) Unless displaced by the particular provisions of this chapter, the principles of law and equity,
25 including the law merchant and the law relative to capacity to contract, principal and agent,
26 estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, and other validating or
27 invalidating cause supplement its provisions.

28 SECTION 1 104. CONSTRUCTION AGAINST IMPLIED REPEAL. This chapter being a
29 general act intended as a unified coverage of its subject matter, no part of it shall be deemed to
30 be impliedly repealed by subsequent legislation if such construction can reasonably be avoided.

31 SECTION 1 105. SEVERABILITY. If any provision or clause of this chapter or its application
32 to any person or circumstance is held invalid, the invalidity does not affect other provisions or
33 applications of this chapter which can be given effect without the invalid provision or
34 application, and to this end the provisions of this chapter are severable.

35 SECTION 1 106. USE OF SINGULAR AND PLURAL; GENDER. In this chapter, unless the
36 statutory context otherwise requires:

37 (1) words in the singular number include the plural, and those in the plural include the singular;
38 and

39 (2) words of any gender also refer to any other gender.

40 SECTION 1 107. SECTION CAPTIONS. Section captions are part of this chapter. The
41 subsection headings in Article 9 are not part of this chapter.

42 SECTION 1 108. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND
43 NATIONAL COMMERCE ACT. This chapter modifies, limits, and supersedes the federal
44 Electronic Signatures in Global and National Commerce Act, (15 U.S.C. Section 7001, et seq.)
45 but does not modify, limit, or supersede Section 101(c) of that act (15. U.S.C. Section 7001(c))
46 or authorize electronic delivery of any of the notices described in Section 103(b) of that act (15
47 U.S.C. Section 7003(b)).

48 PART 2

49 GENERAL DEFINITIONS AND

50 PRINCIPLES OF INTERPRETATION

51 SECTION 1 201. GENERAL DEFINITIONS.

52 (a) Unless the context otherwise requires, words or phrases defined in this section, or in the
53 additional definitions contained in other articles of this chapter that apply to particular articles or
54 parts thereof, have the meanings stated.

55 (b) Subject to definitions contained in other articles of this chapter that apply to particular
56 articles or parts thereof:

57 (1) “Action”, in the sense of a judicial proceeding, includes recoupment, counterclaim, set off,
58 suit in equity, and any other proceeding in which rights are determined.

59 (2) “Aggrieved party” means a party entitled to pursue a remedy.

60 (3) “Agreement”, as distinguished from “contract”, means the bargain of the parties in fact, as
61 found in their language or inferred from other circumstances, including course of performance,
62 course of dealing, or usage of trade as provided in Section 1 303.

63 (4) “Bank” means a person engaged in the business of banking and includes a savings bank,
64 savings and loan association, credit union, and trust company.

65 (5) “Bearer” means a person in control of a negotiable electronic document of title or a person in
66 possession of a negotiable instrument, a negotiable tangible document of title, or certificated
67 security that is payable to bearer or indorsed in blank.

68 (6) “Bill of lading” means a document of title evidencing the receipt of goods for shipment
69 issued by a person engaged in the business of directly or indirectly transporting or forwarding
70 goods. The term does not include a warehouse receipt.

71 (7) “Branch” includes a separately incorporated foreign branch of a bank.

72 (8) “Burden of establishing” a fact means the burden of persuading the trier of fact that the
73 existence of the fact is more probable than its nonexistence.

74 (9) “Buyer in ordinary course of business” means a person that buys goods in good faith,
75 without knowledge that the sale violates the rights of another person in the goods, and in the
76 ordinary course from a person, other than a pawnbroker, in the business of selling goods of that
77 kind. A person buys goods in the ordinary course if the sale to the person comports with the
78 usual or customary practices in the kind of business in which the seller is engaged or with the
79 seller’s own usual or customary practices. A person that sells oil, gas, or other minerals at the
80 wellhead or minehead is a person in the business of selling goods of that kind. A buyer in
81 ordinary course of business may buy for cash, by exchange of other property, or on secured or
82 unsecured credit, and may acquire goods or documents of title under a preexisting contract for
83 sale. Only a buyer that takes possession of the goods or has a right to recover the goods from the
84 seller under Article 2 may be a buyer in ordinary course of business. “Buyer in ordinary course
85 of business” does not include a person that acquires goods in a transfer in bulk or as security for
86 or in total or partial satisfaction of a money debt.

87 (10) “Conspicuous”, with reference to a term, means so written, displayed, or presented that a
88 reasonable person against which it is to operate ought to have noticed it. Whether a term is
89 “conspicuous” or not is a decision for the court. Conspicuous terms include the following:

90 (A) a heading in capitals equal to or greater in size than the surrounding text, or in contrasting
91 type, font, or color to the surrounding text of the same or lesser size; and

92 (B) language in the body of a record or display in larger type than the surrounding text, or in
93 contrasting type, font, or color to the surrounding text of the same size, or set off from
94 surrounding text of the same size by symbols or other marks that call attention to the language.

95 (11) “Consumer” means an individual who enters into a transaction primarily for personal,
96 family, or household purposes

97 (12) “Contract”, as distinguished from “agreement”, means the total legal obligation that results
98 from the parties’ agreement as determined by this chapter as supplemented by any other
99 applicable laws.

100 (13) “Creditor” includes a general creditor, a secured creditor, a lien creditor, and any
101 representative of creditors, including an assignee for the benefit of creditors, a trustee in
102 bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor’s or
103 assignor’s estate.

104 (14) “Defendant” includes a person in the position of defendant in a counterclaim, cross-
105 claim, or third-party claim.

106 (15) “Delivery”, with respect to an electronic document of title means voluntary transfer of
107 control and with respect to an instrument, a tangible document of title, or chattel paper, means
108 voluntary transfer of possession.

109 (16) “Document of title” means a record (i) that in the regular course of business or financing is
110 treated as adequately evidencing that the person in possession or control of the record is entitled
111 to receive, control, hold, and dispose of the record and the goods the record covers and (ii) that
112 purports to be issued by or addressed to a bailee and to cover goods in the bailee’s possession

113 which are either identified or are fungible portions of an identified mass. The term includes a
114 bill of lading, transport document, dock warrant, dock receipt, warehouse receipt, and order for
115 delivery of goods. An electronic document of title means a document of title evidenced by a
116 record consisting of information stored in an electronic medium. A tangible document of title
117 means a document of title evidenced by a record consisting of information that is inscribed on a
118 tangible medium.

119 (17) “Fault” means a default, breach, or wrongful act or omission.

120 (18) “Fungible goods” means:

121 (A) goods of which any unit, by nature or usage of trade, is the equivalent of any other like unit;

122 or

123 (B) goods that by agreement are treated as equivalent.

124 (19) “Genuine” means free of forgery or counterfeiting.

125 (20) “Good faith,” except as otherwise provided in Article 5, means honesty in fact and the

126 observance of reasonable commercial standards of fair dealing.

127 (21) “Holder” means:

128 (A) the person in possession of a negotiable instrument that is payable either to bearer or to an

129 identified person that is the person in possession;

130 (B) the person in possession of a negotiable tangible document of title if the goods are

131 deliverable either to bearer or to the order of the person in possession; or

132 (C) the person in control of a negotiable electronic document of title.

133 (22) “Insolvency proceeding” includes an assignment for the benefit of creditors or other
134 proceeding intended to liquidate or rehabilitate the estate of the person involved.

135 (23) “Insolvent” means:

136 (A) having generally ceased to pay debts in the ordinary course of business other than as a result
137 of bona fide dispute;

138 (B) being unable to pay debts as they become due; or

139 (C) being insolvent within the meaning of federal bankruptcy law.

140 (24) “Money” means a medium of exchange currently authorized or adopted by a domestic or
141 foreign government. The term includes a monetary unit of account established by an
142 intergovernmental organization or by agreement between two or more countries.

143 (25) “Organization” means a person other than an individual.

144 (26) “Party”, as distinguished from “third party”, means a person that has engaged in a
145 transaction or made an agreement subject to this chapter.

146 (27) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited
147 liability company, association, joint venture, government, governmental subdivision, agency, or
148 instrumentality, public corporation, or any other legal or commercial entity.

149 (28) “Present value” means the amount as of a date certain of one or more sums payable in the
150 future, discounted to the date certain by use of either an interest rate specified by the parties if
151 that rate is not manifestly unreasonable at the time the transaction is entered into or, if an interest

152 rate is not so specified, a commercially reasonable rate that takes into account the facts and
153 circumstances at the time the transaction is entered into.

154 (29) “Purchase” means taking by sale, lease, discount, negotiation, mortgage, pledge, lien,
155 security interest, issue or reissue, gift, or any other voluntary transaction creating an interest in
156 property.

157 (30) “Purchaser” means a person that takes by purchase.

158 (31) “Record” means information that is inscribed on a tangible medium or that is stored in an
159 electronic or other medium and is retrievable in perceivable form.

160 (32) “Remedy” means any remedial right to which an aggrieved party is entitled with or without
161 resort to a tribunal.

162 (33) “Representative” means a person empowered to act for another, including an agent, an
163 officer of a corporation or association, and a trustee, executor, or administrator of an estate.

164 (34) “Right” includes remedy.

165 (35) “Security interest” means an interest in personal property or fixtures which secures
166 payment or performance of an obligation. “Security interest” includes any interest of a
167 consignor and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in a
168 transaction that is subject to Article 9. “Security interest” does not include the special property
169 interest of a buyer of goods on identification of those goods to a contract for sale under Section 2
170 401, but a buyer may also acquire a “security interest” by complying with Article 9. Except as
171 otherwise provided in Section 2 505, the right of a seller or lessor of goods under Article 2 or 2A
172 to retain or acquire possession of the goods is not a “security interest”, but a seller or lessor may

173 also acquire a “security interest” by complying with Article 9. The retention or reservation of
174 title by a seller of goods notwithstanding shipment or delivery to the buyer under Section 2 401
175 is limited in effect to a reservation of a “security interest.” Whether a transaction in the form of a
176 lease creates a “security interest” is determined pursuant to Section 1 203.

177 (36) “Send” in connection with a writing, record, or notice means:

178 (A) to deposit in the mail or deliver for transmission by any other usual means of communication
179 with postage or cost of transmission provided for and properly addressed and, in the case of an
180 instrument, to an address specified thereon or otherwise agreed, or if there be none to any
181 address reasonable under the circumstances; or

182 (B) in any other way to cause to be received any writing, record or notice within the time it
183 would have arrived if properly sent.

184 (37) “Signed” includes using any symbol executed or adopted with present intention to adopt or
185 accept a writing.

186 (38) “State” means a State of the United States, the District of Columbia, Puerto Rico, the
187 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of
188 the United States.

189 (39) “Surety” includes a guarantor or other secondary obligor.

190 (40) “Term” means a portion of an agreement that relates to a particular matter.

191 (41) “Unauthorized signature” means a signature made without actual, implied, or apparent
192 authority. The term includes a forgery.

193 (42) “Warehouse receipt” means a document of title issued by a person engaged in the business
194 of storing goods for hire.

195 (43) “Writing” includes printing, typewriting, or any other intentional reduction to tangible
196 form. “Written” has a corresponding meaning.

197 SECTION 1 202. NOTICE; KNOWLEDGE.

198 (a) Subject to subsection (f), a person has “notice” of a fact if the person:

199 (1) has actual knowledge of it;

200 (2) has received a notice or notification of it; or

201 (3) from all the facts and circumstances known to the person at the time in question, has reason
202 to know that it exists.

203 (b) “Knowledge” means actual knowledge. “Knows” has a corresponding meaning.

204 (c) “Discover”, “learn”, or words of similar import refer to knowledge rather than to reason to
205 know.

206 (d) A person “notifies” or “gives” a notice or notification to another person by taking such steps
207 as may be reasonably required to inform the other person in ordinary course, whether or not the
208 other person actually comes to know of it.

209 (e) Subject to subsection (f), a person “receives” a notice or notification when:

210 (1) it comes to that person’s attention; or

211 (2) it is duly delivered in a form reasonable under the circumstances at the place of business
212 through which the contract was made or at another location held out by that person as the place
213 for receipt of such communications.

214 (f) Notice, knowledge, or a notice or notification received by an organization is effective for a
215 particular transaction from the time it is brought to the attention of the individual conducting that
216 transaction and, in any event, from the time it would have been brought to the individual's
217 attention if the organization had exercised due diligence. An organization exercises due
218 diligence if it maintains reasonable routines for communicating significant information to the
219 person conducting the transaction and there is reasonable compliance with the routines. Due
220 diligence does not require an individual acting for the organization to communicate information
221 unless the communication is part of the individual's regular duties or the individual has reason to
222 know of the transaction and that the transaction would be materially affected by the information.

223 SECTION 1 203. LEASE DISTINGUISHED FROM SECURITY INTEREST.

224 (a) Whether a transaction in the form of a lease creates a lease or security interest is determined
225 by the facts of each case.

226 (b) A transaction in the form of a lease creates a security interest if the consideration that the
227 lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the
228 term of the lease and is not subject to termination by the lessee, and:

229 (1) the original term of the lease is equal to or greater than the remaining economic life of the
230 goods;

231 (2) the lessee is bound to renew the lease for the remaining economic life of the goods or is
232 bound to become the owner of the goods;

233 (3) the lessee has an option to renew the lease for the remaining economic life of the goods for
234 no additional consideration or for nominal additional consideration upon compliance with the
235 lease agreement; or

236 (4) the lessee has an option to become the owner of the goods for no additional consideration or
237 for nominal additional consideration upon compliance with the lease agreement.

238 (c) A transaction in the form of a lease does not create a security interest merely because:

239 (1) the present value of the consideration the lessee is obligated to pay the lessor for the right to
240 possession and use of the goods is substantially equal to or is greater than the fair market value
241 of the goods at the time the lease is entered into;

242 (2) the lessee assumes risk of loss of the goods;

243 (3) the lessee agrees to pay, with respect to the goods, taxes, insurance, filing, recording, or
244 registration fees, or service or maintenance costs;

245 (4) the lessee has an option to renew the lease or to become the owner of the goods;

246 (5) the lessee has an option to renew the lease for a fixed rent that is equal to or greater than the
247 reasonably predictable fair market rent for the use of the goods for the term of the renewal at the
248 time the option is to be performed; or

249 (6) the lessee has an option to become the owner of the goods for a fixed price that is equal to or
250 greater than the reasonably predictable fair market value of the goods at the time the option is to
251 be performed.

252 (d) Additional consideration is nominal if it is less than the lessee's reasonably predictable cost
253 of performing under the lease agreement if the option is not exercised. Additional consideration
254 is not nominal if:

255 (1) when the option to renew the lease is granted to the lessee, the rent is stated to be the fair
256 market rent for the use of the goods for the term of the renewal determined at the time the option
257 is to be performed; or

258 (2) when the option to become the owner of the goods is granted to the lessee, the price is stated
259 to be the fair market value of the goods determined at the time the option is to be performed.

260 (e) The "remaining economic life of the goods" and "reasonably predictable" fair market rent,
261 fair market value, or cost of performing under the lease agreement must be determined with
262 reference to the facts and circumstances at the time the transaction is entered into.

263 SECTION 1 204. VALUE. Except as otherwise provided in Articles 3, 4, and 5, a person gives
264 value for rights if the person acquires them:

265 (1) in return for a binding commitment to extend credit or for the extension of immediately
266 available credit, whether or not drawn upon and whether or not a charge back is provided for in
267 the event of difficulties in collection;

268 (2) as security for, or in total or partial satisfaction of, a preexisting claim;

269 (3) by accepting delivery under a preexisting contract for purchase; or

270 (4) in return for any consideration sufficient to support a simple contract.

271 SECTION 1 205. REASONABLE TIME; SEASONABLENESS.

272 (a) Whether a time for taking an action required by this chapter is reasonable depends on the
273 nature, purpose, and circumstances of the action.

274 (b) An action is taken seasonably if it is taken at or within the time agreed or, if no time is
275 agreed, at or within a reasonable time.

276 SECTION 1-206. PRESUMPTIONS. Whenever this chapter creates a “presumption” with
277 respect to a fact, or provides that a fact is “presumed,” the trier of fact must find the existence of
278 the fact unless and until evidence is introduced that supports a finding of its nonexistence.

279 PART 3

280 TERRITORIAL APPLICABILITY AND GENERAL RULES

281 SECTION 1 301. TERRITORIAL APPLICABILITY; PARTIES’ POWER TO CHOOSE
282 APPLICABLE LAW.

283 (a) Except as provided hereafter in this section, when a transaction bears a reasonable relation to
284 this state and also to another state or nation the parties may agree that the law either of this state
285 or of such other state or nation shall govern their rights and duties. Failing such agreement this
286 Act applies to transactions bearing an appropriate relation to this state.

287 (b) To the extent that this chapter governs a transaction, if one of the following provisions of
288 this chapter specifies the applicable law, that provision governs and a contrary agreement is
289 effective only to the extent permitted by the law so specified:

290 (1) Section 2 402;

291 (2) Sections 2A 105 and 2A 106;

292 (3) Section 4 102;

293 (4) Section 4A 507;

294 (5) Section 5 116;

295 (6) Section 8 110;

296 (7) Sections 9 301 through 9 307.

297 SECTION 1 302. VARIATION BY AGREEMENT.

298 (a) Except as otherwise provided in subsection (b) or elsewhere in this chapter, the effect of
299 provisions of this chapter may be varied by agreement.

300 (b) The obligations of good faith, diligence, reasonableness, and care prescribed by this chapter
301 may not be disclaimed by agreement. The parties, by agreement, may determine the standards
302 by which the performance of those obligations is to be measured if those standards are not
303 manifestly unreasonable. Whenever this chapter requires an action to be taken within a
304 reasonable time, a time that is not manifestly unreasonable may be fixed by agreement.

305 (c) The presence in certain provisions of this chapter of the phrase “unless otherwise agreed”, or
306 words of similar import, does not imply that the effect of other provisions may not be varied by
307 agreement under this section.

308 SECTION 1 303. COURSE OF PERFORMANCE, COURSE OF DEALING, AND USAGE
309 OF TRADE.

310 (a) A “course of performance” is a sequence of conduct between the parties to a particular
311 transaction that exists if:

312 (1) the agreement of the parties with respect to the transaction involves repeated occasions for
313 performance by a party; and

314 (2) the other party, with knowledge of the nature of the performance and opportunity for
315 objection to it, accepts the performance or acquiesces in it without objection.

316 (b) A “course of dealing” is a sequence of conduct concerning previous transactions between the
317 parties to a particular transaction that is fairly to be regarded as establishing a common basis of
318 understanding for interpreting their expressions and other conduct.

319 (c) A “usage of trade” is any practice or method of dealing having such regularity of observance
320 in a place, vocation, or trade as to justify an expectation that it will be observed with respect to
321 the transaction in question. The existence and scope of such a usage must be proved as facts. If
322 it is established that such a usage is embodied in a trade code or similar record, the interpretation
323 of the record is a question of law.

324 (d) A course of performance or course of dealing between the parties or usage of trade in the
325 vocation or trade in which they are engaged or of which they are or should be aware is relevant
326 in ascertaining the meaning of the parties’ agreement, may give particular meaning to specific
327 terms of the agreement, and may supplement or qualify the terms of the agreement. A usage of

328 trade applicable in the place in which part of the performance under the agreement is to occur
329 may be so utilized as to that part of the performance.

330 (e) Except as otherwise provided in subsection (f), the express terms of an agreement and any
331 applicable course of performance, course of dealing, or usage of trade must be construed
332 whenever reasonable as consistent with each other. If such a construction is unreasonable:

333 (1) express terms prevail over course of performance, course of dealing, and usage of trade;

334 (2) course of performance prevails over course of dealing and usage of trade; and

335 (3) course of dealing prevails over usage of trade.

336 (f) Subject to Section 2 209, a course of performance is relevant to show a waiver or
337 modification of any term inconsistent with the course of performance.

338 (g) Evidence of a relevant usage of trade offered by one party is not admissible unless that party
339 has given the other party notice that the court finds sufficient to prevent unfair surprise to the
340 other party.

341 SECTION 1 304. OBLIGATION OF GOOD FAITH. Every contract or duty within this chapter
342 imposes an obligation of good faith in its performance and enforcement.

343 SECTION 1 305. REMEDIES TO BE LIBERALLY ADMINISTERED.

344 (a) The remedies provided by this chapter must be liberally administered to the end that the
345 aggrieved party may be put in as good a position as if the other party had fully performed but
346 neither consequential or special damages nor penal damages may be had except as specifically
347 provided in this chapter or by other rule of law.

348 (b) Any right or obligation declared by this chapter is enforceable by action unless the provision
349 declaring it specifies a different and limited effect.

350 SECTION 1 306. WAIVER OR RENUNCIATION OF CLAIM OR RIGHT AFTER BREACH.

351 A claim or right arising out of an alleged breach may be discharged in whole or in part without
352 consideration by agreement of the aggrieved party in an authenticated record. For purposes of
353 this section, a party may “authenticate” a record by (i) signing a record that is a writing or (ii)
354 attaching to or logically associating with a record that is not a writing an electronic sound,
355 symbol or process with the present intent to adopt or accept the record. See Sections 1-
356 201(b)(37) and 9-102(a)(7).

357 SECTION 1 307. PRIMA FACIE EVIDENCE BY THIRD-PARTY DOCUMENTS. A

358 document in due form purporting to be a bill of lading, policy or certificate of insurance, official
359 weigher’s or inspector’s certificate, consular invoice, or any other document authorized or
360 required by the contract to be issued by a third party is prima facie evidence of its own
361 authenticity and genuineness and of the facts stated in the document by the third party.

362 SECTION 1 308. PERFORMANCE OR ACCEPTANCE UNDER RESERVATION OF
363 RIGHTS.

364 (a) A party that with explicit reservation of rights performs or promises performance or assents
365 to performance in a manner demanded or offered by the other party does not thereby prejudice
366 the rights reserved. Such words as “without prejudice,” “under protest,” or the like are
367 sufficient.

368 (b) Subsection (a) does not apply to an accord and satisfaction.

369 SECTION 1 309. OPTION TO ACCELERATE AT WILL. A term providing that one party or
370 that party's successor in interest may accelerate payment or performance or require collateral or
371 additional collateral "at will" or when the party "deems itself insecure," or words of similar
372 import, means that the party has power to do so only if that party in good faith believes that the
373 prospect of payment or performance is impaired. The burden of establishing lack of good faith is
374 on the party against which the power has been exercised.

375 SECTION 1 310. SUBORDINATED OBLIGATIONS. An obligation may be issued as
376 subordinated to performance of another obligation of the person obligated, or a creditor may
377 subordinate its right to performance of an obligation by agreement with either the person
378 obligated or another creditor of the person obligated. Subordination does not create a security
379 interest as against either the common debtor or a subordinated creditor.

380 SECTION 3. Subsection 2-103(1)(b) of said chapter 106 is hereby amended by striking out the
381 words ""Good faith" in the case of a merchant means honesty in fact and the observance of
382 reasonable commercial standards of fair dealing in the trade." and by substituting in place thereof
383 the following word:-- "[Reserved]".

384 SECTION 4. Subsection 2-103(3) of said chapter 106 is hereby amended by inserting, after the
385 words ""Consumer Goods'. Section 9-102", the words ""Control'. Section 7-106."

386 SECTION 5. Subsection 2-104(2) of said chapter 106 is hereby amended by inserting in the first
387 sentence of said Subsection, after the words "whether or not documents of title accompany", the
388 words "or are associated with".

389 SECTION 6. Section 202 of said chapter 106 is hereby amended by striking out Subsection 2-
390 202(a) and by substituting in place thereof the following Subsection 2-202(a):--

391 (a) by course of performance, course of dealing, or usage of trade (Section 1-303); and

392 SECTION 7. Section 2-208 of said chapter 106 is hereby repealed.

393 SECTION 8. Subsection 2-210(2) of said chapter 106 is hereby amended by striking out “9-

394 405” and by substituting “9-406.”

395 SECTION 9. Section 2-310 of said chapter 106 is hereby amended by striking out Subsection 2-

396 310(c) and substituting in place thereof the following Subsection 2-310(c):--

397 (c) if delivery is authorized and made by way of documents of title otherwise than by

398 subsection (b) then payment is due regardless of where the goods are to be received (i) at the

399 time and place at which the buyer is to receive delivery of the tangible documents or (ii) at the

400 time the buyer is to receive delivery of the electronic documents and at the seller’s place of

401 business or if none, the seller’s residence; and

402 SECTION 10. Subsection 2-323(2) of said chapter 106 is hereby amended by inserting in the

403 first sentence of said Subsection after the words “in a case within subsection (1) a ”, the word

404 “tangible”.

405 SECTION 11. Section 2-401 of said chapter 106 is hereby amended by striking out Subsection

406 2-401(3) and substituting in place thereof the following Subsection 2-401(3):--

407 (3) Unless otherwise explicitly agreed where delivery is to be made without moving the

408 goods,

409 (a) if the seller is to deliver a tangible document of title, title passes at the time when and

410 the place where he delivers such documents and if the seller is to deliver an electronic document

411 of title, title passes when the seller delivers the document; or

412 (b) if the goods are at the time of contracting already identified and no documents of title
413 are to be delivered, title passes at the time and place of contracting.

414 SECTION 12. Subsection 2-503(4)(b) of said chapter 106 is hereby amended by striking out the
415 words “written direction to” and by substituting in place thereof the words “record directing”.

416 SECTION 13. Subsection 2-503(4)(b) of said chapter 106 is hereby further amended by
417 inserting, after the words “buyer seasonably objects, and”, the words “except as otherwise
418 provided in Article 9”.

419 SECTION 14. Subsection 2-503(5)(b) of said chapter 106 is hereby amended by inserting, after
420 the words “dishonor of a draft accompanying”, the words “or associated with”.

421 SECTION 15. Subsection 2-505(1)(b) of said chapter 106 is hereby amended by inserting, after
422 the words “even though the seller retains possession”, the words “or control”.

423 SECTION 16. Subsection 2-505(2) of said chapter 106 is hereby amended by inserting, at the
424 end of said Subsection after the words “negotiable document”, the words “of title”.

425 SECTION 17. Section 2-506 of said chapter 106 is hereby amended by striking out, at the end of
426 said Section after the words “which was apparently regular”, the words “on its face”.

427 SECTION 18. Subsection 2-509(2)(a) of said chapter 106 is hereby amended by inserting ,after
428 the words “on his receipt of”, the words “possession or control of”.

429 SECTION 19. Subsection 2-509(2)(c) of said chapter 106 is hereby amended by inserting, after
430 the words “on his receipt of”, the words “possession or control of”.

431 SECTION 20. Subsection 2-509(2)(c) of said chapter 106 is hereby amended further by striking
432 the words “written direction to deliver” and by substituting in place thereof the words “direction
433 to deliver in a record”.

434 SECTION 21. Subsection 2-605(2) of said chapter 106 is hereby amended by striking the words
435 “on the face of” and by substituting in place thereof the word “in”.

436 SECTION 22. Subsection 2-705(2)(c) of said chapter 106 is hereby amended by striking the
437 word “warehouseman” and by substituting in place thereof the words “a warehouse”.

438 SECTION 23. Subsection 2-705(3)(c) of said chapter 106 is hereby amended by inserting, after
439 the words “stop until surrender”, the words “of possession or control”.

440 SECTION 24. Subsection 2A-103(1)(a) of said chapter 106 is hereby amended by striking in the
441 last sentence the word “receiving” and by substituting in place thereof the word “acquiring”.

442 SECTION 25. Subsection 2A-103(1)(o) of said chapter 106 is hereby amended by striking in the
443 last sentence the word “receiving” and by substituting in place thereof the word “acquiring”.

444 SECTION 26. Subsection 2A-103(3) of said chapter 106 is hereby amended by striking out the
445 words ““Good faith”. Section 2-103(1)(b).”

446 SECTION 27. Section 2A-207 of said chapter 106 is hereby repealed.

447 SECTION 28. Subsection 2A-303(2) of said chapter 106 is hereby amended by striking out “9-
448 406” and by substituting in place thereof “9-407.”

449 SECTION 29. Subsection 2A-303(4) of said chapter 106 is hereby amended by striking out “9-
450 406” and by substituting in place thereof “9-407.”

451 SECTION 30. Subsection 2A-501(4) of said chapter 106 is hereby amended by striking out “1-
452 106(1)” and by substituting in place thereof “1-305(a)”.

453 SECTION 31. Subsection 2A-514(2) of said chapter 106 is hereby amended by striking the
454 words “on the face of” and by substituting in place thereof the word “in”.

455 SECTION 32. Subsection 2A-518(2) of said chapter 106 is hereby amended by striking out “1-
456 102(3)” and by inserting in place thereof “1-302”.

457 SECTION 33. Subsection 2A-519(1) of said chapter 106 is hereby amended by striking out “1-
458 102(3)” and by inserting in place thereof “1-302”.

459 SECTION 34. Subsection 2A-526(2)(c) of said chapter 106 is hereby amended by striking out
460 the word “warehouseman” and by substituting in place thereof the words “a warehouse”.

461 SECTION 35. Subsection 2A-527(2) of said chapter 106 is hereby amended by striking out “1-
462 102(3)” and by inserting in place thereof “1-302”.

463 SECTION 36. Subsection 2A-528(1) of said chapter 106 is hereby amended by striking out “1-
464 102(3)” and by inserting in place thereof “1-302”.

465 SECTION 37. The definition of “Prove” in Subsection 3-103(a) of said chapter 106 is hereby
466 amended by striking out “1-201(8)” and by inserting in place thereof “1-201(b)(8)”.

467 SECTION 38. Section 4-104 of said chapter 106 is hereby amended by inserting, after the words
468 “‘Check’. Section 3-104”, the words “‘Control’. Section 7-106.”

469 SECTION 39. Subsection 4-210(c) of said chapter 106 is hereby amended by inserting, after the
470 words “give up possession of the item or”, the words “possession or control of the”.

471 SECTION 40. The definition of “Prove” in said Section 4A-105(a) is hereby amended by
472 striking out “1-201(8)” and by substituting in place thereof “1-201(b)(8)”.

473 SECTION 41. Subsection 4A-106(a) of said chapter 106 is hereby amended by striking out “1-
474 201(27)” and by substituting in place thereof “1-202”.

475 SECTION 42. Section 4A-108 of said chapter 106 is hereby amended by striking out Section
476 4A-108 and by substituting in place thereof the following Section 4A-108:--

477 SECTION 4A-108: Relationship to Electronic Fund Transfer Act.

478 (a) Except as provided in subsection (b), this Article shall not apply to a funds transfer
479 any part of which is governed by the Electronic Fund Transfer Act of 1978 (Title XX, Public
480 Law 95-630, 92 Stat. 3728, 15 U.S.C. 1693 et seq.).

481 (b) This Article applies to a funds transfer that is a remittance transfer as defined in the
482 Electronic Fund Transfer Act (15 U.S.C. Sec. 1693o-1) as amended from time to time, unless the
483 remittance transfer is an electronic fund transfer as defined in the Electronic Fund Transfer Act
484 (15 U.S.C. Sec. 1693a) as amended from time to time.

485 (c) In a funds transfer to which this Article applies, in the event of an inconsistency
486 between an applicable provision of this Article and an applicable provision of the Electronic
487 Fund Transfer Act, the provision of the Electronic Fund Transfer Act governs to the extent of the
488 inconsistency.

489 SECTION 43. Subsection 4A-204(b) of said chapter 106 is hereby amended by striking out “1-
490 204(1)” and by substituting in place thereof “1-302(b)”.

491 SECTION 44. Subsection 5-103(c) of said chapter 106 is hereby amended by striking out “1-
492 102(3)” and by substituting in place thereof “1-302”.

493 SECTION 45. Chapter 106 of the General Laws is hereby further amended by striking out
494 article 7, as so appearing, and by substituting in place thereof the following article 7:--

495 ARTICLE 7—DOCUMENTS OF TITLE

496 PART 1 GENERAL

497 SECTION 7-101. SHORT TITLE. This article may be cited as Uniform Commercial
498 Code-Documents of Title.

499 SECTION 7-102. DEFINITIONS AND INDEX OF DEFINITIONS.

500 (a) In this article, unless the context otherwise requires:

501 (1) "Bailee" means a person that by a warehouse receipt, bill of lading, or other
502 document of title acknowledges possession of goods and contracts to deliver them.

503 (2) "Carrier" means a person that issues a bill of lading.

504 (3) "Consignee" means a person named in a bill of lading to which or to whose
505 order the bill promises delivery.

506 (4) "Consignor" means a person named in a bill of lading as the person from
507 which the goods have been received for shipment.

508 (5) "Delivery order" means a record that contains an order to deliver goods
509 directed to a warehouse, carrier, or other person that in the ordinary course of business issues
510 warehouse receipts or bills of lading.

511 (6) [Reserved]

512 (7) "Goods" means all things that are treated as movable for the purposes of a
513 contract for storage or transportation.

514 (8) "Issuer" means a bailee that issues a document of title or, in the case of an
515 unaccepted delivery order, the person that orders the possessor of goods to deliver. The term
516 includes a person for which an agent or employee purports to act in issuing a document if the
517 agent or employee has real or apparent authority to issue documents, even if the issuer did not
518 receive any goods, the goods were misdescribed, or in any other respect the agent or employee
519 violated the issuer's instructions.

520 (9) "Person entitled under the document" means the holder, in the case of a
521 negotiable document of title, or the person to which delivery of the goods is to be made by the
522 terms of, or pursuant to instructions in a record under, a nonnegotiable document of title.

523 (10) [Reserved]

524 (11) "Sign" means, with present intent to authenticate or adopt a record:

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

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

528 For purposes of this subsection, a person may “authenticate” a record by (i) signing a record that
529 is a writing or (ii) attaching to or logically associating with a record that is not a writing an
530 electronic sound, symbol or process with the present intent to adopt or accept the record. See
531 Sections 1-201(b)(37) and 9-102(a)(7).

532 (12) “Shipper” means a person that enters into a contract of transportation with a
533 carrier.

534 (13) "Warehouse" means a person engaged in the business of storing goods for
535 hire.

536 (b) Definitions in other articles applying to this article and the sections in which they
537 appear are:

538 (1) “Contract for sale”. Section 2-106.

539 (2) “Lessee in the ordinary course of business”. Section 2A-103.

540 (3) “Receipt” of goods. Section 2-103.

541 (c) In addition, Article 1 contains general definitions and principles of construction and
542 interpretation applicable throughout this article.

543 SECTION 7-103. RELATION OF ARTICLE TO TREATY OR STATUTE.

544 (a) This article is subject to any treaty or statute of the United States or regulatory statute
545 of this state to the extent the treaty, statute, or regulatory statute is applicable.

546 (b) This article does not modify or repeal any law prescribing the form or content of a
547 document of title or the services or facilities to be afforded by a bailee, or otherwise regulating a

548 bailee's business in respects not specifically treated in this article. However, violation of such a
549 law does not affect the status of a document of title that otherwise is within the definition of a
550 document of title.

551 (c) This article modifies, limits, and supersedes the federal Electronic Signatures in
552 Global and National Commerce Act (15 U.S.C. Section 7001, et. seq.) but does not modify,
553 limit, or supersede Section 101(c) of that act (15 U.S.C. Section 7001(c)) or authorize electronic
554 delivery of any of the notices described in Section 103(b) of that act (15 U.S.C. Section 7003(b)).

555 (d) To the extent there is a conflict between the Uniform Electronic Transactions Act
556 (chapter 110G, sections 1 through 18) and this article, this article governs.

557 SECTION 7-104. NEGOTIABLE AND NONNEGOTIABLE DOCUMENT OF TITLE.

558 (a) Except as otherwise provided in subsection (c), a document of title is negotiable if by
559 its terms the goods are to be delivered to bearer or to the order of a named person.

560 (b) A document of title other than one described in subsection (a) is nonnegotiable. A
561 bill of lading that states that the goods are consigned to a named person is not made negotiable
562 by a provision that the goods are to be delivered only against an order in a record signed by the
563 same or another named person.

564 (c) A document of title is nonnegotiable if, at the time it is issued, the document has a
565 conspicuous legend, however expressed, that it is nonnegotiable.

566 SECTION 7-105. REISSUANCE IN ALTERNATIVE MEDIUM.

567 (a) Upon request of a person entitled under an electronic document of title, the issuer of
568 the electronic document may issue a tangible document of title as a substitute for the electronic
569 document if:

570 (1) the person entitled under the electronic document surrenders control of the
571 document to the issuer; and

572 (2) the tangible document when issued contains a statement that it is issued in
573 substitution for the electronic document.

574 (b) Upon issuance of a tangible document of title in substitution for an electronic
575 document of title in accordance with subsection (a):

576 (1) the electronic document ceases to have any effect or validity; and

577 (2) the person that procured issuance of the tangible document warrants to all
578 subsequent persons entitled under the tangible document that the warrantor was a person entitled
579 under the electronic document when the warrantor surrendered control of the electronic
580 document to the issuer.

581 (c) Upon request of a person entitled under a tangible document of title, the issuer of the
582 tangible document may issue an electronic document of title as a substitute for the tangible
583 document if:

584 (1) the person entitled under the tangible document surrenders possession of the
585 document to the issuer; and

586 (2) the electronic document when issued contains a statement that it is issued in
587 substitution for the tangible document.

588 (d) Upon issuance of an electronic document of title in substitution for a tangible
589 document of title in accordance with subsection (c):

590 (1) the tangible document ceases to have any effect or validity; and

591 (2) the person that procured issuance of the electronic document warrants to all
592 subsequent persons entitled under the electronic document that the warrantor was a person
593 entitled under the tangible document when the warrantor surrendered possession of the tangible
594 document to the issuer.

595 SECTION 7-106. CONTROL OF ELECTRONIC DOCUMENT OF TITLE.

596 (a) A person has control of an electronic document of title if a system employed for
597 evidencing the transfer of interests in the electronic document reliably establishes that person as
598 the person to which the electronic document was issued or transferred.

599 (b) A system satisfies subsection (a), and a person is deemed to have control of an
600 electronic document of title, if the document is created, stored, and assigned in such a manner
601 that:

602 (1) a single authoritative copy of the document exists which is unique,
603 identifiable, and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;

604 (2) the authoritative copy identifies the person asserting control as:

605 (A) the person to which the document was issued; or

606 (B) if the authoritative copy indicates that the document has been
607 transferred, the person to which the document was most recently transferred;

608 (3) the authoritative copy is communicated to and maintained by the person
609 asserting control or its designated custodian;

610 (4) copies or amendments that add or change an identified assignee of the
611 authoritative copy can be made only with the consent of the person asserting control;

612 (5) each copy of the authoritative copy and any copy of a copy is readily
613 identifiable as a copy that is not the authoritative copy; and

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

616 PART 2 WAREHOUSE RECEIPTS: SPECIAL PROVISIONS

617 SECTION 7-201. PERSON THAT MAY ISSUE A WAREHOUSE RECEIPT; 618 STORAGE UNDER BOND.

619 (a) A warehouse receipt may be issued by any warehouse.

620 (b) If goods, including distilled spirits and agricultural commodities, are stored under a
621 statute requiring a bond against withdrawal or a license for the issuance of receipts in the nature
622 of warehouse receipts, a receipt issued for the goods is deemed to be a warehouse receipt even if
623 issued by a person that is the owner of the goods and is not a warehouse.

624 SECTION 7-202. FORM OF WAREHOUSE RECEIPT; EFFECT OF OMISSION.

625 (a) A warehouse receipt need not be in any particular form.

626 (b) Unless a warehouse receipt provides for each of the following, the warehouse is liable
627 for damages caused to a person injured by its omission:

628 (1) a statement of the location of the warehouse facility where the goods are
629 stored;

630 (2) the date of issue of the receipt;

631 (3) the unique identification code of the receipt;

632 (4) a statement whether the goods received will be delivered to the bearer, to a
633 named person, or to a named person or its order;

634 (5) the rate of storage and handling charges, unless goods are stored under a field
635 warehousing arrangement, in which case a statement of that fact is sufficient on a nonnegotiable
636 receipt;

637 (6) a description of the goods or the packages containing them;

638 (7) the signature of the warehouse or its agent;

639 (8) if the receipt is issued for goods that the warehouse owns, either solely,
640 jointly, or in common with others, a statement of the fact of that ownership; and

641 (9) a statement of the amount of advances made and of liabilities incurred for
642 which the warehouse claims a lien or security interest, unless the precise amount of advances
643 made or liabilities incurred, at the time of the issue of the receipt, is unknown to the warehouse
644 or to its agent that issued the receipt, in which case a statement of the fact that advances have
645 been made or liabilities incurred and the purpose of the advances or liabilities is sufficient.

646 (c) A warehouse may insert in its receipt any terms that are not contrary to this chapter
647 and do not impair its obligation of delivery under Section 7-403 or its duty of care under Section
648 7-204. Any contrary provision is ineffective.

649 SECTION 7-203. LIABILITY FOR NONRECEIPT OR MISDESCRIPTION. A party
650 to or purchaser for value in good faith of a document of title, other than a bill of lading, that
651 relies upon the description of the goods in the document may recover from the issuer damages
652 caused by the nonreceipt or misdescription of the goods, except to the extent that:

653 (1) the document conspicuously indicates that the issuer does not know whether all or
654 part of the goods in fact were received or conform to the description, such as a case in which the
655 description is in terms of marks or labels or kind, quantity, or condition, or the receipt or
656 description is qualified by "contents, condition, and quality unknown", "said to contain", or
657 words of similar import, if the indication is true; or

658 (2) the party or purchaser otherwise has notice of the nonreceipt or misdescription.

659 SECTION 7-204. DUTY OF CARE; CONTRACTUAL LIMITATION OF
660 WAREHOUSE'S LIABILITY.

661 (a) A warehouse is liable for damages for loss of or injury to the goods caused by its
662 failure to exercise care with regard to the goods that a reasonably careful person would exercise
663 under similar circumstances. Unless otherwise agreed, the warehouse is not liable for damages
664 that could not have been avoided by the exercise of that care.

665 (b) Damages may be limited by a term in the warehouse receipt or storage agreement
666 limiting the amount of liability in case of loss or damage beyond which the warehouse is not

667 liable. Such a limitation is not effective with respect to the warehouse's liability for conversion
668 to its own use. On request of the bailor in a record at the time of signing the storage agreement
669 or within a reasonable time after receipt of the warehouse receipt, the warehouse's liability may
670 be increased on part or all of the goods covered by the storage agreement or the warehouse
671 receipt. In this event, increased rates may be charged based on an increased valuation of the
672 goods.

673 (c) Reasonable provisions as to the time and manner of presenting claims and
674 commencing actions based on the bailment may be included in the warehouse receipt or storage
675 agreement.

676 SECTION 7-205. TITLE UNDER WAREHOUSE RECEIPT DEFEATED IN
677 CERTAIN CASES. A buyer in ordinary course of business of fungible goods sold and delivered
678 by a warehouse that is also in the business of buying and selling such goods takes the goods free
679 of any claim under a warehouse receipt even if the receipt is negotiable and has been duly
680 negotiated.

681 SECTION 7-206. TERMINATION OF STORAGE AT WAREHOUSE'S OPTION.

682 (a) A warehouse, by giving notice to the person on whose account the goods are held and
683 any other person known to claim an interest in the goods, may require payment of any charges
684 and removal of the goods from the warehouse at the termination of the period of storage fixed by
685 the document of title or, if a period is not fixed, within a stated period not less than 30 days after
686 the warehouse gives notice. If the goods are not removed before the date specified in the notice,
687 the warehouse may sell them pursuant to Section 7-210.

688 (b) If a warehouse in good faith believes that goods are about to deteriorate or decline in
689 value to less than the amount of its lien within the time provided in subsection (a) and Section 7-
690 210, the warehouse may specify in the notice given under subsection (a) any reasonable shorter
691 time for removal of the goods and, if the goods are not removed, may sell them at public sale
692 held not less than one week after a single advertisement or posting.

693 (c) If, as a result of a quality or condition of the goods of which the warehouse did not
694 have notice at the time of deposit, the goods are a hazard to other property, the warehouse
695 facilities, or other persons, the warehouse may sell the goods at public or private sale without
696 advertisement or posting on reasonable notification to all persons known to claim an interest in
697 the goods. If the warehouse, after a reasonable effort, is unable to sell the goods, it may dispose
698 of them in any lawful manner and does not incur liability by reason of that disposition.

699 (d) A warehouse shall deliver the goods to any person entitled to them under this article
700 upon due demand made at any time before sale or other disposition under this section.

701 (e) A warehouse may satisfy its lien from the proceeds of any sale or disposition under
702 this section but shall hold the balance for delivery on the demand of any person to which the
703 warehouse would have been bound to deliver the goods.

704 SECTION 7-207. GOODS MUST BE KEPT SEPARATE; FUNGIBLE GOODS.

705 (a) Unless the warehouse receipt provides otherwise, a warehouse shall keep separate the
706 goods covered by each receipt so as to permit at all times identification and delivery of those
707 goods. However, different lots of fungible goods may be commingled.

708 (b) If different lots of fungible goods are commingled, the goods are owned in common
709 by the persons entitled thereto and the warehouse is severally liable to each owner for that
710 owner's share. If, because of overissue, a mass of fungible goods is insufficient to meet all the
711 receipts the warehouse has issued against it, the persons entitled include all holders to which
712 overissued receipts have been duly negotiated.

713 SECTION 7-208. ALTERED WAREHOUSE RECEIPTS. If a blank in a negotiable
714 tangible warehouse receipt has been filled in without authority, a good-faith purchaser for value
715 and without notice of the lack of authority may treat the insertion as authorized. Any other
716 unauthorized alteration leaves any tangible or electronic warehouse receipt enforceable against
717 the issuer according to its original tenor.

718 SECTION 7-209. LIEN OF WAREHOUSE.

719 (a) A warehouse has a lien against the bailor on the goods covered by a warehouse receipt
720 or storage agreement or on the proceeds thereof in its possession for charges for storage or
721 transportation, including demurrage and terminal charges, insurance, labor, or other charges,
722 present or future, in relation to the goods, and for expenses necessary for preservation of the
723 goods or reasonably incurred in their sale pursuant to law. If the person on whose account the
724 goods are held is liable for similar charges or expenses in relation to other goods whenever
725 deposited and it is stated in the warehouse receipt or storage agreement that a lien is claimed for
726 charges and expenses in relation to other goods, the warehouse also has a lien against the goods
727 covered by the warehouse receipt or storage agreement or on the proceeds thereof in its
728 possession for those charges and expenses, whether or not the other goods have been delivered
729 by the warehouse. However, as against a person to which a negotiable warehouse receipt is duly

730 negotiated, a warehouse's lien is limited to charges in an amount or at a rate specified in the
731 warehouse receipt or, if no charges are so specified, to a reasonable charge for storage of the
732 specific goods covered by the receipt subsequent to the date of the receipt.

733 (b) A warehouse may also reserve a security interest against the bailor for the maximum
734 amount specified on the receipt for charges other than those specified in subsection (a), such as
735 for money advanced and interest. The security interest is governed by Article 9.

736 (c) A warehouse's lien for charges and expenses under subsection (a) or a security
737 interest under subsection (b) is also effective against any person that so entrusted the bailor with
738 possession of the goods that a pledge of them by the bailor to a good-faith purchaser for value
739 would have been valid. However, the lien or security interest is not effective against a person
740 that before issuance of a document of title had a legal interest or a perfected security interest in
741 the goods and that did not:

742 (1) deliver or entrust the goods or any document of title covering the goods to the
743 bailor or the bailor's nominee with:

744 (A) actual or apparent authority to ship, store, or sell;

745 (B) power to obtain delivery under Section 7-403; or

746 (C) power of disposition under Sections 2-403, 2A-304(2), 2A-305(2), 9-
747 320, or 9-321(c) or other statute or rule of law; or

748 (2) acquiesce in the procurement by the bailor or its nominee of any document.

749 (d) A warehouse's lien on household goods for charges and expenses in relation to the
750 goods under subsection (a) is also effective against all persons if the depositor was the legal

751 possessor of the goods at the time of deposit. In this subsection, “household goods” means
752 furniture, furnishings, or personal effects used by the depositor in a dwelling.

753 (e) A warehouse loses its lien on any goods that it voluntarily delivers or unjustifiably
754 refuses to deliver.

755 SECTION 7-210. ENFORCEMENT OF WAREHOUSE'S LIEN.

756 (a) Except as otherwise provided in subsection (b), a warehouse’s lien may be enforced
757 by public or private sale of the goods, in bulk or in packages, at any time or place and on any
758 terms that are commercially reasonable, after notifying all persons known to claim an interest in
759 the goods. The notification must include a statement of the amount due, the nature of the
760 proposed sale, and the time and place of any public sale. The fact that a better price could have
761 been obtained by a sale at a different time or in a method different from that selected by the
762 warehouse is not of itself sufficient to establish that the sale was not made in a commercially
763 reasonable manner. The warehouse sells in a commercially reasonable manner if the warehouse
764 sells the goods in the usual manner in any recognized market therefore, sells at the price current
765 in that market at the time of the sale, or otherwise sells in conformity with commercially
766 reasonable practices among dealers in the type of goods sold. A sale of more goods than
767 apparently necessary to be offered to ensure satisfaction of the obligation is not commercially
768 reasonable, except in cases covered by the preceding sentence.

769 (b) A warehouse may enforce its lien on goods, other than goods stored by a merchant in
770 the course of its business, only if the following requirements are satisfied:

771 (1) All persons known to claim an interest in the goods must be notified.

772 (2) The notification must include an itemized statement of the claim, a description
773 of the goods subject to the lien, a demand for payment within a specified time not less than 10
774 days after receipt of the notification, and a conspicuous statement that unless the claim is paid
775 within that time the goods will be advertised for sale and sold by auction at a specified time and
776 place.

777 (3) The sale must conform to the terms of the notification.

778 (4) The sale must be held at the nearest suitable place to where the goods are held
779 or stored.

780 (5) After the expiration of the time given in the notification, an advertisement of
781 the sale must be published once a week for two weeks consecutively in a newspaper of general
782 circulation where the sale is to be held. The advertisement must include a description of the
783 goods, the name of the person on whose account the goods are being held, and the time and place
784 of the sale. The sale must take place at least 15 days after the first publication. If there is no
785 newspaper of general circulation where the sale is to be held, the advertisement must be posted at
786 least 10 days before the sale in not fewer than six conspicuous places in the neighborhood of the
787 proposed sale.

788 (c) Before any sale pursuant to this section, any person claiming a right in the goods may
789 pay the amount necessary to satisfy the lien and the reasonable expenses incurred in complying
790 with this section. In that event, the goods may not be sold but must be retained by the warehouse
791 subject to the terms of the receipt and this article.

792 (d) A warehouse may buy at any public sale held pursuant to this section.

793 (e) A purchaser in good faith of goods sold to enforce a warehouse's lien takes the goods
794 free of any rights of persons against which the lien was valid, despite the warehouse's
795 noncompliance with this section.

796 (f) A warehouse may satisfy its lien from the proceeds of any sale pursuant to this section
797 but shall hold the balance, if any, for delivery on demand to any person to which the warehouse
798 would have been bound to deliver the goods.

799 (g) The rights provided by this section are in addition to all other rights allowed by law to
800 a creditor against a debtor.

801 (h) If a lien is on goods stored by a merchant in the course of its business, the lien may be
802 enforced in accordance with subsection (a) or (b).

803 (i) A warehouse is liable for damages caused by failure to comply with the requirements
804 for sale under this section and, in case of willful violation, is liable for conversion.

805 PART 3 BILLS OF LADING: SPECIAL PROVISIONS

806 SECTION 7-301. LIABILITY FOR NONRECEIPT OR MISDESCRIPTION; "SAID 807 TO CONTAIN"; "SHIPPER'S WEIGHT, LOAD, AND COUNT"; IMPROPER HANDLING.

808 (a) A consignee of a nonnegotiable bill of lading which has given value in good faith, or a
809 holder to which a negotiable bill has been duly negotiated, relying upon the description of the
810 goods in the bill or upon the date shown in the bill, may recover from the issuer damages caused
811 by the misdating of the bill or the nonreceipt or misdescription of the goods, except to the extent
812 that the bill indicates that the issuer does not know whether any part or all of the goods in fact
813 were received or conform to the description, such as in a case in which the description is in terms

814 of marks or labels or kind, quantity, or condition or the receipt or description is qualified by
815 "contents or condition of contents of packages unknown", "said to contain", "shipper's weight,
816 load, and count," or words of similar import, if that indication is true.

817 (b) If goods are loaded by the issuer of a bill of lading;

818 (1) the issuer shall count the packages of goods if shipped in packages and
819 ascertain the kind and quantity if shipped in bulk; and

820 (2) words such as "shipper's weight, load, and count," or words of similar import
821 indicating that the description was made by the shipper are ineffective except as to goods
822 concealed in packages.

823 (c) If bulk goods are loaded by a shipper that makes available to the issuer of a bill of
824 lading adequate facilities for weighing those goods, the issuer shall ascertain the kind and
825 quantity within a reasonable time after receiving the shipper's request in a record to do so. In
826 that case, "shipper's weight" or words of similar import are ineffective.

827 (d) The issuer of a bill of lading, by including in the bill the words "shipper's weight,
828 load, and count," or words of similar import, may indicate that the goods were loaded by the
829 shipper, and, if that statement is true, the issuer is not liable for damages caused by the improper
830 loading. However, omission of such words does not imply liability for damages caused by
831 improper loading.

832 (e) A shipper guarantees to an issuer the accuracy at the time of shipment of the
833 description, marks, labels, number, kind, quantity, condition, and weight, as furnished by the
834 shipper, and the shipper shall indemnify the issuer against damage caused by inaccuracies in

835 those particulars. This right of indemnity does not limit the issuer's responsibility or liability
836 under the contract of carriage to any person other than the shipper.

837 SECTION 7-302. THROUGH BILLS OF LADING AND SIMILAR DOCUMENTS OF
838 TITLE.

839 (a) The issuer of a through bill of lading, or other document of title embodying an
840 undertaking to be performed in part by a person acting as its agent or by a performing carrier, is
841 liable to any person entitled to recover on the bill or other document for any breach by the other
842 person or the performing carrier of its obligation under the bill or other document. However, to
843 the extent that the bill or other document covers an undertaking to be performed overseas or in
844 territory not contiguous to the continental United States or an undertaking including matters
845 other than transportation, this liability for breach by the other person or the performing carrier
846 may be varied by agreement of the parties.

847 (b) If goods covered by a through bill of lading or other document of title embodying an
848 undertaking to be performed in part by a person other than the issuer are received by that person,
849 the person is subject, with respect to its own performance while the goods are in its possession,
850 to the obligation of the issuer. The person's obligation is discharged by delivery of the goods to
851 another person pursuant to the bill or other document and does not include liability for breach by
852 any other person or by the issuer.

853 (c) The issuer of a through bill of lading or other document of title described in
854 subsection (a) is entitled to recover from the performing carrier, or other person in possession of
855 the goods when the breach of the obligation under the bill or other document occurred:

856 (1) the amount it may be required to pay to any person entitled to recover on the
857 bill or other document for the breach, as may be evidenced by any receipt, judgment, or
858 transcript of judgment; and

859 (2) the amount of any expense reasonably incurred by the issuer in defending any
860 action commenced by any person entitled to recover on the bill or other document for the breach.

861 SECTION 7-303. DIVERSION; RECONSIGNMENT; CHANGE OF
862 INSTRUCTIONS.

863 (a) Unless the bill of lading otherwise provides, a carrier may deliver the goods to a
864 person or destination other than that stated in the bill or may otherwise dispose of the goods,
865 without liability for misdelivery, on instructions from:

866 (1) the holder of a negotiable bill;

867 (2) the consignor on a nonnegotiable bill, even if the consignee has given contrary
868 instructions;

869 (3) the consignee on a nonnegotiable bill in the absence of contrary instructions
870 from the consignor, if the goods have arrived at the billed destination or if the consignee is in
871 possession of the tangible bill or in control of the electronic bill; or

872 (4) the consignee on a nonnegotiable bill, if the consignee is entitled as against the
873 consignor to dispose of the goods.

874 (b) Unless instructions described in subsection (a) are included in a negotiable bill of
875 lading, a person to which the bill is duly negotiated may hold the bailee according to the original
876 terms.

877 SECTION 7-304. TANGIBLE BILLS OF LADING IN A SET.

878 (a) Except as customary in international transportation, a tangible bill of lading may not
879 be issued in a set of parts. The issuer is liable for damages caused by violation of this
880 subsection.

881 (b) If a tangible bill of lading is lawfully issued in a set of parts, each of which contains
882 an identification code and is expressed to be valid only if the goods have not been delivered
883 against any other part, the whole of the parts constitutes one bill.

884 (c) If a tangible negotiable bill of lading is lawfully issued in a set of parts and different
885 parts are negotiated to different persons, the title of the holder to which the first due negotiation
886 is made prevails as to both the document of title and the goods even if any later holder may have
887 received the goods from the carrier in good faith and discharged the carrier's obligation by
888 surrendering its part.

889 (d) A person that negotiates or transfers a single part of a tangible bill of lading issued in
890 a set is liable to holders of that part as if it were the whole set.

891 (e) The bailee shall deliver in accordance with Part 4 against the first presented part of a
892 tangible bill of lading lawfully issued in a set. Delivery in this manner discharges the bailee's
893 obligation on the whole bill.

894 SECTION 7-305. DESTINATION BILLS.

895 (a) Instead of issuing a bill of lading to the consignor at the place of shipment, a carrier,
896 at the request of the consignor, may procure the bill to be issued at destination or at any other
897 place designated in the request.

898 (b) Upon request of any person entitled as against a carrier to control the goods while in
899 transit and on surrender of possession or control of any outstanding bill of lading or other receipt
900 covering the goods, the issuer, subject to Section 7-105, may procure a substitute bill to be issued
901 at any place designated in the request.

902 SECTION 7-306. ALTERED BILLS OF LADING. An unauthorized alteration or filling
903 in of a blank in a bill of lading leaves the bill enforceable according to its original tenor.

904 SECTION 7-307. LIEN OF CARRIER.

905 (a) A carrier has a lien on the goods covered by a bill of lading or on the proceeds thereof
906 in its possession for charges after the date of the carrier's receipt of the goods for storage or
907 transportation, including demurrage and terminal charges, and for expenses necessary for
908 preservation of the goods incident to their transportation or reasonably incurred in their sale
909 pursuant to law. However, against a purchaser for value of a negotiable bill of lading, a carrier's
910 lien is limited to charges stated in the bill or the applicable tariffs or, if no charges are stated, a
911 reasonable charge.

912 (b) A lien for charges and expenses under subsection (a) on goods that the carrier was
913 required by law to receive for transportation is effective against the consignor or any person
914 entitled to the goods unless the carrier had notice that the consignor lacked authority to subject
915 the goods to those charges and expenses. Any other lien under subsection (a) is effective against
916 the consignor and any person that permitted the bailor to have control or possession of the goods
917 unless the carrier had notice that the bailor lacked authority.

918 (c) A carrier loses its lien on any goods that it voluntarily delivers or unjustifiably refuses
919 to deliver.

920

921 SECTION 7-308. ENFORCEMENT OF CARRIER'S LIEN.

922 (a) A carrier's lien on goods may be enforced by public or private sale of the goods, in
923 bulk or in packages, at any time or place and on any terms that are commercially reasonable,
924 after notifying all persons known to claim an interest in the goods. The notification must include
925 a statement of the amount due, the nature of the proposed sale, and the time and place of any
926 public sale. The fact that a better price could have been obtained by a sale at a different time or
927 in a method different from that selected by the carrier is not of itself sufficient to establish that
928 the sale was not made in a commercially reasonable manner. The carrier sells goods in a
929 commercially reasonable manner if the carrier sells the goods in the usual manner in any
930 recognized market therefor, sells at the price current in that market at the time of the sale, or
931 otherwise sells in conformity with commercially reasonable practices among dealers in the type
932 of goods sold. A sale of more goods than apparently necessary to be offered to ensure
933 satisfaction of the obligation is not commercially reasonable, except in cases covered by the
934 preceding sentence.

935 (b) Before any sale pursuant to this section, any person claiming a right in the goods may
936 pay the amount necessary to satisfy the lien and the reasonable expenses incurred in complying
937 with this section. In that event, the goods may not be sold but must be retained by the carrier,
938 subject to the terms of the bill of lading and this article.

939 (c) A carrier may buy at any public sale pursuant to this section.

940 (d) A purchaser in good faith of goods sold to enforce a carrier's lien takes the goods free
941 of any rights of persons against which the lien was valid, despite the carrier's noncompliance
942 with this section.

943 (e) A carrier may satisfy its lien from the proceeds of any sale pursuant to this section but
944 shall hold the balance, if any, for delivery on demand to any person to which the carrier would
945 have been bound to deliver the goods.

946 (f) The rights provided by this section are in addition to all other rights allowed by law to
947 a creditor against a debtor.

948 (g) A carrier's lien may be enforced pursuant to either subsection (a) or the procedure set
949 forth in Section 7-210(b).

950 (h) A carrier is liable for damages caused by failure to comply with the requirements for
951 sale under this section and, in case of willful violation, is liable for conversion.

952

953 SECTION 7-309. DUTY OF CARE; CONTRACTUAL LIMITATION OF CARRIER'S
954 LIABILITY.

955 (a) A carrier that issues a bill of lading, whether negotiable or nonnegotiable, shall
956 exercise the degree of care in relation to the goods which a reasonably careful person would
957 exercise under similar circumstances. This subsection does not affect any statute, regulation, or
958 rule of law that imposes liability upon a common carrier for damages not caused by its
959 negligence.

960 (b) Damages may be limited by a term in the bill of lading or in a transportation
961 agreement that the carrier's liability may not exceed a value stated in the bill or transportation
962 agreement if the carrier's rates are dependent upon value and the consignor is afforded an
963 opportunity to declare a higher value and the consignor is advised of the opportunity. However,
964 such a limitation is not effective with respect to the carrier's liability for conversion to its own
965 use.

966 (c) Reasonable provisions as to the time and manner of presenting claims and
967 commencing actions based on the shipment may be included in a bill of lading or a transportation
968 agreement.

969 PART 4 WAREHOUSE RECEIPTS AND BILLS OF LADING: GENERAL OBLIGATIONS

970 SECTION 7-401. IRREGULARITIES IN ISSUE OF RECEIPT OR BILL OR
971 CONDUCT OF ISSUER The obligations imposed by this article on an issuer apply to a
972 document of title even if:

973 (1) the document does not comply with the requirements of this article or of any other
974 statute, rule, or regulation regarding its issuance, form, or content;

975 (2) the issuer violated laws regulating the conduct of its business;

976 (3) the goods covered by the document were owned by the bailee when the document was
977 issued; or

978 (4) the person issuing the document is not a warehouse but the document purports to be a
979 warehouse receipt.

980

981 SECTION 7-402. DUPLICATE DOCUMENT OF TITLE; OVERISSUE. A duplicate
982 or any other document of title purporting to cover goods already represented by an outstanding
983 document of the same issuer does not confer any right in the goods, except as provided in the
984 case of tangible bills of lading in a set of parts, overissue of documents for fungible goods,
985 substitutes for lost, stolen, or destroyed documents, or substitute documents issued pursuant to
986 Section 7-105. The issuer is liable for damages caused by its overissue or failure to identify a
987 duplicate document by a conspicuous notation.

988 SECTION 7-403. OBLIGATION OF BAILEE TO DELIVER; EXCUSE.

989 (a) A bailee shall deliver the goods to a person entitled under a document of title
990 if the person complies with subsections (b) and (c), unless and to the extent that the bailee
991 establishes any of the following:

992 (1) delivery of the goods to a person whose receipt was rightful as against the
993 claimant;

994 (2) damage to or delay, loss, or destruction of the goods for which the bailee is not
995 liable;

996 (3) previous sale or other disposition of the goods in lawful enforcement of a lien
997 or on a warehouse's lawful termination of storage;

998 (4) the exercise by a seller of its right to stop delivery pursuant to Section 2-705
999 or by a lessor of its right to stop delivery pursuant to Section 2A-526;

1000 (5) a diversion, reconsignment, or other disposition pursuant to Section 7-303;

1001 (6) release, satisfaction, or any other personal defense against the claimant; or

1002 (7) any other lawful excuse.

1003 (b) A person claiming goods covered by a document of title shall satisfy the bailee's lien
1004 if the bailee so requests or if the bailee is prohibited by law from delivering the goods until the
1005 charges are paid.

1006 (c) Unless a person claiming the goods is a person against which the document of title
1007 does not confer a right under Section 7-503(a):

1008 (1) the person claiming under a document shall surrender possession or control of
1009 any outstanding negotiable document covering the goods for cancellation or indication of partial
1010 deliveries; and

1011 (2) the bailee shall cancel the document or conspicuously indicate in the
1012 document the partial delivery or the bailee is liable to any person to which the document is duly
1013 negotiated.

1014 SECTION 7-404. NO LIABILITY FOR GOOD-FAITH DELIVERY PURSUANT TO
1015 DOCUMENT OF TITLE. A bailee that in good faith has received goods and delivered or
1016 otherwise disposed of the goods according to the terms of a document of title or pursuant to this
1017 article is not liable for the goods even if:

1018 (1) the person from which the bailee received the goods did not have authority to procure
1019 the document or to dispose of the goods; or

1020 (2) the person to which the bailee delivered the goods did not have authority to receive
1021 the goods.

1022 PART 5 WAREHOUSE RECEIPTS AND BILLS OF LADING: NEGOTIATION AND
1023 TRANSFER

1024 SECTION 7-501. FORM OF NEGOTIATION AND REQUIREMENTS OF DUE
1025 NEGOTIATION.

1026 (a) The following rules apply to a negotiable tangible document of title:

1027 (1) If the document's original terms run to the order of a named person, the
1028 document is negotiated by the named person's indorsement and delivery. After the named
1029 person's indorsement in blank or to bearer, any person may negotiate the document by delivery
1030 alone.

1031 (2) If the document's original terms run to bearer, it is negotiated by delivery
1032 alone.

1033 (3) If the document's original terms run to the order of a named person and it is
1034 delivered to the named person, the effect is the same as if the document had been negotiated.

1035 (4) Negotiation of the document after it has been indorsed to a named person
1036 requires indorsement by the named person and delivery.

1037 (5) A document is duly negotiated if it is negotiated in the manner stated in this
1038 subsection to a holder that purchases it in good faith, without notice of any defense against or
1039 claim to it on the part of any person, and for value, unless it is established that the negotiation is
1040 not in the regular course of business or financing or involves receiving the document in
1041 settlement or payment of a monetary obligation.

1042 (b) The following rules apply to a negotiable electronic document of title:

1043 (1) If the document's original terms run to the order of a named person or to
1044 bearer, the document is negotiated by delivery of the document to another person. Indorsement
1045 by the named person is not required to negotiate the document.

1046 (2) If the document's original terms run to the order of a named person and the
1047 named person has control of the document, the effect is the same as if the document had been
1048 negotiated.

1049 (3) A document is duly negotiated if it is negotiated in the manner stated in this
1050 subsection to a holder that purchases it in good faith, without notice of any defense against or
1051 claim to it on the part of any person, and for value, unless it is established that the negotiation is
1052 not in the regular course of business or financing or involves taking delivery of the document in
1053 settlement or payment of a monetary obligation.

1054 (c) Indorsement of a nonnegotiable document of title neither makes it negotiable nor adds
1055 to the transferee's rights.

1056 (d) The naming in a negotiable bill of lading of a person to be notified of the arrival of
1057 the goods does not limit the negotiability of the bill or constitute notice to a purchaser of the bill
1058 of any interest of that person in the goods.

1059 SECTION 7-502. RIGHTS ACQUIRED BY DUE NEGOTIATION.

1060 (a) Subject to Sections 7-205 and 7-503, a holder to which a negotiable document of title
1061 has been duly negotiated acquires thereby:

1062 (1) title to the document;

1063 (2) title to the goods;

1064 (3) all rights accruing under the law of agency or estoppel, including rights to
1065 goods delivered to the bailee after the document was issued; and

1066 (4) the direct obligation of the issuer to hold or deliver the goods according to the
1067 terms of the document free of any defense or claim by the issuer except those arising under the
1068 terms of the document or under this article, but in the case of a delivery order, the bailee's
1069 obligation accrues only upon the bailee's acceptance of the delivery order and the obligation
1070 acquired by the holder is that the issuer and any indorser will procure the acceptance of the
1071 bailee.

1072 (b) Subject to Section 7-503, title and rights acquired by due negotiation are not defeated
1073 by any stoppage of the goods represented by the document of title or by surrender of the goods
1074 by the bailee and are not impaired even if:

1075 (1) the due negotiation or any prior due negotiation constituted a breach of duty;

1076 (2) any person has been deprived of possession of a negotiable tangible document
1077 or control of a negotiable electronic document by misrepresentation, fraud, accident, mistake,
1078 duress, loss, theft, or conversion; or

1079 (3) a previous sale or other transfer of the goods or document has been made to a
1080 third person.

1081 SECTION 7-503. DOCUMENT OF TITLE TO GOODS DEFEATED IN CERTAIN
1082 CASES.

1083 (a) A document of title confers no right in goods against a person that before issuance of
1084 the document had a legal interest or a perfected security interest in the goods and that did not:

1085 (1) deliver or entrust the goods or any document of title covering the goods to the
1086 bailor or the bailor's nominee with:

1087 (A) actual or apparent authority to ship, store, or sell;

1088 (B) power to obtain delivery under Section 7-403; or

1089 (C) power of disposition under Section 2-403, 2A-304(2), 2A-305(2), 9-
1090 320, or 9-321(c) or other statute or rule of law; or

1091 (2) acquiesce in the procurement by the bailor or its nominee of any document.

1092 (b) Title to goods based upon an unaccepted delivery order is subject to the rights of any
1093 person to which a negotiable warehouse receipt or bill of lading covering the goods has been
1094 duly negotiated. That title may be defeated under Section 7-504 to the same extent as the rights
1095 of the issuer or a transferee from the issuer.

1096 (c) Title to goods based upon a bill of lading issued to a freight forwarder is subject to the
1097 rights of any person to which a bill issued by the freight forwarder is duly negotiated. However,
1098 delivery by the carrier in accordance with Part 4 pursuant to its own bill of lading discharges the
1099 carrier's obligation to deliver.

1100 SECTION 7-504. RIGHTS ACQUIRED IN ABSENCE OF DUE NEGOTIATION;
1101 EFFECT OF DIVERSION; STOPPAGE OF DELIVERY.

1102 (a) A transferee of a document of title, whether negotiable or nonnegotiable, to which the
1103 document has been delivered but not duly negotiated, acquires the title and rights that its
1104 transferor had or had actual authority to convey.

1105 (b) In the case of a transfer of a nonnegotiable document of title, until but not after the
1106 bailee receives notice of the transfer, the rights of the transferee may be defeated:

1107 (1) by those creditors of the transferor which could treat the transfer as void under
1108 Section 2-402 or 2A-308 ;

1109 (2) by a buyer from the transferor in ordinary course of business if the bailee has
1110 delivered the goods to the buyer or received notification of the buyer's rights;

1111 (3) by a lessee from the transferor in ordinary course of business if the bailee has
1112 delivered the goods to the lessee or received notification of the lessee's rights; or

1113 (4) as against the bailee, by good-faith dealings of the bailee with the transferor.

1114 (c) A diversion or other change of shipping instructions by the consignor in a
1115 nonnegotiable bill of lading which causes the bailee not to deliver the goods to the consignee
1116 defeats the consignee's title to the goods if the goods have been delivered to a buyer in ordinary
1117 course of business or a lessee in ordinary course of business and, in any event, defeats the
1118 consignee's rights against the bailee.

1119 (d) Delivery of the goods pursuant to a nonnegotiable document of title may be stopped
1120 by a seller under Section 2-705 or a lessor under Section 2A-526, subject to the requirements of
1121 due notification in those sections. A bailee that honors the seller's or lessor's instructions is
1122 entitled to be indemnified by the seller or lessor against any resulting loss or expense.

1123 SECTION 7-505. INDORSER NOT GUARANTOR FOR OTHER PARTIES. The
1124 indorsement of a tangible document of title issued by a bailee does not make the indorser liable
1125 for any default by the bailee or previous indorsers.

1126

1127 SECTION 7-506. DELIVERY WITHOUT INDORSEMENT: RIGHT TO COMPEL
1128 INDORSEMENT. The transferee of a negotiable tangible document of title has a specifically
1129 enforceable right to have its transferor supply any necessary indorsement, but the transfer
1130 becomes a negotiation only as of the time the indorsement is supplied.

1131 SECTION 7-507. WARRANTIES ON NEGOTIATION OR DELIVERY OF
1132 DOCUMENT OF TITLE. If a person negotiates or delivers a document of title for value,
1133 otherwise than as a mere intermediary under Section 7-508, unless otherwise agreed, the
1134 transferor, in addition to any warranty made in selling or leasing the goods, warrants to its
1135 immediate purchaser only that:

1136 (1) the document is genuine;

1137 (2) the transferor does not have knowledge of any fact that would impair the document's
1138 validity or worth; and

1139 (3) the negotiation or delivery is rightful and fully effective with respect to the title to the
1140 document and the goods it represents.

1141 SECTION 7-508. WARRANTIES OF COLLECTING BANK AS TO DOCUMENTS
1142 OF TITLE. A collecting bank or other intermediary known to be entrusted with documents of
1143 title on behalf of another or with collection of a draft or other claim against delivery of
1144 documents warrants by the delivery of the documents only its own good faith and authority even
1145 if the collecting bank or other intermediary has purchased or made advances against the claim or
1146 draft to be collected.

1147 SECTION 7-509. ADEQUATE COMPLIANCE WITH COMMERCIAL CONTRACT.

1148 Whether a document of title is adequate to fulfill the obligations of a contract for sale, a contract

1149 for lease, or the conditions of a letter of credit is determined by Article 2, 2A, or 5.

1150 PART 6 WAREHOUSE RECEIPTS AND BILLS OF LADING: MISCELLANEOUS

1151 PROVISIONS

1152 SECTION 7-601. LOST, STOLEN, OR DESTROYED DOCUMENTS OF TITLE.

1153 (a) If a document of title is lost, stolen, or destroyed, a court may order delivery of the

1154 goods or issuance of a substitute document and the bailee may without liability to any person

1155 comply with the order. If the document was negotiable, a court may not order delivery of the

1156 goods or issuance of a substitute document without the claimant's posting security unless it finds

1157 that any person that may suffer loss as a result of nonsurrender of possession or control of the

1158 document is adequately protected against the loss. If the document was nonnegotiable, the court

1159 may require security. The court may also order payment of the bailee's reasonable costs and

1160 attorney's fees in any action under this subsection.

1161 (b) A bailee that, without a court order, delivers goods to a person claiming under a

1162 missing negotiable document of title is liable to any person injured thereby. If the delivery is

1163 not in good faith, the bailee is liable for conversion. Delivery in good faith is not conversion if

1164 the claimant posts security with the bailee in an amount at least double the value of the goods at

1165 the time of posting to indemnify any person injured by the delivery which files a notice of claim

1166 within one year after the delivery.

1167 SECTION 7-602. JUDICIAL PROCESS AGAINST GOODS COVERED BY

1168 NEGOTIABLE DOCUMENT OF TITLE. Unless a document of title was originally issued upon

1169 delivery of the goods by a person that did not have power to dispose of them, a lien does not
1170 attach by virtue of any judicial process to goods in the possession of a bailee for which a
1171 negotiable document of title is outstanding unless possession or control of the document is first
1172 surrendered to the bailee or the document's negotiation is enjoined. The bailee may not be
1173 compelled to deliver the goods pursuant to process until possession or control of the document is
1174 surrendered to the bailee or to the court. A purchaser of the document for value without notice
1175 of the process or injunction takes free of the lien imposed by judicial process.

1176 SECTION 7-603. CONFLICTING CLAIMS; INTERPLEADER. If more than one
1177 person claims title to or possession of the goods, the bailee is excused from delivery until the
1178 bailee has a reasonable time to ascertain the validity of the adverse claims or to commence an
1179 action for interpleader. The bailee may assert an interpleader either in defending an action for
1180 nondelivery of the goods or by original action.

1181 SECTION 46. Subsection 8-102(a)(10) of said chapter 106 is hereby amended by striking out the
1182 words "'Good faith,' for purposes of the obligation of good faith in the performance or
1183 enforcement of contracts or duties within this Article, means honesty in fact and the observance
1184 of reasonable commercial standards of fair dealing." and by substituting in place thereof word:--
1185 "[Reserved]".

1186 SECTION 47. Section 8-103 of said chapter 106 is hereby amended by adding at the end of said
1187 Section the following new Subsection 8-103(g):--

1188 (g) A document of title, as defined in Section 1-201(16), is not a financial asset unless
1189 Section 8-102(a)(9)(iii) applies.

1190 SECTION 48. Subsection 9-102(a)(5) of chapter 106 of the General Laws is hereby amended by
1191 striking out the words “, other than a security interest, ”.

1192 SECTION 49. Subsection 9-102(a)(30) of said chapter 106 is hereby amended by striking out “7-
1193 201(2)” and by inserting in place thereof “7-201(b)”.

1194 SECTION 50. Subsection 9-102(a)(43) of said chapter 106 is hereby amended by striking out the
1195 words ““Good faith” means honesty in fact and the observance of reasonable commercial
1196 standards of fair dealing.” and by inserting in place thereof word “[Reserved]”.

1197 SECTION 51. Subsection 9-102(a)(46) of said chapter 106 is hereby amended by inserting, after
1198 the word “provided”, the words “or to be provided”.

1199 SECTION 52. Subsection 9-102(b) of said chapter 106 is hereby amended by inserting, after the
1200 words “‘Contract for sale’. Section 2-106”, the words “‘Control’ (with respect to a document of
1201 title). Section 7-106.”

1202 SECTION 53. Subsection 9-109(d)(10)(B) of said chapter 106 is hereby amended by striking
1203 out “9-403” and by substituting in place thereof “9-404.”

1204 SECTION 54. Subsection 9-203(b)(3)(D) of said chapter 106 is hereby amended by striking out
1205 the words “or letter-of credit rights,” and by substituting in place thereof the words “letter-of
1206 credit rights, or electronic documents,”.

1207 SECTION 55. Subsection 9-203(b)(3)(D) of said chapter 106 is hereby further amended by
1208 striking out the words “or 9-107,” and by substituting in place thereof the words “9-107, or 7-
1209 106”.

1210 SECTION 56. Subsection 9-207(c) of said chapter 106 is hereby amended by striking out the
1211 words “or 9-107,” and by substituting in place thereof the words “9-107, or 7-106”.

1212 SECTION 57. Section 9-208 of said chapter 106 is hereby amended by striking out the word
1213 “and” at the end of Subsection 9-208(b)(4), by striking out the period and substituting in place
1214 thereof the word “; and” at the end of Subsection 9-208(b)(5) and by adding at the end of said
1215 Section the following the following new Subsection 9-208(b)(6):--

1216 (6) a secured party having control of an electronic document shall:

1217 (A) give control of the electronic document to the debtor or its designated
1218 custodian;

1219 (B) if the debtor designates a custodian that is the designated custodian
1220 with which the authoritative copy of the electronic document is maintained for the secured party,
1221 communicate to the custodian an authenticated record releasing the designated custodian from
1222 any further obligation to comply with instructions originated by the secured party and instructing
1223 the custodian to comply with instructions originated by the debtor; and

1224 (C) take appropriate action to enable the debtor or its designated custodian
1225 to make copies of or revisions to the authoritative copy which add or change an identified
1226 assignee of the authoritative copy without the consent of the secured party.

1227 SECTION 58. Subsection 9-209(b) of said chapter 106 is hereby amended by striking out “9-
1228 405(a)” and by substituting in place thereof “9-406(a).”

1229 SECTION 59. Subsection 9-301(3) of said chapter 106 is hereby amended by inserting, after the
1230 words “provided in paragraph (4), while”, the word “tangible”.

1231 SECTION 60. Subsection 9-304(b)(1) of said chapter 106 is hereby amended by striking out the
1232 words “the debtor” and by substituting in place thereof the words “its customer”.

1233 SECTION 61. Section 9-309 of said chapter 106 is hereby amended by striking out the word
1234 “and” after the word “thereunder;” in Subsection 9-309(12), by striking out the period at the end
1235 of Subsection 9-309(13), by substituting in place thereof the word “; and” and by adding at the
1236 end of said Section 9-309 the following new Subsection 9-309(14):--

1237 (14) a sale by an individual of an account that is a right to payment of winnings in a
1238 lottery or other game of chance.

1239 SECTION 62. Subsection 9-310(b)(5) of said chapter 106 is hereby amended by inserting, after
1240 the words “perfected without filing,” the word “control,”.

1241 SECTION 63. Subsection 9-310(b)(8) of said chapter 106 is hereby amended by inserting, after
1242 the words “electronic chattel paper,” the words “electronic documents,”.

1243 SECTION 64. Subsection 9-312(e) of said chapter 106 is hereby amended by inserting, after the
1244 words “taking of possession,” the words “or control”.

1245 SECTION 65. Subsection 9-313(a) of said chapter 106 is hereby amended by inserting in the
1246 first sentence of said Subsection, after the words “may perfect a security in”, the word
1247 “tangible”.

1248 SECTION 66. Subsection 9-314(a) of said chapter 106 is hereby amended by striking out the
1249 words “or electronic chattel paper,” and by substituting in place thereof the words “electronic
1250 chattel paper, or electronic documents,”.

1251 SECTION 67. Subsection 9-314(a) of said chapter 106 is hereby further amended by striking out
1252 the words “or 9-107,” and by substituting in place thereof the words “9-107, or 7-106”.

1253 SECTION 68. Subsection 9-314(b) of said chapter 106 is hereby amended by striking out the
1254 words “or letter-of-credit rights” and by substituting in place thereof the words “letter-of-credit
1255 rights, or electronic documents”.

1256 SECTION 69. Subsection 9-314(b) of said chapter 106 is hereby further amended by striking
1257 out the words “or 9-107,” and by substituting in place thereof the words “9-107, or 7-106”.

1258 SECTION 70. Subsection 9-317(b) of said chapter 106 is hereby amended by inserting, after the
1259 words “tangible chattel paper,” the word “tangible”.

1260 SECTION 71. Subsection 9-317(d) of said chapter 106 is hereby amended by inserting, after the
1261 words “electronic chattel paper,” the words “electronic documents,”.

1262 SECTION 72. Subsection 9-338(2) of said chapter 106 is hereby amended by striking the words
1263 “in the case of chattel paper, documents” and by substituting in place thereof the words “in the
1264 case of tangible chattel paper, tangible documents”.

1265 SECTION 73. Part 3 of article 9 of said chapter 106 is hereby further amended by inserting,
1266 immediately after Section 9-341, the following new Section 9-342: --

1267 SECTION 9-342. BANK’S RIGHT TO REFUSE TO ENTER INTO OR DISCLOSE
1268 EXISTENCE OF CONTROL AGREEMENT. This article does not require a bank to enter into
1269 an agreement of the kind described in Section 9-104(a)(2), even if its customer so requests or
1270 directs. A bank that has entered into such an agreement is not required to confirm the existence
1271 of the agreement to another person unless requested to do so by its customer.

1272 SECTION 74. Subsection 9-401(a) of said chapter 106 is hereby amended by striking out the
1273 words “9-405, 9-406, 9-407 and 9-408” and by substituting in place thereof the words “9-406, 9-
1274 407, 9-408 and 9-409.”

1275 SECTION 75. Part 4 of article 9 of said chapter 106 is hereby amended by redesignating
1276 Sections 9-402, 9-403, 9-404, 9-405, 9-406, 9-407 and 9-408 as Sections 9-403, 9-404, 9-405, 9-
1277 406, 9-407, 9-408 and 9-409 respectively and by inserting, immediately after Section 9-401, the
1278 following new Section 9-402:--

1279 SECTION 9 402. SECURED PARTY NOT OBLIGATED ON CONTRACT OF DEBTOR OR
1280 IN TORT. The existence of a security interest, agricultural lien, or authority given to a debtor to
1281 dispose of or use collateral, without more, does not subject a secured party to liability in contract
1282 or tort for the debtor’s acts or omissions.

1283 SECTION 76. Subsection 9-404(b)(2), so redesignated as Subsection 9-405(b)(2), of said
1284 chapter 106, is hereby amended by striking out “9-405(a)” and by substituting in place thereof
1285 “9-406(a).”

1286 SECTION 77. Subsection 9-405(d), so redesignated as Subsection 9-406(d), of said chapter 106
1287 is hereby amended by striking out “9-406” and by substituting “9-407.”

1288 SECTION 78. Subsection 9-405(f), so redesignated as Subsection 9-406(f), of said chapter 106
1289 is hereby amended by striking out “9-406” and by substituting “9-407.”

1290 SECTION 79. Subsection 9-601(b) of said chapter 106 is hereby amended by striking out the
1291 words “or 9-107,” and by substituting in place thereof the words “9-107, or 7-106”.

1292 SECTION 80. Subsection 9-702(b) of said chapter 106 is hereby amended by striking out the
1293 word “9-708” and by inserting in place thereof the following word:-- “9-709”.

1294 SECTION 81. Subsection 9-706(b)(1) of said chapter 106 is hereby amended by striking out “9-
1295 402” and by substituting “9-403.”

1296 SECTION 82. Section 47 of chapter 152 of the General Laws is hereby amended by striking out
1297 “9-405 and 9-407” and by substituting “9-406 and 9-408.”

1298 SECTION 83. The following transitional provisions apply to the foregoing sections of this Act:

1299 (a) The foregoing sections of this Act apply to a document of title that is issued or a
1300 bailment that arises on or after the effective date of the foregoing sections of this Act. The
1301 foregoing sections of this Act do not apply to a document of title that is issued or a bailment that
1302 arises before the effective date of the foregoing sections of this Act even if the document of title
1303 or bailment would be subject to this Act if the document of title had been issued or bailment had
1304 arisen on or after the effective date of the foregoing sections of this Act.

1305 (b) The foregoing sections of this Act do not apply to a right of action that has
1306 accrued before the effective date of the foregoing sections of this Act.

1307 (c) A document of title issued or a bailment that arises before the effective date of the
1308 foregoing sections of this Act and the rights, obligations, and interests flowing from that
1309 document or bailment are governed by any statute or other rule amended or repealed by the
1310 foregoing sections of this Act as if amendment or repeal had not occurred and may be
1311 terminated, completed, consummated, or enforced under that statute or other rule.

1312 (d) Section 61 of this Act applies to a sale of an account described in Subsection 9-
1313 309(14) of Article 9 of chapter 106 of the General Laws, as amended by Section 61, even if the
1314 sale was entered into before the foregoing sections of this Act take effect. However, if the
1315 relative priorities of conflicting claims to the account were established before the foregoing
1316 sections of this Act take effect, Article 9 of said chapter 106 as in effect immediately prior to the
1317 date on which the foregoing sections of this Act take effect determines priority.

1318 (e) The amendments to said chapter 106 contained in Sections 1, 8, 28, 29, 48, 51, 53,
1319 58, 60, 73, 74, 75, 76, 77, 78, 80, 81 and 82 of this Act are intended to correct technical errors
1320 and, to the extent substantive, are intended to be declarative of existing law.

1321 SECOND SET OF AMENDMENTS

1322 (2010 AMENDMENTS TO UCC ARTICLE 9)

1323 SECTION 84. Chapter 106 of the General Laws is hereby amended by striking out Subsection
1324 9-102(a)(7)(B) of said chapter 106 and by substituting in place thereof the following Subsection
1325 9-102(a)(7)(B):--

1326 (B) with present intent to adopt or accept a record, to attach to or logically
1327 associate with the record an electronic sound, symbol, or process.

1328 SECTION 85. Subsection 9-102(a)(10) of said chapter 106 is hereby amended by adding the
1329 following sentence to the end of said Subsection:--

1330 The term includes another record maintained as an alternative to a certificate of title by the
1331 governmental unit that issues certificates of title if a statute permits the security interest in

1332 question to be indicated on the record as a condition or result of the security interest's obtaining
1333 priority over the rights of a lien creditor with respect to the collateral.

1334 SECTION 86. Subsection 9-102(a)(50) of said chapter 106 is hereby amended by inserting, after
1335 the words "under whose law the organization is", the words "formed or".

1336 SECTION 87. Subsection 9-102(a) of said chapter 106 is hereby amended by redesignating
1337 Subsections 9-102(a)(68), 9-102(a)(69), 9-102(a)(70), 9-102(a)(71), 9-102(a)(72), 9-102(a)(73),
1338 9-102(a)(74), 9-102(a)(75), 9-102(a)(76), 9-102(a)(77), 9-102(a)(78), 9-102(a)(79), and 9-
1339 102(a)(80) as 9-102(a)(69), 9-102(a)(70), 9-102(a)(71), 9-102(a)(72), 9-102(a)(73), 9-
1340 102(a)(74), 9-102(a)(75), 9-102(a)(76), 9-102(a)(77), 9-102(a)(78), 9-102(a)(79), 9-102(a)(80),
1341 and 9-102(a)(81) respectively and by inserting immediately after Subsection 9-102(a)(67), the
1342 following new Subsection 9-102(a)(68):--

1343 (68) "Public organic record" means a record that is available to the public for
1344 inspection and is:

1345 (A) a record consisting of the record initially filed with or issued by a
1346 State or the United States to form or organize an organization and any record filed with or issued
1347 by the State or the United States which amends or restates the initial record;

1348 (B) an organic record of a business trust consisting of the record initially
1349 filed with a State and any record filed with the State which amends or restates the initial record,
1350 if a statute of the State governing business trusts requires that the record be filed with the State;
1351 or

1352 (C) a record consisting of legislation enacted by the legislature of a State
1353 or the Congress of the United States which forms or organizes an organization, any record
1354 amending the legislation, and any record filed with or issued by the State or the United States
1355 which amends or restates the name of the organization.

1356 SECTION 88. Subsection 9-102(a)(70), so redesignated as Subsection 9-102(a)(71), of said
1357 chapter 106, is hereby amended by inserting, after the words “means an organization”, the words
1358 “formed or”.

1359 SECTION 89. Subsection 9-102(a)(70), so redesignated as Subsection 9-102(a)(71), of said
1360 chapter 106, is hereby further amended by striking out the words “and as to which the State or
1361 the United States must maintain a public record showing the organization to have been
1362 organized” and by substituting in place thereof the words “by the filing of a public organic
1363 record with, the issuance of a public organic record by, or the enactment of legislation by the
1364 State or the United States. The term includes a business trust that is formed or organized under
1365 the law of a single State if a statute of the State governing business trusts requires that the
1366 business trust’s organic record be filed with the State”.

1367 SECTION 90. Section 9-105 of said chapter 106 is hereby amended by striking out Section 9-
1368 105 and by substituting in place thereof the following Section 9-105:--

1369 SECTION 9-105. CONTROL OF ELECTRONIC CHATTEL PAPER

1370 (a) General rule: control of electronic chattel paper. A secured party has control of
1371 electronic chattel paper if a system employed for evidencing the transfer of interests in the
1372 chattel paper reliably establishes the secured party as the person to which the chattel paper was
1373 assigned.

1374 (b) Specific facts giving control. A system satisfies subsection (a) if the record or
1375 records comprising the chattel paper are created, stored, and assigned in such a manner that:

1376 (1) a single authoritative copy of the record or records exists which is unique,
1377 identifiable, and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;

1378 (2) the authoritative copy identifies the secured party as the assignee of the record
1379 or records;

1380 (3) the authoritative copy is communicated to and maintained by the secured party
1381 or its designated custodian;

1382 (4) copies or amendments that add or change an identified assignee of the
1383 authoritative copy can be made only with the consent of the secured party;

1384 (5) each copy of the authoritative copy and any copy of a copy is readily
1385 identifiable as a copy that is not the authoritative copy; and

1386 (6) any amendment of the authoritative copy is readily identifiable as authorized
1387 or unauthorized.

1388 SECTION 91. Subsection 9-307(f)(2) of said chapter 106 is hereby amended by inserting, after
1389 the words “designate its State of location”, the words “, including by designating its main office,
1390 home office, or other comparable office”.

1391 SECTION 92. Subsection 9-311(a)(3) of said chapter 106 is hereby amended by striking out,
1392 before the words “statute of another jurisdiction”, the words “certificate of title”.

1393 SECTION 93. Subsection 9-311(a)(3) of said chapter 106 is hereby further amended by striking
1394 out, after the words “to be indicated on”, the words “the certificate”, and by substituting in place
1395 thereof the words “a certificate of title”.

1396 SECTION 94. Section 9-316 of said chapter 106 is hereby amended by striking out the words
1397 “Continued Perfection of Security Interest Following” in the caption of said Section and by
1398 substituting in place thereof the words “Effect of”.

1399 SECTION 95. Section 9-316 of said chapter 106 is hereby further amended by adding at the end
1400 of said Section the following new Subsections 9-316(h) and 9-316(i):--

1401 (h) Effect on filed financing statement of change in governing law. The following rules
1402 apply to collateral to which a security interest attaches within four months after the debtor
1403 changes its location to another jurisdiction:

1404 (1) A financing statement filed before the change pursuant to the law of the
1405 jurisdiction designated in Section 9-301(1) or 9-305(c) is effective to perfect a security interest in
1406 the collateral if the financing statement would have been effective to perfect a security interest in
1407 the collateral had the debtor not changed its location.

1408 (2) If a security interest perfected by a financing statement that is effective under
1409 paragraph (1) becomes perfected under the law of the other jurisdiction before the earlier of the
1410 time the financing statement would have become ineffective under the law of the jurisdiction
1411 designated in Section 9-301(1) or 9-305(c) or the expiration of the four-month period, it remains
1412 perfected thereafter. If the security interest does not become perfected under the law of the other
1413 jurisdiction before the earlier time or event, it becomes unperfected and is deemed never to have
1414 been perfected as against a purchaser of the collateral for value.

1415 (i) Effect of change in governing law on financing statement filed against original
1416 debtor. If a financing statement naming an original debtor is filed pursuant to the law of the
1417 jurisdiction designated in Section 9-301(1) or 9-305(c) and the new debtor is located in another
1418 jurisdiction, the following rules apply:

1419 (1) The financing statement is effective to perfect a security interest in collateral
1420 acquired by the new debtor before, and within four months after, the new debtor becomes bound
1421 under Section 9-203(d), if the financing statement would have been effective to perfect a security
1422 interest in the collateral had the collateral been acquired by the original debtor.

1423 (2) A security interest perfected by the financing statement and which becomes
1424 perfected under the law of the other jurisdiction before the earlier of the time the financing
1425 statement would have become ineffective under the law of the jurisdiction designated in Section
1426 9-301(1) or 9-305(c) or the expiration of the four-month period remains perfected thereafter. A
1427 security interest that is perfected by the financing statement but which does not become perfected
1428 under the law of the other jurisdiction before the earlier time or event becomes unperfected and
1429 is deemed never to have been perfected as against a purchaser of the collateral for value.

1430 SECTION 96. Subsection 9-317(b) of said chapter 106 is hereby amended by striking out the
1431 words “security certificate” and by substituting in place thereof the words “certificated security”.

1432 SECTION 97. Subsection 9-317(d) of said chapter 106 is hereby amended by striking out the
1433 words “accounts, electronic chattel paper, electronic documents, general intangibles, or
1434 investment property other than” and by substituting in place thereof the words “collateral other
1435 than tangible chattel paper, tangible documents, goods, instruments, or”.

1436 SECTION 98. Section 9-326 of said chapter 106 is hereby amended by striking out Subsection
1437 9-326(a) and by substituting in place thereof the following Subsection 9-326(a):--

1438 (a) Subordination of security interest created by new debtor. Subject to subsection (b), a
1439 security interest that is created by a new debtor in collateral in which the new debtor has or
1440 acquires rights and is perfected solely by a filed financing statement that would be ineffective to
1441 perfect the security interest but for the application of Section 9-316(i)(1) or 9-508 is subordinate
1442 to a security interest in the same collateral which is perfected other than by such a filed financing
1443 statement.

1444 SECTION 99. Subsection 9-326(b) of said chapter 106 is hereby amended by striking out the
1445 words in the first sentence “that are effective solely under Section 9-508” and by substituting in
1446 place thereof the words “described in subsection (a)”.

1447 SECTION 100. Subsection 9-405(e), redesignated in Section 75 as Subsection 9-406(e), of said
1448 chapter 106 is hereby amended by inserting, after the words “or promissory note”, the words “,
1449 other than a sale pursuant to a disposition under Section 9-610 or an acceptance of collateral
1450 under Section 9-620”.

1451 SECTION 101. Subsection 9-407(b), redesignated in Section 75 as Subsection 9-408(b), of said
1452 chapter 106 is hereby amended by inserting, after the words “only if the security interest arises
1453 out of a sale of the payment intangible or promissory note”, the words “, other than a sale
1454 pursuant to a disposition under Section 9-610 or an acceptance of collateral under Section 9-
1455 620”.

1456 SECTION 102. Section 9-502 of said chapter 106 is hereby amended by striking out Subsection
1457 9-502(c)(3) and by substituting in place thereof the following Subsection 9-502(c)(3):--

1458 (3) the record satisfies the requirements for a financing statement in this section,
1459 but:

1460 (A) the record need not indicate that it is to be filed in the real property
1461 records; and

1462 (B) the record sufficiently provides the name of a debtor who is an
1463 individual if it provides the individual name of the debtor or the surname and first personal name
1464 of the debtor, even if the debtor is an individual to whom Section 9-503(a)(4) applies; and

1465 SECTION 103. Section 9-503 of said chapter 106 is hereby amended by striking out Subsection
1466 9-503(a) and by substituting in place thereof the following Subsection 9-503(a):--

1467 (a) Sufficiency of debtor's name. A financing statement sufficiently provides the name
1468 of the debtor:

1469 (1) except as otherwise provided in paragraph (3), if the debtor is a registered
1470 organization or the collateral is held in a trust that is a registered organization, only if the
1471 financing statement provides the name that is stated to be the registered organization's name on
1472 the public organic record most recently filed with or issued or enacted by the registered
1473 organization's jurisdiction of organization which purports to state, amend, or restate the
1474 registered organization's name;

1475 (2) subject to subsection (f), if the collateral is being administered by the personal
1476 representative of a decedent, only if the financing statement provides, as the name of the debtor,
1477 the name of the decedent and, in a separate part of the financing statement, indicates that the
1478 collateral is being administered by a personal representative;

1479 (3) if the collateral is held in a trust that is not a registered organization, only if
1480 the financing statement:

1481 (A) provides, as the name of the debtor:

1482 (i) if the organic record of the trust specifies a name for the trust,
1483 the name specified; or

1484 (ii) if the organic record of the trust does not specify a name for the
1485 trust, the name of the settlor or testator; and

1486 (B) in a separate part of the financing statement:

1487 (i) if the name is provided in accordance with subparagraph (A)(i),
1488 indicates that the collateral is held in a trust; or

1489 (ii) if the name is provided in accordance with subparagraph
1490 (A)(ii), provides additional information sufficient to distinguish the trust from other trusts having
1491 one or more of the same settlors or the same testator and indicates that the collateral is held in a
1492 trust, unless the additional information so indicates;

1493 (4) subject to subsection (g), if the debtor is an individual to whom this State has
1494 issued a driver's license or Massachusetts identification card that has not expired, only if the
1495 financing statement provides the name of the individual which is indicated on the driver's license
1496 or Massachusetts identification card;

1497 (5) if the debtor is an individual to whom paragraph (4) does not apply, only if the
1498 financing statement provides the individual name of the debtor or the surname and first personal
1499 name of the debtor; and

1500 (6) in other cases:

1501 (A) if the debtor has a name, only if the financing statement provides the
1502 organizational name of the debtor; and

1503 (B) if the debtor does not have a name, only if it provides the names of the
1504 partners, members, associates, or other persons comprising the debtor, in a manner that each
1505 name provided would be sufficient if the person named were the debtor.

1506 SECTION 104. Section 9-503 of said chapter 106 is hereby amended further by striking out, in
1507 Subsection 9-503(b)(2), the reference to “subsection (a)(4)(B)”, and by substituting in place
1508 thereof “subsection (a)(6)(B)”.

1509

1510 SECTION 105. Section 9-503 of said chapter 106 is hereby amended further by adding at the
1511 end of said Section the following new Subsections 9-503(f), 9-503(g), and 9-503(h):--

1512 (f) Name of decedent. The name of the decedent indicated on the order appointing the
1513 personal representative of the decedent issued by the court having jurisdiction over the collateral
1514 is sufficient as the “name of the decedent” under subsection (a)(2).

1515 (g) Multiple driver’s licenses. If this State has issued to an individual more than one
1516 driver’s license or Massachusetts identification card of a kind described in subsection (a)(4), the
1517 one that was issued most recently is the one to which subsection (a)(4) refers.

1518 (h) Definition. In this section, the “name of the settlor or testator” means:

1519 (1) if the settlor is a registered organization, the name that is stated to be the
1520 settlor's name on the public organic record most recently filed with or issued or enacted by the
1521 settlor's jurisdiction of organization which purports to state, amend, or restate the settlor's name;
1522 or

1523 (2) in other cases, the name of the settlor or testator indicated in the trust's organic
1524 record.

1525 SECTION 106. Section 9-507 of said chapter 106 is hereby amended by striking out Subsection
1526 9-507(c) and by substituting in place thereof the following Subsection 9-507(c):--

1527 (c) Change in debtor's name. If the name that a filed financing statement provides for a
1528 debtor becomes insufficient as the name of the debtor under Section 9-503(a) so that the
1529 financing statement becomes seriously misleading under Section 9-506:

1530 (1) the financing statement is effective to perfect a security interest in collateral
1531 acquired by the debtor before, or within four months after, the filed financing statement becomes
1532 seriously misleading; and

1533 (2) the financing statement is not effective to perfect a security interest in
1534 collateral acquired by the debtor more than four months after the filed financing statement
1535 becomes seriously misleading, unless an amendment to the financing statement which renders
1536 the financing statement not seriously misleading is filed within four months after the financing
1537 statement became seriously misleading.

1538 SECTION 107. Subsection 9-515(f) of said chapter 106 is hereby amended by inserting, before
1539 the words "financing statement so indicates", the word "initial".

1540 SECTION 108. Subsection 9-516(b)(3)(B) of said chapter 106 is hereby amended by striking
1541 out the word “correction” and by substituting in place thereof the word “information”.

1542 SECTION 109. Subsection 9-516(b)(3)(C) of said chapter 106 is hereby amended by striking
1543 out the words “last name” and by substituting in place thereof the word “surname”.

1544 SECTION 110. Subsection 9-516(b)(5) of said chapter 106 is hereby amended by striking out
1545 Subsection 9-516(b)(5) and by substituting in place thereof the following Subsection 9-
1546 516(b)(5):--

1547 (5) in the case of an initial financing statement or an amendment that provides a
1548 name of a debtor which was not previously provided in the financing statement to which the
1549 amendment relates, the record does not:

1550 (A) provide a mailing address for the debtor; or

1551 (B) indicate whether the name provided as the name of the debtor is the
1552 name of an individual or an organization;

1553 SECTION 111. Section 9-518 of said chapter 106 is hereby amended by striking out said
1554 Section 9-518 and by substituting in place thereof the following Section 9-518:--

1555 SECTION 9-518. CLAIM CONCERNING INACCURATE OR WRONGFULLY
1556 FILED RECORD.

1557 (a) Statement with respect to record indexed under person’s name. A person may file in
1558 the filing office an information statement with respect to a record indexed there under the
1559 person’s name if the person believes that the record is inaccurate or was wrongfully filed.

1560 (b) Contents of statement under subsection (a). An information statement under
1561 subsection (a) must:

1562 (1) identify the record to which it relates by:

1563 (A) the file number assigned to the initial financing statement to which the
1564 record relates; and

1565 (B) if the information statement relates to a record filed or recorded in a
1566 filing office described in Section 9-501(a)(1),

1567 (i) the book and page number of the initial financing statement, in
1568 the case of unregistered land governed by chapter 36, or if a book and page number has not yet
1569 been assigned to the initial financing statement, the instrument number of the initial financing
1570 statement and the date on which the initial financing statement was originally filed, and the
1571 document number of the initial financing statement, in the case of registered land governed by
1572 chapter 185; and

1573 (ii) the information specified in Section 9-502(b);

1574 (2) indicate that it is an information statement; and

1575 (3) provide the basis for the person's belief that the record is inaccurate and
1576 indicate the manner in which the person believes the record should be amended to cure any
1577 inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

1578 (c) Statement by secured party of record. A person may file in the filing office an
1579 information statement with respect to a record filed there if the person is a secured party of

1580 record with respect to the financing statement to which the record relates and believes that the
1581 person that filed the record was not entitled to do so under Section 9-509(d).

1582 (d) Contents of statement under subsection (c). An information statement under
1583 subsection (c) must:

1584 (1) identify the record to which it relates by:

1585 (A) the file number assigned to the initial financing statement to which the
1586 record relates; and

1587 (B) if the information statement relates to a record filed or recorded in a
1588 filing office described in Section 9-501(a)(1),

1589 (i) the book and page number of the initial financing statement, in
1590 the case of unregistered land governed by chapter 36, or if a book and page number has not yet
1591 been assigned to the initial financing statement, the instrument number of the initial financing
1592 statement and the date on which the initial financing statement was originally filed, and the
1593 document number of the initial financing statement, in the case of registered land governed by
1594 chapter 185; and

1595 (ii) the information specified in Section 9-502(b);

1596 (2) indicate that it is an information statement; and

1597 (3) provide the basis for the person's belief that the person that filed the record
1598 was not entitled to do so under Section 9-509(d).

1599 (e) Record not affected by information statement. The filing of an information statement
1600 does not affect the effectiveness of an initial financing statement or other filed record.

1601 SECTION 112. Section 9-521 of said chapter 106 is hereby amended by striking out said
1602 Section 9-521 and by substituting in place thereof the following Section 9-521:--

1603 SECTION 9-521. UNIFORM FORM OF WRITTEN FINANCING STATEMENT AND
1604 AMENDMENT.

1605 (a) Initial financing statement form. A filing office that accepts written records may not
1606 refuse to accept a written initial financing statement in the following form and format except for
1607 a reason set forth in Section 9-516(b):

1608

1609

1610 (b) Amendment form. A filing office that accepts written records may not refuse to
1611 accept a written record in the following form and format except for a reason set forth in Section
1612 9-516(b):

1613

1614

1615 SECTION 113. Subsection 9-607(b)(2)(A) of said chapter 106 is hereby amended by inserting,
1616 after the words “a default has occurred”, the words “with respect to the obligation secured by the
1617 mortgage”.

1618 SECTION 114. Subsection 2A-103(3) of said chapter 106 is hereby amended by striking out “9-
1619 102(a)(68)” and by substituting in place thereof “9-102(a)(69)”.

1620 SECTION 115. The amendments of said chapter 106 contained in Sections 84 through 114 and
1621 this Section 115 shall take effect on July 1, 2013. Said chapter 106 is hereby further amended by
1622 adding, following Part 7 of Article 9, the following new Part 8 containing the transition
1623 provisions for Sections 84 through 114:

1624 PART 8 TRANSITION PROVISIONS FOR 2010 AMENDMENTS

1625 SECTION 9-801. EFFECTIVE DATE. This Amendatory Act takes effect on July 1,
1626 2013. References in this Part to this “Amendatory Act” are to those sections of the legislative
1627 enactment by which this Part is added to Article 9 of chapter 106 effective on July 1, 2013 .

1628 SECTION 9-802. SAVINGS CLAUSE.

1629 (a) Pre-effective-date transactions or liens. Except as otherwise provided in this part,
1630 this Amendatory Act applies to a transaction or lien within its scope, even if the transaction or
1631 lien was entered into or created before this Amendatory Act takes effect.

1632 (b) Pre-effective-date proceedings. This Amendatory Act does not affect an action, case,
1633 or proceeding commenced before this Amendatory Act takes effect.

1634 SECTION 9-803. SECURITY INTEREST PERFECTED BEFORE EFFECTIVE
1635 DATE.

1636 (a) Continuing perfection: perfection requirements satisfied. A security interest that is a
1637 perfected security interest immediately before this Amendatory Act takes effect is a perfected
1638 security interest under Article 9 of this chapter as amended by this Amendatory Act if, when this

1639 Amending Act takes effect, the applicable requirements for attachment and perfection under
1640 Article 9 of this chapter as amended by this Amending Act are satisfied without further action.

1641 (b) Continuing perfection: perfection requirements not satisfied. Except as otherwise
1642 provided in Section 9-805, if, immediately before this Amending Act takes effect, a security
1643 interest is a perfected security interest, but the applicable requirements for perfection under
1644 Article 9 of this chapter as amended by this Amending Act are not satisfied when this
1645 Amending Act takes effect, the security interest remains perfected thereafter only if the
1646 applicable requirements for perfection under Article 9 of this chapter as amended by this
1647 Amending Act are satisfied within one year after this Amending Act takes effect.

1648 SECTION 9-804. SECURITY INTEREST UNPERFECTED BEFORE EFFECTIVE
1649 DATE. A security interest that is an unperfected security interest immediately before this
1650 Amending Act takes effect becomes a perfected security interest:

1651 (1) without further action, when this Amending Act takes effect if the applicable
1652 requirements for perfection under Article 9 of this chapter as amended by this Amending Act
1653 are satisfied before or at that time; or

1654 (2) when the applicable requirements for perfection are satisfied if the requirements are
1655 satisfied after that time.

1656 SECTION 9-805. EFFECTIVENESS OF ACTION TAKEN BEFORE EFFECTIVE
1657 DATE.

1658 (a) Pre-effective-date filing effective. The filing of a financing statement before this
1659 Amending Act takes effect is effective to perfect a security interest to the extent the filing

1660 would satisfy the applicable requirements for perfection under Article 9 of this chapter as
1661 amended by this Amendatory Act.

1662 (b) When pre-effective-date filing becomes ineffective. This Amendatory Act does not
1663 render ineffective an effective financing statement that, before this Amendatory Act takes effect,
1664 is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction
1665 governing perfection as provided in Article 9 of this chapter as it existed before this Amendatory
1666 Act took effect. However, except as otherwise provided in subsections (c) and (d) and Section 9-
1667 806, the financing statement ceases to be effective:

1668 (1) if the financing statement is filed in this State, at the time the financing
1669 statement would have ceased to be effective had this Amendatory Act not taken effect; or

1670 (2) if the financing statement is filed in another jurisdiction, at the earlier of:

1671 (A) the time the financing statement would have ceased to be effective
1672 under the law of that jurisdiction; or

1673 (B) June 30, 2018.

1674 (c) Continuation statement. The filing of a continuation statement after this Amendatory
1675 Act takes effect does not continue the effectiveness of a financing statement filed before this
1676 Amendatory Act takes effect. However, upon the timely filing of a continuation statement after
1677 this Amendatory Act takes effect and in accordance with the law of the jurisdiction governing
1678 perfection as provided in Article 9 of this chapter as amended by this Amendatory Act, the
1679 effectiveness of a financing statement filed in the same office in that jurisdiction before this
1680 Amendatory Act takes effect continues for the period provided by the law of that jurisdiction.

1681 (d) Application of subsection (b)(2)(B) to transmitting utility financing statement.
1682 Subsection (b)(2)(B) applies to a financing statement that, before this Amendatory Act takes
1683 effect, is filed against a transmitting utility and satisfies the applicable requirements for
1684 perfection under the law of the jurisdiction governing perfection as provided in Article 9 of this
1685 chapter as it existed before this Amendatory Act took effect, only to the extent that Article 9 of
1686 this chapter as amended by this Amendatory Act provides that the law of a jurisdiction other than
1687 the jurisdiction in which the financing statement is filed governs perfection of a security interest
1688 in collateral covered by the financing statement.

1689 (e) Application of Part 5. A financing statement that includes a financing statement filed
1690 before this Amendatory Act takes effect and a continuation statement filed after this Amendatory
1691 Act takes effect is effective only to the extent that it satisfies the requirements of Part 5 of Article
1692 9 of this chapter as amended by this Amendatory Act for an initial financing statement. A
1693 financing statement that indicates that the debtor is a decedent's estate indicates that the
1694 collateral is being administered by a personal representative within the meaning of Section 9-
1695 503(a)(2) as amended by this Amendatory Act. A financing statement that indicates that the
1696 debtor is a trust or is a trustee acting with respect to property held in trust indicates that the
1697 collateral is held in a trust within the meaning of Section 9-503(a)(3) as amended by this
1698 Amendatory Act.

1699 SECTION 9-806. WHEN INITIAL FINANCING STATEMENT SUFFICES TO
1700 CONTINUE EFFECTIVENESS OF FINANCING STATEMENT

1701 (a) Initial financing statement in lieu of continuation statement. The filing of an initial
1702 financing statement in the office specified in Section 9-501 continues the effectiveness of a
1703 financing statement filed before this Amendatory Act takes effect if:

1704 (1) the filing of an initial financing statement in that office would be effective to
1705 perfect a security interest under Article 9 of this chapter as amended by this Amendatory Act;

1706 (2) the pre-effective-date financing statement was filed in an office in another
1707 State; and

1708 (3) the initial financing statement satisfies subsection (c).

1709 (b) Period of continued effectiveness. The filing of an initial financing statement under
1710 subsection (a) continues the effectiveness of the pre-effective-date financing statement:

1711 (1) if the initial financing statement is filed before this Amendatory Act takes
1712 effect, for the period provided in Section 9-515 of Article 9 of this chapter before this
1713 Amendatory Act took effect with respect to an initial financing statement; and

1714 (2) if the initial financing statement is filed after this Amendatory Act takes effect,
1715 for the period provided in Section 9-515 of Article 9 of this chapter as amended by this
1716 Amendatory Act with respect to an initial financing statement.

1717 (c) Requirements for initial financing statement under subsection (a). To be effective for
1718 purposes of subsection (a), an initial financing statement must:

1719 (1) satisfy the requirements of Part 5 of Article 9 of this chapter as amended by
1720 this Amendatory Act for an initial financing statement;

1721 (2) identify the pre-effective-date financing statement by indicating the office in
1722 which the financing statement was filed and providing the dates of filing and file numbers, if
1723 any, of the financing statement and of the most recent continuation statement filed with respect
1724 to the financing statement; and

1725 (3) indicate that the pre-effective-date financing statement remains effective.

1726 SECTION 9-807. AMENDMENT OF PRE-EFFECTIVE-DATE FINANCING
1727 STATEMENT.

1728 (a) “Pre-effective-date financing statement”. In this section, “pre-effective-date
1729 financing statement” means a financing statement filed before this Amendatory Act takes effect.

1730 (b) Applicable law. After this Amendatory Act takes effect, a person may add or delete
1731 collateral covered by, continue or terminate the effectiveness of, or otherwise amend the
1732 information provided in, a pre-effective-date financing statement only in accordance with the law
1733 of the jurisdiction governing perfection as provided in Article 9 of this chapter as amended by
1734 this Amendatory Act. However, the effectiveness of a pre-effective-date financing statement
1735 also may be terminated in accordance with the law of the jurisdiction in which the financing
1736 statement is filed.

1737 (c) Method of amending: general rule. Except as otherwise provided in subsection (d), if
1738 the law of this State governs perfection of a security interest, the information in a pre-effective-
1739 date financing statement may be amended after this Amendatory Act takes effect only if:

1740 (1) the pre-effective-date financing statement and an amendment are filed in the
1741 office specified in Section 9-501;

1742 (2) an amendment is filed in the office specified in Section 9-501 concurrently
1743 with, or after the filing in that office of, an initial financing statement that satisfies Section 9-
1744 806(c); or

1745 (3) an initial financing statement that provides the information as amended and
1746 satisfies Section 9-806(c) is filed in the office specified in Section 9-501.

1747 (d) Method of amending: continuation. If the law of this State governs perfection of a
1748 security interest, the effectiveness of a pre-effective-date financing statement may be continued
1749 only under Section 9-805(c) and (e) or 9-806.

1750 (e) Method of amending: additional termination rule. Whether or not the law of this
1751 State governs perfection of a security interest, the effectiveness of a pre-effective-date financing
1752 statement filed in this State may be terminated after this Amendatory Act takes effect by filing a
1753 termination statement in the office in which the pre-effective-date financing statement is filed,
1754 unless an initial financing statement that satisfies Section 9-806(c) has been filed in the office
1755 specified by the law of the jurisdiction governing perfection as provided in Article 9 as amended
1756 by this Amendatory Act as the office in which to file a financing statement.

1757 SECTION 9-808. PERSON ENTITLED TO FILE INITIAL FINANCING
1758 STATEMENT OR CONTINUATION STATEMENT. A person may file an initial financing
1759 statement or a continuation statement under this part if:

1760 (1) the secured party of record authorizes the filing; and

1761 (2) the filing is necessary under this part:

1762 (A) to continue the effectiveness of a financing statement filed before this
1763 Amendatory Act takes effect; or

1764 (B) to perfect or continue the perfection of a security interest.

1765 SECTION 9-809. PRIORITY. This Amendatory Act determines the priority of
1766 conflicting claims to collateral. However, if the relative priorities of the claims were established
1767 before this Amendatory Act takes effect, Article 9 of this chapter as it existed before
1768 Amendatory Act took effect determines priority.