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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2006

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A N A C T

RELATING TO THE UNIFORM COMMERCIAL CODE

Introduced By: Senator William A. Walaska

Date Introduced: February 14, 2006

Referred To: Senate Financial, Technology, Regulatory

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 6A-1-201 of the General Laws in Chapter 6A-1 entitled "General
2 Provisions" is hereby amended to read as follows:

3 **6A-1-201. General definitions.** -- Subject to additional definitions contained in the
4 subsequent chapters of this title which are applicable to specific chapters thereof, and unless the
5 context otherwise requires, in this title:

6 (1) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim,
7 set-off, suit in equity, and any other proceedings in which rights are determined.

8 (2) "Aggrieved party" means a party entitled to resort to a remedy.

9 (3) "Agreement" means the bargain of the parties in fact as found in their language or by
10 implication from other circumstances including course of dealing or usage of trade or course of
11 performance as provided in this title (sections 6A-1-205, 6A-1-208 and 6A-2.1-207). Whether an
12 agreement has legal consequences is determined by the provisions of this title, if applicable;
13 otherwise by the law of contracts (section 6A-1-103). (Compare "Contract".)

14 (4) "Bank" means any person engaged in the business of banking.

15 (5) "Bearer" means ~~the~~ [a person in control of a negotiable electronic document of title or](#)
16 [a](#) person in possession of an instrument, [a negotiable, tangible](#) document of title, or certificated
17 security payable to bearer or indorsed in blank.

18 (6) "Bill of lading" means a document [of title](#) evidencing the receipt of goods for
19 shipment issued by a person engaged in the business of [directly or indirectly](#) transporting or

1 forwarding goods, ~~and includes an airbill. "Airbill" means a document serving for air~~
2 ~~transportation as a bill of lading does for marine or rail transportation, and includes an air~~
3 ~~consignment note or air waybill. The term does not include a warehouse receipt.~~

4 (7) "Branch" includes a separately incorporated foreign branch of a bank.

5 (8) "Burden of establishing" a fact means the burden of persuading the triers of fact that
6 the existence of the fact is more probable than its nonexistence.

7 (9) "Buyer in ordinary course of business" means a person that buys goods in good faith,
8 without knowledge that the sale violates the rights of another person in the goods, and in the
9 ordinary course from a person, other than a pawnbroker, in the business of selling goods of that
10 kind. A person buys goods in the ordinary course if the sale to the person comports with the usual
11 or customary practices in the kind of business in which the seller is engaged or with the seller's
12 own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or
13 minehead is a person in the business of selling goods of that kind. A buyer in ordinary course of
14 business may buy for cash, by exchange of other property, or on secured or unsecured credit, and
15 may acquire goods or documents of title under a pre-existing contract for sale. Only a buyer that
16 takes possession of the goods or has a right to recover the goods from the seller under chapter 2
17 may be a buyer in ordinary course of business. A person that acquires goods in a transfer in bulk
18 or as security for or in total or partial satisfaction of a money debt is not a buyer in ordinary
19 course of business.

20 (10) "Conspicuous": ~~A term or clause is conspicuous when it is so written that a~~
21 ~~reasonable person against whom it is to operate ought to have noticed it. A printed heading in~~
22 ~~capitals (as: NONNEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a~~
23 ~~form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any~~
24 ~~stated term is "conspicuous". Whether a term or clause is "conspicuous" or not is for decision by~~
25 ~~the court. , with reference to a term, means so written, displayed or presented that a reasonable~~
26 ~~person against which it is to operate ought to have noticed it. Whether a term is "conspicuous" or~~
27 ~~not is a decision for the court. Conspicuous terms include the following:~~

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

30 (b) language in the body of a record or display in larger type than the surrounding text, or
31 in contrasting text, or in contrasting type, font, or color to the surrounding text of the same size,
32 or set off from surrounding text of the same size by symbols or other marks that call attention to
33 the language.

34 (11) "Contract" means the total legal obligation which results from the parties' agreement

1 as affected by this title and any other applicable rules of law. (Compare "Agreement".)

2 (12) "Creditor" includes a general creditor, a secured creditor, a lien creditor, and any
3 representative of creditors, including an assignee for the benefit of creditors, a trustee in
4 bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor's or
5 assignor's estate.

6 (13) "Defendant" includes a person in the position of defendant in a cross-action or
7 counterclaim.

8 (14) "Delivery" with respect to an electronic document of title means voluntary transfer
9 of control and with respect to instruments, tangible documents of title, chattel paper, or
10 certificated securities means voluntary transfer of possession.

11 (15) "Document of title" ~~includes bill of lading, dock warrant, dock receipt, warehouse~~
12 ~~receipt, or order for the delivery of goods, and also any other document which~~ means a record: (i)
13 that in the regular course of business or financing is treated as adequately evidencing that the
14 person in possession or control of ~~#~~ the record is entitled to receive, control, hold, and dispose of
15 the ~~document~~ record and the goods ~~#~~ the record covers. ~~To be a document of title a document~~
16 ~~must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's~~
17 ~~possession which are either identified or are fungible portions of an identified mass. ; and (ii) that~~
18 purports to be issued by or addressed to a bailee and to cover goods in the bailee's possession
19 which are either identified or are fungible portions of an identified mass. The term includes a bill
20 of lading, transport document, dock warrant, dock receipt, warehouse receipt, and order for
21 delivery of goods. An electronic document of title means a document of title evidenced by a
22 record consisting of information stored in an electronic medium. A tangible document of title
23 means a document of title evidenced by a record consisting of information that is inscribed on a
24 tangible medium.

25 (16) "Fault" means wrongful act, omission, or breach.

26 (17) "Fungible" with respect to goods or securities means goods or securities of which
27 any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not
28 fungible shall be deemed fungible for the purposes of this title to the extent that under a particular
29 agreement or document unlike units are treated as equivalents.

30 (18) "Genuine" means free of forgery or counterfeiting.

31 (19) "Good faith" means honesty in fact in the conduct or transaction concerned.

32 (20) "Holder" ~~with respect to a negotiable instrument, means the person in possession if~~
33 ~~the instrument is payable to bearer or, in the case of an instrument payable to an identified person,~~
34 ~~if the identified person is in possession. "Holder" with respect to a document of title means the~~

1 ~~person in possession if the goods are deliverable to bearer or to the order of the person in~~
2 ~~possession.~~ means:

3 (a) the person in possession of a negotiable instrument that is payable either to bearer or
4 to an identified person that is the person in possession;

5 (b) the person in possession of a negotiable tangible document of title if the goods are
6 deliverable either to bearer or to the order of the person in possession; or

7 (c) the person in control of a negotiable electronic document of title.

8 (21) To "honor" is to pay or to accept and pay, or where a credit so engages to purchase
9 or discount a draft complying with the terms of the credit.

10 (22) "Insolvency proceedings" includes any assignment for the benefit of creditors or
11 other proceedings intended to liquidate or rehabilitate the estate of the person involved.

12 (23) A person is "insolvent" who either has ceased to pay his or her debts in the ordinary
13 course of business or cannot pay his or her debts as they become due or is insolvent within the
14 meaning of the federal bankruptcy law.

15 (24) "Money" means a medium of exchange authorized or adopted by a domestic or
16 foreign government and includes a monetary unit of account established by an intergovernmental
17 organization or by agreement between two or more nations.

18 (25) ~~A~~ Subject to subsection (27), a person has "notice" of a fact ~~when~~ if the person:

19 (i) ~~He or she~~ has actual knowledge of it; or

20 (ii) ~~He or she~~ has received a notice or notification of it; or

21 (iii) From all the facts and circumstances known to him or her at the time in question he
22 or she has reason to know that it exists.

23 A person "knows" or has "knowledge" of a fact when ~~he or she~~ the person has actual
24 knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge
25 rather than to reason to know. The time and circumstances under which a notice or notification
26 may cease to be effective are not determined by this title.

27 (26) A person "notifies" or "gives" a notice or notification to another person by taking
28 such steps as may be reasonably required to inform the other person in ordinary course, whether
29 or not ~~such other~~ the other person actually comes to know of it. ~~A~~ Subject to subsection (27), a
30 person "receives" a notice or notification when

31 (i) It comes to ~~his or her~~ that person's attention; or

32 (ii) It is duly delivered in a form reasonable under the circumstances at the place of
33 business through which the contract was made or at ~~any other place~~ another location held out by
34 ~~him or her~~ that person as the place for receipt of such communications.

1 (27) Notice, knowledge, or a notice or notification received by an organization is
2 effective for a particular transaction from the time when it is brought to the attention of the
3 individual conducting that transaction, and in any event from the time when it would have been
4 brought to ~~his or her~~ the individual's attention if the organization had exercised due diligence. An
5 organization exercises due diligence if it maintains reasonable routines for communicating
6 significant information to the person conducting the transaction and there is reasonable
7 compliance with the routines. Due diligence does not require an individual acting for the
8 organization to communicate information unless such communication is part of the individual's
9 regular duties or the individual has reason to know of the transaction and that the transaction
10 would be materially affected by the information.

11 (28) "Organization" includes a corporation, government or governmental subdivision or
12 agency, business trust, estate, trust, partnership, or association, two (2) or more persons having a
13 joint or common interest, or any other legal or commercial entity.

14 (29) "Party", as distinct from "third party", means a person who has engaged in a
15 transaction or made an agreement within this title.

16 (30) "Person" includes an individual or an organization (see section 6A-1-102).

17 (31) "Presumption" or "presumed" means that the trier of fact must find the existence of
18 the fact presumed unless and until evidence is introduced which would support a finding of its
19 nonexistence.

20 (32) "Purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien,
21 security interest, issue or re-issue, gift, or any other voluntary transaction creating an interest in
22 property.

23 (33) "Purchaser" means a person who takes by purchase.

24 (34) "Remedy" means any remedial right to which an aggrieved party is entitled with or
25 without resort to a tribunal.

26 (35) "Representative" includes an agent, an officer of a corporation or association, and a
27 trustee, executor or administrator of an estate, or any other person empowered to act for another.

28 (36) "Rights" includes remedies.

29 (37) "Security interest" means an interest in personal property or fixtures which secures
30 payment or performance of an obligation. The term also includes any interest of a consignor and a
31 buyer of accounts, chattel paper, a payment intangible, or a promissory note in a transaction that
32 is subject to chapter 9. The special property interest of a buyer of goods on identification of those
33 goods to a contract for sale under section 6A-2-401 is not a "security interest," but a buyer may
34 also acquire a "security interest" by complying with chapter 9. Except as otherwise provided in

1 section 6A-2-505, the right of a seller or lessor of goods under chapter 2 or 2.1 of this title to
2 retain or acquire possession of the goods is not a "security interest," but a seller or lessor may also
3 acquire a "security interest" by complying with chapter 9. The retention or reservation of title by
4 a seller of goods notwithstanding shipment or delivery to the buyer (section 6A-2-401) is limited
5 in effect to a reservation of a "security interest."

6 (i) Whether a transaction creates a lease or security interest is determined by the facts of
7 each case; however, a transaction creates a security interest if the consideration the lessee is to
8 pay the lessor for the right to possession and use of the goods is an obligation for the term of the
9 lease not subject to termination by the lessee, and

10 (A) The original term of the lease is equal to or greater than the remaining economic life
11 of the goods;

12 (B) The lessee is bound to renew the lease for the remaining economic life of the goods
13 or is bound to become the owner of the goods;

14 (C) The lessee has an option to renew the lease for the remaining economic life of the
15 goods for no additional consideration or nominal additional consideration upon compliance with
16 the lease agreement; or

17 (D) The lessee has an option to become the owner of the goods for no additional
18 consideration or nominal additional consideration upon compliance with the lease agreement.

19 (ii) A transaction does not create a security interest merely because it provides that:

20 (A) The present value of the consideration the lessee is obligated to pay the lessor for the
21 right to possession and use of the goods is substantially equal to or is greater than the fair market
22 value of the goods at the time the lease is entered into;

23 (B) The lessee assumes risk of loss of the goods, or agrees to pay taxes, insurance, filing,
24 recording, or registration fees, or service or maintenance costs with respect to the goods;

25 (C) The lessee has an option to renew the lease or to become the owner of the goods;

26 (D) The lessee has an option to renew the lease for a fixed rent that is equal to or greater
27 than the reasonably predictable fair market rent for the use of the goods for the term of the
28 renewal at the time the option is to be performed; or

29 (E) The lessee has an option to become the owner of the goods for a fixed price that is
30 equal to or greater than the reasonably predictable fair market value of the goods at the time the
31 option is to be performed.

32 (iii) For purposes of this subsection (37):

33 (A) Additional consideration is not nominal if (i) when the option to renew the lease is
34 granted to the lessee the rent is stated to be the fair market rent for the use of the goods for the

1 term of the renewal determined at the time the option is to be performed, or (ii) when the option
2 to become the owner of the goods is granted to the lessee the price is stated to be the fair market
3 value of the goods determined at the time the option is to be performed. Additional consideration
4 is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease
5 agreement if the option is not exercised;

6 (B) "Reasonably predictable" and "remaining economic life of the goods" are to be
7 determined with reference to the facts and circumstances at the time the transaction is entered
8 into; and

9 (C) "Present value" means the amount as of a date certain of one or more sums payable
10 in the future, discounted to the date certain. The discount is determined by the interest rate
11 specified by the parties if the rate is not manifestly unreasonable at the time the transaction is
12 entered into; otherwise, the discount is determined by a commercially reasonable rate that takes
13 into account the facts and circumstances of each case at the time the transaction was entered into.

14 (38) "Send" ~~in connection with any writing or notice means to deposit in the mail or~~
15 ~~deliver for transmission by any other usual means of communication with postage or cost of~~
16 ~~transmission provided for and properly addressed, and, in the case of an instrument to an address~~
17 ~~specified thereon or otherwise agreed, or if there be none to any address reasonable under the~~
18 ~~circumstances. The receipt of any writing or notice within the time at which it would have arrived~~
19 ~~if properly sent has the effect of a proper sending.~~ in connection with a writing, record, or notice
20 means:

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

25 (b) in any other way to cause to be received any record or notice within the time it would
26 have arrived if properly sent.

27 (39) "Signed" includes any symbol executed or adopted by a party with present intention
28 to authenticate a writing.

29 (40) "Surety" includes guarantor.

30 (41) "Telegram" includes a message transmitted by radio, teletype, cable, any
31 mechanical method of transmission, or the like.

32 (42) "Term" means that portion of an agreement which relates to a particular matter.

33 (43) "Unauthorized" signature means one made without actual, implied, or apparent
34 authority and includes a forgery.

1 (44) "Value". Except as otherwise provided with respect to negotiable instruments and
2 bank collections (sections 6A-3-303, 6A-4-210, and 6A-4-211), a person gives "value" for rights
3 if he or she acquires them:

4 (i) In return for a binding commitment to extend credit or for the extension of
5 immediately available credit, whether or not drawn upon and whether or not a charge-back is
6 provided for in the event of difficulties in collection; or

7 (ii) As security for or in total or partial satisfaction of a pre-existing claim; or

8 (iii) By accepting delivery pursuant to a pre-existing contract for purchase; or

9 (iv) Generally, in return for any consideration sufficient to support a simple contract.

10 (45) "Warehouse receipt" means a ~~receipt~~ document of title issued by a person engaged
11 in the business of storing goods for hire.

12 (46) "Written" or "writing" includes printing, typewriting, or any other intentional
13 reduction to tangible form.

14 SECTION 2. Sections 6A-2-103, 6A-2-104, 6A-2-310, 6A-2-323, 6A-2-401, 6A-2-503,
15 6A-2-505, 6A-2-506, 6A-2-509, 6A-2-605 and 6A-2-705 of the General Laws in Chapter 6A-2
16 entitled "Sales" are hereby amended to read as follows:

17 **6A-2-103. Definitions and index of definitions.** -- (1) In this chapter unless the context
18 otherwise requires

19 (a) "Buyer" means a person who buys or contracts to buy goods.

20 (b) "Good faith" in the case of a merchant means honesty in fact and the observance of
21 reasonable commercial standards of fair dealing in the trade.

22 (c) "Receipt" of goods means taking physical possession of them.

23 (d) "Seller" means a person who sells or contracts to sell goods.

24 (2) Other definitions applying to this chapter or to specified parts thereof, and the
25 sections in which they appear are:

26 "Acceptance". section 6A-2-606.

27 "Banker's credit". section 6A-2-325.

28 "Between merchants". section 6A-2-104.

29 "Cancellation". section 6A-2-106(4).

30 "Commercial unit". section 6A-2-105.

31 "Confirmed credit". section 6A-2-325.

32 "Conforming to contract". section 6A-2-106.

33 "Contract for sale". section 6A-2-106.

34 "Cover". section 6A-2-712.

- 1 "Entrusting". section 6A-2-403.
2 "Financing agency". section 6A-2-104.
3 "Future goods". section 6A-2-105.
4 "Goods". section 6A-2-105.
5 "Identification". section 6A-2-501.
6 "Installment contract". section 6A-2-612.
7 "Letter of credit". section 6A-2-325.
8 "Lot". section 6A-2-105.
9 "Merchant". section 6A-2-104.
10 "Overseas". section 6A-2-323.
11 "Person in position of seller". section 6A-2-707.
12 "Present sale". section 6A-2-106.
13 "Sale". section 6A-2-106.
14 "Sale on approval". section 6A-2-326.
15 "Sale or return". section 6A-2-326.
16 "Termination". section 6A-2-106.

17 (3) ~~The~~ ["Control" as provided in section 6A-7.1-106 and the](#) following definitions in
18 other chapters apply to this chapter:

- 19 "Check". section 6A-3-104.
20 "Consignee". section 6A-7-102.
21 "Consignor". section 6A-7-102.
22 "Consumer goods". section 6A-9-102.
23 "Dishonor". section 6A-3-502.
24 "Draft". section 6A-3-104.

25 (4) In addition chapter 1 of title 6A contains general definitions and principles of
26 construction and interpretation applicable throughout this chapter.

27 **6A-2-104. Definitions -- "Merchant" -- "Between merchants" -- "Financing**
28 **agency"**. -- (1) "Merchant" means a person who deals in goods of the kind or otherwise by his or
29 her occupation holds him or herself out as having knowledge or skill peculiar to the practices or
30 goods involved in the transaction or to whom such knowledge or skill may be attributed by his or
31 her employment of an agent or broker or other intermediary who by his or her occupation holds
32 him or herself out as having such knowledge or skill.

33 (2) "Financing agency" means a bank, finance company, or other person who in the
34 ordinary course of business makes advances against goods or documents of title or who by

1 arrangement with either the seller or the buyer intervenes in ordinary course to make or collect
2 payment due or claimed under the contract for sale, as by purchasing or paying the seller's draft
3 or making advances against it or by merely taking it for collection whether or not documents of
4 title accompany [or are associated with](#) the draft. "Financing agency" includes also a bank or other
5 person who similarly intervenes between persons who are in the position of seller and buyer in
6 respect to the goods (section 6A-2-707).

7 (3) "Between merchants" means in any transaction with respect to which both parties are
8 chargeable with the knowledge or skill of merchants.

9 **6A-2-310. Open time for payment or running of credit -- Authority to ship under**
10 **reservation.** -- Unless otherwise agreed,

11 (a) Payment is due at the time and place at which the buyer is to receive the goods even
12 though the place of shipment is the place of delivery; and

13 (b) If the seller is authorized to send the goods he or she may ship them under
14 reservation, and may tender the documents of title, but the buyer may inspect the goods after their
15 arrival before payment is due unless such inspection is inconsistent with the terms of the contract
16 (section 6A-2-513); and

17 (c) If delivery is authorized and made by way of documents of title otherwise than by
18 subsection (b) then payment is due [regardless of where the goods are to be received: \(i\)](#) at the
19 time and place at which the buyer is to receive [delivery of the tangible](#) documents ~~regardless of~~
20 ~~where the goods are to be received;~~ [or \(ii\) at the time the buyer is to receive the electronic](#)
21 [documents and at the seller's place of business or if none, the seller's residence;](#) and

22 (d) Where the seller is required or authorized to ship the goods on credit the credit period
23 runs from the time of shipment, but postdating the invoice or delaying its dispatch will
24 correspondingly delay the starting of the credit period.

25 **6A-2-323. Form of bill of lading required in overseas shipment -- "Overseas".** -- (1)
26 Where the contract contemplates overseas shipment and contains a term C.I.F. or C. & F. or
27 F.O.B. vessel, the seller, unless otherwise agreed, must obtain a negotiable bill of lading stating
28 that the goods have been loaded on board or, in the case of a term C.I.F. or C. & F., received for
29 shipment.

30 (2) Where in a case within subsection (1) a [tangible](#) bill of lading has been issued in a set
31 of parts, unless otherwise agreed, if the documents are not to be sent from abroad the buyer may
32 demand tender of the full set; otherwise only one part of the bill of lading need be tendered. Even
33 if the agreement expressly requires a full set,

34 (a) Due tender of a single part is acceptable within the provisions of this chapter on cure

1 of improper delivery (section 6A-2-508(1)); and

2 (b) Even though the full set is demanded, if the documents are sent from abroad the
3 person tendering an incomplete set may nevertheless require payment upon furnishing an
4 indemnity which the buyer in good faith deems adequate.

5 (3) A shipment by water or by air or a contract contemplating such shipment is
6 "overseas" insofar as by usage of trade or agreement it is subject to the commercial, financing, or
7 shipping practices characteristic of international deep water commerce.

8 **6A-2-401. Passing of title -- Reservation for security -- Limited application of this**
9 **section.** -- Each provision of this chapter with regard to the rights, obligations and remedies of the
10 seller, the buyer, purchasers, or other third parties applies irrespective of title to the goods except
11 where the provision refers to such title. Insofar as situations are not covered by the other
12 provisions of this chapter and matters concerning title become material the following rules apply:

13 (1) Title to goods cannot pass under a contract for sale prior to their identification to the
14 contract (section 6A-2-501), and unless otherwise explicitly agreed the buyer acquires by their
15 identification a special property as limited by this title. Any retention or reservation by the seller
16 of the title (property) in goods shipped or delivered to the buyer is limited in effect to a
17 reservation of a security interest. Subject to these provisions and to the provisions of the chapter
18 on secured transactions (chapter 9), title to goods passes from the seller to the buyer in any
19 manner and on any conditions explicitly agreed on by the parties.

20 (2) Unless otherwise explicitly agreed, title passes to the buyer at the time and place at
21 which the seller completes his or her performance with reference to the physical delivery of the
22 goods, despite any reservation of a security interest and even though a document of title is to be
23 delivered at a different time or place; and in particular and despite any reservation of a security
24 interest by the bill of lading

25 (a) If the contract requires or authorizes the seller to send the goods to the buyer but does
26 not require him or her to deliver them at destination, title passes to the buyer at the time and place
27 of shipment; but

28 (b) If the contract requires delivery at destination, title passes on tender there.

29 (3) Unless otherwise explicitly agreed, where delivery is to be made without moving the
30 goods,

31 (a) If the seller is to deliver a [tangible](#) document of title, title passes at the time when and
32 the place where he or she delivers such documents [and if the seller is to deliver an electronic](#)
33 [document of title, title passes when the seller delivers the document](#); or

34 (b) If the goods are at the time of contracting already identified and no documents are to

1 be delivered, title passes at the time and place of contracting.

2 (4) A rejection or other refusal by the buyer to receive or retain the goods, whether or not
3 justified, or a justified revocation of acceptance reverts title to the goods in the seller. Such
4 reversioning occurs by operation of law and is not a "sale".

5 **6A-2-503. Manner of seller's tender of delivery.** -- (1) Tender of delivery requires that
6 the seller put and hold conforming goods at the buyer's disposition and give the buyer any
7 notification reasonably necessary to enable him or her to take delivery. The manner, time, and
8 place for tender are determined by the agreement and this chapter, and, in particular,

9 (a) Tender must be at a reasonable hour, and if it is of goods they must be kept available
10 for the period reasonably necessary to enable the buyer to take possession; but

11 (b) Unless otherwise agreed the buyer must furnish facilities reasonably suited to the
12 receipt of the goods.

13 (2) Where the case is within the next section respecting shipment, tender requires that the
14 seller comply with its provisions.

15 (3) Where the seller is required to deliver at a particular destination tender requires that
16 he or she comply with subsection (1), and also in any appropriate case tender documents as
17 described in subsections (4) and (5) of this section.

18 (4) Where goods are in the possession of a bailee and are to be delivered without being
19 moved,

20 (a) Tender requires that the seller either tender a negotiable document of title covering
21 such goods or procure acknowledgment by the bailee of the buyer's right to possession of the
22 goods; but

23 (b) Tender to the buyer of a nonnegotiable document of title or of a ~~written direction to~~
24 [record directing](#) the bailee to deliver is sufficient tender unless the buyer seasonably objects, and
25 [except as otherwise provided in chapter 9](#) receipt by the bailee of notification of the buyer's rights
26 fixes those rights as against the bailee and all third persons; but risk of loss of the goods and any
27 failure by the bailee to honor the nonnegotiable document of title or to obey the direction remains
28 on the seller until the buyer has had a reasonable time to present the document or direction, and a
29 refusal by the bailee to honor the document or to obey the direction defeats the tender.

30 (5) Where the contract requires the seller to deliver documents,

31 (a) He or she must tender all such documents in correct form, except as provided in this
32 chapter with respect to bills of lading in a set (section 6A-2-323(2)); and

33 (b) Tender through customary banking channels is sufficient and dishonor of a draft
34 accompanying [or associated with](#) the documents constitutes nonacceptance or rejection.

1 **6A-2-505. Seller's shipment under reservation.** -- (1) Where the seller has identified
2 goods to the contract by or before shipment:

3 (a) The seller's procurement of a negotiable bill of lading to his or her own order or
4 otherwise reserves in him or her a security interest in the goods. The seller's procurement of the
5 bill to the order of a financing agency or of the buyer indicates in addition only the seller's
6 expectation of transferring that interest to the person named.

7 (b) A nonnegotiable bill of lading to the seller or his or her nominee reserves possession
8 of the goods as security but, except in a case of conditional delivery (section 6A-2-507(2)), a
9 nonnegotiable bill of lading naming the buyer as consignee reserves no security interest even
10 though the seller retains possession or control of the bill of lading.

11 (2) When shipment by the seller with reservation of a security interest is in violation of
12 the contract for sale it constitutes an improper contract for transportation within the preceding
13 section, but impairs neither the rights given to the buyer by shipment and identification of the
14 goods to the contract nor the seller's powers as a holder of a negotiable document.

15 **6A-2-506. Rights of financing agency.** -- (1) A financing agency by paying or
16 purchasing for value a draft which relates to a shipment of goods acquires, to the extent of the
17 payment or purchase and in addition to its own rights under the draft and any document of title
18 securing it, any rights of the shipper in the goods including the right to stop delivery and the
19 shipper's right to have the draft honored by the buyer.

20 (2) The right to reimbursement of a financing agency which has in good faith honored or
21 purchased the draft under commitment to or authority from the buyer is not impaired by
22 subsequent discovery of defects with reference to any relevant document which was apparently
23 regular ~~on its face~~.

24 **6A-2-509. Risk of loss in the absence of breach.** -- (1) Where the contract requires or
25 authorizes the seller to ship the goods by carrier,

26 (a) If it does not require him or her to deliver them at a particular destination, the risk of
27 loss passes to the buyer when the goods are duly delivered to the carrier even though the
28 shipment is under reservation (section 6A-2-505); but

29 (b) If it does require him or her to deliver them at a particular destination and the goods
30 are there duly tendered while in the possession of the carrier, the risk of loss passes to the buyer
31 when the goods are there duly so tendered as to enable the buyer to take delivery.

32 (2) Where the goods are held by a bailee to be delivered without being moved, the risk of
33 loss passes to the buyer:

34 (a) On his or her receipt of a negotiable document of title covering the goods; or

1 (b) On acknowledgment by the bailee of the buyer's right to possession of the goods; or

2 (c) After his or her receipt of possession or control of a nonnegotiable document of title
3 or other ~~written~~ direction to deliver in a record, as provided in section 6A-2-503(4)(b).

4 (3) In any case not within subsection (1) or (2), the risk of loss passes to the buyer on his
5 or her receipt of the goods if the seller is a merchant; otherwise the risk passes to the buyer on
6 tender of delivery.

7 (4) The provisions of this section are subject to contrary agreement of the parties and to
8 the provisions of this chapter on sale on approval (section 6A-2-327) and on effect of breach on
9 risk of loss (section 6A-2-510).

10 **6A-2-605. Waiver of buyer's objections by failure to particularize.** -- (1) The buyer's
11 failure to state in connection with rejection a particular defect which is ascertainable by
12 reasonable inspection precludes him or her from relying on the unstated defect to justify rejection
13 or to establish breach,

14 (a) Where the seller could have cured it if stated seasonably; or

15 (b) Between merchants when the seller has after rejection made a request in writing for a
16 full and final written statement of all defects on which the buyer proposes to rely.

17 (2) Payment against documents made without reservation of rights precludes recovery of
18 the payment for defects apparent ~~on the face of~~ in the documents.

19 **6A-2-705. Seller's stoppage of delivery in transit or otherwise.** -- (1) The seller may
20 stop delivery of goods in the possession of a carrier or other bailee when he or she discovers the
21 buyer to be insolvent (section 6A-2-702) and may stop delivery of carload, truckload, planeload,
22 or larger shipments of express or freight when the buyer repudiates or fails to make a payment
23 due before delivery or if for any other reason the seller has a right to withhold or reclaim the
24 goods.

25 (2) As against such buyer the seller may stop delivery until:

26 (a) Receipt of the goods by the buyer; or

27 (b) Acknowledgment to the buyer by any bailee of the goods except a carrier that the
28 bailee holds the goods for the buyer; or

29 (c) Such acknowledgment to the buyer by a carrier by reshipment or as
30 warehouseperson; or

31 (d) Negotiation to the buyer of any negotiable document of title covering the goods.

32 (3) (a) To stop delivery the seller must so notify as to enable the bailee by reasonable
33 diligence to prevent delivery of the goods.

34 (b) After such notification the bailee must hold and deliver the goods according to the

1 directions of the seller but the seller is liable to the bailee for any ensuing charges or damages.

2 (c) If a negotiable document of title has been issued for goods the bailee is not obliged to
3 obey a notification to stop until surrender of possession or control of the document.

4 (d) A carrier who has issued a nonnegotiable bill of lading is not obliged to obey a
5 notification to stop received from a person other than the consignor.

6 SECTION 3. Sections 6A-2.1-103, 6A-2.1-514 and 6A-2.1-526 of the General Laws in
7 Chapter 6A-2.1 entitled "Leases" are hereby amended to read as follows:

8 **6A-2.1-103. Definitions and index of definitions.** -- (1) In this chapter unless the
9 context otherwise requires:

10 (a) "Buyer in ordinary course of business" means a person who in good faith and without
11 knowledge that the sale to him or her is in violation of the ownership rights or security interest or
12 leasehold interest of a third party in the goods buys in ordinary course from a person in the
13 business of selling goods of that kind but does not include a pawnbroker. "Buying" may be for
14 cash or by exchange of other property or on secured or unsecured credit and includes ~~receiving~~
15 acquiring goods or documents of title under a preexisting contract for sale but does not include a
16 transfer in bulk or as security for or in total or partial satisfaction of a money debt.

17 (b) "Cancellation" occurs when either party puts an end to the lease contract for default
18 by the other party.

19 (c) "Commercial unit" means such a unit of goods as by commercial usage is a single
20 whole for purposes of lease and division of which materially impairs its character or value on the
21 market or in use. A commercial unit may be a single chapter, as a machine, or a set of chapters, as
22 a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit
23 treated in use or in the relevant market as a single whole.

24 (d) "Conforming" goods or performance under a lease contract means goods or
25 performance that are in accordance with the obligations under the lease contract.

26 (e) "Consumer lease" means a lease that a lessor regularly engaged in the business of
27 leasing or selling makes to a lessee who is an individual and who takes under the lease primarily
28 for a personal, family, or household purpose.

29 (f) "Fault" means wrongful act, omission, breach, or default.

30 (g) "Finance lease" means a lease with respect to which:

31 (i) The lessor does not select, manufacture, or supply the goods;

32 (ii) The lessor acquires the goods or the right to possession and use of the goods in
33 connection with the lease; and

34 (iii) One of the following occurs:

1 (A) The lessee receives a copy of the contract by which the lessor acquired the goods or
2 the right to possession and use of the goods before signing the lease contract;

3 (B) The lessee's approval of the contract by which the lessor acquired the goods or the
4 right to possession and use of the goods is a condition to effectiveness of the lease contract;

5 (C) The lessee, before signing the lease contract, receives an accurate and complete
6 statement designating the promises and warranties, and any disclaimers of warranties, limitations
7 or modifications of remedies, or liquidated damages, including those of a third party, such as the
8 manufacturer of the goods, provided to the lessor by the person supplying the goods in connection
9 with or as part of the contract by which the lessor acquired the goods or the right to possession
10 and use of the goods; or

11 (D) If the lease is not a consumer lease, the lessor, before the lessee signs the lease
12 contract, informs the lessee in writing (a) of the identity of the person supplying the goods to the
13 lessor, unless the lessee has selected that person and directed the lessor to acquire the goods or the
14 right to possession and use of the goods from that person, (b) that the lessee is entitled under this
15 chapter to the promises and warranties, including those of any third party, provided to the lessor
16 by the person supplying the goods in connection with or as part of the contract by which the
17 lessor acquired the goods or the right to possession and use of the goods, and (c) that the lessee
18 may communicate with the person supplying the goods to the lessor and receive an accurate and
19 complete statement of those promises and warranties, including any disclaimers and limitations of
20 them or of remedies.

21 (h) "Goods" means all things that are movable at the time of identification to the lease
22 contract, or are fixtures (section 6A-2.1-309), but the term does not include money, documents,
23 instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and
24 gas, before extraction. The term also includes the unborn young of animals.

25 (i) "Installment lease contract" means a lease contract that authorizes or requires the
26 delivery of goods in separate lots to be separately accepted, even though the lease contract
27 contains a clause "each delivery is a separate lease" or its equivalent.

28 (j) "Lease" means a transfer of the right to possession and use of goods for a term in
29 return for consideration, but a sale, including a sale on approval or a sale or return, or retention or
30 creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the
31 term includes a sublease.

32 (k) "Lease agreement" means the bargain, with respect to the lease, of the lessor and the
33 lessee in fact as found in their language or by implication from other circumstances including
34 course of dealing or usage of trade or course of performance as provided in this chapter. Unless

1 the context clearly indicates otherwise, the term includes a sublease agreement.

2 (l) "Lease contract" means the total legal obligation that results from the lease agreement
3 as affected by this chapter and any other applicable rules of law. Unless the context clearly
4 indicates otherwise, the term includes a sublease contract.

5 (m) "Leasehold interest" means the interest of the lessor or the lessee under a lease
6 contract.

7 (n) "Lessee" means a person who acquires the right to possession and use of goods under
8 a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.

9 (o) "Lessee in ordinary course of business" means a person who in good faith and
10 without knowledge that the lease to him or her is in violation of the ownership rights or security
11 interest or leasehold interest of a third party in the goods leases in ordinary course from a person
12 in the business of selling or leasing goods of that kind but does not include a pawnbroker.
13 "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and
14 includes ~~receiving~~ acquiring goods or documents of title under a preexisting lease contract but
15 does not include a transfer in bulk or as security for or in total or partial satisfaction of a money
16 debt.

17 (p) "Lessor" means a person who transfers the right to possession and use of goods under
18 a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

19 (q) "Lessor's residual interest" means the lessor's interest in the goods after expiration,
20 termination, or cancellation of the lease contract.

21 (r) "Lien" means a charge against or interest in goods to secure payment of a debt or
22 performance of an obligation, but the term does not include a security interest.

23 (s) "Lot" means a parcel or a single chapter that is the subject matter of a separate lease
24 or delivery, whether or not it is sufficient to perform the lease contract.

25 (t) "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind
26 subject to the lease.

27 (u) "Present value" means the amount as of a date certain of one or more sums payable in
28 the future, discounted to the date certain. The discount is determined by the interest rate specified
29 by the parties if the rate was not manifestly unreasonable at the time the transaction was entered
30 into; otherwise, the discount is determined by a commercially reasonable rate that takes into
31 account the facts and circumstances of each case at the time the transaction was entered into.

32 (v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or
33 any other voluntary transaction creating an interest in goods.

34 (w) "Sublease" means a lease of goods the right to possession and use of which was

1 acquired by the lessor as a lessee under an existing lease.

2 (x) "Supplier" means a person from whom a lessor buys or leases goods to be leased
3 under a finance lease.

4 (y) "Supply contract" means a contract under which a lessor buys or leases goods to be
5 leased.

6 (z) "Termination" occurs when either party pursuant to a power created by agreement or
7 law puts an end to the lease contract otherwise than for default.

8 (2) Other definitions applying to this chapter and the sections in which they appear are:

9 "Accessions". section 6A-2.1-310(1).

10 "Construction mortgage". section 6A-2.1-309(1)(d).

11 "Encumbrance". section 6A-2.1-309(1)(e).

12 "Fixtures". section 6A-2.1-309(1)(a).

13 "Fixture filing". section 6A-2.1-309(1)(b).

14 "Purchase money lease". section 6A-2.1-309(1)(c).

15 (3) The following definitions in other chapters apply to this Chapter:

16 "Account". section 6A-9-102(a)(2).

17 "Between merchants". section 6A-2-104(3).

18 "Buyer". section 6A-2-103(1)(a).

19 "Chattel paper". section 6A-9-102(a)(11).

20 "Consumer goods". section 6A-9-102(a)(23).

21 "Document". section 6A-9-102(a)(30).

22 "Entrusting". section 6A-2-403(3).

23 "General intangibles". section 6A-9-102(a)(42).

24 "Good faith". section 6A-2-103(1)(b).

25 "Instrument". section 6A-9-102(2)(47).

26 "Merchant". section 6A-2-104(1).

27 "Mortgage". section 6A-9-102(a)(55).

28 "Pursuant to commitment". section 6A-9-102(a)(68).

29 "Receipt". section 6A-2-103(1)(c).

30 "Sale". section 6A-2-106(1).

31 "Sale on approval". section 6A-2-326.

32 "Sale or return". section 6A-2-326.

33 "Seller". section 6A-2-103(1)(d).

34 (4) In addition, chapter 1 of this title contains general definitions and principles of

1 construction and interpretation applicable throughout this chapter.

2 **6A-2.1-514. Waiver of lessee's objections.** -- (1) In rejecting goods, a lessee's failure to
3 state a particular defect that is ascertainable by reasonable inspection precludes the lessee from
4 relying on the defect to justify rejection or to establish default:

5 (a) If, stated seasonably, the lessor or the supplier could have cured it (section 6A-2.1-
6 513); or

7 (b) Between merchants if the lessor or the supplier after rejection has made a request in
8 writing for a full and final written statement of all defects on which the lessee proposes to rely.

9 (2) A lessee's failure to reserve rights when paying rent or other consideration against
10 documents precludes recovery of the payment for defects apparent ~~on the face of~~ in the
11 documents.

12 **6A-2.1-526. Lessor's stoppage of delivery in transit or otherwise.** -- (1) A lessor may
13 stop delivery of goods in the possession of a carrier or other bailee if the lessor discovers the
14 lessee to be insolvent and may stop delivery of carload, truckload, planeload, or larger shipments
15 of express or freight if the lessee repudiates or fails to make a payment due before delivery,
16 whether for rent, security, or otherwise under the lease contract, or for any other reason the lessor
17 has a right to withhold or take possession of the goods.

18 (2) In pursuing its remedies under subsection (1), the lessor may stop delivery until:

19 (a) Receipt of the goods by the lessee;

20 (b) Acknowledgment to the lessee by any bailee of the goods, except a carrier, that the
21 bailee holds the goods for the lessee; or

22 (c) Such an acknowledgment to the lessee by a carrier via reshipment or as a
23 warehouse ~~person~~.

24 (3) (a) To stop delivery, a lessor shall so notify as to enable the bailee by reasonable
25 diligence to prevent delivery of the goods.

26 (b) After notification, the bailee shall hold and deliver the goods according to the
27 directions of the lessor, but the lessor is liable to the bailee for any ensuing charges or damages.

28 (c) A carrier who has issued a nonnegotiable bill of lading is not obliged to obey a
29 notification to stop received from a person other than the consignor.

30 SECTION 4. Sections 6A-4-104 and 6A-4-210 of the General Laws in Chapter 6A-4
31 entitled "Bank Deposits And Collections" are hereby amended to read as follows:

32 **6A-4-104. Definitions and index of definitions.** -- (a) In this chapter, unless the context
33 otherwise requires:

34 (1) "Account" means any deposit or credit account with a bank, including a demand,

1 time, savings, passbook, share draft, or like account, other than an account evidenced by a
2 certificate of deposit;

3 (2) "Afternoon" means the period of a day between noon and midnight;

4 (3) "Banking day" means the part of a day on which a bank is open to the public for
5 carrying on substantially all of its banking functions;

6 (4) "Clearing house" means an association of banks or other payors regularly clearing
7 items;

8 (5) "Customer" means a person having an account with a bank or for whom a bank has
9 agreed to collect items, including a bank that maintains an account at another bank;

10 (6) "Documentary draft" means a draft to be presented for acceptance or payment if
11 specified documents, certificated securities (section 6A-8-102) or instructions for uncertificated
12 securities (section 6A-8-102), or other certificates, statements, or the like are to be received by the
13 drawee or other payor before acceptance or payment of the draft;

14 (7) "Draft" means a draft as defined in section 6A-3-104 or an item, other than an
15 instrument, that is an order;

16 (8) "Drawee" means a person ordered in a draft to make payment;

17 (9) "Item" means an instrument or a promise or order to pay money handled by a bank for
18 collection or payment. The term does not include a payment order governed by chapter 4.1 of this
19 title or a credit or debit card slip;

20 (10) "Midnight deadline" with respect to a bank is midnight on its next banking day
21 following the banking day on which it receives the relevant item or notice or from which the time
22 for taking action commences to run, whichever is later;

23 (11) "Settle" means to pay in cash, by clearing-house settlement, in a charge or credit or
24 by remittance, or otherwise as agreed. A settlement may be either provisional or final;

25 (12) "Suspends payments" with respect to a bank means that it has been closed by order
26 of the supervisory authorities, that a public officer has been appointed to take it over, or that it
27 ceases or refuses to make payments in the ordinary course of business.

28 (b) Other definitions applying to this chapter and the sections in which they appear are:

29 "Agreement for electronic presentment" section 6A-4-110.

30 "Bank" section 6A-4-105.

31 "Collecting bank" section 6A-4-105.

32 "Depository bank" section 6A-4-105.

33 "Intermediary bank" section 6A-4-105.

34 "Payor bank" section 6A-4-105.

1	"Presenting bank"	section 6A-4-105.
2	"Presentment notice"	section 6A-4-110.
3	(c) The <u>"Control" as provided in section 6A-7.1-106 and the</u> following definitions in	
4	other chapters apply to this chapter:	
5	"Acceptance"	section 6A-3-409.
6	"Alteration"	section 6A-3-407.
7	"Cashier's check"	section 6A-3-104.
8	"Certificate of deposit"	section 6A-3-104.
9	"Certified check"	section 6A-3-409.
10	"Check"	section 6A-3-104.
11	"Good faith"	section 6A-3-103.
12	"Holder in due course"	section 6A-3-302.
13	"Instrument"	section 6A-3-104.
14	"Notice of dishonor"	section 6A-3-503.
15	"Order"	section 6A-3-103.
16	"Ordinary care"	section 6A-3-103.
17	"Person entitled to enforce"	section 6A-3-301.
18	"Presentment"	section 6A-3-501.
19	"Promise"	section 6A-3-103.
20	"Prove"	section 6A-3-103.
21	"Teller's check"	section 6A-3-104.
22	"Unauthorized signature"	section 6A-3-403.

23 (d) In addition, chapter 1 of this title contains general definitions and principles of
24 construction and interpretation applicable throughout this chapter.

25 **6A-4-210. Security interest of collecting bank in items, accompanying documents**

26 **and proceeds.** -- (a) A collecting bank has a security interest in an item and any accompanying
27 documents or the proceeds of either:

28 (1) In case of an item deposited in an account, to the extent to which credit given for the
29 item has been withdrawn or applied;

30 (2) In case of an item for which it has given credit available for withdrawal as of right, to
31 the extent of the credit given, whether or not the credit is drawn upon or there is a right of charge-
32 back; or

33 (3) If it makes an advance on or against the item.

34 (b) If credit given for several items received at one time or pursuant to a single

1 agreement is withdrawn or applied in part, the security interest remains upon all the items, any
2 accompanying documents or the proceeds of either. For the purpose of this section, credits first
3 given are first withdrawn.

4 (c) Receipt by a collecting bank of a final settlement for an item is a realization on its
5 security interest in the item, accompanying documents, and proceeds. So long as the bank does
6 not receive final settlement for the item or give up possession of the item or possession or control
7 of the accompanying documents for purposes other than collection, the security interest continues
8 to that extent and is subject to chapter 9 of this title, but:

9 (1) No security agreement is necessary to make the security interest enforceable (section
10 6A-9-203(b)(3)(i));

11 (2) No filing is required to perfect the security interest; and

12 (3) The security interest has priority over conflicting perfected security interests in the
13 item, accompanying documents, or proceeds.

14 SECTION 5. Chapter 6A-7 of the General Laws entitled "Warehouse Receipts, Bills of
15 Lading and Other Documents of Title" is hereby repealed in its entirety.

16 ~~CHAPTER 6A-7~~

17 ~~Warehouse Receipts, Bills of Lading and Other Documents of Title~~

18 ~~6A-7-101. Short title. — This chapter shall be known and may be cited as Uniform~~
19 ~~Commercial Code — Documents of Title.~~

20 ~~6A-7-102. Definitions and index of definitions. — (1) In this chapter, unless the context~~
21 ~~otherwise requires: (a) "Bailee" means the person who by a warehouse receipt, bill of lading or~~
22 ~~other document of title acknowledges possession of goods and contracts to deliver them. (b)~~
23 ~~"Consignee" means the person named in a bill to whom or to whose order the bill promises~~
24 ~~delivery. (c) "Consignor" means the person named in a bill as the person from whom the goods~~
25 ~~have been received for shipment. (d) "Delivery order" means a written order to deliver goods~~
26 ~~directed to a warehouseperson, carrier, or other person who in the ordinary course of business~~
27 ~~issues warehouse receipts or bills of lading. (e) "Document" means document of title as defined~~
28 ~~in the general definitions in chapter 1 of this title (section 6A-1-201). (f) "Goods" means all~~
29 ~~things which are treated as movable for the purposes of a contract of storage or transportation.~~
30 ~~(g) "Issuer" means a bailee who issues a document except that in relation to an unaccepted~~
31 ~~delivery order it means the person who orders the possessor of goods to deliver. Issuer includes~~
32 ~~any person for whom an agent or employee purports to act in issuing a document if the agent or~~
33 ~~employee has real or apparent authority to issue documents, notwithstanding that the issuer~~
34 ~~received no goods or that the goods were misdescribed or that in any other respect the agent or~~

1 ~~employee violated his or her instructions. (h) "Warehouseperson" is a person engaged in the~~
2 ~~business of storing goods for hire. (2) Other definitions applying to this chapter or to specified~~
3 ~~parts thereof, and the sections in which they appear are:~~

4 ~~"Duly negotiate". section 6A-7-501.~~

5 ~~"Person entitled under the document". section 6A-7-403(4).~~

6 ~~(3) Definitions in other chapters applying to this chapter and the sections in which they~~
7 ~~appear are:~~

8 ~~"Contract for sale". section 6A-2-106.~~

9 ~~"Overseas". section 6A-2-323.~~

10 ~~"Receipt" of goods. section 6A-2-103.~~

11 ~~(4) In addition, chapter 1 of this title contains general definitions and principles of~~
12 ~~construction and interpretation applicable throughout this chapter.~~

13 ~~**6A-7-103. Relation of chapter to treaty, statute, tariff, classification, or regulation.**~~

14 ~~To the extent that any treaty or statute of the United States, regulatory statute of this state or tariff,~~
15 ~~classification, or regulation filed or issued pursuant thereto is applicable, the provisions of this~~
16 ~~chapter are subject thereto.~~

17 ~~**6A-7-104. Negotiable and nonnegotiable warehouse receipt, bill of lading, or other**~~
18 ~~**document of title.**~~ (1) ~~A warehouse receipt, bill of lading, or other document of title is~~
19 ~~negotiable:~~

20 ~~(a) If by its terms the goods are to be delivered to bearer or to the order of a named~~
21 ~~person; or~~

22 ~~(b) Where recognized in overseas trade, if it runs to a named person or assigns.~~

23 ~~(2) Any other document is nonnegotiable. A bill of lading in which it is stated that the~~
24 ~~goods are consigned to a named person is not made negotiable by a provision that the goods are~~
25 ~~to be delivered only against a written order signed by the same or another named person.~~

26 ~~**6A-7-105. Construction against negative implication.**~~ The omission from either part
27 ~~2 or part 3 of this chapter of a provision corresponding to a provision made in the other part does~~
28 ~~not imply that a corresponding rule of law is not applicable.~~

29 ~~**6A-7-106. Effect of chapter.**~~ This chapter does not repeal or modify any laws
30 ~~prescribing the form or contents of documents of title or the services or facilities to be afforded~~
31 ~~by bailees, or otherwise regulating bailees' businesses in respects not specifically dealt with~~
32 ~~herein; but the fact that such laws are violated does not affect the status of a document of title~~
33 ~~which otherwise complies with the definition of a document of title (section 6A-1-201).~~

34 ~~**6A-7-201. Who may issue a warehouse receipt -- Storage under government bond.**~~

1 ~~(1) A warehouse receipt may be issued by any warehouseperson.~~

2 ~~(2) Where goods including distilled spirits and agricultural commodities are stored under~~
3 ~~a statute requiring a bond against withdrawal or a license for the issuance of receipts in the nature~~
4 ~~of warehouse receipts, a receipt issued for the goods has like effect as a warehouse receipt even~~
5 ~~though issued by a person who is the owner of the goods and is not a warehouseperson.~~

6 ~~**6A-7-202. Form of warehouse receipt -- Essential terms -- Optional terms.**~~ (1) A
7 ~~warehouse receipt need not be in any particular form.~~

8 ~~(2) Unless a warehouse receipt embodies within its written or printed terms each of the~~
9 ~~following, the warehouseperson is liable for damages caused by the omission to a person injured~~
10 ~~thereby:~~

11 ~~(a) The location of the warehouse where the goods are stored;~~

12 ~~(b) The date of issue of the receipt;~~

13 ~~(c) The consecutive number of the receipt;~~

14 ~~(d) A statement whether the goods received will be delivered to the bearer, to a specified~~
15 ~~person, or to a specified person or his or her order;~~

16 ~~(e) The rate of storage and handling charges, except that where goods are stored under a~~
17 ~~field warehousing arrangement a statement of that fact is sufficient on a nonnegotiable receipt;~~

18 ~~(f) A description of the goods or of the packages containing them;~~

19 ~~(g) The signature of the warehouseperson, which may be made by his or her authorized~~
20 ~~agent;~~

21 ~~(h) If the receipt is issued for goods of which the warehouseperson is owner, either~~
22 ~~solely or jointly or in common with others, the fact of such ownership; and~~

23 ~~(i) A statement of the amount of advances made and of liabilities incurred for which the~~
24 ~~warehouseperson claims a lien or security interest (section 6A-7-209). If the precise amount of~~
25 ~~such advances made or of such liabilities incurred is, at the time of the issue of the receipt,~~
26 ~~unknown to the warehouseperson or to his or her agent who issues it, a statement of the fact that~~
27 ~~advances have been made or liabilities incurred and the purpose thereof is sufficient.~~

28 ~~(3) A warehouseperson may insert in his or her receipt any other terms which are not~~
29 ~~contrary to the provisions of this title and do not impair his or her obligation of delivery (section~~
30 ~~6A-7-403) or his or her duty of care (section 6A-7-204). Any contrary provisions shall be~~
31 ~~ineffective.~~

32 ~~**6A-7-203. Liability for nonreceipt or misdescription.**~~ A party to or purchaser for
33 ~~value in good faith of a document of title other than a bill of lading relying in either case upon the~~
34 ~~description therein of the goods may recover from the issuer damages caused by the nonreceipt or~~

1 ~~misdescription of the goods, except to the extent that the document conspicuously indicates that~~
2 ~~the issuer does not know whether any part or all of the goods in fact were received or conform to~~
3 ~~the description, as where the description is in terms of marks or labels or kind, quantity, or~~
4 ~~condition, or the receipt or description is qualified by "contents, condition, and quality unknown",~~
5 ~~"said to contain", or the like if such indication be true, or the party or purchaser otherwise has~~
6 ~~notice.~~

7 ~~**6A-7-204. Duty of care — Contractual limitation of warehouseperson's liability.**~~ (1)

8 ~~A warehouseperson is liable for damages for loss of or injury to the goods caused by his or her~~
9 ~~failure to exercise such care in regard to them as a reasonably careful person would exercise~~
10 ~~under like circumstances but unless otherwise agreed he or she is not liable for damages which~~
11 ~~could not have been avoided by the exercise of such care.~~

12 ~~(2) Damages may be limited by a term in the warehouse receipt or storage agreement~~
13 ~~limiting the amount of liability in case of loss or damage, and setting forth a specific liability per~~
14 ~~article or item, or value per unit of weight, beyond which the warehouseperson shall not be liable;~~
15 ~~provided, however, that the liability may on written request of the bailor at the time of signing the~~
16 ~~storage agreement or within a reasonable time after receipt of the warehouse receipt be increased~~
17 ~~on part or all of the goods thereunder, in which event increased rates may be charged based on the~~
18 ~~increased valuation, but that no increase shall be permitted contrary to a lawful limitation of~~
19 ~~liability contained in the warehouseperson's tariff, if any. No such limitation is effective with~~
20 ~~respect to the warehouseperson's liability for conversion to his or her own use.~~

21 ~~(3) Reasonable provisions as to the time and manner of presenting claims and instituting~~
22 ~~actions based on the bailment may be included in the warehouse receipt or tariff.~~

23 ~~**6A-7-205. Title under warehouse receipt defeated in certain cases.**~~ (1)

24 ~~A buyer in the ordinary course of business of fungible goods sold and delivered by a warehouseperson who is~~
25 ~~also in the business of buying and selling such goods takes free of any claim under a warehouse~~
26 ~~receipt even though it has been duly negotiated.~~

27 ~~**6A-7-206. Termination of storage at warehouseperson's option.**~~ (1)

28 ~~A warehouseperson may on notifying the person on whose account the goods are held and any other~~
29 ~~person known to claim an interest in the goods require payment of any charges and removal of~~
30 ~~the goods from the warehouse at the termination of the period of storage fixed by the document,~~
31 ~~or, if no period is fixed, within a stated period not less than thirty (30) days after the notification.~~
32 ~~If the goods are not removed before the date specified in the notification, the warehouseperson~~
33 ~~may sell them in accordance with the provisions of the section on enforcement of a~~
34 ~~warehouseperson's lien (section 6A-7-210).~~

1 ~~(2) If a warehouseperson in good faith believes that the goods are about to deteriorate or~~
2 ~~decline in value to less than the amount of his or her lien within the time prescribed in subsection~~
3 ~~(1) for notification, advertisement, and sale, the warehouseperson may specify in the notification~~
4 ~~any reasonable shorter time for removal of the goods and in case the goods are not removed, may~~
5 ~~sell them at public sale held not less than one week after a single advertisement or posting.~~

6 ~~(3) If as a result of a quality or condition of the goods of which the warehouseperson had~~
7 ~~no notice at the time of deposit the goods are a hazard to other property or to the warehouse or to~~
8 ~~persons, the warehouseperson may sell the goods at public or private sale without advertisement~~
9 ~~on reasonable notification to all persons known to claim an interest in the goods. If the~~
10 ~~warehouseperson after a reasonable effort is unable to sell the goods, he or she may dispose of~~
11 ~~them in any lawful manner and shall incur no liability by reason of such disposition.~~

12 ~~(4) The warehouseperson must deliver the goods to any person entitled to them under~~
13 ~~this chapter upon due demand made at any time prior to sale or other disposition under this~~
14 ~~section.~~

15 ~~(5) The warehouseperson may satisfy his or her lien from the proceeds of any sale or~~
16 ~~disposition under this section but must hold the balance for delivery on the demand of any person~~
17 ~~to whom he or she would have been bound to deliver the goods.~~

18 ~~**6A-7-207. Goods must be kept separate — Fungible goods.** — (1) Unless the warehouse~~
19 ~~receipt otherwise provides, a warehouseperson must keep separate the goods covered by each~~
20 ~~receipt so as to permit at all times identification and delivery of those goods except that different~~
21 ~~lots of fungible goods may be commingled.~~

22 ~~(2) Fungible goods so commingled are owned in common by the persons entitled thereto~~
23 ~~and the warehouseperson is severally liable to each owner for that owner's share. Where because~~
24 ~~of overissue a mass of fungible goods is insufficient to meet all the receipts which the~~
25 ~~warehouseperson has issued against it, the persons entitled include all holders to whom~~
26 ~~overissued receipts have been duly negotiated.~~

27 ~~**6A-7-208. Altered warehouse receipts.** — Where a blank in a negotiable warehouse~~
28 ~~receipt has been filled in without authority, a purchaser for value and without notice of the want~~
29 ~~of authority may treat the insertion as authorized. Any other unauthorized alteration leaves any~~
30 ~~receipt enforceable against the issuer according to its original tenor.~~

31 ~~**6A-7-209. Lien of warehouseperson.** — (1) A warehouseperson has a lien against the~~
32 ~~bailor on the goods covered by a warehouse receipt or on the proceeds thereof in his or her~~
33 ~~possession for charges for storage or transportation (including demurrage and terminal charges),~~
34 ~~insurance, labor, or charges present or future in relation to the goods, and for expenses necessary~~

1 ~~for preservation of the goods or reasonably incurred in their sale pursuant to law. If the person on~~
2 ~~whose account the goods are held is liable for like charges or expenses in relation to other goods~~
3 ~~whenever deposited and it is stated in the receipt that a lien is claimed for charges and expenses in~~
4 ~~relation to other goods, the warehouseperson also has a lien against him or her for such charges~~
5 ~~and expenses whether or not the other goods have been delivered by the warehouseperson. But~~
6 ~~against a person to whom a negotiable warehouse receipt is duly negotiated a warehouseperson's~~
7 ~~lien is limited to charges in an amount or at a rate specified on the receipt or, if no charges are so~~
8 ~~specified, then to a reasonable charge for storage of the goods covered by the receipt subsequent~~
9 ~~to the date of the receipt.~~

10 ~~(2) The warehouseperson may also reserve a security interest against the bailor for a~~
11 ~~maximum amount specified on the receipt for charges other than those specified in subsection (1);~~
12 ~~such as for money advanced and interest. Such a security interest is governed by the chapter on~~
13 ~~secured transactions (chapter 9 of this title).~~

14 ~~(3) A warehouseperson's lien for charges and expenses under subsection (1) or a security~~
15 ~~interest under subsection (2) is also effective against any person who so entrusted the bailor with~~
16 ~~possession of the goods that a pledge of them by him or her to a good faith purchaser for value~~
17 ~~would have been valid, but is not effective against a person as to whom the document confers no~~
18 ~~right in the goods covered by it under section 6A-7-503.~~

19 ~~(4) A warehouseperson loses his lien on any goods which he or she voluntarily delivers~~
20 ~~or which he or she unjustifiably refuses to deliver.~~

21 ~~**6A-7-210. Enforcement of warehouseperson's lien.** --- (1) Except as provided in~~
22 ~~subsection (2), a warehouseperson's lien may be enforced by public or private sale of the goods in~~
23 ~~block or in parcels, at any time or place and on any terms which are commercially reasonable, after~~
24 ~~notifying all persons known to claim an interest in the goods. Such notification must include a~~
25 ~~statement of the amount due, the nature of the proposed sale and the time and place of any public~~
26 ~~sale. The fact that a better price could have been obtained by a sale at a different time or in a~~
27 ~~different method from that selected by the warehouseperson is not of itself sufficient to establish~~
28 ~~that the sale was not made in a commercially reasonable manner. If the warehouseperson either~~
29 ~~sells the goods in the usual manner in any recognized market therefor, or if he or she sells at the~~
30 ~~price current in such market at the time of his or her sale, or if he or she has otherwise sold in~~
31 ~~conformity with commercially reasonable practices among dealers in the type of goods sold, he or~~
32 ~~she has sold in a commercially reasonable manner. A sale of more goods than apparently~~
33 ~~necessary to be offered to insure satisfaction of the obligation is not commercially reasonable~~
34 ~~except in cases covered by the preceding sentence.~~

1 ~~-(2) A warehouseperson's lien on goods other than goods stored by a merchant in the~~
2 ~~course of his business may be enforced only as follows:~~

3 ~~-(a) All persons known to claim an interest in the goods must be notified.~~

4 ~~-(b) The notification must be delivered in person or sent by registered letter to the last~~
5 ~~known address of any person to be notified.~~

6 ~~-(c) The notification must include an itemized statement of the claim, a description of the~~
7 ~~goods subject to the lien, a demand for payment within a specified time not less than ten (10)~~
8 ~~days after receipt of the notification, and a conspicuous statement that unless the claim is paid~~
9 ~~within that time the goods will be advertised for sale and sold by auction at a specified time and~~
10 ~~place.~~

11 ~~-(d) The sale must conform to the terms of the notification.~~

12 ~~-(e) The sale must be held at the nearest suitable place to that where the goods are held or~~
13 ~~stored.~~

14 ~~-(f) After the expiration of the time given in the notification, an advertisement of the sale~~
15 ~~must be published once a week for two (2) weeks consecutively in a newspaper of general~~
16 ~~circulation where the sale is to be held. The advertisement must include a description of the~~
17 ~~goods, the name of the person on whose account they are being held, and the time and place of~~
18 ~~the sale. The sale must take place at least fifteen (15) days after the first publication. If there is no~~
19 ~~newspaper of general circulation where the sale is to be held, the advertisement must be posted at~~
20 ~~least ten (10) days before the sale in not less than six (6) conspicuous places in the neighborhood~~
21 ~~of the proposed sale.~~

22 ~~-(3) Before any sale pursuant to this section any person claiming a right in the goods may~~
23 ~~pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this~~
24 ~~section. In that event the goods must not be sold, but must be retained by the warehouseperson~~
25 ~~subject to the terms of the receipt and this chapter.~~

26 ~~-(4) The warehouseperson may buy at any public sale pursuant to this section.~~

27 ~~-(5) A purchaser in good faith of goods sold to enforce a warehouseperson's lien takes the~~
28 ~~goods free of any rights of persons against whom the lien was valid, despite noncompliance by~~
29 ~~the warehouseperson with the requirements of this section.~~

30 ~~-(6) The warehouseperson may satisfy his or her lien from the proceeds of any sale~~
31 ~~pursuant to this section but must hold the balance, if any, for delivery on demand to any person to~~
32 ~~whom he or she would have been bound to deliver the goods.~~

33 ~~-(7) The rights provided by this section shall be in addition to all other rights allowed by~~
34 ~~law to a creditor against his or her debtor.~~

1 ~~(8) Where a lien is on goods stored by a merchant in the course of his or her business the~~
2 ~~lien may be enforced in accordance with either subsection (1) or (2).~~

3 ~~(9) The warehouseperson is liable for damages caused by failure to comply with the~~
4 ~~requirements for sale under this section and in case of willful violation is liable for conversion.~~

5 ~~**6A-7-301. Liability for nonreceipt or misdescription --- "Said to contain" ---**~~
6 ~~**"Shipper's load and count" --- Improper handling.** --- (1) A consignee of a nonnegotiable bill~~
7 ~~who has given value in good faith or a holder to whom a negotiable bill has been duly negotiated~~
8 ~~relying in either case upon the description therein of the goods, or upon the date therein shown,~~
9 ~~may recover from the issuer damages caused by the misdating of the bill or the nonreceipt or~~
10 ~~misdescription of the goods, except to the extent that the document indicates that the issuer does~~
11 ~~not know whether any part or all of the goods in fact were received or conform to the description,~~
12 ~~as where the description is in terms of marks or labels or kind, quantity, or condition or the~~
13 ~~receipt or description is qualified by "contents or condition of contents of packages unknown",~~
14 ~~"said to contain", "shipper's weight, load and count" or the like, if such indication be true.~~

15 ~~(2) When goods are loaded by an issuer who is a common carrier, the issuer must count~~
16 ~~the packages of goods if package freight and ascertain the kind and quantity if bulk freight. In~~
17 ~~such cases "shipper's weight, load and count" or other words indicating that the description was~~
18 ~~made by the shipper are ineffective except as to freight concealed by packages.~~

19 ~~(3) When bulk freight is loaded by a shipper who makes available to the issuer adequate~~
20 ~~facilities for weighing such freight, an issuer who is a common carrier must ascertain the kind and~~
21 ~~quantity within a reasonable time after receiving the written request of the shipper to do so. In~~
22 ~~such cases "shipper's weight" or other words of like purport are ineffective.~~

23 ~~(4) The issuer may by inserting in the bill the words "shipper's weight, load and count"~~
24 ~~or other words of like purport indicate that the goods were loaded by the shipper; and if such~~
25 ~~statement be true the issuer shall not be liable for damages caused by the improper loading. But~~
26 ~~their omission does not imply liability for such damages.~~

27 ~~(5) The shipper shall be deemed to have guaranteed to the issuer the accuracy at the time~~
28 ~~of shipment of the description, marks, labels, number, kind, quantity, condition, and weight as~~
29 ~~furnished by him or her; and the shipper shall indemnify the issuer against damage caused by~~
30 ~~inaccuracies in such particulars. The right of the issuer to such indemnity shall in no way limit his~~
31 ~~responsibility and liability under the contract of carriage to any person other than the shipper.~~

32 ~~**6A-7-302. Through bills of lading and similar documents.** --- (1) The issuer of a~~
33 ~~through bill of lading or other document embodying an undertaking to be performed in part by~~
34 ~~persons acting as its agents or by connecting carriers is liable to anyone entitled to recover on the~~

1 ~~document for any breach by such other persons or by a connecting carrier of its obligation under~~
2 ~~the document but to the extent that the bill covers an undertaking to be performed overseas or in~~
3 ~~territory not contiguous to the continental United States or an undertaking including matters other~~
4 ~~than transportation this liability may be varied by agreement of the parties.~~

5 ~~(2) Where goods covered by a through bill of lading or other document embodying an~~
6 ~~undertaking to be performed in part by persons other than the issuer are received by any such~~
7 ~~person, he or she is subject with respect to his or her own performance while the goods are in his~~
8 ~~or her possession to the obligation of the issuer. His or her obligation is discharged by delivery of~~
9 ~~the goods to another such person pursuant to the document, and does not include liability for~~
10 ~~breach by any other such persons or by the issuer.~~

11 ~~(3) The issuer of such through bill of lading or other document shall be entitled to~~
12 ~~recover from the connecting carrier of such other person in possession of the goods when the~~
13 ~~breach of the obligation under the document occurred, the amount it may be required to pay to~~
14 ~~anyone entitled to recover on the document therefor, as may be evidenced by any receipt,~~
15 ~~judgment, or transcript thereof, and the amount of any expense reasonably incurred by it in~~
16 ~~defending any action brought by anyone entitled to recover on the document therefor.~~

17 ~~**6A-7-303. Diversion -- Reconsignment -- Change of instructions.**~~ (1) Unless the bill
18 of lading otherwise provides, the carrier may deliver the goods to a person or destination other
19 than that stated in the bill or may otherwise dispose of the goods on instructions from:

20 ~~(a) The holder of a negotiable bill; or~~

21 ~~(b) The consignor on a nonnegotiable bill notwithstanding contrary instructions from the~~
22 ~~consignee; or~~

23 ~~(c) The consignee on a nonnegotiable bill in the absence of contrary instructions from~~
24 ~~the consignor, if the goods have arrived at the billed destination or if the consignee is in~~
25 ~~possession of the bill; or~~

26 ~~(d) The consignee on a nonnegotiable bill if he or she is entitled as against the consignor~~
27 ~~to dispose of them.~~

28 ~~(2) Unless such instructions are noted on a negotiable bill of lading, a person to whom~~
29 ~~the bill is duly negotiated can hold the bailee according to the original terms.~~

30 ~~**6A-7-304. Bills of lading in a set.**~~ (1) Except where customary in overseas
31 transportation, a bill of lading must not be issued in a set of parts. The issuer is liable for damages
32 caused by violation of this subsection.

33 ~~(2) Where a bill of lading is lawfully drawn in a set of parts, each of which is numbered~~
34 ~~and expressed to be valid only if the goods have not been delivered against any other part, the~~

1 ~~whole of the parts constitute one bill.~~

2 ~~-(3) Where a bill of lading is lawfully issued in a set of parts and different parts are~~
3 ~~negotiated to different persons, the title of the holder to whom the first due negotiation is made~~
4 ~~prevails as to both the document and the goods even though any later holder may have received~~
5 ~~the goods from the carrier in good faith and discharged the carrier's obligation by surrender of his~~
6 ~~or her part.~~

7 ~~-(4) Any person who negotiates or transfers a single part of a bill of lading drawn in a set~~
8 ~~is liable to holders of that part as if it were the whole set.~~

9 ~~-(5) The bailee is obliged to deliver in accordance with part 4 of this chapter against the~~
10 ~~first presented part of a bill of lading lawfully drawn in a set. Such delivery discharges the~~
11 ~~bailee's obligation on the whole bill.~~

12 ~~**6A-7-305. Destination bills.** --- (1) Instead of issuing a bill of lading to the consignor at~~
13 ~~the place of shipment a carrier may at the request of the consignor procure the bill to be issued at~~
14 ~~destination or at any other place designated in the request.~~

15 ~~-(2) Upon request of anyone entitled as against the carrier to control the goods while in~~
16 ~~transit and on surrender of any outstanding bill of lading or other receipt covering such goods, the~~
17 ~~issuer may procure a substitute bill to be issued at any place designated in the request.~~

18 ~~**6A-7-306. Altered bills of lading.** --- An unauthorized alteration or filling in of a blank in~~
19 ~~a bill of lading leaves the bill enforceable according to its original tenor.~~

20 ~~**6A-7-307. Lien of carrier.** --- (1) A carrier has a lien on the goods covered by a bill of~~
21 ~~lading for charges subsequent to the date of its receipt of the goods for storage or transportation~~
22 ~~(including demurrage and terminal charges) and for expenses necessary for preservation of the~~
23 ~~goods incident to their transportation or reasonably incurred in their sale pursuant to law. But~~
24 ~~against a purchaser for value of a negotiable bill of lading, a carrier's lien is limited to charges~~
25 ~~stated in the bill or the applicable tariffs, or if no charges are stated then to a reasonable charge.~~

26 ~~-(2) A lien for charges and expenses under subsection (1) on goods which the carrier was~~
27 ~~required by law to receive for transportation is effective against the consignor or any person~~
28 ~~entitled to the goods unless the carrier had notice that the consignor lacked authority to subject~~
29 ~~the goods to such charges and expenses. Any other lien under subsection (1) is effective against~~
30 ~~the consignor and any person who permitted the bailor to have control or possession of the goods~~
31 ~~unless the carrier had notice that the bailor lacked such authority.~~

32 ~~-(3) A carrier loses his or her lien on any goods which he or she voluntarily delivers or~~
33 ~~which he or she unjustifiably refuses to deliver.~~

34 ~~**6A-7-308. Enforcement of carrier's lien.** --- (1) A carrier's lien may be enforced by~~

1 ~~public or private sale of the goods, in bloc or in parcels, at any time or place and on any terms~~
2 ~~which are commercially reasonable, after notifying all persons known to claim an interest in the~~
3 ~~goods. Such notification must include a statement of the amount due, the nature of the proposed~~
4 ~~sale, and the time and place of any public sale. The fact that a better price could have been~~
5 ~~obtained by a sale at a different time or in a different method from that selected by the carrier is~~
6 ~~not of itself sufficient to establish that the sale was not made in a commercially reasonable~~
7 ~~manner. If the carrier either sells the goods in the usual manner in any recognized market therefor~~
8 ~~or if he or she sells at the price current in such market at the time of his or her sale or if he or she~~
9 ~~has otherwise sold in conformity with commercially reasonable practices among dealers in the~~
10 ~~type of goods sold he or she has sold in a commercially reasonable manner. A sale of more goods~~
11 ~~than apparently necessary to be offered to ensure satisfaction of the obligation is not~~
12 ~~commercially reasonable except in cases covered by the preceding sentence.~~

13 ~~(2) Before any sale pursuant to this section any person claiming a right in the goods may~~
14 ~~pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this~~
15 ~~section. In that event the goods must not be sold, but must be retained by the carrier subject to the~~
16 ~~terms of the bill and this chapter.~~

17 ~~(3) The carrier may buy at any public sale pursuant to this section.~~

18 ~~(4) A purchaser in good faith of goods sold to enforce a carrier's lien takes the goods free~~
19 ~~of any rights of persons against whom the lien was valid, despite noncompliance by the carrier~~
20 ~~with the requirements of this section.~~

21 ~~(5) The carrier may satisfy his or her lien from the proceeds of any sale pursuant to this~~
22 ~~section but must hold the balance, if any, for delivery on demand to any person to whom he or~~
23 ~~she would have been bound to deliver the goods.~~

24 ~~(6) The rights provided by this section shall be in addition to all other rights allowed by~~
25 ~~law to a creditor against his or her debtor.~~

26 ~~(7) A carrier's lien may be enforced in accordance with either subsection (1) or the~~
27 ~~procedure set forth in section 6A-7-210(2).~~

28 ~~(8) The carrier is liable for damages caused by failure to comply with the requirements~~
29 ~~for sale under this section and in case of willful violation is liable for conversion.~~

30 ~~**6A-7-309. Duty of care -- Contractual limitation of carrier's liability.** --- (1) A carrier~~
31 ~~who issues a bill of lading whether negotiable or nonnegotiable must exercise the degree of care~~
32 ~~in relation to the goods which a reasonably careful person would exercise under like~~
33 ~~circumstances. This subsection does not repeal or change any law or rule of law which imposes~~
34 ~~liability upon a common carrier for damages not caused by its negligence.~~

1 ~~-(2) Damages may be limited by a provision that the carrier's liability shall not exceed a~~
2 ~~value stated in the document if the carrier's rates are dependent upon value and the consignor by~~
3 ~~the carrier's tariff is afforded an opportunity to declare a higher value or a value as lawfully~~
4 ~~provided in the tariff, or where no tariff is filed he or she is otherwise advised of such~~
5 ~~opportunity; but no such limitation is effective with respect to the carrier's liability for conversion~~
6 ~~to its own use.~~

7 ~~-(3) Reasonable provisions as to the time and manner of presenting claims and instituting~~
8 ~~actions based on the shipment may be included in a bill of lading or tariff.~~

9 ~~**6A-7-401. Irregularities in issue of receipt or bill or conduct of issuer.** -- The~~
10 ~~obligations imposed by this chapter on an issuer apply to a document of title regardless of the fact~~
11 ~~that:~~

12 ~~-(a) The document may not comply with the requirements of this chapter or of any other~~
13 ~~law or regulation regarding its issue, form, or content; or~~

14 ~~-(b) The issuer may have violated laws regulating the conduct of his or her business; or~~

15 ~~-(c) The goods covered by the document were owned by the bailee at the time the~~
16 ~~document was issued; or~~

17 ~~-(d) The person issuing the document does not come within the definition of~~
18 ~~warehouseperson if it purports to be a warehouse receipt.~~

19 ~~**6A-7-402. Duplicate receipt or bill -- Overissue.** -- Neither a duplicate nor any other~~
20 ~~document of title purporting to cover goods already represented by an outstanding document of~~
21 ~~the same issuer confers any right in the goods, except as provided in the case of bills in a set,~~
22 ~~overissue of documents for fungible goods, and substitutes for lost, stolen, or destroyed~~
23 ~~documents. But the issuer is liable for damages caused by his or her overissue or failure to~~
24 ~~identify a duplicate document as such by conspicuous notation on its face.~~

25 ~~**6A-7-403. Obligation of warehouseperson or carrier to deliver -- Excuse.** -- (1) The~~
26 ~~bailee must deliver the goods to a person entitled under the document who complies with~~
27 ~~subsections (2) and (3), unless and to the extent that the bailee establishes any of the following:~~

28 ~~-(a) Delivery of the goods to a person whose receipt was rightful as against the claimant;~~

29 ~~-(b) Damage to or delay, loss, or destruction of the goods for which the bailee is not~~
30 ~~liable.~~

31 ~~-(c) Previous sale or other disposition of the goods in lawful enforcement of a lien or on~~
32 ~~warehouseperson's lawful termination of storage;~~

33 ~~-(d) The exercise by a seller of his or her right to stop delivery pursuant to the provisions~~
34 ~~of the chapter on sales (section 6A-2-705);~~

1 ~~-(e) A diversion, reconsignment or other disposition pursuant to the provisions of this~~
2 ~~chapter (section 6A-7-303) or tariff regulating such right;~~

3 ~~-(f) Release, satisfaction or any other fact affording a personal defense against the~~
4 ~~claimant;~~

5 ~~-(g) Any other lawful excuse.~~

6 ~~-(2) A person claiming goods covered by a document of title must satisfy the bailee's lien~~
7 ~~where the bailee so requests or where the bailee is prohibited by law from delivering the goods~~
8 ~~until the charges are paid.~~

9 ~~-(3) Unless the person claiming is one against whom the document confers no right under~~
10 ~~section 6A-7-503(1), he or she must surrender for cancellation or notation of partial deliveries~~
11 ~~any outstanding negotiable document covering the goods, and the bailee must cancel the~~
12 ~~document or conspicuously note the partial delivery thereon or be liable to any person to whom~~
13 ~~the document is duly negotiated.~~

14 ~~-(4) "Person entitled under the document" means holder in the case of a negotiable~~
15 ~~document, or the person to whom delivery is to be made by the terms of or pursuant to written~~
16 ~~instructions under a nonnegotiable document.~~

17 ~~**6A-7-404. No liability for good faith delivery pursuant to receipt or bill.** --- A bailee~~
18 ~~who in good faith, including observance of reasonable commercial standards, has received goods~~
19 ~~and delivered or otherwise disposed of them according to the terms of the document of title or~~
20 ~~pursuant to this chapter is not liable therefor. This rule applies even though the person from~~
21 ~~whom he or she received the goods had no authority to procure the document or to dispose of the~~
22 ~~goods and even though the person to whom he delivered the goods had no authority to receive~~
23 ~~them.~~

24 ~~**6A-7-501. Form of negotiation and requirements of "due negotiation".** --- (1) A~~
25 ~~negotiable document of title running to the order of a named person is negotiated by his or her~~
26 ~~indorsement and delivery. After his or her indorsement in blank or to bearer any person can~~
27 ~~negotiate it by delivery alone.~~

28 ~~-(2) (a) A negotiable document of title is also negotiated by delivery alone when by its~~
29 ~~original terms it runs to bearer;~~

30 ~~-(b) When a document running to the order of a named person is delivered to him or her~~
31 ~~the effect is the same as if the document had been negotiated.~~

32 ~~-(3) Negotiation of a negotiable document of title after it has been indorsed to a specified~~
33 ~~person requires indorsement by the special indorsee as well as delivery.~~

34 ~~-(4) A negotiable document of title is "duly negotiated" when it is negotiated in the~~

1 manner stated in this section to a holder who purchases it in good faith without notice of any
2 defense against or claim to it on the part of any person and for value, unless it is established that
3 the negotiation is not in the regular course of business or financing or involves receiving the
4 document in settlement or payment of a money obligation.

5 ~~(5) Indorsement of a nonnegotiable document neither makes it negotiable nor adds to the~~
6 ~~transferor's rights.~~

7 ~~(6) The naming in a negotiable bill of a person to be notified of the arrival of the goods~~
8 ~~does not limit the negotiability of the bill nor constitute notice to a purchaser thereof of any~~
9 ~~interest of such person in the goods.~~

10 **6A-7-502. Rights acquired by due negotiation.** ~~--- (1) Subject to the following section~~
11 ~~and to the provisions of section 6A-7-205 on fungible goods, a holder to whom a negotiable~~
12 ~~document of title has been duly negotiated acquires thereby:~~

13 ~~(a) Title to the document;~~

14 ~~(b) Title to the goods;~~

15 ~~(c) All rights accruing under the law of agency or estoppel, including rights to goods~~
16 ~~delivered to the bailee after the document was issued; and~~

17 ~~(d) The direct obligation of the issuer to hold or deliver the goods according to the terms~~
18 ~~of the document free of any defense or claim by him or her except those arising under the terms~~
19 ~~of the document or under this chapter. In the case of a delivery order the bailee's obligation~~
20 ~~accrues only upon acceptance and the obligation acquired by the holder is that the issuer and any~~
21 ~~indorser will procure the acceptance of the bailee.~~

22 ~~(2) Subject to the following section, title and rights so acquired are not defeated by any~~
23 ~~stoppage of the goods represented by the document or by surrender of such goods by the bailee,~~
24 ~~and are not impaired even though the negotiation or any prior negotiation constituted a breach of~~
25 ~~duty or even though any person has been deprived of possession of the document by~~
26 ~~misrepresentation, fraud, accident, mistake, duress, loss, theft, or conversion, or even though a~~
27 ~~previous sale or other transfer of the goods or document has been made to a third person.~~

28 **6A-7-503. Document of title to goods defeated in certain cases.** ~~--- (1) A document of~~
29 ~~title confers no right in goods against a person who before issuance of the document had a legal~~
30 ~~interest or a perfected security interest in them and who neither:~~

31 ~~(a) Delivered or entrusted them or any document of title covering them to the bailor or~~
32 ~~his or her nominee with actual or apparent authority to ship, store or sell or with power to obtain~~
33 ~~delivery under this chapter (section 6A-7-403) or with power of disposition under this title~~
34 ~~(sections 6A-2-403 and 6A-9-320) or other statute or rule of law; nor~~

1 ~~(b) Acquiesced in the procurement by the bailor or his or her nominee of any document~~
2 ~~of title.~~

3 ~~(2) Title to goods based upon an unaccepted delivery order is subject to the rights of~~
4 ~~anyone to whom a negotiable warehouse receipt or bill of lading covering the goods has been~~
5 ~~duly negotiated. Such a title may be defeated under the next section to the same extent as the~~
6 ~~rights of the issuer or a transferee from the issuer.~~

7 ~~(3) Title to goods based upon a bill of lading issued to a freight forwarder is subject to~~
8 ~~the rights of anyone to whom a bill issued by the freight forwarder is duly negotiated; but~~
9 ~~delivery by the carrier in accordance with part 4 of this chapter pursuant to its own bill of lading~~
10 ~~discharges the carrier's obligation to deliver.~~

11 ~~**6A-7-504. Rights acquired in the absence of due negotiation -- Effect of diversion --**~~
12 ~~**Seller's stoppage of delivery.** -- (1) A transferee of a document, whether negotiable or~~
13 ~~nonnegotiable, to whom the document has been delivered but not duly negotiated, acquires the~~
14 ~~title and rights which his or her transferor had or had actual authority to convey.~~

15 ~~(2) In the case of a nonnegotiable document, until but not after the bailee receives~~
16 ~~notification of the transfer, the rights of the transferee may be defeated:~~

17 ~~(a) By those creditors of the transferor who could treat the sale as void under section 6A-~~
18 ~~2-402; or~~

19 ~~(b) By a buyer from the transferor in ordinary course of business if the bailee has~~
20 ~~delivered the goods to the buyer or received notification of his or her rights; or~~

21 ~~(c) As against the bailee by good faith dealings of the bailee with the transferor.~~

22 ~~(3) A diversion or other change of shipping instructions by the consignor in a~~
23 ~~nonnegotiable bill of lading which causes the bailee not to deliver to the consignee defeats the~~
24 ~~consignee's title to the goods if they have been delivered to a buyer in ordinary course of business~~
25 ~~and, in any event, defeats the consignee's rights against the bailee.~~

26 ~~(4) Delivery pursuant to a nonnegotiable document may be stopped by a seller under~~
27 ~~section 6A-2-705, and subject to the requirement of due notification there provided. A bailee~~
28 ~~honoring the seller's instructions is entitled to be indemnified by the seller against any resulting~~
29 ~~loss or expense.~~

30 ~~**6A-7-505. Indorser not a guarantor for other parties.** -- The indorsement of a~~
31 ~~document of title issued by a bailee does not make the indorser liable for any default by the bailee~~
32 ~~or by previous indorsers.~~

33 ~~**6A-7-506. Delivery without indorsement -- Right to compel indorsement.** -- The~~
34 ~~transferee of a negotiable document of title has a specifically enforceable right to have his or her~~

1 ~~transferor supply any necessary indorsement, but the transfer becomes a negotiation only as of the~~
2 ~~time the indorsement is supplied.~~

3 ~~**6A-7-507. Warranties on negotiation or transfer of receipt or bill.** --- Where a person~~
4 ~~negotiates or transfers a document of title for value otherwise than as a mere intermediary under~~
5 ~~the next following section, then unless otherwise agreed, he or she warrants to his or her~~
6 ~~immediate purchaser only in addition to any warranty made in selling the goods:~~

7 ~~(a) That the document is genuine; and~~

8 ~~(b) That he or she has no knowledge of any fact which would impair its validity or~~
9 ~~worth; and~~

10 ~~(c) That his or her negotiation or transfer is rightful and fully effective with respect to the~~
11 ~~title to the document and the goods it represents.~~

12 ~~**6A-7-508. Warranties of collecting bank as to documents.** --- A collecting bank or~~
13 ~~other intermediary known to be entrusted with documents on behalf of another or with collection~~
14 ~~of a draft or other claim against delivery of documents warrants by such delivery of the~~
15 ~~documents only its own good faith and authority. This rule applies even though the intermediary~~
16 ~~has purchased or made advances against the claim or draft to be collected.~~

17 ~~**6A-7-509. Receipt or bill --- When adequate compliance with commercial contract.** ---~~
18 ~~The question whether a document is adequate to fulfill the obligations of a contract for sale or the~~
19 ~~conditions of a credit is governed by the chapters on sales (chapter 2 of this title) and on letters of~~
20 ~~credit (chapter 5 of this title).~~

21 ~~**6A-7-601. Lost and missing documents.** --- (1) If a document has been lost, stolen, or~~
22 ~~destroyed, a court may order delivery of the goods or issuance of a substitute document and the~~
23 ~~bailee may without liability to any person comply with such order. If the document was~~
24 ~~negotiable the claimant must post security approved by the court to indemnify any person who~~
25 ~~may suffer loss as a result of non-surrender of the document. If the document was not negotiable,~~
26 ~~such security may be required at the discretion of the court. The court may also in its discretion~~
27 ~~order payment of the bailee's reasonable costs and counsel fees.~~

28 ~~(2) A bailee who, without court order, delivers goods to a person claiming under a~~
29 ~~missing negotiable document is liable to any person injured thereby, and if the delivery is not in~~
30 ~~good faith becomes liable for conversion. Delivery in good faith is not conversion if made in~~
31 ~~accordance with a filed classification or tariff or, where no classification or tariff is filed, if the~~
32 ~~claimant posts security with the bailee in an amount at least double the value of the goods at the~~
33 ~~time of posting to indemnify any person injured by the delivery who files a notice of claim within~~
34 ~~one year after the delivery.~~

1 ~~**6A-7-602. Attachment of goods covered by a negotiable document.** -- Except where~~
2 ~~the document was originally issued upon delivery of the goods by a person who had no power to~~
3 ~~dispose of them, no lien attaches by virtue of any judicial process to goods in the possession of a~~
4 ~~bailee for which a negotiable document of title is outstanding unless the document be first~~
5 ~~surrendered to the bailee or its negotiation enjoined, and the bailee shall not be compelled to~~
6 ~~deliver the goods pursuant to process until the document is surrendered to him or her or~~
7 ~~impounded by the court. One who purchases the document for value without notice of the process~~
8 ~~or injunction takes free of the lien imposed by judicial process.~~

9 ~~**6A-7-603. Conflicting claims -- Interpleader.** -- If more than one person claims title or~~
10 ~~possession of the goods, the bailee is excused from delivery until he or she has had a reasonable~~
11 ~~time to ascertain the validity of the adverse claims or to bring an action to compel all claimants to~~
12 ~~interplead and may compel such interpleader, either in defending an action for nondelivery of the~~
13 ~~goods, or by original action, whichever is appropriate.~~

14 SECTION 6. Title 6A of the General Laws entitled "UNIFORM COMMERCIAL
15 CODE" is hereby amended by adding thereto the following chapter:

16 CHAPTER 7.1

17 DOCUMENTS OF TITLE

18 PART 1 GENERAL

19 ~~**6A-7.1-101. Short title.** -- This chapter may be cited as "Uniform Commercial Code-~~
20 ~~Documents of Title."~~

21 ~~**6A-7.1-102. Definitions and index of definitions.** -- (a) In this chapter, unless the~~
22 ~~context otherwise requires:~~

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

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

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

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

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

33 ~~(6) "Good faith" means honesty in fact and the observance of reasonable commercial~~
34 ~~standards of fair dealing.~~

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

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

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

12 (10) "Record" means information that is inscribed on a tangible medium or that is stored
13 in an electronic or other medium and is retrievable in perceivable form.

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

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

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

18 (12) "Shipper" means a person that enters into a contract of transportation with a carrier.

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

20 (b) Definitions in other chapters applying to this chapter and the sections in which they
21 appear are:

22 (1) "Contract for sale," section 2-106.

23 (2) "Lessee in the ordinary course of business," section 2.1-103.

24 (3) "Receipt" of goods, section 2-103.

25 (c) In addition, chapter 1 contains general definitions and principles of construction and
26 interpretation applicable throughout this chapter.

27 **6A-7.1-103. Relation of chapter to treaty or statute.** -- (a) This chapter is subject to
28 any treaty or statute of the United States or regulatory statute of this state to the extent the treaty,
29 statute, or regulatory statute is applicable.

30 (b) This chapter does not modify or repeal any law prescribing the form or content of a
31 document of title or the services or facilities to be afforded by a bailee, or otherwise regulating a
32 bailee's business in respects not specifically treated in this chapter. However, violation of such a
33 law does not affect the status of a document of title that otherwise is within the definition of a
34 document of title.

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

5 (d) To the extent there is a conflict between R.I. Gen. Laws sections 42-127.1-1 to 20
6 (the Uniform Electronic Transactions Act) and this chapter, this chapter governs.

7 **6A-7.1-104. Negotiable and nonnegotiable document of title.** -- (a) Except as
8 otherwise provided in subsection (c), a document of title is negotiable if by its terms the goods are
9 to be delivered to the bearer or to the order of a named person.

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

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

16 **6A-7.1-105. Reissuance in alternative medium.** -- (a) Upon request of a person entitled
17 under an electronic document of title, the issuer of the electronic document may issue a tangible
18 document of title as a substitute for the electronic document if:

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

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

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

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

26 (2) the person that procured issuance of the tangible document warrants to all subsequent
27 persons entitled under the tangible document that the warrantor was a person entitled under the
28 electronic document when the warrantor surrendered control of the electronic document to the
29 issuer.

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

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

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

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

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

6 (2) the person that procured issuance of the electronic document warrants to all
7 subsequent persons entitled under the electronic document that the warrantor was a person
8 entitled under the tangible document when the warrantor surrendered possession of the tangible
9 document to the issuer.

10 **6A-7.1-106. Control of electronic document of title.** -- (a) A person has control of an
11 electronic document of title if a system employed for evidencing the transfer of interests in the
12 electronic document reliably establishes that person as the person to which the electronic
13 document was issued or transferred.

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

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

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

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

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

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

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

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

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

31 **PART 2 WAREHOUSE RECEIPTS: SPECIAL PROVISIONS**

32 **6A-7.1-201. Person that may issue a warehouse receipt – Storage under bond.** -- (a)
33 A warehouse receipt may be issued by any warehouse.

34 (b) If goods, including distilled spirits and agricultural commodities, are stored under a

1 statute requiring a bond against withdrawal or a license for the issuance of receipts in the nature
2 of warehouse receipts, a receipt issued for the goods is deemed to be a warehouse receipt even if
3 issued by a person that is the owner of the goods and is not a warehouse.

4 **6A-7.1-202. Form of warehouse receipt – Effect of omission.** -- (a) A warehouse
5 receipt need not be in any particular form.

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

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

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

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

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

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

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

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

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

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

25 (c) A warehouse may insert in its receipt any terms that are not contrary to the Uniform
26 Commercial Code and do not impair its obligation of delivery under section 6A-7.1-403 or its
27 duty of care under section 6A-7.1-204. Any contrary provision is ineffective.

28 **6A-7.1-203. Liability for nonreceipt or misdescription.** -- A party to or purchaser for
29 value in good faith of a document of title, other than a bill of lading, that relies upon the
30 description of the goods in the document may recover from the issuer damages caused by the
31 nonreceipt or misdescription of the goods, except to the extent that:

32 (1) the document conspicuously indicates that the issuer does not know whether all or
33 part of the goods in fact were received or conform to the description, such as a case in which the
34 description is in terms of marks or labels or kind, quantity, or condition, or the receipt or

1 description is qualified by "contents, condition, and quality unknown", "said to contain", or words
2 of similar import, if the indication is true; or

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

4 **6A-7.1-204. Duty of care – Contractual limitation of warehouse's liability. -- (a) A**
5 warehouse is liable for damages for loss of or injury to the goods caused by its failure to exercise
6 care with regard to the goods that a reasonably careful person would exercise under similar
7 circumstances. Unless otherwise agreed, the warehouse is not liable for damages that could not
8 have been avoided by the exercise of that care.

9 (b) Damages may be limited by a term in the warehouse receipt or storage agreement
10 limiting the amount of liability in case of loss or damage beyond which the warehouse is not
11 liable. Such a limitation is not effective with respect to the warehouse's liability for conversion to
12 its own use. On request of the bailor in a record at the time of signing the storage agreement or
13 within a reasonable time after receipt of the warehouse receipt, the warehouse's liability may be
14 increased on part or all of the goods covered by the storage agreement or the warehouse receipt.
15 In this event, increased rates may be charged based on an increased valuation of the goods.

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

19 **6A-7.1-205. Title under warehouse receipt defeated in certain cases. -- A buyer in**
20 ordinary course of business of fungible goods sold and delivered by a warehouse that is also in
21 the business of buying and selling such goods takes the goods free of any claim under a
22 warehouse receipt even if the receipt is negotiable and has been duly negotiated.

23 **6A-7.1-206. Termination of storage at warehouse's option. -- (a) A warehouse, by**
24 giving notice to the person on whose account the goods are held and any other person known to
25 claim an interest in the goods, may require payment of any charges and removal of the goods
26 from the warehouse at the termination of the period of storage fixed by the document of title or, if
27 a period is not fixed, within a stated period not less than thirty (30) days after the warehouse gives
28 notice. If the goods are not removed before the date specified in the notice, the warehouse may
29 sell them pursuant to section 6A-7.1-210.

30 (b) If a warehouse in good faith believes that goods are about to deteriorate or decline in
31 value to less than the amount of its lien within the time provided in subsection (a) and section 6A-
32 7.1-210, the warehouse may specify in the notice given under subsection (a) any reasonable
33 shorter time for removal of the goods and, if the goods are not removed, may sell them at public
34 sale held not less than one week after a single advertisement or posting.

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

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

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

12 **6A-7.1-207. Goods must be kept separate – Fungible goods.** -- (a) Unless the
13 warehouse receipt provides otherwise, a warehouse shall keep separate the goods covered by each
14 receipt so as to permit at all times identification and delivery of those goods. However, different
15 lots of fungible goods may be commingled.

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

21 **6A-7.1-208. Altered warehouse receipts.** -- If a blank in a negotiable tangible
22 warehouse receipt has been filled in without authority, a good-faith purchaser for value and
23 without notice of the lack of authority may treat the insertion as authorized. Any other
24 unauthorized alteration leaves any tangible or electronic warehouse receipt enforceable against
25 the issuer according to its original tenor.

26 **6A-7.1-209. Lien of warehouse.** -- (a) A warehouse has a lien against the bailor on the
27 goods covered by a warehouse receipt or storage agreement or on the proceeds thereof in its
28 possession for charges for storage or transportation, including demurrage and terminal charges,
29 insurance, labor, or other charges, present or future, in relation to the goods, and for expenses
30 necessary for preservation of the goods or reasonably incurred in their sale pursuant to law. If the
31 person on whose account the goods are held is liable for similar charges or expenses in relation to
32 other goods whenever deposited and it is stated in the warehouse receipt or storage agreement
33 that a lien is claimed for charges and expenses in relation to other goods, the warehouse also has a
34 lien against the goods covered by the warehouse receipt or storage agreement or on the proceeds

1 thereof in its possession for those charges and expenses, whether or not the other goods have been
2 delivered by the warehouse. However, as against a person to which a negotiable warehouse
3 receipt is duly negotiated, a warehouse's lien is limited to charges in an amount or at a rate
4 specified in the warehouse receipt or, if no charges are so specified, to a reasonable charge for
5 storage of the specific goods covered by the receipt subsequent to the date of the receipt.

6 (b) A warehouse may also reserve a security interest against the bailor for the maximum
7 amount specified on the receipt for charges other than those specified in subsection (a), such as
8 for money advanced and interest. The security interest is governed by chapter 6A-9.

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

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

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

18 (B) power to obtain delivery under section 6A-7.1-403; or

19 (C) power of disposition under section 2-403, subsection 2.1-304(2), subsection 2.1-
20 305(2), section 9-320, or subsection 9-321(c) or other statute or rule of law; or

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

22 (d) A warehouse's lien on household goods for charges and expenses in relation to the
23 goods under subsection (a) is also effective against all persons if the depositor was the legal
24 possessor of the goods at the time of deposit. In this subsection, "household goods" means
25 furniture, furnishings, or personal effects used by the depositor in a dwelling.

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

28 **6A-7.1-210. Enforcement of warehouse's liens.** -- (a) Except as otherwise provided in
29 subsection (b), a warehouse's lien may be enforced by public or private sale of the goods, in bulk
30 or in packages, at any time or place and on any terms that are commercially reasonable, after
31 notifying all persons known to claim an interest in the goods. The notification must include a
32 statement of the amount due, the nature of the proposed sale, and the time and place of any public
33 sale. The fact that a better price could have been obtained by a sale at a different time or in a
34 method different from that selected by the warehouse is not of itself sufficient to establish that the

1 sale was not made in a commercially reasonable manner. The warehouse sells in a commercially
2 reasonable manner if the warehouse sells the goods in the usual manner in any recognized market
3 therefore, sells at the price current in that market at the time of the sale, or otherwise sells in
4 conformity with commercially reasonable practices among dealers in the type of goods sold. A
5 sale of more goods than apparently necessary to be offered to ensure satisfaction of the obligation
6 is not commercially reasonable, except in cases covered by the preceding sentence.

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

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

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

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

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

18 (5) After the expiration of the time given in the notification, an advertisement of the sale
19 must be published once a week for two weeks consecutively in a newspaper of general circulation
20 where the sale is to be held. The advertisement must include a description of the goods, the name
21 of the person on whose account the goods are being held, and the time and place of the sale. The
22 sale must take place at least fifteen (15) days after the first publication. If there is no newspaper
23 of general circulation where the sale is to be held, the advertisement must be posted at least ten
24 (10) days before the sale in not fewer than six (6) conspicuous places in the neighborhood of the
25 proposed sale.

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

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

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

34 (f) A warehouse may satisfy its lien from the proceeds of any sale pursuant to this section

1 but shall hold the balance, if any, for delivery on demand to any person to which the warehouse
2 would have been bound to deliver the goods.

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

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

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

9 **PART 3 BILLS OF LADING: SPECIAL PROVISIONS**

10 **6A-7.1-301. Liability for nonreceipt or misdescription – "Said to contain" –**
11 **"Shipper's weight, load and count" – Improper handling. --** (a) A consignee of a
12 nonnegotiable bill of lading which has given value in good faith, or a holder to which a negotiable
13 bill has been duly negotiated, relying upon the description of the goods in the bill or upon the date
14 shown in the bill, may recover from the issuer damages caused by the misdating of the bill or the
15 nonreceipt or misdescription of the goods, except to the extent that the bill indicates that the
16 issuer does not know whether any part or all of the goods in fact were received or conform to the
17 description, such as in a case in which the description is in terms of marks or labels or kind,
18 quantity, or condition or the receipt or description is qualified by "contents or condition of
19 contents of packages unknown," "said to contain," "shipper's weight, load, and count," or words
20 of similar import, if that indication is true.

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

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

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

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

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

1 improper loading.

2 (e) A shipper guarantees to an issuer the accuracy at the time of shipment of the
3 description, marks, labels, number, kind, quantity, condition, and weight, as furnished by the
4 shipper, and the shipper shall indemnify the issuer against damage caused by inaccuracies in
5 those particulars. This right of indemnity does not limit the issuer's responsibility or liability
6 under the contract of carriage to any person other than the shipper.

7 **6A-7.1-302. Through bills of lading and similar documents of title.** -- (a) The issuer of
8 a through bill of lading, or other document of title embodying an undertaking to be performed in
9 part by a person acting as its agent or by a performing carrier, is liable to any person entitled to
10 recover on the bill or other document for any breach by the other person or the performing carrier
11 of its obligation under the bill or other document. However, to the extent that the bill or other
12 document covers an undertaking to be performed overseas or in territory not contiguous to the
13 continental United States or an undertaking including matters other than transportation, this
14 liability for breach by the other person or the performing carrier may be varied by agreement of
15 the parties.

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

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

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

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

30 **6A-7.1-303. Diversion – Reconsignment – Change of instructions.** -- (a) Unless the
31 bill of lading otherwise provides, a carrier may deliver the goods to a person or destination other
32 than that stated in the bill or may otherwise dispose of the goods, without liability for
33 misdelivery, on instructions from:

34 (1) the holder of a negotiable bill;

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

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

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

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

11 **6A-7.1-304. Tangible bills of lading in a set.** -- (a) Except as customary in international
12 transportation, a tangible bill of lading may not be issued in a set of parts. The issuer is liable for
13 damages caused by violation of this subsection.

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

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

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

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

27 **6A-7.1-305. Destination of bills.** -- (a) Instead of issuing a bill of lading to the consignor
28 at the place of shipment, a carrier, at the request of the consignor, may procure the bill to be
29 issued at destination or at any other place designated in the request.

30 (b) Upon request of any person entitled as against a carrier to control the goods while in
31 transit and on surrender of possession or control of any outstanding bill of lading or other receipt
32 covering the goods, the issuer, subject to section 6A-7.1-105, may procure a substitute bill to be
33 issued at any place designated in the request.

34 **6A-7.1-306. Altered bills of lading.** -- An unauthorized alteration or filling in of a blank

1 in a bill of lading leaves the bill enforceable according to its original tenor.

2 **6A-7.1-307. Lien of carrier.** -- (a) A carrier has a lien on the goods covered by a bill of
3 lading or on the proceeds thereof in its possession for charges after the date of the carrier's receipt
4 of the goods for storage or transportation, including demurrage and terminal charges, and for
5 expenses necessary for preservation of the goods incident to their transportation or reasonably
6 incurred in their sale pursuant to law. However, against a purchaser for value of a negotiable bill
7 of lading, a carrier's lien is limited to charges stated in the bill or the applicable tariffs or, if no
8 charges are stated, a reasonable charge.

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

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

17 **6A-7.1-308. Enforcement of carrier's lien.** -- (a) A carrier's lien on goods may be
18 enforced by public or private sale of the goods, in bulk or in packages, at any time or place and on
19 any terms that are commercially reasonable, after notifying all persons known to claim an interest
20 in the goods. The notification must include a statement of the amount due, the nature of the
21 proposed sale, and the time and place of any public sale. The fact that a better price could have
22 been obtained by a sale at a different time or in a method different from that selected by the
23 carrier is not of itself sufficient to establish that the sale was not made in a commercially
24 reasonable manner. The carrier sells goods in a commercially reasonable manner if the carrier
25 sells the goods in the usual manner in any recognized market therefor, sells at the price current in
26 that market at the time of the sale, or otherwise sells in conformity with commercially reasonable
27 practices among dealers in the type of goods sold. A sale of more goods than apparently
28 necessary to be offered to ensure satisfaction of the obligation is not commercially reasonable,
29 except in cases covered by the preceding sentence.

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

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

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

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

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

9 (g) A carrier's lien may be enforced pursuant to either subsection (a) or the procedure set
10 forth in subsection 6A-7.-210(b).

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

13 **6A-7.1-309. Duty of care – Contractual limitation of carrier's liability. --** (a) A carrier
14 that issues a bill of lading, whether negotiable or nonnegotiable, shall exercise the degree of care
15 in relation to the goods which a reasonably careful person would exercise under similar
16 circumstances. This subsection does not affect any statute, regulation, or rule of law that imposes
17 liability upon a common carrier for damages not caused by its negligence.

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

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

27 **PART 4 WAREHOUSE RECEIPTS AND BILLS OF LADING: GENERAL**

28 **OBLIGATIONS**

29 **6A-7.1-401. Irregularities in issue of receipt or bill or conduct of issuer. --** The
30 obligations imposed by this chapter on an issuer apply to a document of title even if:

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

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

34 (3) the goods covered by the document were owned by the bailee when the document was

1 issued; or

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

4 **6A-7.1-402. Duplicate document of title -- Overissue. --** A duplicate or any other
5 document of title purporting to cover goods already represented by an outstanding document of
6 the same issuer does not confer any right in the goods, except as provided in the case of tangible
7 bills of lading in a set of parts, overissue of documents for fungible goods, substitutes for lost,
8 stolen, or destroyed documents, or substitute documents issued pursuant to section 6A-7.1-105.
9 The issuer is liable for damages caused by its overissue or failure to identify a duplicate document
10 by a conspicuous notation.

11 **6A-7.1-403. Obligation of bailee to deliver -- Excuse. --** (a) A bailee shall deliver the
12 goods to a person entitled under a document of title if the person complies with subsections (b)
13 and (c), unless and to the extent that the bailee establishes any of the following:

- 14 (1) delivery of the goods to a person whose receipt was rightful as against the claimant;
15 (2) damage to or delay, loss, or destruction of the goods for which the bailee is not liable;
16 (3) previous sale or other disposition of the goods in lawful enforcement of a lien or on a
17 warehouse's lawful termination of storage;
18 (4) the exercise by a seller of its right to stop delivery pursuant to section 6A-2-705 or by
19 a lessor of its right to stop delivery pursuant to section 6A-2.1-526;
20 (5) a diversion, reconsignment, or other disposition pursuant to section 6A-7.1-303;
21 (6) release, satisfaction, or any other personal defense against the claimant; or
22 (7) any other lawful excuse.

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

26 (c) Unless a person claiming the goods is a person against which the document of title
27 does not confer a right under subsection 6A-7.1-503(a):

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

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

33 **6A-7.1-404. No liability for good-faith delivery pursuant to document of title. --** A
34 bailee that in good faith has received goods and delivered or otherwise disposed of the goods

1 according to the terms of a document of title or pursuant to this chapter is not liable for the goods
2 even if:

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

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

7 **PART 5 WAREHOUSE RECEIPTS AND BILLS OF LADING: NEGOTIATION**
8 **AND TRANSFER**

9 **6A-7.1-501. Form of negotiation and requirements of due negotiation.** -- (a) The
10 following rules apply to a negotiable tangible document of title:

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

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

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

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

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

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

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

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

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

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

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

6 **6A-7.1-502. Rights acquired by due negotiation.** -- (a) Subject to sections 6A-7.1-205
7 and 6A-7.1-503, a holder to which a negotiable document of title has been duly negotiated
8 acquires thereby:

9 (1) title to the document;

10 (2) title to the goods;

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

13 (4) the direct obligation of the issuer to hold or deliver the goods according to the terms
14 of the document free of any defense or claim by the issuer except those arising under the terms of
15 the document or under this chapter, but in the case of a delivery order, the bailee's obligation
16 accrues only upon the bailee's acceptance of the delivery order and the obligation acquired by the
17 holder is that the issuer and any indorser will procure the acceptance of the bailee.

18 (b) Subject to section 6A-7.1-503, title and rights acquired by due negotiation are not
19 defeated by any stoppage of the goods represented by the document of title or by surrender of the
20 goods by the bailee and are not impaired even if:

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

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

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

27 **6A-7.1-503. Document of title to goods defeated in certain cases.** -- (a) A document of
28 title confers no right in goods against a person that before issuance of the document had a legal
29 interest or a perfected security interest in the goods and that did not:

30 (1) Deliver or entrust the goods or any document of title covering the goods to the bailor
31 or the bailor's nominee with:

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

33 (B) power to obtain delivery under section 6A-7.1-403; or

34 (C) power of disposition under section 6A-2-403, 6A-2.1-304(2), 6A-2.1-305(2), 6A-9-

1 320, or 6A-9-321(c) or other statute or rule of law.

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

3 (b) Title to goods based upon an unaccepted delivery order is subject to the rights of any
4 person to which a negotiable warehouse receipt or bill of lading covering the goods has been duly
5 negotiated. That title may be defeated under section 6A-7.1-504 to the same extent as the rights
6 of the issuer or a transferee from the issuer.

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

11 **6A-7.1-504. Rights acquired in absence of due negotiation – Effect of diversion –**
12 **Stoppage of delivery. -- (a) A transferee of a document of title, whether negotiable or**
13 **nonnegotiable, to which the document has been delivered but not duly negotiated, acquires the**
14 **title and rights that its transferor had or had actual authority to convey.**

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

17 (1) by those creditors of the transferor which could treat the transfer as void under section
18 6A-2-402 or 6A-2.1-308 ;

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

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

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

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

29 (d) Delivery of the goods pursuant to a nonnegotiable document of title may be stopped
30 by a seller under section 6A-2-705 or a lessor under section 6A-2.1-526, subject to the
31 requirements of due notification in those sections. A bailee that honors the seller's or lessor's
32 instructions is entitled to be indemnified by the seller or lessor against any resulting loss or
33 expense.

34 **6A-7.1-505. Indorser not guarantor for other parties. -- The indorsement of a tangible**

1 document of title issued by a bailee does not make the indorser liable for any default by the bailee
2 or previous indorsers.

3 **6A-7.1-506. Delivery without indorsement – Right to compel indorsement.** -- The
4 transferee of a negotiable tangible document of title has a specifically enforceable right to have its
5 transferor supply any necessary indorsement, but the transfer becomes a negotiation only as of the
6 time the indorsement is supplied.

7 **6A-7.1-507. Warranties on negotiation or delivery of document of title.** -- If a person
8 negotiates or delivers a document of title for value, otherwise than as a mere intermediary under
9 section 6A-7.1-508, unless otherwise agreed, the transferor, in addition to any warranty made in
10 selling or leasing the goods, warrants to its immediate purchaser only that:

11 (1) the document is genuine;

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

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

16 **6A-7.1-508. Warranties of collecting bank as to documents of title.** -- A collecting
17 bank or other intermediary known to be entrusted with documents of title on behalf of another or
18 with collection of a draft or other claim against delivery of documents warrants by the delivery of
19 the documents only its own good faith and authority even if the collecting bank or other
20 intermediary has purchased or made advances against the claim or draft to be collected.

21 **6A-7.1-509. Adequate compliance with commercial contract.** -- Whether a document
22 of title is adequate to fulfill the obligations of a contract for sale, a contract for lease, or the
23 conditions of a letter of credit is determined by chapter 6A-2, 6A-2.1, or 6A-5.

24 **PART 6 WAREHOUSE RECEIPTS AND BILLS OF LADING:**

25 **MISCELLANEOUS PROVISIONS**

26 **6A-7.1-601. Lost, stolen or destroyed documents of title.** -- (a) If a document of title is
27 lost, stolen, or destroyed, a court may order delivery of the goods or issuance of a substitute
28 document and the bailee may without liability to any person comply with the order. If the
29 document was negotiable, a court may not order delivery of the goods or issuance of a substitute
30 document without the claimant's posting security unless it finds that any person that may suffer
31 loss as a result of nonsurrender of possession or control of the document is adequately protected
32 against the loss. If the document was nonnegotiable, the court may require security. The court
33 may also order payment of the bailee's reasonable costs and attorneys' fees in any action under
34 this subsection.

1 (b) A bailee that, without a court order, delivers goods to a person claiming under a
2 missing negotiable document of title is liable to any person injured thereby. If the delivery is not
3 in good faith, the bailee is liable for conversion. Delivery in good faith is not conversion if the
4 claimant posts security with the bailee in an amount at least double the value of the goods at the
5 time of posting to indemnify any person injured by the delivery which files a notice of claim
6 within one year after the delivery.

7 **6A-7.1-602. Judicial process against goods covered by negotiable document of title. -**

8 - Unless a document of title was originally issued upon delivery of the goods by a person that did
9 not have power to dispose of them, a lien does not attach by virtue of any judicial process to
10 goods in the possession of a bailee for which a negotiable document of title is outstanding unless
11 possession or control of the document is first surrendered to the bailee or the document's
12 negotiation is enjoined. The bailee may not be compelled to deliver the goods pursuant to
13 process until possession or control of the document is surrendered to the bailee or to the court.
14 A purchaser of the document for value without notice of the process or injunction takes free of
15 the lien imposed by judicial process.

16 **6A-7.1-603. Conflicting claims -- Interpleader. --**

17 If more than one person claims title
18 to or possession of the goods, the bailee is excused from delivery until the bailee has a reasonable
19 time to ascertain the validity of the adverse claims or to commence an action for interpleader.
20 The bailee may assert an interpleader either in defending an action for nondelivery of the goods
21 or by original action.

22 **PART 7 MISCELLANEOUS PROVISIONS**

23 **6A-7.1-701. Effective date.** – This chapter shall take effect on July 1, 2006.

24 **6A-7.1-702. [reserved].** – [reserved]

25 **6A-7.1-703. Applicability.** -- This chapter applies to a document of title that is issued or

26 a bailment that arises on or after the effective date of this chapter. This chapter does not apply to
27 a document of title that is issued or a bailment that arises before the effective date of this chapter
28 even if the document of title or bailment would be subject to this chapter if the document of title
29 had been issued or bailment had arisen on or after the effective date of this chapter. This chapter
30 does not apply to a right of action that has accrued before the effective date of this chapter.

31 **6A-7.1-704. Savings clause.** -- A document of title issued or a bailment that arises before

32 the effective date of this chapter and the rights, obligations, and interests flowing from that
33 document or bailment are governed by any statute or other rule amended or repealed by this
34 chapter as if amendment or repeal had not occurred and may be terminated, completed,
consummated, or enforced under that statute or other rule.

1 **6A-7.1-705. Official comments.** -- It is the intention of the general assembly that the
2 official comments to this chapter represent the express legislative intent of the general assembly
3 and shall be used as a guide for interpretation of this chapter.

4 SECTION 7. Section 6A-8-103 of the General Laws in Chapter 6A-8 entitled
5 "Investment Securities" is hereby amended to read as follows:

6 **6A-8-103. Rules for determining whether certain obligations and interests are**
7 **securities or financial assets.** -- (a) A share or similar equity interest issued by a corporation,
8 business trust, joint stock company, or similar entity is a security.

9 (b) An "investment company security" is a security. "Investment company security"
10 means a share or similar equity interest issued by an entity that is registered as an investment
11 company under the federal investment company laws, an interest in a unit investment trust that is
12 so registered, or a face-amount certificate issued by a face-amount certificate company that is so
13 registered. Investment company security does not include an insurance policy or endowment
14 policy or annuity contract issued by an insurance company.

15 (c) An interest in a partnership or limited liability company is not a security unless it is
16 dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that
17 it is a security governed by this chapter, or it is an investment company security. However, an
18 interest in a partnership or limited liability company is a financial asset if it is held in a securities
19 account.

20 (d) A writing that is a security certificate is governed by this chapter and not by chapter 3
21 of this title, even though it also meets the requirements of that chapter. However, a negotiable
22 instrument governed by chapter 3 of this title is a financial asset if it is held in a securities
23 account.

24 (e) An option or similar obligation issued by a clearing corporation to its participants is
25 not a security, but is a financial asset.

26 (f) A commodity contract, as defined in section 6A-9-102(a)(15), is not a security or a
27 financial asset.

28 (g) A document of title is not a financial asset unless subsection 6A-8-102(a)(9)(iii)
29 applies.

30 SECTION 8. Sections 6A-9-102, 6A-9-203, 6A-9-207, 6A-9-208, 6A-9-301, 6A-9-310,
31 6A-9-312, 6A-9-313, 6A-9-314, 6A-9-317, 6A-9-338 and 6A-9-601 of the General Laws in
32 Chapter 6A-9 entitled "Secured Transactions" are hereby amended to read as follows:

33 **6A-9-102. Definitions.** -- (a) Chapter 9 definitions. - In this chapter:

34 (1) "Accession" means goods that are physically united with other goods in such a

1 manner that the identity of the original goods is not lost.

2 (2) "Account", except as used in "account for", means a right to payment of a monetary
3 obligation, whether or not earned by performance, (i) for property that has been or is to be sold,
4 leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered,
5 (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to
6 be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a
7 charter or other contract, (vii) arising out of the use of a credit or charge card or information
8 contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance
9 operated or sponsored by a State, governmental unit of a State, or person licensed or authorized to
10 operate the game by a State or governmental unit of a State. The term includes health-care-
11 insurance receivables. The term does not include (i) rights to payment evidenced by chattel paper
12 or an instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v)
13 letter-of-credit rights or letters of credit, or (vi) rights to payment for money or funds advanced or
14 sold, other than rights arising out of the use of a credit or charge card or information contained on
15 or for use with the card.

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

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

20 (i) authenticated by a secured party;

21 (ii) indicating the aggregate unpaid secured obligations as of a date not more than 35
22 days earlier or 35 days later than the date of the record; and

23 (iii) identifying the components of the obligations in reasonable detail.

24 (5) "Agricultural lien" means an interest in farm products:

25 (i) which secures payment or performance of an obligation for:

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

27 (B) rent on real property leased by a debtor in connection with its farming operation;

28 (ii) which is created by statute in favor of a person that:

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

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

32 and

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

1 (6) "As-extracted collateral" means:
2 (i) oil, gas, or other minerals that are subject to a security interest that:
3 (A) is created by a debtor having an interest in the minerals before extraction; and
4 (B) attaches to the minerals as extracted; or
5 (ii) accounts arising out of the sale at the wellhead or minehead of oil, gas, or other
6 minerals in which the debtor had an interest before extraction.

7 (7) "Authenticate" means:
8 (i) to sign; or
9 (ii) to execute or otherwise adopt a symbol, or encrypt or similarly process a record in
10 whole or in part, with the present intent of the authenticating person to identify the person and
11 adopt or accept a record.

12 (8) "Bank" means an organization that is engaged in the business of banking. The term
13 includes savings banks, savings and loan associations, credit unions, and trust companies.

14 (9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the
15 like.

16 (10) "Certificate of title" means a certificate of title with respect to which a statute
17 provides for the security interest in question to be indicated on the certificate as a condition or
18 result of the security interest's obtaining priority over the rights of a lien creditor with respect to
19 the collateral.

20 (11) "Chattel paper" means a record or records that evidence both a monetary obligation
21 and a security interest in specific goods, a security interest in specific goods and software used in
22 the goods, a security interest in specific goods and license of software used in the goods, a lease
23 of specific goods, or a lease of specific goods and license of software used in the goods. In this
24 paragraph, "monetary obligation" means a monetary obligation secured by the goods or owed
25 under a lease of the goods and includes a monetary obligation with respect to software used in the
26 goods. The term does not include (i) charters or other contracts involving the use or hire of a
27 vessel or (ii) records that evidence a right to payment arising out of the use of a credit or charge
28 card or information contained on or for use with the card. If a transaction is evidenced by records
29 that include an instrument or series of instruments, the group of records taken together constitutes
30 chattel paper.

31 (12) "Collateral" means the property subject to a security interest or agricultural lien. The
32 term includes:

33 (i) proceeds to which a security interest attaches;
34 (ii) accounts, chattel paper, payment intangibles, and promissory notes that have been

1 sold; and

2 (iii) goods that are the subject of a consignment.

3 (13) "Commercial tort claim" means a claim arising in tort with respect to which:

4 (i) the claimant is an organization; or

5 (ii) the claimant is an individual and the claim:

6 (A) arose in the course of the claimant's business or profession; and

7 (B) does not include damages arising out of personal injury to or the death of an
8 individual.

9 (14) "Commodity account" means an account maintained by a commodity intermediary
10 in which a commodity contract is carried for a commodity customer.

11 (15) "Commodity contract" means a commodity futures contract, an option on a
12 commodity futures contract, a commodity option, or another contract if the contract or option is:

13 (i) traded on or subject to the rules of a board of trade that has been designated as a
14 contract market for such a contract pursuant to federal commodities laws; or

15 (ii) traded on a foreign commodity board of trade, exchange, or market, and is carried on
16 the books of a commodity intermediary for a commodity customer.

17 (16) "Commodity customer" means a person for which a commodity intermediary carries
18 a commodity contract on its books.

19 (17) "Commodity intermediary" means a person that:

20 (i) is registered as a futures commission merchant under federal commodities law; or

21 (ii) in the ordinary course of its business provides clearance or settlement services for a
22 board of trade that has been designated as a contract market pursuant to federal commodities law.

23 (18) "Communicate" means:

24 (i) to send a written or other tangible record;

25 (ii) to transmit a record by any means agreed upon by the persons sending and receiving
26 the record; or

27 (iii) in the case of transmission of a record to or by a filing office, to transmit a record by
28 any means prescribed by filing-office rule.

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

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

32 (i) the merchant:

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

1 (B) is not an auctioneer; and

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

4 (ii) with respect to each delivery, the aggregate value of the goods is \$1,000 or more at
5 the time of delivery;

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

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

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

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

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

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

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

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

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

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

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

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

25 (ii) indicates that it is a continuation statement for, or that it is filed to continue the
26 effectiveness of, the identified financing statement.

27 (28) "Debtor" means:

28 (i) a person having an interest, other than a security interest or other lien, in the
29 collateral, whether or not the person is an obligor;

30 (ii) a seller of accounts, chattel paper, payment intangibles, or promissory notes; or

31 (iii) a consignee.

32 (29) "Deposit account" means a demand, time, savings, passbook, or similar account
33 maintained with a bank. The term does not include investment property or accounts evidenced by
34 an instrument.

1 (30) "Document" means a document of title or a receipt of the type described in
2 subsection ~~6A-7-201(2)~~ 6A-7.1-201(b).

3 (31) "Electronic chattel paper" means chattel paper evidenced by a record or records
4 consisting of information stored in an electronic medium.

5 (32) "Encumbrance" means a right, other than an ownership interest, in real property.
6 The term includes mortgages and other liens on real property.

7 (33) "Equipment" means goods other than inventory, farm products, or consumer goods.

8 (34) "Farm products" means goods, other than standing timber, with respect to which the
9 debtor is engaged in a farming operation and which are:

10 (i) crops grown, growing, or to be grown, including:

11 (A) crops produced on trees, vines, and bushes; and

12 (B) aquatic goods, including seaweeds, produced in aquacultural operations;

13 (ii) livestock, born or unborn, including fish, shellfish and other aquatic goods produced
14 in aquacultural operations;

15 (iii) supplies used or produced in a farming operation; or

16 (iv) products of crops or livestock in their unmanufactured states.

17 (35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or
18 any other farming, livestock, or aquacultural operation.

19 (36) "File number" means the number assigned to an initial financing statement pursuant
20 to section 6A-9-519(a).

21 (37) "Filing office" means an office designated in section 6A-9-501 as the place to file a
22 financing statement.

23 (38) "Filing-office rule" means a rule adopted pursuant to section 6A-9-526.

24 (39) "Financing statement" means a record or records composed of an initial financing
25 statement and any filed record relating to the initial financing statement.

26 (40) "Fixture filing" means the filing of a financing statement covering goods that are or
27 are to become fixtures and satisfying section 6A-9-502(a) and (b). The term includes the filing of
28 a financing statement covering goods of a transmitting utility which are or are to become fixtures.

29 (41) "Fixtures" means goods that have become so related to particular real property that
30 an interest in them arises under real property law.

31 (42) "General intangible" means any personal property, including things in action, other
32 than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods,
33 instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or
34 other minerals before extraction. The term includes payment intangibles and software.

1 (43) "Good faith" means honesty in fact and the observance of reasonable commercial
2 standards of fair dealing.

3 (44) "Goods" means all things that are movable when a security interest attaches. The
4 term includes (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance or
5 contract for sale, (iii) the unborn young of animals, (iv) crops grown, growing, or to be grown,
6 even if the crops are produced on trees, vines, or bushes, and (v) manufactured homes. The term
7 also includes a computer program embedded in goods and any supporting information provided
8 in connection with a transaction relating to the program if (i) the program is associated with the
9 goods in such a manner that it customarily is considered part of the goods, or (ii) by becoming the
10 owner of the goods, a person acquires a right to use the program in connection with the goods.
11 The term does not include a computer program embedded in goods that consist solely of the
12 medium in which the program is embedded. The term also does not include accounts, chattel
13 paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments,
14 investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals
15 before extraction.

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

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

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

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

31 (i) are leased by a person as lessor;

32 (ii) are held by a person for sale or lease or to be furnished under a contract of service;

33 (iii) are furnished by a person under a contract of service; or

34 (iv) consist of raw materials, work in process, or materials used or consumed in a

1 business.

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

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

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

10 (52) "Lien creditor" means:

11 (i) a creditor that has acquired a lien on the property involved by attachment, levy, or the
12 like;

13 (ii) an assignee for benefit of creditors from the time of assignment;

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

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

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

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

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

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

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

33 (56) "New debtor" means a person that becomes bound as debtor under section 6A-9-
34 203(d) by a security agreement previously entered into by another person.

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

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

5 (59) "Obligor" means a person that, with respect to an obligation secured by a security
6 interest in or an agricultural lien on the collateral, (i) owes payment or other performance of the
7 obligation, (ii) has provided property other than the collateral to secure payment or other
8 performance of the obligation, or (iii) is otherwise accountable in whole or in part for payment or
9 other performance of the obligation. The term does not include issuers or nominated persons
10 under a letter of credit.

11 (60) "Original debtor," except as used in section 6A-9-310(c), means a person that, as
12 debtor, entered into a security agreement to which a new debtor has become bound under section
13 6A-9-203(d).

14 (61) "Payment intangible" means a general intangible under which the account debtor's
15 principal obligation is a monetary obligation.

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

17 (i) the spouse of the individual;

18 (ii) a brother, brother-in-law, sister, or sister-in-law of the individual;

19 (iii) an ancestor or lineal descendant of the individual or the individual's spouse; or

20 (iv) any other relative, by blood or marriage, of the individual or the individual's spouse
21 who shares the same home with the individual.

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

23 (i) a person directly or indirectly controlling, controlled by, or under common control
24 with the organization;

25 (ii) an officer or director of, or a person performing similar functions with respect to, the
26 organization;

27 (iii) an officer or director of, or a person performing similar functions with respect to, a
28 person described in subparagraph (i);

29 (iv) the spouse of an individual described in subparagraph (i), (ii), or (iii); or

30 (v) an individual who is related by blood or marriage to an individual described in
31 subparagraph (i), (ii), (iii), or (iv) and shares the same home with the individual.

32 (64) "Proceeds," except as used in section 6A-9-609(b), means the following property:

33 (i) whatever is acquired upon the sale, lease, license, exchange, or other disposition of
34 collateral;

- 1 (ii) whatever is collected on, or distributed on account of, collateral;
- 2 (iii) rights arising out of collateral;
- 3 (iv) to the extent of the value of collateral, claims arising out of the loss, nonconformity,
- 4 or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or
- 5 (v) to the extent of the value of collateral and to the extent payable to the debtor or the
- 6 secured party, insurance payable by reason of the loss or nonconformity of, defects or
- 7 infringement of rights in, or damage to, the collateral.

8 (65) "Promissory note" means an instrument that evidences a promise to pay a monetary

9 obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank

10 that the bank has received for deposit a sum of money or funds.

11 (66) "Proposal" means a record authenticated by a secured party which includes the

12 terms on which the secured party is willing to accept collateral in full or partial satisfaction of the

13 obligation it secures pursuant to sections 6A-9-620, 6A-9-621, and 6A-9-622.

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

15 (i) debt securities are issued;

16 (ii) all or a portion of the securities issued have an initial stated maturity of at least 20

17 years; and

18 (iii) the debtor, obligor, secured party, account debtor or other person obligated on

19 collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security

20 interest is a State or a governmental unit of a State.

21 (68) "Pursuant to commitment", with respect to an advance made or other value given by

22 a secured party, means pursuant to the secured party's obligation, whether or not a subsequent

23 event of default or other event not within the secured party's control has relieved or may relieve

24 the secured party from its obligation.

25 (69) "Record", except as used in "for record", "of record", "record or legal title", and

26 "record owner", means information that is inscribed on a tangible medium or which is stored in

27 an electronic or other medium and is retrievable in perceivable form.

28 (70) "Registered organization" means an organization organized solely under the law of

29 a single State or the United States and as to which the State or the United States must maintain a

30 public record showing the organization to have been organized.

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

32 (i) the obligor's obligation is secondary; or

33 (ii) the obligor has a right of recourse with respect to an obligation secured by collateral

34 against the debtor, another obligor, or property of either.

1 (72) "Secured party" means:

2 (i) a person in whose favor a security interest is created or provided for under a security
3 agreement, whether or not any obligation to be secured is outstanding;

4 (ii) a person that holds an agricultural lien;

5 (iii) a consignor;

6 (iv) a person to which accounts, chattel paper, payment intangibles, or promissory notes
7 have been sold;

8 (v) a trustee, indenture trustee, agent, collateral agent, or other representative in whose
9 favor a security interest or agricultural lien is created or provided for; or

10 (vi) a person that holds a security interest arising under section 6A-2-401, 6A-2-505, 6A-
11 2-711(3), 6A-2.1-508(5), 6A-4-210, or 6A-5-118.

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

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

15 (i) to deposit in the mail, deliver for transmission, or transmit by any other usual means
16 of communication, with postage or cost of transmission provided for, addressed to any address
17 reasonable under the circumstances; or

18 (ii) to cause the record or notification to be received within the time that it would have
19 been received if properly sent under subparagraph (i).

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

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

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

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

31 (79) "Termination statement" means an amendment of a financing statement which:

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

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

- 1 (80) "Transmitting utility" means a person primarily engaged in the business of:
- 2 (i) operating a railroad, subway, street railway, or trolley bus;
- 3 (ii) transmitting communications electrically, electromagnetically, or by light;
- 4 (iii) transmitting goods by pipeline or sewer; or
- 5 (iv) transmitting or producing and transmitting electricity, steam, gas, or water.

6 (b) Definitions in other chapters. - ~~The~~ ["Control" as provided in section 6A-7.1-206 and](#)
 7 [the](#) following definitions in other chapters apply to this chapter:

8	"Applicant"	section 6A-5-102.
9	"Beneficiary"	section 6A-5-102.
10	"Broker"	section 6A-8-102.
11	"Certificated security"	section 6A-8-102.
12	"Check"	section 6A-3-104.
13	"Clearing corporation"	section 6A-8-102.
14	"Contract for sale"	section 6A-2-106.
15	"Customer"	section 6A-4-104.
16	"Entitlement holder"	section 6A-8-102.
17	"Financial asset"	section 6A-8-102.
18	"Holder in due course"	section 6A-3-302.
19	"Issuer" (with respect to a letter of	section 6A-5-102.
20	credit or letter-of-credit right)	
21	"Issuer" (with respect to a security)	section 6A-8-201.
22	"Issuer" (with respect to documents of title)	section 6A-7.1-102.
23	"Lease"	section 6A-2.1-103.
24	"Lease agreement"	section 6A-2.1-103.
25	"Lease contract"	section 6A-2.1-103.
26	"Leasehold interest"	section 6A-2.1-103.
27	"Lessee"	section 6A-2.1-103.
28	"Lessee in ordinary course of business"	section 6A-2.1-103.
29	"Lessor"	section 6A-2.1-103.
30	"Lessor's residual interest"	section 6A-2.1-103.
31	"Letter of credit"	section 6A-5-102.
32	"Merchant"	section 6A-2-104.
33	"Negotiable instrument"	section 6A-3-104.
34	"Nominated person"	section 6A-5-102.

1	"Note"	section 6A-3-104.
2	"Proceeds of a letter of credit"	section 6A-5-114.
3	"Prove"	section 6A-3-103.
4	"Sale"	section 6A-2-106.
5	"Securities account"	section 6A-8-501.
6	"Securities intermediary"	section 6A-8-102.
7	"Security"	section 6A-8-102.
8	"Security certificate"	section 6A-8-102.
9	"Security entitlement"	section 6A-8-102.
10	"Uncertificated security"	section 6A-8-102.

11 (c) Chapter 1 definitions and principles. - Chapter 1 of this title contains general
 12 definitions and principles of construction and interpretation applicable throughout this chapter.

13 **6A-9-203. Attachment and enforceability of security interest; proceeds; supporting**

14 **obligations; formal requisites.** -- (a) Attachment. - A security interest attaches to collateral when
 15 it becomes enforceable against the debtor with respect to the collateral, unless an agreement
 16 expressly postpones the time of attachment.

17 (b) Enforceability. - Except as otherwise provided in subsections (c) through (i), a
 18 security interest is enforceable against the debtor and third parties with respect to the collateral
 19 only if:

- 20 (1) Value has been given;
- 21 (2) The debtor has rights in the collateral or the power to transfer rights in the collateral
- 22 to a secured party; and
- 23 (3) One of the following conditions is met:

24 (i) The debtor has authenticated a security agreement that provides a description of the
 25 collateral and, if the security interest covers timber to be cut, a description of the land concerned;

26 (ii) The collateral is not a certificated security and is in the possession of the secured
 27 party under section 6A-9-313 pursuant to the debtor's security agreement;

28 (iii) The collateral is a certificated security in registered form and the security certificate
 29 has been delivered to the secured party under section 6A-8-301 pursuant to the debtor's security
 30 agreement; or

31 (iv) The collateral is deposit accounts, electronic chattel paper, investment property, or
 32 letter-of-credit rights, [or electronic documents](#), and the secured party has control under sections
 33 [6A-7.1-106](#), 6A-9-104, 6A-9-105, 6A-9-106, or 6A-9-107 pursuant to he debtor's security
 34 agreement.

1 (c) Other UCC provisions. - Subsection (b) is subject to section 6A-4-210 on the security
2 interest of a collecting bank, section 6A-5-118 on the security interest of a letter-of-credit issuer
3 or nominated person, section 6A-9-110 on a security interest arising under chapter 2 or 2.1, and
4 section 6A-9-206 on security interests in investment property.

5 (d) When person becomes bound by another person's security agreement. - A person
6 becomes bound as debtor by a security agreement entered into by another person if, by operation
7 of law other than this chapter or by contract:

8 (1) The security agreement becomes effective to create a security interest in the person's
9 property; or

10 (2) The person becomes generally obligated for the obligations of the other person,
11 including the obligation secured under the security agreement, and acquires or succeeds to all or
12 substantially all of the assets of the other person.

13 (e) Effect of new debtor becoming bound. - If a new debtor becomes bound as debtor by
14 a security agreement entered into by another person:

15 (1) The agreement satisfies subsection (b)(3) with respect to existing or after-acquired
16 property of the new debtor to the extent the property is described in the agreement; and

17 (2) Another agreement is not necessary to make a security interest in the property
18 enforceable.

19 (f) Proceeds and supporting obligations. - The attachment of a security interest in
20 collateral gives the secured party the rights to proceeds provided by section 6A-9-315 and is also
21 attachment of a security interest in a supporting obligation for the collateral.

22 (g) Lien securing right to payment. - The attachment of a security interest in a right to
23 payment or performance secured by a security interest or other lien on personal or real property is
24 also attachment of a security interest in the security interest, mortgage, or other lien.

25 (h) Security entitlement carried in securities account. - The attachment of a security
26 interest in a securities account is also attachment of a security interest in the security entitlements
27 carried in the securities account.

28 (i) Commodity contracts carried in commodity account. - The attachment of a security
29 interest in a commodity account is also attachment of a security interest in the commodity
30 contracts carried in the commodity account.

31 **6A-9-207. Rights and duties of secured party having possession or control of**
32 **collateral.** -- (a) Duty of care when secured party in possession. - Except as otherwise provided in
33 subsection (d), a secured party shall use reasonable care in the custody and preservation of
34 collateral in the secured party's possession. In the case of chattel paper or an instrument,

1 reasonable care includes taking necessary steps to preserve rights against prior parties unless
2 otherwise agreed.

3 (b) Expenses, risks, duties, and rights when secured party in possession. - Except as
4 otherwise provided in subsection (d), if a secured party has possession of collateral:

5 (1) Reasonable expenses, including the cost of insurance and payment of taxes or other
6 charges, incurred in the custody, preservation, use, or operation of the collateral are chargeable to
7 the debtor and are secured by the collateral;

8 (2) The risk of accidental loss or damage is on the debtor to the extent of a deficiency in
9 any effective insurance coverage;

10 (3) The secured party shall keep the collateral identifiable, but fungible collateral may be
11 commingled; and

12 (4) The secured party may use or operate the collateral:

13 (i) For the purpose of preserving the collateral or its value;

14 (ii) As permitted by an order of a court having competent jurisdiction; or

15 (iii) Except in the case of consumer goods, in the manner and to the extent agreed by the
16 debtor.

17 (c) Duties and rights when secured party in possession or control. - Except as otherwise
18 provided in subsection (d), a secured party having possession of collateral or control of collateral
19 under sections [6A-7.1-106](#), 6A-9-104, 6A-9-105, 6A-9-106, or 6A-9-107:

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

22 (2) Shall apply money or funds received from the collateral to reduce the secured
23 obligation, unless remitted to the debtor; and

24 (3) May create a security interest in the collateral.

25 (d) Buyer of certain rights to payment. - If the secured party is a buyer of accounts,
26 chattel paper, payment intangibles, or promissory notes or a consignor:

27 (1) Subsection (a) does not apply unless the secured party is entitled under an agreement:

28 (i) To charge back uncollected collateral; or

29 (ii) Otherwise to full or limited recourse against the debtor or a secondary obligor based
30 on the nonpayment or other default of an account debtor or other obligor on the collateral; and

31 (2) Subsections (b) and (c) do not apply.

32 **6A-9-208. Additional duties of secured party having control of collateral.** -- (a)

33 Applicability of section. - This section applies to cases in which there is no outstanding secured
34 obligation and the secured party is not committed to make advances, incur obligations, or

1 otherwise give value.

2 (b) Duties of secured party after receiving demand from debtor. - Within 10 days after
3 receiving an authenticated demand by the debtor:

4 (1) A secured party having control of a deposit account under section 6A-9-104(a)(2)
5 shall send to the bank with which the deposit account is maintained an authenticated statement
6 that releases the bank from any further obligation to comply with instructions originated by the
7 secured party;

8 (2) A secured party having control of a deposit account under section 6A-9-104(a)(3)
9 shall:

10 (i) Pay the debtor the balance on deposit in the deposit account; or

11 (ii) Transfer the balance on deposit into a deposit account in the debtor's name;

12 (3) A secured party, other than a buyer, having control of electronic chattel paper under
13 section 6A-9-105 shall:

14 (i) Communicate the authoritative copy of the electronic chattel paper to the debtor or its
15 designated custodian;

16 (ii) If the debtor designates a custodian that is the designated custodian with which the
17 authoritative copy of the electronic chattel paper is maintained for the secured party,
18 communicate to the custodian an authenticated record releasing the designated custodian from
19 any further obligation to comply with instructions originated by the secured party and instructing
20 the custodian to comply with instructions originated by the debtor; and

21 (iii) Take appropriate action to enable the debtor or its designated custodian to make
22 copies of or revisions to the authoritative copy which add or change an identified assignee of the
23 authoritative copy without the consent of the secured party;

24 (4) A secured party having control of investment property under section 6A-8-106(d)(2)
25 or 6A-9-106(b) shall send to the securities intermediary or commodity intermediary with which
26 the security entitlement or commodity contract is maintained an authenticated record that releases
27 the securities intermediary or commodity intermediary from any further obligation to comply
28 with entitlement orders or directions originated by the secured party; **and**

29 (5) A secured party having control of a letter-of-credit right under section 6A-9-107 shall
30 send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of
31 credit to the secured party an authenticated release from any further obligation to pay or deliver
32 proceeds of the letter of credit to the secured party; **and**

33 (6) A secured party having control of an electronic document shall:

34 (a) give control of the electronic document to the debtor or its designated custodian;

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

6 (c) take appropriate action to enable the debtor or its designated custodian to make copies
7 of or revisions to the authoritative copy which add or change an identified assignee of the
8 authoritative copy without the consent of the secured party.

9 **6A-9-301. Law governing perfection and priority of security interests.** -- Except as
10 otherwise provided in sections 6A-9-303 through 6A-9-306, the following rules determine the
11 law governing perfection, the effect of perfection or nonperfection, and the priority of a security
12 interest in collateral:

13 (1) Except as otherwise provided in this section, while a debtor is located in a
14 jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or
15 nonperfection, and the priority of a security interest in collateral.

16 (2) While collateral is located in a jurisdiction, the local law of that jurisdiction governs
17 perfection, the effect of perfection or nonperfection, and the priority of a possessory security
18 interest in that collateral.

19 (3) Except as otherwise provided in paragraph (4), while tangible negotiable documents,
20 goods, instruments, money, or tangible chattel paper is located in a jurisdiction, the local law of
21 that jurisdiction governs:

22 (i) Perfection of a security interest in the goods by filing a fixture filing;

23 (ii) Perfection of a security interest in timber to be cut; and

24 (iii) The effect of perfection or nonperfection and the priority of a nonpossessory
25 security interest in the collateral.

26 (4) The local law of the jurisdiction in which the wellhead or minehead is located
27 governs perfection, the effect of perfection or nonperfection, and the priority of a security interest
28 in as-extracted collateral.

29 **6A-9-310. When filing required to perfect security interest or agricultural lien;**
30 **security interests and agricultural liens to which filing provisions do not apply.** -- (a) General
31 rule: perfection by filing. - Except as otherwise provided in subsection (b) and section 6A-9-
32 312(b), a financing statement must be filed to perfect all security interests and agricultural liens.

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

- 1 (1) That is perfected under section 6A-9-308(d), (e), (f), or (g);
- 2 (2) That is perfected under section 6A-9-309 when it attaches;
- 3 (3) In property subject to a statute, regulation, or treaty described in section 6A-9-311(a);
- 4 (4) In goods in possession of a bailee which is perfected under section 6A-9-312(d)(1) or
- 5 (2);
- 6 (5) In certificated securities, documents, goods, or instruments which is perfected
- 7 without filing, [control](#) or possession under section 6A-9-312(e), (f), or (g);
- 8 (6) In collateral in the secured party's possession under section 6A-9-313;
- 9 (7) In a certificated security which is perfected by delivery of the security certificate to
- 10 the secured party under section 6A-9-313;
- 11 (8) In deposit accounts, electronic chattel paper, [electronic documents](#), investment
- 12 property, or letter-of-credit rights which is perfected by control under section 6A-9-314;
- 13 (9) In proceeds which is perfected under section 6A-9-315; or
- 14 (10) That is perfected under section 6A-9-316.

15 (c) Assignment of perfected security interest. - If a secured party assigns a perfected
16 security interest or agricultural lien, a filing under this chapter is not required to continue the
17 perfected status of the security interest against creditors of and transferees from the original
18 debtor.

19 **6A-9-312. Perfection of security interests in chattel paper, deposit accounts,**
20 **documents, goods covered by documents, instruments, investment property, letter-of-credit**
21 **rights, and money; perfection by permissive filing; temporary perfection without filing or**
22 **transfer of possession.** -- (a) Perfection by filing permitted. - A security interest in chattel paper,
23 negotiable documents, instruments, or investment property may be perfected by filing.

24 (b) Control or possession of certain collateral. - Except as otherwise provided in section
25 6A-9-315(c) and (d) for proceeds:

26 (1) A security interest in a deposit account may be perfected only by control under
27 section 6A-9-314;

28 (2) And except as otherwise provided in section 6A-9-308(d), a security interest in a
29 letter-of-credit right may be perfected only by control under section 6A-9-314; and

30 (3) A security interest in money may be perfected only by the secured party's taking
31 possession under section 6A-9-313.

32 (c) Goods covered by negotiable document. - While goods are in the possession of a
33 bailee that has issued a negotiable document covering the goods:

34 (1) A security interest in the goods may be perfected by perfecting a security interest in

1 the document; and

2 (2) A security interest perfected in the document has priority over any security interest
3 that becomes perfected in the goods by another method during that time.

4 (d) Goods covered by nonnegotiable document. - While goods are in the possession of a
5 bailee that has issued a nonnegotiable document covering the goods, a security interest in the
6 goods may be perfected by:

7 (1) Issuance of a document in the name of the secured party;

8 (2) The bailee's receipt of notification of the secured party's interest; or

9 (3) Filing as to the goods.

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

14 (f) Temporary perfection: goods or documents made available to debtor. - A perfected
15 security interest in a negotiable document or goods in possession of a bailee, other than one that
16 has issued a negotiable document for the goods, remains perfected for 20 days without filing if
17 the secured party makes available to the debtor the goods or documents representing the goods
18 for the purpose of:

19 (1) Ultimate sale or exchange; or

20 (2) Loading, unloading, storing, shipping, transshipping, manufacturing, processing, or
21 otherwise dealing with them in a manner preliminary to their sale or exchange.

22 (g) Temporary perfection: delivery of security certificate or instrument to debtor. - A
23 perfected security interest in a certificated security or instrument remains perfected for 20 days
24 without filing if the secured party delivers the security certificate or instrument to the debtor for
25 the purpose of:

26 (1) Ultimate sale or exchange; or

27 (2) Presentation, collection, enforcement, renewal, or registration of transfer.

28 (h) Expiration of temporary perfection. - After the 20-day period specified in subsection
29 (e), (f), or (g) expires, perfection depends upon compliance with this chapter.

30 **6A-9-313. When possession by or delivery to secured party perfects security interest**

31 **without filing.** -- (a) Perfection by possession or delivery. - Except as otherwise provided in
32 subsection (b), a secured party may perfect a security interest in tangible negotiable documents,
33 goods, instruments, money, or tangible chattel paper by taking possession of the collateral. A
34 secured party may perfect a security interest in certificated securities by taking delivery of the

1 certificated securities under section 6A-8-301.

2 (b) Goods covered by certificate of title. - With respect to goods covered by a certificate
3 of title issued by this State, a secured party may perfect a security interest in the goods by taking
4 possession of the goods only in the circumstances described in section 6A-9-316(d).

5 (c) Collateral in possession of person other than debtor. - With respect to collateral other
6 than certificated securities and goods covered by a document, a secured party takes possession of
7 collateral in the possession of a person other than the debtor, the secured party, or a lessee of the
8 collateral from the debtor in the ordinary course of the debtor's business, when:

9 (1) The person in possession authenticates a record acknowledging that it holds
10 possession of the collateral for the secured party's benefit; or

11 (2) The person takes possession of the collateral after having authenticated a record
12 acknowledging that it will hold possession of collateral for the secured party's benefit.

13 (d) Time of perfection by possession; continuation of perfection. - If perfection of a
14 security interest depends upon possession of the collateral by a secured party, perfection occurs
15 no earlier than the time the secured party takes possession and continues only while the secured
16 party retains possession.

17 (e) Time of perfection by delivery; continuation of perfection. - A security interest in a
18 certificated security in registered form is perfected by delivery when delivery of the certificated
19 security occurs under section 6A-8-301 and remains perfected by delivery until the debtor obtains
20 possession of the security certificate.

21 (f) Acknowledgment not required. - A person in possession of collateral is not required
22 to acknowledge that it holds possession for a secured party's benefit.

23 (g) Effectiveness of acknowledgment; no duties or confirmation. - If a person
24 acknowledges that it holds possession for the secured party's benefit:

25 (1) The acknowledgment is effective under subsection (c) or section 6A-8-301(a), even if
26 the acknowledgment violates the rights of a debtor; and

27 (2) Unless the person otherwise agrees or law other than this chapter otherwise provides,
28 the person does not owe any duty to the secured party and is not required to confirm the
29 acknowledgment to another person.

30 (h) Secured party's delivery to person other than debtor. - A secured party having
31 possession of collateral does not relinquish possession by delivering the collateral to a person
32 other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the
33 debtor's business if the person was instructed before the delivery or is instructed
34 contemporaneously with the delivery:

1 (1) To hold possession of the collateral for the secured party's benefit; or

2 (2) To redeliver the collateral to the secured party.

3 (i) Effect of delivery under subsection (h); no duties or confirmation. - A secured party
4 does not relinquish possession, even if a delivery under subsection (h) violates the rights of a
5 debtor. A person to which collateral is delivered under subsection (h) does not owe any duty to
6 the secured party and is not required to confirm the delivery to another person unless the person
7 otherwise agrees or law other than this chapter otherwise provides.

8 **6A-9-314. Perfection by control.** -- (a) Perfection by control. - A security interest in
9 investment property, deposit accounts, letter-of-credit rights, ~~or~~ electronic chattel paper or
10 electronic documents may be perfected by control of the collateral under sections 6A-7.1-106,
11 6A-9-104, 6A-9-105, 6A-9-106, or 6A-9-107.

12 (b) Specified collateral: time of perfection by control; continuation of perfection. - A
13 security interest in deposit accounts, electronic chattel paper, ~~or~~ letter-of-credit rights or
14 electronic documents is perfected by control under sections 6A-7.1-106, 6A-9-104, 6A-9-105, or
15 6A-9-107 when the secured party obtains control and remains perfected by control only while the
16 secured party retains control.

17 (c) Investment property: time of perfection by control; continuation of perfection. - A
18 security interest in investment property is perfected by control under section 6A-9-106 from the
19 time the secured party obtains control and remains perfected by control until:

20 (1) The secured party does not have control; and

21 (2) One of the following occurs:

22 (i) If the collateral is a certificated security, the debtor has or acquires possession of the
23 security certificate;

24 (ii) If the collateral is an uncertificated security, the issuer has registered or registers the
25 debtor as the registered owner; or

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

28 **6A-9-317. Interests that take priority over or take free of security interest or**
29 **agricultural lien.** -- (a) Conflicting security interests and rights of lien creditors. - A security
30 interest or agricultural lien is subordinate to the rights of:

31 (1) A person entitled to priority under section 6A-9-322; and

32 (2) Except as otherwise provided in subsection (e), a person that becomes a lien creditor
33 before the earlier of the time: (i) the security interest or agricultural lien is perfected; or (ii) one of
34 the conditions specified in section 6A-9-203(b)(3) is met and a financing statement covering the

1 collateral is filed.

2 (b) Buyers that receive delivery. - Except as otherwise provided in subsection (e), a
3 buyer, other than a secured party, of tangible chattel paper, [tangible](#) documents, goods,
4 instruments, or a security certificate takes free of a security interest or agricultural lien if the
5 buyer gives value and receives delivery of the collateral without knowledge of the security
6 interest or agricultural lien and before it is perfected.

7 (c) Lessees that receive delivery. - Except as otherwise provided in subsection (e), a
8 lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and
9 receives delivery of the collateral without knowledge of the security interest or agricultural lien
10 and before it is perfected.

11 (d) Licensees and buyers of certain collateral. - A licensee of a general intangible or a
12 buyer, other than a secured party, of accounts, electronic chattel paper, [electronic documents](#),
13 general intangibles, or investment property other than a certificated security takes free of a
14 security interest if the licensee or buyer gives value without knowledge of the security interest
15 and before it is perfected.

16 (e) Purchase-money security interest. - Except as otherwise provided in sections 6A-9-
17 320 and 6A-9-321, if a person files a financing statement with respect to a purchase-money
18 security interest before or within 20 days after the debtor receives delivery of the collateral, the
19 security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise
20 between the time the security interest attaches and the time of filing.

21 **6A-9-338. Priority of security interest or agricultural lien perfected by filed**
22 **financing statement providing certain incorrect information.** -- If a security interest or
23 agricultural lien is perfected by a filed financing statement providing information described in
24 section 6A-9-516(b)(5) which is incorrect at the time the financing statement is filed:

25 (1) The security interest or agricultural lien is subordinate to a conflicting perfected
26 security interest in the collateral to the extent that the holder of the conflicting security interest
27 gives value in reasonable reliance upon the incorrect information; and

28 (2) A purchaser, other than a secured party, of the collateral takes free of the security
29 interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect
30 information, the purchaser gives value and, in the case of [tangible](#) chattel paper, [tangible](#)
31 documents, goods, instruments, or a security certificate, receives delivery of the collateral.

32 **6A-9-601. Rights after default; judicial enforcement; consignor or buyer of**
33 **accounts, chattel paper, payment intangibles, or promissory notes.** -- (a) Rights of secured
34 party after default. - After default, a secured party has the rights provided in this part and, except

1 as otherwise provided in section 6A-9-602, those provided by agreement of the parties. A secured
2 party:

3 (1) May reduce a claim to judgment, foreclose, or otherwise enforce the claim, security
4 interest, or agricultural lien by any available judicial procedure; and

5 (2) If the collateral is documents, may proceed either as to the documents or as to the
6 goods they cover.

7 (b) Rights and duties of secured party in possession or control. - A secured party in
8 possession of collateral or control of collateral under section [6A-7.1-106](#), 6A-9-104, 6A-9-105,
9 6A-9-106, or 6A-9-107 has the rights and duties provided in section 6A-9-207.

10 (c) Rights cumulative; simultaneous exercise. - The rights under subsections (a) and (b)
11 are cumulative and may be exercised simultaneously.

12 (d) Rights of debtor and obligor. - Except as otherwise provided in subsection (g) and
13 section 6A-9-605, after default, a debtor and an obligor have the rights provided in this part and
14 by agreement of the parties.

15 (e) Lien of levy after judgment. - If a secured party has reduced its claim to judgment,
16 the lien of any levy that may be made upon the collateral by virtue of an execution based upon the
17 judgment relates back to the earliest of:

18 (1) The date of perfection of the security interest or agricultural lien in the collateral;

19 (2) The date of filing a financing statement covering the collateral; or

20 (3) Any date specified in a statute under which the agricultural lien was created.

21 (f) Execution sale. - A sale pursuant to an execution is a foreclosure of the security
22 interest or agricultural lien by judicial procedure within the meaning of this section. A secured
23 party may purchase at the sale and thereafter hold the collateral free of any other requirements of
24 this chapter.

25 (g) Consignor or buyer of certain rights to payment. - Except as otherwise provided in
26 section 6A-9-607(c), this part imposes no duties upon a secured party that is a consignor or is a
27 buyer of accounts, chattel paper, payment intangibles, or promissory notes.

28 SECTION 9. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO THE UNIFORM COMMERCIAL CODE

- 1 This act would amend article 7 of the uniform commercial code regarding documents of
- 2 title and would also make various technical amendments to the uniform commercial code.
- 3 This act would take effect upon passage.

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