

Part 5

Warehouse Receipts and Bills of Lading - Negotiation and Transfer

70A-7a-501 Form of negotiation and requirements of due negotiation.

- (1) The following rules apply to a negotiable tangible document of title:
 - (a) If the document's original terms run to the order of a named person, the document is negotiated by the named person's indorsement and delivery. After the named person's indorsement in blank or to bearer, any person may negotiate the document by delivery alone.
 - (b) If the document's original terms run to bearer, it is negotiated by delivery alone.
 - (c) If the document's original terms run to the order of a named person and it is delivered to the named person, the effect is the same as if the document had been negotiated.
 - (d) Negotiation of the document after it has been indorsed to a named person requires indorsement by the named person and delivery.
 - (e) A document is duly negotiated if it is negotiated in the manner stated in this Subsection (1) to a holder that purchases it in good faith, without notice of any defense against or claim to it on the part of any person, and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves receiving the document in settlement or payment of a monetary obligation.
- (2) The following rules apply to a negotiable electronic document of title:
 - (a) If the document's original terms run to the order of a named person or to bearer, the document is negotiated by delivery of the document to another person. Indorsement by the named person is not required to negotiate the document.
 - (b) If the document's original terms run to the order of a named person and the named person has control of the document, the effect is the same as if the document had been negotiated.
 - (c) A document is duly negotiated if it is negotiated in the manner stated in this subsection to a holder that purchases it in good faith, without notice of any defense against or claim to it on the part of any person, and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves taking delivery of the document in settlement or payment of a monetary obligation.
- (3) Indorsement of a nonnegotiable document of title neither makes it negotiable nor adds to the transferee's rights.
- (4) The naming in a negotiable bill of lading of a person to be notified of the arrival of the goods does not limit the negotiability of the bill or constitute notice to a purchaser of the bill of any interest of that person in the goods.

Enacted by Chapter 42, 2006 General Session

70A-7a-502 Rights acquired by due negotiation.

- (1) Subject to Sections 70A-7a-205 and 70A-7a-503, a holder to which a negotiable document of title has been duly negotiated acquires thereby:
 - (a) title to the document;
 - (b) title to the goods;
 - (c) all rights accruing under the law of agency or estoppel, including rights to goods delivered to the bailee after the document was issued; and
 - (d) the direct obligation of the issuer to hold or deliver the goods according to the terms of the document free of any defense or claim by the issuer except those arising under the terms of the document or under this chapter, but in the case of a delivery order, the bailee's obligation

accrues only upon the bailee's acceptance of the delivery order and the obligation acquired by the holder is that the issuer and any indorser will procure the acceptance of the bailee.

- (2) Subject to Section 70A-7a-503, title and rights acquired by due negotiation are not defeated by any stoppage of the goods represented by the document of title or by surrender of the goods by the bailee and are not impaired even if:
- (a) the due negotiation or any prior due negotiation constituted a breach of duty;
 - (b) any person has been deprived of possession of a negotiable tangible document or control of a negotiable electronic document by misrepresentation, fraud, accident, mistake, duress, loss, theft, or conversion; or
 - (c) a previous sale or other transfer of the goods or document has been made to a third person.

Enacted by Chapter 42, 2006 General Session

70A-7a-503 Document of title to goods defeated in certain cases.

- (1) A document of title confers no right in goods against a person that before issuance of the document had a legal interest or a perfected security interest in the goods and that did not:
- (a) deliver or entrust the goods or any document of title covering the goods to the bailor or the bailor's nominee with:
 - (i) actual or apparent authority to ship, store, or sell;
 - (ii) power to obtain delivery under Section 70A-7a-403; or
 - (iii) power of disposition under Section 70A-2-403, Subsection 70A-2a-304(2), Subsection 70A-2a-305(2), Section 70A-9a-320, or Subsection 70A-9a-321(3) or other statute or rule of law; or
 - (b) acquiesce in the procurement by the bailor or its nominee of any document.
- (2) Title to goods based upon an unaccepted delivery order is subject to the rights of any person to which a negotiable warehouse receipt or bill of lading covering the goods has been duly negotiated. That title may be defeated under Section 70A-7a-504 to the same extent as the rights of the issuer or a transferee from the issuer.
- (3) Title to goods based upon a bill of lading issued to a freight forwarder is subject to the rights of any person to which a bill issued by the freight forwarder is duly negotiated. However, delivery by the carrier in accordance with Part 4, Warehouse Receipts and Bills of Lading - General Obligations, pursuant to its own bill of lading discharges the carrier's obligation to deliver.

Enacted by Chapter 42, 2006 General Session

70A-7a-504 Rights acquired in absence of due negotiation -- Effect of diversion -- Stoppage of delivery.

- (1) A transferee of a document of title, whether negotiable or nonnegotiable, to which the document has been delivered but not duly negotiated, acquires the title and rights that its transferor had or had actual authority to convey.
- (2) In the case of a transfer of a nonnegotiable document of title, until but not after the bailee receives notice of the transfer, the rights of the transferee may be defeated:
- (a) by those creditors of the transferor which could treat the transfer as void under Section 70A-2-402 or 70A-2a-308;
 - (b) by a buyer from the transferor in ordinary course of business if the bailee has delivered the goods to the buyer or received notification of the buyer's rights;
 - (c) by a lessee from the transferor in ordinary course of business if the bailee has delivered the goods to the lessee or received notification of the lessee's rights; or

- (d) as against the bailee, by good-faith dealings of the bailee with the transferor.
- (3) A diversion or other change of shipping instructions by the consignor in a nonnegotiable bill of lading which causes the bailee not to deliver the goods to the consignee defeats the consignee's title to the goods if the goods have been delivered to a buyer in ordinary course of business or a lessee in ordinary course of business and, in any event, defeats the consignee's rights against the bailee.
- (4) Delivery of the goods pursuant to a nonnegotiable document of title may be stopped by a seller under Section 70A-2-705 or a lessor under Section 70A-2a-526, subject to the requirements of due notification in those sections. A bailee that honors the seller's or lessor's instructions is entitled to be indemnified by the seller or lessor against any resulting loss or expense.

Enacted by Chapter 42, 2006 General Session

70A-7a-505 Indorser not guarantor for other parties.

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

Enacted by Chapter 42, 2006 General Session

70A-7a-506 Delivery without indorsement -- Right to compel indorsement.

The transferee of a negotiable tangible document of title has a specifically enforceable right to have its transferor supply any necessary indorsement, but the transfer becomes a negotiation only as of the time the indorsement is supplied.

Enacted by Chapter 42, 2006 General Session

70A-7a-507 Warranties on negotiation or delivery of document of title.

If a person negotiates or delivers a document of title for value, otherwise than as a mere intermediary under Section 70A-7a-508, unless otherwise agreed, the transferor, in addition to any warranty made in selling or leasing the goods, warrants to its immediate purchaser only that:

- (1) the document is genuine;
- (2) the transferor does not have knowledge of any fact that would impair the document's validity or worth; and
- (3) the negotiation or delivery is rightful and fully effective with respect to the title to the document and the goods it represents.

Enacted by Chapter 42, 2006 General Session

70A-7a-508 Warranties of collecting bank as to documents of title.

A collecting bank or other intermediary known to be entrusted with documents of title on behalf of another or with collection of a draft or other claim against delivery of documents warrants by the delivery of the documents only its own good faith and authority even if the collecting bank or other intermediary has purchased or made advances against the claim or draft to be collected.

Enacted by Chapter 42, 2006 General Session

70A-7a-509 Adequate compliance with commercial contract.

Whether a document of title is adequate to fulfill the obligations of a contract for sale, a contract for lease, or the conditions of a letter of credit is determined by Chapter 2, Uniform Commercial Code - Sales, 2a, Uniform Commercial Code - Leases, or 5, Uniform Commercial Code - Letters of Credit.

Enacted by Chapter 42, 2006 General Session