

1 **UNIFORM COMMERCIAL CODE - GENERAL**

2 **PROVISIONS**

3 2007 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Lyle W. Hillyard**

6 House Sponsor: _____

7

LONG TITLE

8 **General Description:**

9 This bill modifies the general provisions of the Uniform Commercial Code.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ repeals Title 70A, Chapter 1, General Provisions;
- 13 ▶ enacts the revised Article 1 of the Uniform Commercial Code as Title 70A, Chapter

14 1a, General Provisions, including provisions related to:

- 15 • the construction and interpretation of the Uniform Commercial Code;
- 16 • the relationship between the Uniform Commercial Code and other laws;
- 17 • the applicability of the Uniform Commercial Code; and
- 18 • defining terms;

19 ▶ amends other provisions of the Uniform Commercial Code, to conform with the

20 adoption of Title 70A, Chapter 1a, General Provisions; and

- 21 ▶ makes technical amendments.

22 **Monies Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**



28 AMENDS:

29 **11-14-501**, as renumbered and amended by Chapter 105, Laws of Utah 2005

30 **15-8-4**, as last amended by Chapter 12, Laws of Utah 1994

31 **24-1-3**, as last amended by Chapter 296, Laws of Utah 2004

32 **32A-11a-102**, as last amended by Chapter 1, Laws of Utah 2000

33 **41-1a-601**, as last amended by Chapter 252, Laws of Utah 2000

34 **46-4-103**, as enacted by Chapter 74, Laws of Utah 2000

35 **46-4-403**, as last amended by Chapter 42, Laws of Utah 2006

36 **70A-2-103**, as last amended by Chapter 42, Laws of Utah 2006

37 **70A-2-202**, as enacted by Chapter 154, Laws of Utah 1965

38 **70A-2a-103**, as last amended by Chapter 42, Laws of Utah 2006

39 **70A-2a-501**, as last amended by Chapter 237, Laws of Utah 1993

40 **70A-2a-518**, as last amended by Chapter 237, Laws of Utah 1993

41 **70A-2a-519**, as last amended by Chapter 237, Laws of Utah 1993

42 **70A-2a-527**, as last amended by Chapter 237, Laws of Utah 1993

43 **70A-2a-528**, as last amended by Chapter 237, Laws of Utah 1993

44 **70A-3-103**, as last amended by Chapter 60, Laws of Utah 1998

45 **70A-4-104**, as last amended by Chapter 42, Laws of Utah 2006

46 **70A-4a-105**, as last amended by Chapter 237, Laws of Utah 1993

47 **70A-4a-106**, as last amended by Chapter 237, Laws of Utah 1993

48 **70A-4a-204**, as last amended by Chapter 237, Laws of Utah 1993

49 **70A-5-103**, as repealed and reenacted by Chapter 241, Laws of Utah 1997

50 **70A-8-101**, as last amended by Chapter 71, Laws of Utah 2005

51 **70A-7a-102**, as enacted by Chapter 42, Laws of Utah 2006

52 **70A-9a-102**, as last amended by Chapter 42, Laws of Utah 2006

53 **70A-9a-102.1**, as last amended by Chapter 42, Laws of Utah 2006

54 **70A-10-104**, as last amended by Chapter 42, Laws of Utah 2006

55 **70C-2-204**, as enacted by Chapter 159, Laws of Utah 1985

56 ENACTS:

57 **70A-1a-101**, Utah Code Annotated 1953

58 **70A-1a-102**, Utah Code Annotated 1953

- 59 **70A-1a-103**, Utah Code Annotated 1953
- 60 **70A-1a-104**, Utah Code Annotated 1953
- 61 **70A-1a-105**, Utah Code Annotated 1953
- 62 **70A-1a-106**, Utah Code Annotated 1953
- 63 **70A-1a-107**, Utah Code Annotated 1953
- 64 **70A-1a-108**, Utah Code Annotated 1953
- 65 **70A-1a-201**, Utah Code Annotated 1953
- 66 **70A-1a-202**, Utah Code Annotated 1953
- 67 **70A-1a-203**, Utah Code Annotated 1953
- 68 **70A-1a-204**, Utah Code Annotated 1953
- 69 **70A-1a-205**, Utah Code Annotated 1953
- 70 **70A-1a-206**, Utah Code Annotated 1953
- 71 **70A-1a-301**, Utah Code Annotated 1953
- 72 **70A-1a-302**, Utah Code Annotated 1953
- 73 **70A-1a-303**, Utah Code Annotated 1953
- 74 **70A-1a-304**, Utah Code Annotated 1953
- 75 **70A-1a-305**, Utah Code Annotated 1953
- 76 **70A-1a-306**, Utah Code Annotated 1953
- 77 **70A-1a-307**, Utah Code Annotated 1953
- 78 **70A-1a-308**, Utah Code Annotated 1953
- 79 **70A-1a-309**, Utah Code Annotated 1953
- 80 **70A-1a-310**, Utah Code Annotated 1953
- 81 REPEALS:
- 82 **70A-1-101**, as enacted by Chapter 154, Laws of Utah 1965
- 83 **70A-1-102**, as enacted by Chapter 154, Laws of Utah 1965
- 84 **70A-1-103**, as enacted by Chapter 154, Laws of Utah 1965
- 85 **70A-1-104**, as enacted by Chapter 154, Laws of Utah 1965
- 86 **70A-1-105**, as last amended by Chapter 252, Laws of Utah 2000
- 87 **70A-1-106**, as enacted by Chapter 154, Laws of Utah 1965
- 88 **70A-1-107**, as enacted by Chapter 154, Laws of Utah 1965
- 89 **70A-1-108**, as enacted by Chapter 154, Laws of Utah 1965

- 90 **70A-1-109**, as enacted by Chapter 154, Laws of Utah 1965
- 91 **70A-1-201**, as last amended by Chapter 42, Laws of Utah 2006
- 92 **70A-1-202**, as enacted by Chapter 154, Laws of Utah 1965
- 93 **70A-1-203**, as enacted by Chapter 154, Laws of Utah 1965
- 94 **70A-1-204**, as enacted by Chapter 154, Laws of Utah 1965
- 95 **70A-1-205**, as enacted by Chapter 154, Laws of Utah 1965
- 96 **70A-1-206**, as last amended by Chapter 252, Laws of Utah 2000
- 97 **70A-1-207**, as last amended by Chapter 237, Laws of Utah 1993
- 98 **70A-2-208**, as enacted by Chapter 154, Laws of Utah 1965
- 99 **70A-2a-207**, as enacted by Chapter 197, Laws of Utah 1990

101 *Be it enacted by the Legislature of the state of Utah:*

102 Section 1. Section **11-14-501** is amended to read:

103 **11-14-501. Creation and perfection of government security interests.**

104 (1) As used in this section:

105 (a) "Bonds" means any bond, note, lease, or other obligation of a governmental unit.

106 (b) "Governmental unit" has the meaning assigned in [~~Subsection~~] Section
 107 70A-9a-102[~~(45)~~].

108 (c) "Pledge" means the creation of a security interest of any kind.

109 (d) "Property" means any property or interests in property, other than real property.

110 (e) "Security agreement" means any resolution, ordinance, indenture, document, or
 111 other agreement or instrument under which the revenues, fees, rents, charges, taxes, or other
 112 property are pledged to secure the bonds.

113 (2) This section expressly governs the creation, perfection, priority, and enforcement of
 114 a security interest created by the state or a governmental unit of the state, notwithstanding
 115 anything in Title 70A, Chapter 9a, Uniform Commercial Code - Secured Transactions, to the
 116 contrary.

117 (3) (a) The revenues, fees, rents, charges, taxes, or other property pledged by a
 118 governmental unit for the purpose of securing its bonds are immediately subject to the lien of
 119 the pledge.

120 (b) (i) The lien is a perfected lien upon the effective date of the security agreement.

121 (ii) The physical delivery, filing, or recording of a security agreement or financing
122 statement under the Uniform Commercial Code or otherwise, or any other similar act, is not
123 necessary to perfect the lien.

124 (c) The lien of any pledge is valid, binding, perfected, and enforceable from the time
125 the pledge is made.

126 (d) The lien of the pledge has priority:

127 (i) based on the time of the creation of the pledge unless otherwise provided in the
128 security agreement; and

129 (ii) as against all parties having claims of any kind in tort, contract, or otherwise
130 against the governmental unit, regardless of whether or not the parties have notice of the lien.

131 (e) Each pledge and security agreement made for the benefit or security of any of the
132 bonds shall continue to be effective until:

133 (i) the principal, interest, and premium, if any, on the bonds have been fully paid;

134 (ii) provision for payment has been made; or

135 (iii) the lien created by the security agreement has been released by agreement of the
136 parties in interest or as provided by the security agreement that created the lien.

137 Section 2. Section **15-8-4** is amended to read:

138 **15-8-4. Inapplicability of other laws -- Exempted transactions.**

139 (1) Rental purchase agreements that comply with this chapter are not governed by the
140 laws relating to:

141 (a) a security interest as defined in Subsection [~~70A-1-201(37)~~] 70A-1a-201(2)(ii); or

142 (b) Title 70C, Utah Consumer Credit Code, except that Sections 70C-7-102 through
143 70C-7-104 and 70C-2-205 shall apply to lessors as defined in this chapter to the same extent as
144 they apply to creditors under Title 70C.

145 (2) The chapter does not apply to the following:

146 (a) rental purchase agreements primarily for business, commercial, or agricultural
147 purposes, or those made with governmental agencies or instrumentalities or with organizations;

148 (b) a lease of a safe deposit box;

149 (c) a lease or bailment of personal property which is incidental to the lease of real
150 property and which provides that the consumer has no option to purchase the leased property;

151 or

152 (d) a lease of a motor vehicle, as defined in Section 41-1a-102.

153 Section 3. Section **24-1-3** is amended to read:

154 **24-1-3. Definitions.**

155 As used in this section:

156 (1) "Account" means the Criminal Forfeiture Restricted Account created in Section
157 24-1-18.

158 (2) "Agency" means any agency of municipal, county, or state government, including
159 law enforcement agencies, law enforcement personnel, and multi-jurisdictional task forces.

160 (3) "Claimant" means:

161 (a) any owner of property as defined in this section;

162 (b) any interest holder as defined in this section; and

163 (c) any other person or entity who asserts a claim to any property seized for forfeiture
164 under this section.

165 (4) "Complaint" means a civil complaint seeking the forfeiture of any real or personal
166 property pursuant to this chapter.

167 (5) "Constructive seizure" means a seizure of property where the property is left in the
168 control of the owner and the seizing agency posts the property with notice of seizure by that
169 agency for forfeiture.

170 (6) "Contraband" means any property, item, or substance which is unlawful to produce
171 or to possess under state or federal law.

172 (7) (a) "Innocent owner" means an owner or interest holder who held an ownership
173 interest in property at the time the conduct subjecting the property to seizure occurred, and:

174 (i) did not have actual knowledge of the conduct subjecting the property to seizure; or

175 (ii) upon learning of the conduct subjecting the property to seizure, took reasonable
176 steps to prohibit the illegal use of the property.

177 (b) "Innocent owner" means an owner or interest holder who acquired an ownership
178 interest in the property and who had no knowledge that the illegal conduct subjecting the
179 property to seizure had occurred or that the property had been seized for forfeiture, and:

180 (i) acquired the property in a bona fide transaction for value;

181 (ii) was a person, including a minor child, who acquired an interest in the property
182 through probate or inheritance; or

183 (iii) was a spouse who acquired an interest in property through dissolution of marriage
184 or by operation of law.

185 (8) (a) "Interest holder" means a secured party as defined in [~~Subsection~~] Section
186 70A-9a-102[~~(72)~~], a mortgagee, lien creditor, or the beneficiary of a security interest or
187 encumbrance pertaining to an interest in property, whose interest would be perfected against a
188 good faith purchaser for value.

189 (b) "Interest holder" does not mean a person who holds property for the benefit of or as
190 an agent or nominee for another person, or who is not in substantial compliance with any
191 statute requiring an interest in property to be recorded or reflected in public records in order to
192 perfect the interest against a good faith purchaser for value.

193 (9) "Legal costs" means the costs and expenses incurred by the prosecuting agency, not
194 to exceed 20% of the net value of the forfeited property.

195 (10) "Legislative body" means:

196 (a) (i) the state Legislature, county commission, county council, city commission, city
197 council, or town council that has fiscal oversight and budgetary approval authority over a
198 seizing agency; or

199 (ii) the seizing agency's governing political subdivision; or

200 (b) the lead governmental entity of a multijurisdictional task force, as designated in a
201 memorandum of understanding executed by the agencies participating in the task force.

202 (11) "Multijurisdictional task force" means a law enforcement task force or other
203 agency comprised of persons who are employed by or acting under the authority of different
204 governmental authorities, including federal, state, county or municipal governments, or any
205 combination of these agencies.

206 (12) "Owner" means any person or entity, other than an interest holder as defined in
207 this section, that possesses a bona fide legal or equitable interest in real or personal property.

208 (13) "Program" means the Crime Reduction Assistance Program created in Section
209 24-1-19.

210 (14) "Property" means all property, whether real or personal, tangible or intangible.

211 (15) "Prosecuting attorney" means:

212 (a) the state attorney general and any assistant attorney general;

213 (b) any district attorney or deputy district attorney; [~~and~~]

214 (c) any county attorney or assistant county attorney; and
215 (d) any other attorney authorized to commence an action on behalf of the state under
216 this chapter or other provisions of state law.

217 (16) "Seize for forfeiture" means seizure of property:

218 (a) by a law enforcement officer or law enforcement agency, including a constructive
219 seizure; and

220 (b) accompanied by an assertion by the officer or agency or by a prosecuting attorney
221 that the property is seized for forfeiture in accordance with this chapter.

222 Section 4. Section **32A-11a-102** is amended to read:

223 **32A-11a-102. Definitions.**

224 As used in this chapter:

225 (1) "Affected party" means a supplier or wholesaler who is a party to a distributorship
226 agreement that a terminating party seeks to terminate or not renew.

227 (2) (a) "Distributorship agreement" means any written contract, agreement, or
228 arrangement between a supplier and a wholesaler pursuant to which the wholesaler has the
229 right to purchase, resell, and distribute in a designated geographical area any brand of beer
230 manufactured, imported, or distributed by the supplier.

231 (b) A separate agreement between a supplier and a wholesaler that relates to the
232 relationship between the supplier and the wholesaler or the duties of either of them under a
233 distributorship agreement is considered to be part of the distributorship agreement for purposes
234 of this chapter.

235 (c) A distributorship agreement may be for a definite or indefinite period.

236 (3) "Good cause" means the material failure by a supplier or a wholesaler to comply
237 with an essential, reasonable, and lawful requirement imposed by a distributorship agreement if
238 the failure occurs after the supplier or wholesaler acting in good faith provides notice of
239 deficiency and an opportunity to correct in accordance with Sections 32A-11a-103 and
240 32A-11a-104.

241 (4) "Good faith" is as defined in [~~Section 70A-2-103~~] Subsection 70A-1a-201(2)(t).

242 (5) "Retailer" means a person subject to license under Chapter 10, Beer Retailer
243 Licenses.

244 (6) "Sales territory" means the geographic area of distribution and sale responsibility

245 designated by a distributorship agreement.

246 (7) "Supplier," notwithstanding Section 32A-1-105, means a brewer or other person
247 who sells beer to a wholesaler for resale in this state.

248 (8) "Terminating party" means a supplier or wholesaler who:

249 (a) is a party to a distributorship agreement; and

250 (b) seeks to terminate or not renew the distributorship agreement.

251 Section 5. Section **41-1a-601** is amended to read:

252 **41-1a-601. Lien validity -- Security interest.**

253 (1) Except as provided under Subsection (2), a lien upon a vehicle, vessel, or outboard
254 motor, except a lien dependent upon possession, is not valid against the creditors of an owner
255 acquiring a lien by levy or attachment, or subsequent purchasers, or encumbrancers without
256 notice until Sections 41-1a-602 through 41-1a-606 have been complied with.

257 (2) Security interests in inventory consisting in part of vehicles subject to registration
258 under this chapter, that are held for sale by a person in the business of selling goods of that
259 kind, shall be perfected under Section 70A-9a-310, except that buyers in the ordinary course of
260 business, as defined in Section ~~[70A-1-201]~~ 70A-1a-201, take free of the security interests as
261 provided in Section 70A-9a-320.

262 Section 6. Section **46-4-103** is amended to read:

263 **46-4-103. Scope.**

264 (1) Except as otherwise provided in Subsection (2), this chapter applies to electronic
265 records and electronic signatures relating to a transaction.

266 (2) This chapter does not apply to:

267 (a) a transaction to the extent it is governed by a law governing the creation and
268 execution of wills, codicils, or testamentary trusts;

269 (b) Title 70A, Uniform Commercial Code, other than:

270 (i) ~~[Sections 70A-1-107 and 70A-1-206]~~ Section 70A-1a-306; and

271 (ii) Title 70A, Chapter 2, and Title 70A, Chapter 2a.

272 (3) This chapter applies to an electronic record or electronic signature otherwise
273 excluded from the application of this chapter under Subsection (2) to the extent it is governed
274 by a law other than those specified in Subsection (2).

275 (4) A transaction subject to this chapter is also subject to other applicable substantive

276 law.

277 (5) Nothing in this chapter requires any county recorder to accept for recording any
278 instrument in electronic form.

279 Section 7. Section ~~46-4-403~~ is amended to read:

280 **46-4-403. Transferable records.**

281 (1) As used in this section, "transferable record" means an electronic record that:

282 (a) would be a note under Title 70A, Chapter 3, Uniform Commercial Code -
283 Negotiable Instruments, or a document under Title 70A, Chapter 7a, Uniform Commercial
284 Code - Documents of Title, if the electronic record were in writing; and

285 (b) the issuer of the electronic record expressly has agreed is a transferable record.

286 (2) A person has control of a transferable record if a system employed for evidencing
287 the transfer of interests in the transferable record reliably establishes that person as the person
288 to which the transferable record was issued or transferred.

289 (3) A system satisfies Subsection (2), and a person is deemed to have control of a
290 transferable record, if the transferable record is created, stored, and assigned in such a manner
291 that:

292 (a) a single authoritative copy of the transferable record exists that is unique,
293 identifiable, and, except as otherwise provided in Subsections (3)(d), (e), and (f), unalterable;

294 (b) the authoritative copy identifies the person asserting control as:

295 (i) the person to which the transferable record was issued; or

296 (ii) if the authoritative copy indicates that the transferable record has been transferred,
297 the person to which the transferable record was most recently transferred;

298 (c) the authoritative copy is communicated to and maintained by the person asserting
299 control or its designated custodian;

300 (d) copies or revisions that add or change an identified assignee of the authoritative
301 copy can be made only with the consent of the person asserting control;

302 (e) each copy of the authoritative copy and any copy of a copy is readily identifiable as
303 a copy that is not the authoritative copy; and

304 (f) any revision of the authoritative copy is readily identifiable as authorized or
305 unauthorized.

306 (4) (a) Except as otherwise agreed, a person having control of a transferable record is

307 the holder, as defined in Subsection [~~70A-1-201(20)~~] 70A-1a-201(2)(u), of the transferable
 308 record and has the same rights and defenses as a holder of an equivalent record or writing
 309 under Title 70A, Uniform Commercial Code, including, if the applicable statutory
 310 requirements under Subsection 70A-3-302(1), Section 70A-7a-501, or Section 70A-9a-308 are
 311 satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable
 312 document of title has been duly negotiated, or a purchaser, respectively.

313 (b) Delivery, possession, and indorsement are not required to obtain or exercise any of
 314 the rights under Subsection (4)(a).

315 (5) Except as otherwise agreed, an obligor under a transferable record has the same
 316 rights and defenses as an equivalent obligor under equivalent records or writings under Title
 317 70A, Uniform Commercial Code.

318 (6) (a) If requested by a person against which enforcement is sought, the person
 319 seeking to enforce the transferable record shall provide reasonable proof that the person is in
 320 control of the transferable record.

321 (b) Proof may include access to the authoritative copy of the transferable record and
 322 related business records sufficient to review the terms of the transferable record and to
 323 establish the identity of the person having control of the transferable record.

324 Section 8. Section **70A-1a-101** is enacted to read:

325 **CHAPTER 1a. UNIFORM COMMERCIAL CODE - GENERAL PROVISIONS**

326 **Part 1. General Provisions**

327 **70A-1a-101. Title.**

328 This chapter is known as the "Uniform Commercial Code - General Provisions."

329 Section 9. Section **70A-1a-102** is enacted to read:

330 **70A-1a-102. Scope of chapter.**

331 This chapter applies to a transaction to the extent that it is governed by another chapter
 332 of this title.

333 Section 10. Section **70A-1a-103** is enacted to read:

334 **70A-1a-103. Construction of this title to promote its purposes and policies --**

335 **Applicability of supplemental principles of law.**

336 (1) This title must be liberally construed and applied to promote its underlying
 337 purposes and policies, which are:

- 338 (a) to simplify, clarify, and modernize the law governing commercial transactions;
- 339 (b) to permit the continued expansion of commercial practices through custom, usage,
- 340 and agreement of the parties; and
- 341 (c) to make uniform the law among the various jurisdictions.

342 (2) Unless displaced by the particular provisions of this title, the principles of law and

343 equity, including the law merchant and the law relative to capacity to contract, principal and

344 agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, and other

345 validating or invalidating cause supplement its provisions.

346 Section 11. Section **70A-1a-104** is enacted to read:

347 **70A-1a-104. Construction against implied repeal.**

348 This title being a general act intended as a unified coverage of its subject matter, no part

349 of this title shall be considered to be impliedly repealed by subsequent legislation if such

350 construction can reasonably be avoided.

351 Section 12. Section **70A-1a-105** is enacted to read:

352 **70A-1a-105. Severability.**

353 If any provision or clause of this title or its application to any person or circumstance is

354 held invalid, the invalidity does not affect other provisions or applications of this title which

355 can be given effect without the invalid provision or application, and to this end the provisions

356 of this title are severable.

357 Section 13. Section **70A-1a-106** is enacted to read:

358 **70A-1a-106. Use of singular and plural-- gender.**

359 In this title, unless the statutory context otherwise requires:

360 (1) words in the singular number include the plural, and those in the plural include the

361 singular; and

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

363 Section 14. Section **70A-1a-107** is enacted to read:

364 **70A-1a-107. Section captions.**

365 Section captions are part of this title.

366 Section 15. Section **70A-1a-108** is enacted to read:

367 **70A-1a-108. Relation to electronic signatures in global and national commerce**

368 **act.**

369 This chapter modifies, limits, and supersedes the federal Electronic Signatures in
370 Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., except that nothing in
371 this chapter modifies, limits, or supersedes Section 7001(c) of that act or authorizes electronic
372 delivery of any of the notices described in Section 7003(b) of that act.

373 Section 16. Section **70A-1a-201** is enacted to read:

374 **Part 2. General Definitions and Principles of Interpretation**

375 **70A-1a-201. General definitions.**

376 (1) Unless the context otherwise requires, words or phrases defined in this section, or
377 in the additional definitions contained in other chapters of this title that apply to particular
378 chapters or parts thereof, have the meanings stated.

379 (2) Subject to definitions contained in other chapters of this title that apply to particular
380 chapters or parts thereof:

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

383 (b) "Aggrieved party" means a party entitled to pursue a remedy.

384 (c) "Agreement," as distinguished from "contract," means the bargain of the parties in
385 fact, as found in their language or inferred from other circumstances, including course of
386 performance, course of dealing, or usage of trade as provided in Section 70A-1a-303.

387 (d) "Bank" means a person engaged in the business of banking and includes a savings
388 bank, savings and loan association, credit union, and trust company.

389 (e) "Bearer" means a person in possession of a negotiable instrument, document of
390 title, or certificated security that is payable to bearer or indorsed in blank.

391 (f) "Bill of lading" means a document evidencing the receipt of goods for shipment
392 issued by a person engaged in the business of transporting or forwarding goods.

393 (g) "Branch" includes a separately incorporated foreign branch of a bank.

394 (h) "Burden of establishing" a fact means the burden of persuading the trier of fact that
395 the existence of the fact is more probable than its nonexistence.

396 (i) "Buyer in ordinary course of business" means a person that buys goods in good
397 faith, without knowledge that the sale violates the rights of another person in the goods, and in
398 the ordinary course from a person, other than a pawnbroker, in the business of selling goods of
399 that kind. A person buys goods in the ordinary course if the sale to the person comports with

400 the usual or customary practices in the kind of business in which the seller is engaged or with
401 the seller's own usual or customary practices. A person that sells oil, gas, or other minerals at
402 the wellhead or minehead is a person in the business of selling goods of that kind. A buyer in
403 ordinary course of business may buy for cash, by exchange of other property, or on secured or
404 unsecured credit, and may acquire goods or documents of title under a preexisting contract for
405 sale. Only a buyer that takes possession of the goods or has a right to recover the goods from
406 the seller under Chapter 2, Uniform Commercial Code - Sales, may be a buyer in ordinary
407 course of business. "Buyer in ordinary course of business" does not include a person that
408 acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a
409 money debt.

410 (j) "Conspicuous," with reference to a term, means so written, displayed, or presented
411 that a reasonable person against which it is to operate ought to have noticed it. Whether a term
412 is conspicuous or not is a decision for the court. Conspicuous terms include the following:

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

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

418 (k) "Consumer" means an individual who enters into a transaction primarily for
419 personal, family, or household purposes.

420 (l) "Contract," as distinguished from "agreement," means the total legal obligation that
421 results from the parties' agreement as determined by this title as supplemented by any other
422 applicable laws.

423 (m) "Creditor" includes a general creditor, a secured creditor, a lien creditor, and any
424 representative of creditors, including an assignee for the benefit of creditors, a trustee in
425 bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor's or
426 assignor's estate.

427 (n) "Defendant" includes a person in the position of defendant in a counterclaim,
428 cross-claim, or third-party claim.

429 (o) "Delivery," with respect to an instrument, document of title, or chattel paper, means
430 voluntary transfer of possession.

431 (p) "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse
432 receipt or order for the delivery of goods, and also any other document which in the regular
433 course of business or financing is treated as adequately evidencing that the person in possession
434 of it is entitled to receive, hold, and dispose of the document and the goods it covers. To be a
435 document of title, a document must purport to be issued by or addressed to a bailee and purport
436 to cover goods in the bailee's possession which are either identified or are fungible portions of
437 an identified mass.

438 (q) "Fault" means a default, breach, or wrongful act or omission.

439 (r) "Fungible goods" means:

440 (i) goods of which any unit, by nature or usage of trade, is the equivalent of any other
441 like unit; or

442 (ii) goods that by agreement are treated as equivalent.

443 (s) "Genuine" means free of forgery or counterfeiting.

444 (t) "Good faith," except as otherwise provided in Chapter 5, Uniform Commercial
445 Code - Letters of Credit, means honesty in fact and the observance of reasonable commercial
446 standards of fair dealing.

447 (u) "Holder" means:

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

450 (ii) the person in possession of a document of title if the goods are deliverable either to
451 bearer or to the order of the person in possession.

452 (v) "Insolvency proceeding" includes an assignment for the benefit of creditors or other
453 proceeding intended to liquidate or rehabilitate the estate of the person involved.

454 (w) "Insolvent" means:

455 (i) having generally ceased to pay debts in the ordinary course of business other than as
456 a result of bona fide dispute;

457 (ii) being unable to pay debts as they become due; or

458 (iii) being insolvent within the meaning of federal bankruptcy law.

459 (x) "Money" means a medium of exchange currently authorized or adopted by a
460 domestic or foreign government. The term includes a monetary unit of account established by
461 an intergovernmental organization or by agreement between two or more countries.

462 (y) "Organization" means a person other than an individual.

463 (z) "Party," as distinguished from "third party," means a person that has engaged in a
464 transaction or made an agreement subject to this title.

465 (aa) "Person" means an individual, corporation, business trust, estate, trust, partnership,
466 limited liability company, association, joint venture, government, governmental subdivision,
467 agency, instrumentality, public corporation, or any other legal or commercial entity.

468 (bb) "Present value" means the amount as of a date certain of one or more sums
469 payable in the future, discounted to the date certain by use of either an interest rate specified by
470 the parties if that rate is not manifestly unreasonable at the time the transaction is entered into
471 or, if an interest rate is not so specified, a commercially reasonable rate that takes into account
472 the facts and circumstances at the time the transaction is entered into.

473 (cc) "Purchase" means taking by sale, lease, discount, negotiation, mortgage, pledge,
474 lien, security interest, issue or reissue, gift, or any other voluntary transaction creating an
475 interest in property.

476 (dd) "Purchaser" means a person that takes by purchase.

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

479 (ff) "Remedy" means any remedial right to which an aggrieved party is entitled with or
480 without resort to a tribunal.

481 (gg) "Representative" means a person empowered to act for another, including an
482 agent, an officer of a corporation or association, and a trustee, executor, or administrator of an
483 estate.

484 (hh) "Right" includes remedy.

485 (ii) "Security interest" means an interest in personal property or fixtures which secures
486 payment or performance of an obligation. "Security interest" includes any interest of a
487 consignor and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in
488 a transaction that is subject to Chapter 9a, Uniform Commercial Code - Secured Transactions.
489 "Security interest" does not include the special property interest of a buyer of goods on
490 identification of those goods to a contract for sale under Section 70A-2-401, but a buyer may
491 also acquire a "security interest" by complying with Chapter 9a, Uniform Commercial Code -
492 Secured Transactions. Except as otherwise provided in Section 70A-2-505, the right of a seller

493 or lessor of goods under Chapter 2, Uniform Commercial Code - Sales, or 2A, Uniform
494 Commercial Code - Leases, to retain or acquire possession of the goods is not a "security
495 interest," but a seller or lessor may also acquire a "security interest" by complying with Chapter
496 9a, Uniform Commercial Code - Secured Transactions. The retention or reservation of title by
497 a seller of goods notwithstanding shipment or delivery to the buyer under Section 70A-2-401 is
498 limited in effect to a reservation of a "security interest." Whether a transaction in the form of a
499 lease creates a "security interest" is determined pursuant to Section 70A-1a-203.

500 (jj) "Send" in connection with a writing, record, or notice means:

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

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

507 (kk) "Signed" includes using any symbol executed or adopted with present intention to
508 adopt or accept a writing.

509 (ll) "State" means a state of the United States, the District of Columbia, Puerto Rico,
510 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction
511 of the United States.

512 (mm) "Surety" includes a guarantor or other secondary obligor.

513 (nn) "Term" means a portion of an agreement that relates to a particular matter.

514 (oo) "Unauthorized signature" means a signature made without actual, implied, or
515 apparent authority. The term includes a forgery.

516 (pp) "Warehouse receipt" means a receipt issued by a person engaged in the business of
517 storing goods for hire.

518 (qq) "Writing" includes printing, typewriting, or any other intentional reduction to
519 tangible form. "Written" has a corresponding meaning.

520 Section 17. Section **70A-1a-202** is enacted to read:

521 **70A-1a-202. Notice -- Knowledge.**

522 (1) Subject to Subsection (6), a person has "notice" of a fact if the person:

523 (a) has actual knowledge of it;

524 (b) has received a notice or notification of it; or
525 (c) from all the facts and circumstances known to the person at the time in question,
526 has reason to know that it exists.

527 (2) "Knowledge" means actual knowledge. "Knows" has a corresponding meaning.

528 (3) "Discover," "learn," or words of similar import refer to knowledge rather than to
529 reason to know.

530 (4) A person "notifies" or "gives" a notice or notification to another person by taking
531 such steps as may be reasonably required to inform the other person in ordinary course,
532 whether or not the other person actually comes to know of it.

533 (5) Subject to Subsection (6), a person "receives" a notice or notification when:

534 (a) it comes to that person's attention; or

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

538 (6) Notice, knowledge, or a notice or notification received by an organization is
539 effective for a particular transaction from the time it is brought to the attention of the individual
540 conducting that transaction and, in any event, from the time it would have been brought to the
541 individual's attention if the organization had exercised due diligence. An organization
542 exercises due diligence if it maintains reasonable routines for communicating significant
543 information to the person conducting the transaction and there is reasonable compliance with
544 the routines. Due diligence does not require an individual acting for the organization to
545 communicate information unless the communication is part of the individual's regular duties or
546 the individual has reason to know of the transaction and that the transaction would be
547 materially affected by the information.

548 Section 18. Section **70A-1a-203** is enacted to read:

549 **70A-1a-203. Lease distinguished from security interest.**

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

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

555 (a) the original term of the lease is equal to or greater than the remaining economic life
556 of the goods;

557 (b) the lessee is bound to renew the lease for the remaining economic life of the goods
558 or is bound to become the owner of the goods;

559 (c) the lessee has an option to renew the lease for the remaining economic life of the
560 goods for no additional consideration or for nominal additional consideration upon compliance
561 with the lease agreement; or

562 (d) the lessee has an option to become the owner of the goods for no additional
563 consideration or for nominal additional consideration upon compliance with the lease
564 agreement.

565 (3) A transaction in the form of a lease does not create a security interest merely
566 because:

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

570 (b) the lessee assumes risk of loss of the goods;

571 (c) the lessee agrees to pay, with respect to the goods, taxes, insurance, filing,
572 recording, or registration fees, or service or maintenance costs;

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

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

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

580 (4) Additional consideration is nominal if it is less than the lessee's reasonably
581 predictable cost of performing under the lease agreement if the option is not exercised.

582 Additional consideration is not nominal if:

583 (a) when the option to renew the lease is granted to the lessee, the rent is stated to be
584 the fair market rent for the use of the goods for the term of the renewal determined at the time
585 the option is to be performed; or

586 (b) when the option to become the owner of the goods is granted to the lessee, the price
587 is stated to be the fair market value of the goods determined at the time the option is to be
588 performed.

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

593 Section 19. Section **70A-1a-204** is enacted to read:

594 **70A-1a-204. Value.**

595 Except as otherwise provided in Chapters 3, Uniform Commercial Code - Negotiable
596 Instruments, 4, Uniform Commercial Code - Bank Deposits and Collections, and 5, Uniform
597 Commercial Code - Letters of Credit, a person gives value for rights if the person acquires
598 them:

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

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

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

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

605 Section 20. Section **70A-1a-205** is enacted to read:

606 **70A-1a-205. Reasonable time -- Seasonableness.**

607 (1) Whether a time for taking an action required by this title is reasonable depends on
608 the nature, purpose, and circumstances of the action.

609 (2) An action is taken seasonably if it is taken at or within the time agreed or, if no time
610 is agreed, at or within a reasonable time.

611 Section 21. Section **70A-1a-206** is enacted to read:

612 **70A-1a-206. Presumptions.**

613 Whenever this title creates a "presumption" with respect to a fact, or provides that a fact
614 is "presumed," the trier of fact must find the existence of the fact unless and until evidence is
615 introduced that supports a finding of its nonexistence.

616 Section 22. Section **70A-1a-301** is enacted to read:

Part 3. Territorial Applicability and General Rules**70A-1a-301. Territorial applicability -- Parties' power to choose applicable law.**

(1) In this section:

(a) "Domestic transaction" means a transaction other than an international transaction.

(b) "International transaction" means a transaction that bears a reasonable relation to a country other than the United States.

(2) This section applies to a transaction to the extent that it is governed by another chapter of this title.

(3) Except as otherwise provided in this section:

(a) an agreement by parties to a domestic transaction that any or all of their rights and obligations are to be determined by the law of this state or of another state is effective, whether or not the transaction bears a relation to the state designated; and

(b) an agreement by parties to an international transaction that any or all of their rights and obligations are to be determined by the law of this state or of another state or country is effective, whether or not the transaction bears a relation to the state or country designated.

(4) In the absence of an agreement effective under Subsection (3), and except as provided in Subsections (5) and (7), the rights and obligations of the parties are determined by the law that would be selected by application of this state's conflict of laws principles.

(5) If one of the parties to a transaction is a consumer, the following rules apply:

(a) An agreement referred to in Subsection (3) is not effective unless the transaction bears a reasonable relation to the state or country designated.

(b) Application of the law of the state or country determined pursuant to Subsection (3) or (4) may not deprive the consumer of the protection of any rule of law governing a matter within the scope of this section, which both is protective of consumers and may not be varied by agreement:

(i) of the state or country in which the consumer principally resides, unless Subsection (5)(b)(ii) applies; or

(ii) if the transaction is a sale of goods, of the state or country in which the consumer both makes the contract and takes delivery of those goods, if such state or country is not the state or country in which the consumer principally resides.

(6) An agreement otherwise effective under Subsection (3) is not effective to the extent

648 that application of the law of the state or country designated would be contrary to a
649 fundamental policy of the state or country whose law would govern in the absence of
650 agreement under Subsection (4).

651 (7) To the extent that this title governs a transaction, if one of the following provisions
652 of this title specifies the applicable law, that provision governs and a contrary agreement is
653 effective only to the extent permitted by the law so specified:

654 (a) Section 70A-2-402;

655 (b) Sections 70A-2a-105 and 70A-2-106;

656 (c) Section 70A-4-102;

657 (d) Section 70A-4a-507;

658 (e) Section 70A-5-116;

659 (f) Section 70A-8-110; and

660 (g) Sections 70A-9a-301 through 70A-9a-307.

661 Section 23. Section **70A-1a-302** is enacted to read:

662 **70A-1a-302. Variation by agreement.**

663 (1) Except as otherwise provided in Subsection (2) or elsewhere in this title, the effect
664 of provisions of this title may be varied by agreement.

665 (2) The obligations of good faith, diligence, reasonableness, and care prescribed by this
666 title may not be disclaimed by agreement. The parties, by agreement, may determine the
667 standards by which the performance of those obligations is to be measured if those standards
668 are not manifestly unreasonable. Whenever this title requires an action to be taken within a
669 reasonable time, a time that is not manifestly unreasonable may be fixed by agreement.

670 (3) The presence in certain provisions of this title of the phrase "unless otherwise
671 agreed," or words of similar import, does not imply that the effect of other provisions may not
672 be varied by agreement under this section.

673 Section 24. Section **70A-1a-303** is enacted to read:

674 **70A-1a-303. Course of performance, course of dealing, and usage of trade.**

675 (1) A "course of performance" is a sequence of conduct between the parties to a
676 particular transaction that exists if:

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

679 (b) the other party, with knowledge of the nature of the performance and opportunity
680 for objection to it, accepts the performance or acquiesces in it without objection.

681 (2) A "course of dealing" is a sequence of conduct concerning previous transactions
682 between the parties to a particular transaction that is fairly to be regarded as establishing a
683 common basis of understanding for interpreting their expressions and other conduct.

684 (3) A "usage of trade" is any practice or method of dealing having such regularity of
685 observance in a place, vocation, or trade as to justify an expectation that it will be observed
686 with respect to the transaction in question. The existence and scope of such a usage must be
687 proved as facts. If it is established that such a usage is embodied in a trade code or similar
688 record, the interpretation of the record is a question of law.

689 (4) A course of performance or course of dealing between the parties or usage of trade
690 in the vocation or trade in which they are engaged or of which they are or should be aware is
691 relevant in ascertaining the meaning of the parties' agreement, may give particular meaning to
692 specific terms of the agreement, and may supplement or qualify the terms of the agreement. A
693 usage of trade applicable in the place in which part of the performance under the agreement is
694 to occur may be so utilized as to that part of the performance.

695 (5) Except as otherwise provided in Subsection (6), the express terms of an agreement
696 and any applicable course of performance, course of dealing, or usage of trade must be
697 construed whenever reasonable as consistent with each other. If such a construction is
698 unreasonable:

699 (a) express terms prevail over course of performance, course of dealing, and usage of
700 trade;

701 (b) course of performance prevails over course of dealing and usage of trade; and

702 (c) course of dealing prevails over usage of trade.

703 (6) Subject to Section 70A-2-209, a course of performance is relevant to show a waiver
704 or modification of any term inconsistent with the course of performance.

705 (7) Evidence of a relevant usage of trade offered by one party is not admissible unless
706 that party has given the other party notice that the court finds sufficient to prevent unfair
707 surprise to the other party.

708 Section 25. Section **70A-1a-304** is enacted to read:

709 **70A-1a-304. Obligation of good faith.**

710 Every contract or duty within this title imposes an obligation of good faith in its
711 performance and enforcement.

712 Section 26. Section **70A-1a-305** is enacted to read:

713 **70A-1a-305. Remedies to be liberally administered.**

714 (1) The remedies provided by this title must be liberally administered to the end that
715 the aggrieved party may be put in as good a position as if the other party had fully performed
716 but neither consequential or special damages nor penal damages may be had except as
717 specifically provided in this title or by other rule of law.

718 (2) Any right or obligation declared by this title is enforceable by action unless the
719 provision declaring it specifies a different and limited effect.

720 Section 27. Section **70A-1a-306** is enacted to read:

721 **70A-1a-306. Waiver or renunciation of claim or right after breach.**

722 A claim or right arising out of an alleged breach may be discharged in whole or in part
723 without consideration by agreement of the aggrieved party in an authenticated record.

724 Section 28. Section **70A-1a-307** is enacted to read:

725 **70A-1a-307. Prima facie evidence by third-party documents.**

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

730 Section 29. Section **70A-1a-308** is enacted to read:

731 **70A-1a-308. Performance or acceptance under reservation of rights.**

732 (1) A party that with explicit reservation of rights performs or promises performance or
733 assents to performance in a manner demanded or offered by the other party does not thereby
734 prejudice the rights reserved. Such words as "without prejudice," "under protest," or the like
735 are sufficient.

736 (2) Subsection (1) does not apply to an accord and satisfaction.

737 Section 30. Section **70A-1a-309** is enacted to read:

738 **70A-1a-309. Option to accelerate at will.**

739 A term providing that one party or that party's successor in interest may accelerate
740 payment or performance or require collateral or additional collateral "at will" or when the party

741 "considers itself insecure," or words of similar import, means that the party has power to do so
 742 only if that party in good faith believes that the prospect of payment or performance is
 743 impaired. The burden of establishing lack of good faith is on the party against which the power
 744 has been exercised.

745 Section 31. Section **70A-1a-310** is enacted to read:

746 **70A-1a-310. Subordinated obligations.**

747 An obligation may be issued as subordinated to performance of another obligation of
 748 the person obligated, or a creditor may subordinate its right to performance of an obligation by
 749 agreement with either the person obligated or another creditor of the person obligated.
 750 Subordination does not create a security interest as against either the common debtor or a
 751 subordinated creditor.

752 Section 32. Section **70A-2-103** is amended to read:

753 **70A-2-103. Definitions and index of definitions.**

754 (1) In this chapter unless the context otherwise requires:

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

756 ~~[(b) "Good faith" in the case of a merchant means honesty in fact and the observance of~~
 757 ~~reasonable commercial standards of fair dealing in the trade.]~~

758 ~~[(e)]~~ (b) "Receipt" of goods means taking physical possession of them.

759 ~~[(d)]~~ (c) "Seller" means a person who sells or contracts to sell goods.

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

762 (a) "Acceptance." Section 70A-2-606.

763 (b) "Banker's credit." Section 70A-2-325.

764 (c) "Between merchants." Section 70A-2-104.

765 (d) "Cancellation." Subsection 70A-2-106(4).

766 (e) "Commercial unit." Section 70A-2-105.

767 (f) "Confirmed credit." Section 70A-2-325.

768 (g) "Conforming to contract." Section 70A-2-106.

769 (h) "Contract for sale." Section 70A-2-106.

770 (i) "Cover." Section 70A-2-712.

771 (j) "Entrusting." Section 70A-2-403.

- 772 (k) "Financing agency." Section 70A-2-104.
- 773 (l) "Future goods." Section 70A-2-105.
- 774 (m) "Goods." Section 70A-2-105.
- 775 (n) "Identification." Section 70A-2-501.
- 776 (o) "Installment contract." Section 70A-2-612.
- 777 (p) "Letter of Credit." Section 70A-2-325.
- 778 (q) "Lot." Section 70A-2-105.
- 779 (r) "Merchant." Section 70A-2-104.
- 780 (s) "Overseas." Section 70A-2-323.
- 781 (t) "Person in position of seller." Section 70A-2-707.
- 782 (u) "Present sale." Section 70A-2-106.
- 783 (v) "Sale." Section 70A-2-106.
- 784 (w) "Sale on approval." Section 70A-2-326.
- 785 (x) "Sale or return." Section 70A-2-326.
- 786 (y) "Termination." Section 70A-2-106.

787 (3) "Control" as provided in Section 70A-7a-106, and the following definitions in other
 788 chapters apply to this chapter:

- 789 (a) "Check." Section 70A-3-104.
- 790 (b) "Consignee." Section 70A-7a-102.
- 791 (c) "Consignor." Section 70A-7a-102.
- 792 (d) "Consumer goods." Section 70A-9a-102.
- 793 (e) "Dishonor." Section 70A-3-502.
- 794 (f) "Draft." Section 70A-3-104.

795 (4) In addition, Chapter [†] 1a, Uniform Commercial Code - General Provisions,
 796 contains general definitions and principles of construction and interpretation applicable
 797 throughout this chapter.

798 Section 33. Section **70A-2-202** is amended to read:

799 **70A-2-202. Final written expression -- Parol or extrinsic evidence.**

800 Terms with respect to which the confirmatory memoranda of the parties agree or which
 801 are otherwise set forth in a writing intended by the parties as a final expression of their
 802 agreement with respect to such terms as are included therein may not be contradicted by

803 evidence of any prior agreement or of a contemporaneous oral agreement but may be explained
804 or supplemented;

805 ~~[(a)]~~ (1) by course of performance, course of dealing, or usage of trade (Section
806 ~~[70A-1-205]~~ 70A-1a-303) ~~[or by course of performance (Section 70A-2-208)]~~; and

807 ~~[(b)]~~ (2) by evidence of consistent additional terms unless the court finds the writing to
808 have been intended also as a complete and exclusive statement of the terms of the agreement.

809 Section 34. Section **70A-2a-103** is amended to read:

810 **70A-2a-103. Definitions -- Index of definitions.**

811 (1) In this chapter, unless the context otherwise requires:

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

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

821 (c) "Commercial unit" means a unit of goods which by commercial usage is a single
822 whole for purposes of lease, and the division of which materially impairs its character or value
823 on the market or in use. A commercial unit may be a single article, such as a machine, or a set
824 of articles, such as a suite of furniture or a line of machinery, or a quantity, such as a gross or
825 carload, or any other unit treated in use or in the relevant market as a single whole.

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

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

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

832 (g) "Finance lease" means a lease in which:

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

834 (ii) the lessor acquires the goods or the right to possession and use of the goods in
835 connection with the lease; and

836 (iii) one of the following occurs:

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

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

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

847 (D) if the lease is not a consumer lease, the lessor, before the lessee signs the lease
848 contract, informs the lessee in writing:

849 (I) of the identity of the person supplying the goods to the lessor, unless the lessee has
850 selected that person and directed the lessor to acquire the goods or the right to possession and
851 use of the goods from that person;

852 (II) that the lessee is entitled under this chapter to the promises and warranties,
853 including those of any third party, provided to the lessor by the person supplying the goods in
854 connection with or as part of the contract by which the lessor acquired the goods or the right to
855 possession and use of the goods; and

856 (III) that the lessee may communicate with the person supplying the goods to the lessor
857 and receive an accurate and complete statement of those promises and warranties, including
858 any disclaimers and limitations of them or of remedies.

859 (h) "Goods" means all things that are movable at the time of identification to the lease
860 contract, or are fixtures. The term does not include money, documents, instruments, accounts,
861 chattel paper, general intangibles, or minerals or the like, including oil and gas, before
862 extraction. The term also includes the unborn young of animals.

863 (i) "Installment lease contract" means a lease contract that authorizes or requires the
864 delivery of goods in separate lots to be separately accepted, even though the lease contract

865 contains a clause stating "each delivery is a separate lease" or its equivalent.

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

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

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

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

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

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

881 (o) "Lessee in ordinary course of business" means a person who in good faith and
882 without knowledge that the lease to him is in violation of the ownership rights, security
883 interest, or leasehold interest of a third party in the goods, leases in ordinary course from a
884 person in the business of selling or leasing goods of that kind, but does not include a
885 pawnbroker. "Leasing" may be for cash or by exchange of other property, or on secured or
886 unsecured credit, and includes acquiring goods or documents of title under a preexisting lease
887 contract. "Leasing" does not include a transfer in bulk or as security for or in total or partial
888 satisfaction of a money debt.

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

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

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

895 (s) "Lot" means a parcel or single article that is the subject matter of a separate lease or

896 delivery, whether or not it is sufficient to perform the lease contract.

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

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

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

907 (w) "Sublease" means a lease of goods, the right to possession and use of which was
908 acquired by the lessor as a lessee under an existing lease.

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

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

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

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

916 (a) "Accessions," Section 70A-2a-310[;].

917 (b) "Construction mortgage," Section 70A-2a-309[;].

918 (c) "Encumbrance," Section 70A-2a-309[;].

919 (d) "Fixtures," Section 70A-2a-309[;].

920 (e) "Fixture filing," Section 70A-2a-309[; ~~and~~].

921 (f) "Purchase money lease," Section 70A-2a-309.

922 (3) The following definitions in other chapters apply to this chapter:

923 (a) "Account," Subsection 70A-9a-102(2)[;].

924 (b) "Between merchants," Section 70A-2-104[;].

925 (c) "Buyer," Section 70A-2-103[;].

926 (d) "Chattel paper," Subsection 70A-9a-102(11)[;].

- 927 (e) "Consumer goods," Subsection 70A-9a-102(23)[;].
 928 (f) "Document," Subsection 70A-9a-102(30)[;].
 929 (g) "Entrusting," Section 70A-2-403[;].
 930 (h) "General intangible," Subsection 70A-9a-102(42)[;].
 931 [~~(i)~~] "~~Good faith,~~" ~~Section 70A-2-103;~~
 932 [~~(j)~~] (i) "Instrument," Subsection 70A-9a-102[~~(47);~~](46).
 933 [~~(k)~~] (j) "Merchant," Section 70A-2-104[;].
 934 [~~(l)~~] (k) "Mortgage," Subsection 70A-9a-102[~~(55);~~](54).
 935 [~~(m)~~] (l) "Pursuant to commitment," Subsection 70A-9a-102[~~(68);~~](67).
 936 [~~(n)~~] (m) "Receipt," Section 70A-2-103[;].
 937 [~~(o)~~] (n) "Sale," Section 70A-2-106[;].
 938 [~~(p)~~] (o) "Sale on approval," Section 70A-2-326[;].
 939 [~~(q)~~] (p) "Sale or return," Section 70A-2-326[; and].
 940 [~~(r)~~] (q) "Seller," Section 70A-2-103.

941 (4) In addition, Title 70A, Chapter [~~1~~] 1a, Uniform Commercial Code - General
 942 Provisions, contains general definitions and principles of construction and interpretation
 943 applicable throughout this chapter.

944 Section 35. Section **70A-2a-501** is amended to read:

945 **70A-2a-501. Default -- Procedure.**

946 (1) Whether the lessor or the lessee is in default under a lease contract is determined by
 947 the lease agreement and this chapter.

948 (2) If the lessor or the lessee is in default under the lease contract, the party seeking
 949 enforcement has rights and remedies as provided in this chapter and, except as limited by this
 950 chapter, as provided in the lease agreement.

951 (3) If the lessor or the lessee is in default under the lease contract, the party seeking
 952 enforcement may reduce the party's claim to judgment, or otherwise enforce the lease contract
 953 by self-help or any available judicial procedure or nonjudicial procedure, including
 954 administrative proceeding, arbitration, or the like, in accordance with this chapter.

955 (4) Except as otherwise provided in [~~Section 70A-1-106~~] Subsection 70A-1a-305(1), in
 956 this chapter, or in the lease agreement, the rights and remedies referred to in Subsections (2)
 957 and (3) are cumulative.

958 (5) If the lease agreement covers both real property and goods, the party seeking
959 enforcement may proceed under this section as to the goods, or under other applicable law as to
960 both the real property and the goods in accordance with that person's rights and remedies in
961 respect of the real property, in which case this section does not apply.

962 Section 36. Section **70A-2a-518** is amended to read:

963 **70A-2a-518. Cover -- Substitute goods.**

964 (1) After default by a lessor under the lease contract of the type described in Section
965 70A-2a-508, or if agreed after other default by the lessor, the lessee may cover by making any
966 purchase or lease of or contract to purchase or lease goods in substitution for those due from
967 the lessor.

968 (2) Except as otherwise provided with respect to damages liquidated in the lease
969 agreement as provided in Section 70A-2a-504 or otherwise determined pursuant to agreement
970 of the parties as provided in [~~Subsection 70A-1-102 (3) and Section~~] Sections 70A-1a-302 and
971 70A-2a-503, if a lessee's cover is by lease agreement substantially similar to the original lease
972 agreement and the lease agreement is made in good faith and in a commercially reasonable
973 manner, the lessee may recover from the lessor as damages:

974 (a) the present value, as of the date of the commencement of the term of the new lease
975 agreement, of the rent under the new lease agreement applicable to that period of the new lease
976 term that is comparable to the then remaining term of the original lease agreement, minus the
977 present value as of the same date of the total rent for the then remaining lease term of the
978 original lease agreement; and

979 (b) any incidental or consequential damages less expenses saved in consequence of the
980 lessor's default.

981 (3) If a lessee's cover is by lease agreement that qualifies for treatment under
982 Subsection (2), the lessee may elect to proceed under Subsection (2) or Section 70A-2a-519. If
983 a lessee's cover is by lease agreement that for any reason does not qualify for treatment under
984 Subsection (2), or is by purchase or otherwise, the lessee may recover from the lessor under
985 Section 70A-2a-519 as if the lessee had elected not to cover.

986 Section 37. Section **70A-2a-519** is amended to read:

987 **70A-2a-519. Lessee's damages for nondelivery, repudiation, default, and breach**
988 **of warranty in regard to accepted goods.**

989 (1) Except as otherwise provided with respect to damages liquidated in the lease
990 agreement as provided in Section 70A-2a-504 or otherwise determined pursuant to agreement
991 of the parties as provided in [~~Subsection 70A-1-102 (3) and Section~~] Sections 70A-1a-302 and
992 70A-2a-503, if a lessee elects not to cover or a lessee elects to cover and the cover is by lease
993 agreement whether or not the lease agreement qualifies for treatment under Subsection
994 70A-2a-518(2), or is by purchase or otherwise, the measure of damages for default by the
995 lessor under Section 70A-2a-508 is the present value, as of the date of the default, of the then
996 market rent minus the present value as of the same date of the original rent, computed for the
997 remaining lease term of the original lease agreement together with incidental and consequential
998 damages, less expenses saved in consequence of the lessor's default.

999 (2) Market rent is to be determined as of the place for tender or, in cases of rejection
1000 after arrival or revocation of acceptance, as of the place of arrival.

1001 (3) Except as otherwise agreed, if the lessee has accepted goods and given notification
1002 as provided in Subsection 70A-2a-516(3), the measure of damages for nonconforming tender
1003 or delivery or other default by a lessor is the loss resulting in the ordinary course of events from
1004 the lessor's default as determined in any manner that is reasonable together with incidental and
1005 consequential damages, less expenses saved in consequence of the lessor's default.

1006 (4) Except as otherwise agreed, the measure of damages for breach of warranty is the
1007 present value at the time and place of acceptance of the difference between the value of the use
1008 of the goods accepted and the value if they had been as warranted for the lease term, unless
1009 special circumstances show proximate damages of a different amount, together with incidental
1010 and consequential damages, less expenses saved in consequence of the lessor's default or
1011 breach of warranty.

1012 Section 38. Section **70A-2a-527** is amended to read:

1013 **70A-2a-527. Lessor's rights to dispose of goods.**

1014 (1) After a default by a lessee under the lease contract of the type described in Section
1015 70A-2a-523 or after the lessor refuses to deliver or takes possession of goods as provided in
1016 Section 70A-2a-525 or 70A-2a-526, or if agreed, after other default by a lessee, the lessor may
1017 dispose of the goods concerned or the undelivered balance thereof by lease, sale, or otherwise.

1018 (2) Except as otherwise provided with respect to damages liquidated in the lease
1019 agreement as provided in Section 70A-2a-504 or otherwise determined pursuant to agreement

1020 of the parties as provided in [~~Subsection 70A-1-102 (3) and Section~~] Sections 70A-1a-302 and
1021 70A-2a-503, if the disposition is by lease agreement substantially similar to the original lease
1022 agreement and the lease agreement is made in good faith and in a commercially reasonable
1023 manner, the lessor may recover from the lessee as damages:

1024 (a) accrued and unpaid rent as of the date of the commencement of the term of the new
1025 lease agreement;

1026 (b) the present value, as of the date of the commencement of the term of the new lease
1027 agreement, of the difference between the total rent for the then remaining lease term of the
1028 original lease agreement minus the present value, as of the same date, of the rent under the new
1029 lease agreement applicable to that period of the new lease term which is comparable to the then
1030 remaining term of the original lease agreement; and

1031 (c) any incidental damages allowed under Section 70A-2a-530, less expenses saved in
1032 consequence of the lessee's default.

1033 (3) If the lessor's disposition is by lease agreement that qualifies for treatment under
1034 Subsection (2), the lessor may elect to proceed under Subsection (2) or Section 70A-2a-528. If
1035 the lessor's disposition is by lease agreement that for any reason does not qualify for treatment
1036 under Subsection (2), or is by sale or otherwise, the lessor may recover from the lessee under
1037 Section 70A-2a-528 as if the lessor had elected not to dispose of the goods.

1038 (4) A subsequent buyer or lessee who buys or leases from the lessor in good faith for
1039 value as a result of a disposition under this section takes the goods free of the original lease
1040 contract and any rights of the original lessee even though the lessor fails to comply with one or
1041 more of the requirements of this chapter.

1042 (5) The lessor is not accountable to the lessee for any profit made on any disposition.
1043 A lessee who has rightfully rejected or justifiably revoked acceptance shall account to the
1044 lessor for any excess over the amount of the lessee's security interest as provided in Subsection
1045 70A-2a-508(5).

1046 Section 39. Section **70A-2a-528** is amended to read:

1047 **70A-2a-528. Lessor's damages for nonacceptance, failure to pay, repudiation, or**
1048 **other default.**

1049 (1) Except as otherwise provided with respect to damages liquidated in the lease
1050 agreement as provided in Section 70A-2a-504 or otherwise determined pursuant to agreement

1051 of the parties as provided in [~~Subsection 70A-1-102 (3) and Section~~] Sections 70A-1a-302 and
 1052 70A-2a-503, if a lessor elects to retain the goods or a lessor elects to dispose of the goods and
 1053 the disposition is by lease agreement whether or not the lease agreement qualifies for treatment
 1054 under Subsection 70A-2a-527(2), or is by sale or otherwise, the lessor may recover from the
 1055 lessee as damages for a default of the type described in Section 70A-2a-523 or, if agreed, for
 1056 any other default of the lessee:

1057 (a) accrued and unpaid rent as of the date of default if the lessee has never taken
 1058 possession of the goods, or, if the lessee has taken possession of the goods, as of the date on
 1059 which the lessee makes a tender of the goods to the lessor;

1060 (b) the present value as of the date determined under Subsection (1)(a) of default of the
 1061 total rent for the then remaining lease term of the original lease agreement and minus the
 1062 present value as of the same date of the market rent at the place where the goods are located
 1063 computed for the same lease term; and

1064 (c) any incidental damages allowed under Section 70A-2a-530, less expenses saved in
 1065 consequence of the lessee's default.

1066 (2) If the measure of damages provided in Subsection (1) is inadequate to put a lessor
 1067 in as good a position as performance would have, the measure of damages is the present value
 1068 of the profit, including reasonable overhead, the lessor would have made from full performance
 1069 by the lessee, together with any incidental damages allowed under Section 70A-2a-530, due
 1070 allowance for costs reasonably incurred and due credit for payments or proceeds of disposition.

1071 Section 40. Section **70A-3-103** is amended to read:

1072 **70A-3-103. Definitions.**

1073 (1) In this chapter:

1074 (a) "Acceptor" means a drawee who has accepted a draft.

1075 (b) "Drawee" means a person ordered in a draft to make payment.

1076 (c) "Drawer" means a person who signs or is identified in a draft as a person ordering
 1077 payment.

1078 [~~(d) "Good faith" means honesty in fact in the conduct or transaction concerned.~~]

1079 [~~(e)~~] (d) "Maker" means a person who signs or is identified in a note as a person
 1080 undertaking to pay.

1081 [~~(f)~~] (e) "Order" means a written instruction to pay money signed by the person giving

1082 the instruction. The instruction may be addressed to any person, including the person giving
1083 the instruction, or to one or more persons jointly or in the alternative, but not in succession. An
1084 authorization to pay is not an order unless the person authorized to pay is also instructed to pay.

1085 ~~[(g)]~~ (f) "Ordinary care" in the case of a person engaged in business means observance
1086 of reasonable commercial standards, prevailing in the area in which the person is located, with
1087 respect to the business in which the person is engaged. In the case of a bank that takes an
1088 instrument for processing for collection or payment by automated means, reasonable
1089 commercial standards do not require the bank to examine the instrument if the failure to
1090 examine does not violate the bank's prescribed procedures and the bank's procedures do not
1091 vary unreasonably from general banking usage not disapproved by this chapter or Title 70A,
1092 Chapter 4, Uniform Commercial Code -[=] Bank Deposits and Collections.

1093 ~~[(h)]~~ (g) "Party" means a party to an instrument.

1094 ~~[(i)]~~ (h) "Promise" means a written undertaking to pay money signed by the person
1095 undertaking to pay. An acknowledgment of an obligation by the obligor is not a promise
1096 unless the obligor also undertakes to pay the obligation.

1097 ~~[(j)]~~ (i) "Prove" with respect to a fact means to meet the burden of establishing the fact
1098 as defined in Subsection ~~[70A-1-201(8)]~~ 70A-1a-201(2)(h).

1099 ~~[(k)]~~ (j) "Remitter" means a person who purchases an instrument from its issuer if the
1100 instrument is payable to an identified person other than the purchaser.

1101 (2) Other definitions applying to this chapter and the sections in which they appear are:

1102 (a) "Acceptance," Section 70A-3-409[;].

1103 (b) "Accommodated party," Section 70A-3-419[;].

1104 (c) "Accommodation party," Section 70A-3-419[;].

1105 (d) "Alteration," Section 70A-3-407[;].

1106 (e) "Anomalous indorsement," Section 70A-3-205[;].

1107 (f) "Blank indorsement," Section 70A-3-205[;].

1108 (g) "Cashier's check," Section 70A-3-104[;].

1109 (h) "Certificate of deposit," Section 70A-3-104[;].

1110 (i) "Certified check," Section 70A-3-409[;].

1111 (j) "Check," Section 70A-3-104[;].

1112 (k) "Consideration," Section 70A-3-303[;].

- 1113 (l) "Demand draft," Section 70A-3-104[?].
- 1114 (m) "Draft," Section 70A-3-104[?].
- 1115 (n) "Holder in due course," Section 70A-3-302[?].
- 1116 (o) "Incomplete instrument," Section 70A-3-115[?].
- 1117 (p) "Indorsement," Section 70A-3-204[?].
- 1118 (q) "Indorser," Section 70A-3-204[?].
- 1119 (r) "Instrument," Section 70A-3-104[?].
- 1120 (s) "Issue," Section 70A-3-105[?].
- 1121 (t) "Issuer," Section 70A-3-105[?].
- 1122 (u) "Negotiable instrument," Section 70A-3-104[?].
- 1123 (v) "Negotiation," Section 70A-3-201[?].
- 1124 (w) "Note," Section 70A-3-104[?].
- 1125 (x) "Payable at a definite time," Section 70A-3-108[?].
- 1126 (y) "Payable on demand," Section 70A-3-108[?].
- 1127 (z) "Payable to bearer," Section 70A-3-109[?].
- 1128 (aa) "Payable to order," Section 70A-3-109[?].
- 1129 (bb) "Payment," Section 70A-3-602[?].
- 1130 (cc) "Person entitled to enforce," Section 70A-3-301[?].
- 1131 (dd) "Presentment," Section 70A-3-501[?].
- 1132 (ee) "Reacquisition," Section 70A-3-207[?].
- 1133 (ff) "Special indorsement," Section 70A-3-205[?].
- 1134 (gg) "Teller's check," Section 70A-3-104[?].
- 1135 (hh) "Transfer of instrument," Section 70A-3-203[?].
- 1136 (ii) "Traveler's check," Section 70A-3-104[?].
- 1137 (jj) "Value," Section 70A-3-303.
- 1138 (3) The following definitions in other chapters apply to this chapter:
- 1139 (a) "Bank," Section 70A-4-105[?].
- 1140 (b) "Banking day," Section 70A-4-104[?].
- 1141 (c) "Clearinghouse," Section 70A-4-104[?].
- 1142 (d) "Collecting bank," Section 70A-4-105[?].
- 1143 (e) "Depositary bank," Section 70A-4-105[?].

- 1144 (f) "Documentary draft," Section 70A-4-104[;].
- 1145 (g) "Intermediary bank," Section 70A-4-105[;].
- 1146 (h) "Item," Section 70A-4-104[;].
- 1147 (i) "Payor bank," Section 70A-4-105[;].
- 1148 (j) "Suspends payments," Section 70A-4-104.
- 1149 (4) In addition, Chapter [†] 1a, Uniform Commercial Code - General Provisions,
- 1150 contains general definitions and principles of construction and interpretation applicable
- 1151 throughout this chapter.
- 1152 Section 41. Section **70A-4-104** is amended to read:
- 1153 **70A-4-104. Definitions and index of definitions.**
- 1154 (1) In this chapter, unless the context otherwise requires:
- 1155 (a) "Account" means any deposit or credit account with a bank including a demand,
- 1156 time, savings, passbook, share draft, or similar account, other than the account evidenced by a
- 1157 certificate of deposit.
- 1158 (b) "Afternoon" means the period of a day between noon and midnight.
- 1159 (c) "Banking day" means the part of a day on which a bank is open to the public for
- 1160 carrying on substantially all of its banking functions other than a Saturday, a Sunday, or a legal
- 1161 holiday.
- 1162 (d) "Clearinghouse" means an association of banks or other payors regularly clearing
- 1163 items.
- 1164 (e) "Customer" means a person having an account with a bank or for whom a bank has
- 1165 agreed to collect items including a bank that maintains an account at another bank.
- 1166 (f) "Documentary draft" means a draft to be presented for acceptance or payment if
- 1167 specified documents, certificated securities as provided in Section 70A-8-101, instructions for
- 1168 uncertificated securities as provided in Section 70A-8-101, other certificates, statements, or the
- 1169 like are to be received by the drawee or other payor before acceptance or payment of the draft.
- 1170 (g) "Draft" means a draft as defined in Section 70A-3-104 or an item, other than an
- 1171 instrument, that is an order.
- 1172 (h) "Drawee" means a person ordered in a draft to make payment.
- 1173 (i) "Item" means an instrument or a promise or order to pay money handled by a bank
- 1174 for collection or payment. The term does not include a payment order governed by [~~Title 70A,~~]

1175 Chapter ~~[4A]~~ 4a, Uniform Commercial Code - Funds Transfers, or a credit or debit card slip.

1176 (j) "Midnight deadline" with respect to a bank is midnight on its next banking day
1177 following the banking day on which it receives the relevant item or notice or from which the
1178 time for taking action commences to run, whichever is later.

1179 (k) "Settle" means to pay in cash, by clearinghouse settlement, in a charge or credit or
1180 by remittance, or otherwise as agreed. A settlement may be either provisional or final.

1181 (l) "Suspends payments" with respect to a bank means that it has been closed by order
1182 of the supervisory authorities, that a public officer has been appointed to take it over or that it
1183 ceases or refuses to make payments in the ordinary course of business.

1184 (2) Other definitions applying to this chapter and the sections in which they appear are:

1185 (a) "Agreement for electronic presentment," Section 70A-4-110[;].

1186 (b) "Bank," Section 70A-4-105[;].

1187 (c) "Collecting bank," Section 70A-4-105[;].

1188 (d) "Depository bank," Section 70A-4-105[;].

1189 (e) "Intermediary bank," Section 70A-4-105[;].

1190 (f) "Payor bank," Section 70A-4-105[;].

1191 (g) "Presenting bank," Section 70A-4-105[; ~~and~~];

1192 (h) "Presentment notice," Section 70A-4-110.

1193 (3) "Control" as provided in Section 70A-7a-106 and the following definitions in other
1194 chapters apply to this chapter:

1195 (a) "Acceptance," Section 70A-3-409[;].

1196 (b) "Alteration," Section 70A-3-407[;].

1197 (c) "Cashier's check," Section 70A-3-104[;].

1198 (d) "Certificate of deposit," Section 70A-3-104[;].

1199 (e) "Certified check," Section 70A-3-409[;].

1200 (f) "Check," Section 70A-3-104[;].

1201 [~~(g)~~] "~~Good faith,~~" Section ~~70A-3-103~~];

1202 [~~(h)~~] (g) "Holder in due course," Section 70A-3-302[;].

1203 [~~(i)~~] (h) "Instrument," Section 70A-3-104[;].

1204 [~~(j)~~] (i) "Notice of dishonor," Section 70A-3-503[;].

1205 [~~(k)~~] (j) "Order," Section 70A-3-103[;].

- 1206 ~~[(t)]~~ (k) "Ordinary care," Section 70A-3-103[;].
- 1207 ~~[(m)]~~ (l) "Person entitled to enforce," Section 70A-3-301[;].
- 1208 ~~[(n)]~~ (m) "Presentment," Section 70A-3-501[;].
- 1209 ~~[(o)]~~ (n) "Promise," Section 70A-3-103[;].
- 1210 ~~[(p)]~~ (o) "Prove," Section 70A-3-103[;].
- 1211 ~~[(q)]~~ (p) "Teller's check," Section 70A-3-104[;and].
- 1212 ~~[(r)]~~ (q) "Unauthorized signature," Section 70A-3-403.

1213 (4) In addition, Chapter ~~[t;]~~ 1a, Uniform Commercial Code - General Provisions,
 1214 contains general definitions and principles of construction and interpretation applicable
 1215 throughout this chapter.

1216 Section 42. Section **70A-4a-105** is amended to read:

1217 **70A-4a-105. Other definitions.**

1218 (1) In this chapter:

1219 (a) "Authorized account" means a deposit account of a customer in a bank designated
 1220 by the customer as a source of payment orders issued by the customer to the bank. If a
 1221 customer does not so designate an account, any account of the customer is an authorized
 1222 account if payment of a payment order from that account is not inconsistent with a restriction
 1223 on the use of that account.

1224 (b) "Bank" means a person engaged in the business of banking, and includes a savings
 1225 bank, savings and loan association, credit union, and trust company. A branch or separate
 1226 office of a bank is a separate bank for purposes of this chapter.

1227 (c) "Customer" means a person, including a bank, having an account with a bank or
 1228 from whom a bank has agreed to receive payment orders.

1229 (d) "Funds transfer business day" of a receiving bank means the part of a day during
 1230 which the receiving bank is open for the receipt, processing, and transmittal of payment orders
 1231 and cancellations and amendments of payment orders.

1232 (e) "Funds transfer system" means a wire transfer network, automated clearing house,
 1233 or other communication system of a clearing house or other association of banks through which
 1234 a payment order by a bank may be transmitted to the bank to which the order is addressed.

1235 ~~[(f) "Good faith" means honesty in fact and the observance of reasonable commercial
 1236 standards of fair dealing.]~~

1237 [~~(g)~~] (f) "Prove" with respect to a fact means to meet the burden of establishing the fact
 1238 under Subsection [~~70A-1-201(8)~~] 70A-1a-201(2)(h).

1239 (2) Other definitions applying to this chapter and the sections in which they appear are:

1240 (a) "Acceptance," Section 70A-4a-209[;].

1241 (b) "Beneficiary," Section 70A-4a-103[;].

1242 (c) "Beneficiary's bank," Section 70A-4a-103[;].

1243 (d) "Executed," Section 70A-4a-301[;].

1244 (e) "Execution date," Section 70A-4a-301[;].

1245 (f) "Funds transfer system rule," Section 70A-4a-501[;].

1246 (g) "Funds transfer," Section 70A-4a-104[;].

1247 (h) "Intermediary bank," Section 70A-4a-104[;].

1248 (i) "Originator," Section 70A-4a-104[;].

1249 (j) "Originator's bank," Section 70A-4a-104[;].

1250 (k) "Payment by beneficiary's bank to beneficiary," Section 70A-4a-405[;].

1251 (l) "Payment by originator to beneficiary," Section 70A-4a-406[;].

1252 (m) "Payment by sender, to receiving bank," Section 70A-4a-403[;].

1253 (n) "Payment date," Section 70A-4a-401[;].

1254 (o) "Payment order," Section 70A-4a-103[;].

1255 (p) "Receiving bank," Section 70A-4a-103[;].

1256 (q) "Security procedure," Section 70A-4a-201[; ~~and~~].

1257 (r) "Sender," Section 70A-4a-103.

1258 (3) The following definitions in Chapter 4, Uniform Commercial Code - Bank

1259 Deposits and Collections, apply to this chapter:

1260 (a) "Clearinghouse," Section 70A-4-104[;].

1261 (b) "Item," Section 70A-4-104[; ~~and~~].

1262 (c) "Suspends payments," Section 70A-4-104.

1263 (4) In addition, [~~Title 70A;~~] Chapter [~~7~~] 1a, Uniform Commercial Code [=]- General

1264 Provisions, contains general definitions and principles of construction and interpretation

1265 applicable throughout this chapter.

1266 Section 43. Section **70A-4a-106** is amended to read:

1267 **70A-4a-106. Time payment order is received.**

1268 (1) The time of receipt of a payment order or communication canceling or amending a
1269 payment order is determined by the rules applicable to receipt of a notice stated in [~~Subsection~~
1270 ~~70A-1-201 (27)~~] Section 70A-1a-202. A receiving bank may fix a cutoff time or times on a
1271 funds transfer business day, as a cutoff time for the receipt and processing of payment orders
1272 and communications canceling or amending payment orders. Different cutoff times may apply
1273 to receipt of payment orders, cancellations, or amendments, or to different categories of
1274 payment orders, cancellations, or amendments. A cutoff time may apply to senders generally
1275 or different cutoff times may apply to different senders or categories of payment orders. If a
1276 payment order or communication canceling or amending a payment order is received after the
1277 close of a funds transfer business day or after the appropriate cutoff time on a funds transfer
1278 business day, the receiving bank may treat the payment order or communication as received at
1279 the opening of the next funds transfer business day.

1280 (2) If this chapter refers to an execution date or payment date or states a day on which a
1281 receiving bank is required to take any action, and the date or day does not fall on a funds
1282 transfer business day, the next day that is a funds transfer business day is treated as the date or
1283 day stated, unless the contrary is stated in this chapter.

1284 Section 44. Section **70A-4a-204** is amended to read:

1285 **70A-4a-204. Refund of payment and duty of customer to report with respect to**
1286 **unauthorized payment order.**

1287 (1) (a) If a receiving bank accepts a payment order issued in the name of its customer
1288 as sender which is not authorized and not effective as the order of the customer under Section
1289 70A-4a-202, or not enforceable, in whole or in part, against the customer under Section
1290 70A-4a-203, the bank shall refund any payment of the payment order received from the
1291 customer to the extent the bank is not entitled to enforce payment, and shall pay interest on the
1292 refundable amount calculated from the date the bank received payment to the date of the
1293 refund.

1294 (b) However, the customer is not entitled to interest from the bank on the amount to be
1295 refunded if the customer fails to exercise ordinary care to determine that the order was not
1296 authorized by the customer and to notify the bank of the relevant facts within a reasonable time
1297 not exceeding 90 days after the date the customer received notification from the bank that the
1298 order was accepted or that the customer's account was debited with respect to the order.

1299 (c) The bank is not entitled to any recovery from the customer on account of a failure
1300 by the customer to give notification as stated in this section.

1301 (2) Reasonable time under Subsection (1) may be fixed by agreement as stated in
1302 Subsection [~~70A-1-204(1)~~] 70A-1a-302(2), but the obligation of a receiving bank to refund
1303 payment as stated in Subsection (1) may not otherwise be varied by agreement.

1304 Section 45. Section **70A-5-103** is amended to read:

1305 **70A-5-103. Scope.**

1306 (1) This chapter applies to letters of credit and to certain rights and obligations arising
1307 out of transactions involving letters of credit.

1308 (2) The statement of a rule in this chapter does not by itself require, imply, or negate
1309 application of the same or a different rule to a situation not provided for, or to a person not
1310 specified, in this chapter.

1311 (3) With the exception of this Subsection (3), Subsections (1) and (4), Subsections
1312 70A-5-102(9) and (10), 70A-5-106(4), and 70A-5-114(4), and except to the extent prohibited
1313 in [~~Subsections 70A-1-102(3)~~] Section 70A-1a-302 and Subsection 70A-5-117(4), the effect of
1314 this chapter may be varied by agreement or by a provision stated or incorporated by reference
1315 in an undertaking. A term in an agreement or undertaking generally excusing liability or
1316 generally limiting remedies for failure to perform obligations is not sufficient to vary
1317 obligations prescribed by this chapter.

1318 (4) Rights and obligations of an issuer to a beneficiary or a nominated person under a
1319 letter of credit are independent of the existence, performance, or nonperformance of a contract
1320 or arrangement out of which the letter of credit arises or which underlies it, including contracts
1321 or arrangements between the issuer and the applicant and between the applicant and the
1322 beneficiary.

1323 Section 46. Section **70A-7a-102** is amended to read:

1324 **70A-7a-102. Definitions and index of definitions.**

1325 (1) In this chapter, unless the context otherwise requires:

1326 (a) "Bailee" means a person that by a warehouse receipt, bill of lading, or other
1327 document of title acknowledges possession of goods and contracts to deliver them.

1328 (b) "Carrier" means a person that issues a bill of lading.

1329 (c) "Consignee" means a person named in a bill of lading to which or to whose order

1330 the bill promises delivery.

1331 (d) "Consignor" means a person named in a bill of lading as the person from which the
1332 goods have been received for shipment.

1333 (e) "Delivery order" means a record that contains an order to deliver goods directed to a
1334 warehouse, carrier, or other person that in the ordinary course of business issues warehouse
1335 receipts or bills of lading.

1336 (f) "Good faith" means honesty in fact and the observance of reasonable commercial
1337 standards of fair dealing.

1338 (g) "Goods" means all things that are treated as movable for the purposes of a contract
1339 for storage or transportation.

1340 (h) "Issuer" means a bailee that issues a document of title or, in the case of an
1341 unaccepted delivery order, the person that orders the possessor of goods to deliver. The term
1342 includes a person for which an agent or employee purports to act in issuing a document if the
1343 agent or employee has real or apparent authority to issue documents, even if the issuer did not
1344 receive any goods, the goods were misdescribed, or in any other respect the agent or employee
1345 violated the issuer's instructions.

1346 (i) "Person entitled under the document" means the holder, in the case of a negotiable
1347 document of title, or the person to which delivery of the goods is to be made by the terms of, or
1348 pursuant to instructions in a record under, a nonnegotiable document of title.

1349 (j) "Record" means information that is inscribed on a tangible medium or that is stored
1350 in an electronic or other medium and is retrievable in perceivable form.

1351 (k) "Shipper" means a person that enters into a contract of transportation with a carrier.

1352 (l) "Sign" means, with present intent to authenticate or adopt a record:

1353 (i) to execute or adopt a tangible symbol; or

1354 (ii) to attach to or logically associate with the record an electronic sound, symbol, or
1355 process.

1356 (m) "Warehouse" means a person engaged in the business of storing goods for hire.

1357 (2) Definitions in other chapters applying to this chapter and the sections in which they
1358 appear are:

1359 (a) "Contract for sale," Section 70A-2-106.

1360 (b) "Lessee in the ordinary course of business," Section 70A-2a-103.

1361 (c) "Receipt" of goods, Section 70A-2-103.

1362 (3) In addition, Chapter [±,] 1a, Uniform Commercial Code - General Provisions,
1363 contains general definitions and principles of construction and interpretation applicable
1364 throughout this chapter.

1365 Section 47. Section **70A-8-101** is amended to read:

1366 **70A-8-101. Definitions.**

1367 (1) As used in this chapter:

1368 (a) "Adverse claim" means a claim that a claimant has a property interest in a financial
1369 asset and that it is a violation of the rights of the claimant for another person to hold, transfer,
1370 or deal with the financial asset.

1371 (b) "Bearer form," as applied to a certificated security, means a form in which the
1372 security is payable to the bearer of the security certificate according to its terms but not by
1373 reason of an indorsement.

1374 (c) "Broker" means a person defined as a broker or dealer under the federal securities
1375 laws, but without excluding a bank acting in that capacity.

1376 (d) "Certificated security" means a security that is represented by a certificate.

1377 (e) "Clearing corporation" means:

1378 (i) a person that is registered as a "clearing agency" under the federal securities laws;

1379 (ii) a federal reserve bank; or

1380 (iii) any other person that provides clearance or settlement services with respect to
1381 financial assets that would require it to register as a clearing agency under the federal securities
1382 laws but for an exclusion or exemption from the registration requirement, if its activities as a
1383 clearing corporation, including promulgation of rules, are subject to regulation by a federal or
1384 state governmental authority.

1385 (f) "Communicate" means to:

1386 (i) send a signed writing; or

1387 (ii) transmit information by any mechanism agreed upon by the persons transmitting
1388 and receiving the information.

1389 (g) "Entitlement holder" means a person identified in the records of a securities
1390 intermediary as the person having a security entitlement against the securities intermediary. If
1391 a person acquired a security entitlement by virtue of Subsection 70A-8-501(2)(b) or (c), that

1392 person is the entitlement holder.

1393 (h) "Entitlement order" means a notification communicated to a securities intermediary
1394 directing transfer or redemption of a financial asset to which the entitlement holder has a
1395 security entitlement.

1396 (i) (i) "Financial asset," except as otherwise provided in Section 70A-8-102, means:

1397 (A) a security;

1398 (B) an obligation of a person or a share, participation, or other interest in a person or in
1399 property or an enterprise of a person, which is or is of a type, dealt in or traded on financial
1400 markets, or which is recognized in any area in which it is issued or dealt in as a medium for
1401 investment; or

1402 (C) any property that is held by a securities intermediary for another person in a
1403 securities account if that securities intermediary has expressly agreed with the other person that
1404 the property is to be treated as a financial asset under this chapter.

1405 (ii) As context requires, the term means either the interest itself or the means by which
1406 a person's claim to it is evidenced, including a certificated or uncertificated security, a security
1407 certificate, or a security entitlement.

1408 [~~(j)~~] "~~Good faith,~~" for purposes of the obligation of good faith in the performance or
1409 enforcement of contracts or duties within this chapter, means honesty in fact and the
1410 observance of reasonable commercial standards of fair dealing.];

1411 [~~(k)~~] (j) "Indorsement" means a signature that alone or accompanied by other words is
1412 made on a security certificate in registered form or on a separate document for the purpose of
1413 assigning, transferring, or redeeming the security or granting a power to assign, transfer, or
1414 redeem it.

1415 [~~(l)~~] (k) "Instruction" means a notification communicated to the issuer of an
1416 uncertificated security which directs that the transfer of the security be registered or that the
1417 security be redeemed.

1418 [~~(m)~~] (l) "Registered form," as applied to a certificated security, means a form in
1419 which:

1420 (i) the security certificate specifies a person entitled to the security; and

1421 (ii) a transfer of the security may be registered upon books maintained for that purpose
1422 by or on behalf of the issuer, or the security certificate so states.

1423 [~~(n)~~] (m) "Securities intermediary" means:

1424 (i) a clearing corporation; or

1425 (ii) a person, including a bank or broker, that in the ordinary course of its business
1426 maintains securities accounts for others and is acting in that capacity.

1427 [~~(o)~~] (n) "Security," except as otherwise provided in Section 70A-8-102, means an
1428 obligation of an issuer or a share, participation, or other interest in an issuer or in property or an
1429 enterprise of an issuer:

1430 (i) which is represented by a security certificate in bearer or registered form, or the
1431 transfer of which may be registered upon books maintained for that purpose by or on behalf of
1432 the issuer;

1433 (ii) which is one of a class or series or by its terms is divisible into a class or series of
1434 shares, participations, interests, or obligations; and

1435 (iii) which:

1436 (A) is, or is of a type, dealt in or traded on securities exchanges or securities markets;

1437 or

1438 (B) is a medium for investment and by its terms expressly provides that it is a security
1439 governed by this chapter.

1440 [~~(p)~~] (o) "Security certificate" means a certificate representing a security.

1441 [~~(q)~~] (p) "Security entitlement" means the rights and property interest of an entitlement
1442 holder with respect to a financial asset specified in Part 5.

1443 [~~(r)~~] (q) "Uncertificated security" means a security that is not represented by a
1444 certificate.

1445 (2) Other definitions applying to this chapter and the sections in which they appear are:

1446 (a) "Appropriate person," Section 70A-8-106[;].

1447 (b) "Control," Section 70A-8-105[;].

1448 (c) "Delivery," Section 70A-8-301[;].

1449 (d) "Investment company security," Section 70A-8-102[;].

1450 (e) "Issuer," Section 70A-8-201[;].

1451 (f) "Overissue," Section 70A-8-210[;].

1452 (g) "Protected purchaser," Section 70A-8-303[; and].

1453 (h) "Securities account," Section 70A-8-501.

1454 (3) In addition, Chapter [†] 1a, Uniform Commercial Code - General Provisions,
1455 contains general definitions and principles of construction and interpretation applicable
1456 throughout this chapter.

1457 (4) The characterization of a person, business, or transaction for purposes of this
1458 chapter does not determine the characterization of the person, business, or transaction for
1459 purposes of any other law, regulation, or rule.

1460 Section 48. Section **70A-9a-102** is amended to read:

1461 **70A-9a-102. Definitions and index of definitions.**

1462 In this chapter:

1463 (1) "Accession" means goods that are physically united with other goods in such a
1464 manner that the identity of the original goods is not lost.

1465 (2) (a) "Account," except as used in "account for," means a right to payment of a
1466 monetary obligation, whether or not earned by performance:

1467 (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise
1468 disposed of;

1469 (ii) for services rendered or to be rendered;

1470 (iii) for a policy of insurance issued or to be issued;

1471 (iv) for a secondary obligation incurred or to be incurred;

1472 (v) for energy provided or to be provided;

1473 (vi) for the use or hire of a vessel under a charter or other contract;

1474 (vii) arising out of the use of a credit or charge card or information contained on or for
1475 use with the card; or

1476 (viii) as winnings in a lottery or other game of chance operated or sponsored by a state,
1477 governmental unit of a state, or person licensed or authorized to operate the game by a state or
1478 governmental unit of a state.

1479 (b) "Account" includes health-care-insurance receivables.

1480 (c) "Account" does not include:

1481 (i) rights to payment evidenced by chattel paper or an instrument;

1482 (ii) commercial tort claims;

1483 (iii) deposit accounts;

1484 (iv) investment property;

- 1485 (v) letter-of-credit rights or letters of credit; or
- 1486 (vi) rights to payment for money or funds advanced or sold, other than rights arising
- 1487 out of the use of a credit or charge card or information contained on or for use with the card.
- 1488 (3) (a) "Account debtor" means a person obligated on an account, chattel paper, or
- 1489 general intangible.
- 1490 (b) "Account debtor" does not include persons obligated to pay a negotiable
- 1491 instrument, even if the instrument constitutes part of chattel paper.
- 1492 (4) "Accounting," except as used in "accounting for," means a record:
- 1493 (a) authenticated by a secured party;
- 1494 (b) indicating the aggregate unpaid secured obligations as of a date not more than 35
- 1495 days earlier or 35 days later than the date of the record; and
- 1496 (c) identifying the components of the obligations in reasonable detail.
- 1497 (5) "Agricultural lien" means an interest, other than a security interest, in farm
- 1498 products:
- 1499 (a) which secures payment or performance of an obligation for:
- 1500 (i) goods or services furnished in connection with a debtor's farming operation; or
- 1501 (ii) rent on real property leased by a debtor in connection with its farming operation;
- 1502 (b) which is created by statute in favor of a person that:
- 1503 (i) in the ordinary course of its business furnished goods or services to a debtor in
- 1504 connection with a debtor's farming operation; or
- 1505 (ii) leased real property to a debtor in connection with the debtor's farming operation;
- 1506 and
- 1507 (c) whose effectiveness does not depend on the person's possession of the personal
- 1508 property.
- 1509 (6) "As-extracted collateral" means:
- 1510 (a) oil, gas, or other minerals that are subject to a security interest that:
- 1511 (i) is created by a debtor having an interest in the minerals before extraction; and
- 1512 (ii) attaches to the minerals as extracted; or
- 1513 (b) accounts arising out of the sale at the wellhead or minehead of oil, gas, or other
- 1514 minerals in which the debtor had an interest before extraction.
- 1515 (7) "Authenticate" means:

1516 (a) to sign; or
1517 (b) to execute or otherwise adopt a symbol, or encrypt or similarly process a record in
1518 whole or in part, with the present intent of the authenticating person to identify the person and
1519 adopt or accept a record.

1520 (8) (a) "Bank" means an organization that is engaged in the business of banking.

1521 (b) "Bank" includes:

1522 (i) a depository institution as defined in Section 7-1-103; and

1523 (ii) a trust company.

1524 (9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the
1525 like.

1526 (10) "Certificate of title" means a certificate of title with respect to which a statute
1527 provides for the security interest in question to be indicated on the certificate as a condition or
1528 result of the security interest's obtaining priority over the rights of a lien creditor with respect to
1529 the collateral.

1530 (11) (a) "Chattel paper" means a record or records that evidence both a monetary
1531 obligation and a security interest in specific goods, a security interest in specific goods and
1532 software used in the goods, a security interest in specific goods and license of software used in
1533 the goods, a lease of specific goods, or a lease of specific goods and license of software used in
1534 the goods. In this Subsection (11), "monetary obligation" means a monetary obligation secured
1535 by the goods or owed under a lease of the goods and includes a monetary obligation with
1536 respect to software used in the goods.

1537 (b) "Chattel paper" does not include:

1538 (i) charters or other contracts involving the use or hire of a vessel; or

1539 (ii) records that evidence a right to payment arising out of the use of a credit or charge
1540 card or information contained or for use with the card.

1541 (c) If a transaction is evidenced by records that include an instrument or series of
1542 instruments, the group of records taken together constitutes chattel paper.

1543 (12) "Collateral" means the property subject to a security interest or agricultural lien.

1544 "Collateral" includes:

1545 (a) proceeds to which a security interest attaches;

1546 (b) accounts, chattel paper, payment intangibles, and promissory notes that have been

- 1547 sold; and
- 1548 (c) goods that are the subject of a consignment.
- 1549 (13) "Commercial tort claim" means a claim arising in tort with respect to which:
- 1550 (a) the claimant is an organization; or
- 1551 (b) the claimant is an individual and the claim:
- 1552 (i) arose in the course of the claimant's business or profession; and
- 1553 (ii) does not include damages arising out of personal injury to or the death of an
- 1554 individual.
- 1555 (14) "Commodity account" means an account maintained by a commodity intermediary
- 1556 in which a commodity contract is carried for a commodity customer.
- 1557 (15) "Commodity contract" means a commodity futures contract, an option on a
- 1558 commodity futures contract, a commodity option, or another contract if the contract or option
- 1559 is:
- 1560 (a) traded on or subject to the rules of a board of trade that has been designated as a
- 1561 contract market for such a contract pursuant to federal commodities laws; or
- 1562 (b) traded on a foreign commodity board of trade, exchange, or market, and is carried
- 1563 on the books of a commodity intermediary for a commodity customer.
- 1564 (16) "Commodity customer" means a person for which a commodity intermediary
- 1565 carries a commodity contract on its books.
- 1566 (17) "Commodity intermediary" means a person that:
- 1567 (a) is registered as a futures commission merchant under federal commodities law; or
- 1568 (b) in the ordinary course of its business provides clearance or settlement services for a
- 1569 board of trade that has been designated as a contract market pursuant to federal commodities
- 1570 law.
- 1571 (18) "Communicate" means:
- 1572 (a) to send a written or other tangible record;
- 1573 (b) to transmit a record by any means agreed upon by the persons sending and
- 1574 receiving the record; or
- 1575 (c) in the case of transmission of a record to or by a filing office, to transmit a record
- 1576 by any means prescribed by filing-office rule.
- 1577 (19) "Consignee" means a merchant to which goods are delivered in a consignment.

- 1578 (20) "Consignment" means a transaction, regardless of its form, in which a person
1579 delivers goods to a merchant for the purpose of sale and:
- 1580 (a) the merchant:
 - 1581 (i) deals in goods of that kind under a name other than the name of the person making
1582 delivery;
 - 1583 (ii) is not an auctioneer; and
 - 1584 (iii) is not generally known by its creditors to be substantially engaged in selling the
1585 goods of others;
 - 1586 (b) with respect to each delivery, the aggregate value of the goods is \$1,000 or more at
1587 the time of delivery;
 - 1588 (c) the goods are not consumer goods immediately before delivery; and
 - 1589 (d) the transaction does not create a security interest that secures an obligation.
- 1590 (21) "Consignor" means a person that delivers goods to a consignee in a consignment.
- 1591 (22) "Consumer debtor" means a debtor in a consumer transaction.
- 1592 (23) "Consumer goods" means goods that are used or bought for use primarily for
1593 personal, family, or household purposes.
- 1594 (24) "Consumer-goods transaction" means a consumer transaction in which:
- 1595 (a) an individual incurs an obligation primarily for personal, family, or household
1596 purposes; and
 - 1597 (b) a security interest in consumer goods secures the obligation.
- 1598 (25) "Consumer obligor" means an obligor who is an individual and who incurred the
1599 obligation as part of a transaction entered into primarily for personal, family, or household
1600 purposes.
- 1601 (26) (a) "Consumer transaction" means a transaction in which:
- 1602 (i) an individual incurs an obligation primarily for personal, family, or household
1603 purposes;
 - 1604 (ii) a security interest secures the obligation; and
 - 1605 (iii) the collateral is held or acquired primarily for personal, family, or household
1606 purposes.
- 1607 (b) "Consumer transaction" includes consumer-goods transactions.
- 1608 (27) "Continuation statement" means an amendment of a financing statement which:

1609 (a) identifies, by its file number, the initial financing statement to which it relates; and
1610 (b) indicates that it is a continuation statement for, or that it is filed to continue the
1611 effectiveness of, the identified financing statement.

1612 (28) "Debtor" means:

1613 (a) a person having an interest, other than a security interest or other lien, in the
1614 collateral, whether or not the person is an obligor;

1615 (b) a seller of accounts, chattel paper, payment intangibles, or promissory notes; or

1616 (c) a consignee.

1617 (29) (a) "Deposit account" means a demand, time, savings, passbook, or similar
1618 account maintained with a bank.

1619 (b) "Deposit account" does not include investment property or accounts evidenced by
1620 an instrument.

1621 (30) "Document" means a document of title or a receipt of the type described in
1622 Subsection 70A-7a-201(2).

1623 (31) "Electronic chattel paper" means chattel paper evidenced by a record or records
1624 consisting of information stored in an electronic medium.

1625 (32) "Encumbrance" means a right, other than an ownership interest, in real property.
1626 "Encumbrance" includes mortgages and other liens on real property.

1627 (33) "Equipment" means goods other than inventory, farm products, or consumer
1628 goods.

1629 (34) "Farm products" means goods, other than standing timber, with respect to which
1630 the debtor is engaged in a farming operation and which are:

1631 (a) crops grown, growing, or to be grown, including:

1632 (i) crops produced on trees, vines, and bushes; and

1633 (ii) aquatic goods produced in aquacultural operations;

1634 (b) livestock, born or unborn, including aquatic goods produced in aquacultural
1635 operations;

1636 (c) supplies used or produced in a farming operation; or

1637 (d) products of crops or livestock in their unmanufactured states.

1638 (35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or
1639 any other farming, livestock, or aquacultural operation.

1640 (36) "File number" means the number assigned to an initial financing statement
1641 pursuant to Subsection 70A-9a-519(1).

1642 (37) "Filing office" means an office designated in Section 70A-9a-501 as the place to
1643 file a financing statement.

1644 (38) "Filing-office rule" means a rule adopted pursuant to Section 70A-9a-526.

1645 (39) "Financing statement" means a record or records composed of an initial financing
1646 statement and any filed record relating to the initial financing statement.

1647 (40) (a) "Fixture filing" means the filing of a financing statement covering goods that
1648 are or are to become fixtures and satisfying Subsections 70A-9a-502(1) and (2).

1649 (b) "Fixture filing" includes the filing of a financing statement covering goods of a
1650 transmitting utility which are or are to become fixtures.

1651 (41) "Fixtures" means goods that have become so related to particular real property that
1652 an interest in them arises under real property law.

1653 (42) (a) "General intangible" means any personal property, including things in action,
1654 other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods,
1655 instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or
1656 other minerals before extraction.

1657 (b) "General intangible" includes payment intangibles and software.

1658 [~~(43) "Good faith" means honesty in fact and the observance of reasonable commercial~~
1659 ~~standards of fair dealing.~~]

1660 [~~(44)~~ (43) (a) "Goods" means all things that are movable when a security interest
1661 attaches.

1662 (b) "Goods" includes:

1663 (i) fixtures;

1664 (ii) standing timber that is to be cut and removed under a conveyance or contract for
1665 sale;

1666 (iii) the unborn young of animals;

1667 (iv) crops grown, growing, or to be grown, even if the crops are produced on trees,
1668 vines, or bushes; and

1669 (v) manufactured homes.

1670 (c) "Goods" also includes a computer program embedded in goods and any supporting

1671 information provided in connection with a transaction relating to the program if:

1672 (i) the program is associated with the goods in such a manner that it customarily is
1673 considered part of the goods; or

1674 (ii) by becoming the owner of the goods, a person acquires a right to use the program
1675 in connection with the goods.

1676 (d) "Goods" does not include a computer program embedded in goods that consist
1677 solely of the medium in which the program is embedded.

1678 (e) "Goods" also does not include accounts, chattel paper, commercial tort claims,
1679 deposit accounts, documents, general intangibles, instruments, investment property,
1680 letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

1681 ~~[(45)]~~ (44) (a) "Governmental unit" means a subdivision, agency, department, county,
1682 parish, municipality, or other unit of the government of the United States, a state, or a foreign
1683 country.

1684 (b) "Governmental unit" includes an organization having a separate corporate existence
1685 if the organization is eligible to issue debt on which interest is exempt from income taxation
1686 under the laws of the United States.

1687 ~~[(46)]~~ (45) "Health-care-insurance receivable" means an interest in or claim under a
1688 policy of insurance which is a right to payment of a monetary obligation for health-care goods
1689 or services provided.

1690 ~~[(47)]~~ (46) (a) "Instrument" means a negotiable instrument or any other writing that
1691 evidences a right to the payment of a monetary obligation, is not itself a security agreement or
1692 lease, and is of a type that in ordinary course of business is transferred by delivery with any
1693 necessary indorsement or assignment.

1694 (b) "Instrument" does not include:

1695 (i) investment property;

1696 (ii) letters of credit; or

1697 (iii) writings that evidence a right to payment arising out of the use of a credit or charge
1698 card or information contained on or for use with the card.

1699 ~~[(48)]~~ (47) "Inventory" means goods, other than farm products, which:

1700 (a) are leased by a person as lessor;

1701 (b) are held by a person for sale or lease or to be furnished under a contract of service;

1702 (c) are furnished by a person under a contract of service; or

1703 (d) consist of raw materials, work in process, or materials used or consumed in a
1704 business.

1705 [~~(49)~~] (48) "Investment property" means a security, whether certificated or
1706 uncertificated, security entitlement, securities account, commodity contract, or commodity
1707 account.

1708 [~~(50)~~] (49) "Jurisdiction of organization," with respect to a registered organization,
1709 means the jurisdiction under whose law the organization is organized.

1710 [~~(51)~~] (50) (a) "Letter-of-credit right" means a right to payment or performance under a
1711 letter of credit, whether or not the beneficiary has demanded or is at the time entitled to
1712 demand payment or performance.

1713 (b) "Letter-of-credit right" does not include the right of a beneficiary to demand
1714 payment or performance under a letter of credit.

1715 [~~(52)~~] (51) "Lien creditor" means:

1716 (a) a creditor that has acquired a lien on the property involved by attachment, levy, or
1717 the like;

1718 (b) an assignee for benefit of creditors from the time of assignment;

1719 (c) a trustee in bankruptcy from the date of the filing of the petition; or

1720 (d) a receiver in equity from the time of appointment.

1721 [~~(53)~~] (52) (a) "Manufactured home" means a structure, transportable in one or more
1722 sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or
1723 more in length, or, when erected on site, is 320 or more square feet, and which is built on a
1724 permanent chassis and designed to be used as a dwelling with or without a permanent
1725 foundation when connected to the required utilities, and includes the plumbing, heating,
1726 air-conditioning, and electrical systems contained therein.

1727 (b) "Manufactured home" includes any structure that meets all of the requirements of
1728 this Subsection [~~(53)~~] (52) except the size requirements and with respect to which the
1729 manufacturer voluntarily files a certification required by the United States Secretary of Housing
1730 and Urban Development and complies with the standards established under Title 42 of the
1731 United States Code.

1732 [~~(54)~~] (53) "Manufactured-home transaction" means a secured transaction:

1733 (a) that creates a purchase-money security interest in a manufactured home, other than
1734 a manufactured home held as inventory; or

1735 (b) in which a manufactured home, other than a manufactured home held as inventory,
1736 is the primary collateral.

1737 [~~(55)~~] (54) "Mortgage" means a consensual interest in real property, including fixtures,
1738 which secures payment or performance of an obligation.

1739 [~~(56)~~] (55) "New debtor" means a person that becomes bound as debtor under
1740 Subsection 70A-9a-203(4) by a security agreement previously entered into by another person.

1741 [~~(57)~~] (56) (a) "New value" means:

1742 (i) money;

1743 (ii) money's worth in property, services, or new credit; or

1744 (iii) release by a transferee of an interest in property previously transferred to the
1745 transferee.

1746 (b) "New value" does not include an obligation substituted for another obligation.

1747 [~~(58)~~] (57) "Noncash proceeds" means proceeds other than cash proceeds.

1748 [~~(59)~~] (58) (a) "Obligor" means a person that, with respect to an obligation secured by a
1749 security interest in or an agricultural lien on the collateral:

1750 (i) owes payment or other performance of the obligation;

1751 (ii) has provided property other than the collateral to secure payment or other
1752 performance of the obligation; or

1753 (iii) is otherwise accountable in whole or in part for payment or other performance of
1754 the obligation.

1755 (b) "Obligor" does not include issuers or nominated persons under a letter of credit.

1756 [~~(60)~~] (59) "Original debtor," except as used in Subsection 70A-9a-310(3), means a
1757 person that, as debtor, entered into a security agreement to which a new debtor has become
1758 bound under Subsection 70A-9a-203(4).

1759 [~~(61)~~] (60) "Payment intangible" means a general intangible under which the account
1760 debtor's principal obligation is a monetary obligation.

1761 [~~(62)~~] (61) "Person related to," with respect to an individual, means:

1762 (a) the spouse of the individual;

1763 (b) a brother, brother-in-law, sister, or sister-in-law of the individual;

1764 (c) an ancestor or lineal descendant of the individual or the individual's spouse; or
1765 (d) any other relative, by blood or marriage, of the individual or the individual's spouse
1766 who shares the same home with the individual.

1767 [~~63~~] (62) "Person related to," with respect to an organization, means:

1768 (a) a person directly or indirectly controlling, controlled by, or under common control
1769 with the organization;

1770 (b) an officer or director of, or a person performing similar functions with respect to,
1771 the organization;

1772 (c) an officer or director of, or a person performing similar functions with respect to, a
1773 person described in Subsection [~~63~~] (62)(a);

1774 (d) the spouse of an individual described in Subsection [~~63~~] (62)(a), (b), or (c); or

1775 (e) an individual who is related by blood or marriage to an individual described in
1776 Subsection [~~63~~] (62)(a), (b), (c), or (d) and shares the same home with the individual.

1777 [~~64~~] (63) "Proceeds," except as used in Subsection 70A-9a-609(2), means the
1778 following property:

1779 (a) whatever is acquired upon the sale, lease, license, exchange, or other disposition of
1780 collateral;

1781 (b) whatever is collected on, or distributed on account of, collateral;

1782 (c) rights arising out of collateral;

1783 (d) to the extent of the value of collateral, claims arising out of the loss,
1784 nonconformity, or interference with the use of, defects or infringement of rights in, or damage
1785 to, the collateral; or

1786 (e) to the extent of the value of collateral and to the extent payable to the debtor or the
1787 secured party, insurance payable by reason of the loss or nonconformity of, defects or
1788 infringement of rights in, or damage to, the collateral.

1789 [~~65~~] (64) "Promissory note" means an instrument that evidences a promise to pay a
1790 monetary obligation, does not evidence an order to pay, and does not contain an
1791 acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

1792 [~~66~~] (65) "Proposal" means a record authenticated by a secured party which includes
1793 the terms on which the secured party is willing to accept collateral in full or partial satisfaction
1794 of the obligation it secures pursuant to Sections 70A-9a-620, 70A-9a-621, and 70A-9a-622.

1795 [~~(67)~~] (66) "Public-finance transaction" means a secured transaction in connection with
1796 which:

1797 (a) debt securities are issued;

1798 (b) all or a portion of the securities issued have an initial stated maturity of at least 20
1799 years; and

1800 (c) the debtor, obligor, secured party, account debtor or other person obligated on
1801 collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security
1802 interest is a state or a governmental unit of a state.

1803 [~~(68)~~] (67) "Pursuant to commitment," with respect to an advance made or other value
1804 given by a secured party, means pursuant to the secured party's obligation, whether or not a
1805 subsequent event of default or other event not within the secured party's control has relieved or
1806 may relieve the secured party from its obligation.

1807 [~~(69)~~] (68) "Record," except as used in "for record," "of record," "record or legal title,"
1808 and "record owner," means information that is inscribed on a tangible medium or which is
1809 stored in an electronic or other medium and is retrievable in perceivable form.

1810 [~~(70)~~] (69) "Registered organization" means an organization organized solely under the
1811 law of a single state or the United States and as to which the state or the United States must
1812 maintain a public record showing the organization to have been organized.

1813 [~~(71)~~] (70) "Secondary obligor" means an obligor to the extent that:

1814 (a) the obligor's obligation is secondary; or

1815 (b) the obligor has a right of recourse with respect to an obligation secured by collateral
1816 against the debtor, another obligor, or property of either.

1817 [~~(72)~~] (71) "Secured party" means:

1818 (a) a person in whose favor a security interest is created or provided for under a
1819 security agreement, whether or not any obligation to be secured is outstanding;

1820 (b) a person that holds an agricultural lien;

1821 (c) a consignor;

1822 (d) a person to which accounts, chattel paper, payment intangibles, or promissory notes
1823 have been sold;

1824 (e) a trustee, indenture trustee, agent, collateral agent, or other representative in whose
1825 favor a security interest or agricultural lien is created or provided for; or

1826 (f) a person that holds a security interest arising under Section 70A-2-401, 70A-2-505,
1827 70A-4-210, or 70A-5-118 or Subsection 70A-2-711(3) or 70A-2a-508(5).

1828 [~~(73)~~] (72) "Security agreement" means an agreement that creates or provides for a
1829 security interest.

1830 [~~(74)~~] (73) "Send," in connection with a record or notification, means:

1831 (a) to deposit in the mail, deliver for transmission, or transmit by any other usual
1832 means of communication, with postage or cost of transmission provided for, addressed to any
1833 address reasonable under the circumstances; or

1834 (b) to cause the record or notification to be received within the time that it would have
1835 been received if properly sent under Subsection [~~(74)~~] (73)(a).

1836 [~~(75)~~] (74) (a) "Software" means a computer program and any supporting information
1837 provided in connection with a transaction relating to the program.

1838 (b) "Software" does not include a computer program that is included in the definition
1839 of goods.

1840 [~~(76)~~] (75) "State" means a state of the United States, the District of Columbia, Puerto
1841 Rico, the United States Virgin Islands, or any territory or insular possession subject to the
1842 jurisdiction of the United States.

1843 [~~(77)~~] (76) "Supporting obligation" means a letter-of-credit right or secondary
1844 obligation that supports the payment or performance of an account, chattel paper, a document,
1845 a general intangible, an instrument, or investment property.

1846 [~~(78)~~] (77) "Tangible chattel paper" means chattel paper evidenced by a record or
1847 records consisting of information that is inscribed on a tangible medium.

1848 [~~(79)~~] (78) "Termination statement" means an amendment of a financing statement
1849 which:

1850 (a) identifies, by its file number, the initial financing statement to which it relates; and

1851 (b) indicates either that it is a termination statement or that the identified financing
1852 statement is no longer effective.

1853 [~~(80)~~] (79) "Transmitting utility" means a person primarily engaged in the business of:

1854 (a) operating a railroad, subway, street railway, or trolley bus;

1855 (b) transmitting communications electrically, electromagnetically, or by light;

1856 (c) transmitting goods by pipeline or sewer; or

- 1857 (d) transmitting or producing and transmitting electricity, steam, gas, or water.
- 1858 Section 49. Section **70A-9a-102.1** is amended to read:
- 1859 **70A-9a-102.1. Definitions from other chapters.**
- 1860 (1) "Control" as provided in Section 70A-7a-106 and the following definitions in other
- 1861 chapters of this title apply to this chapter:
- 1862 (a) "Applicant" Section 70A-5-102.
- 1863 (b) "Beneficiary" Section 70A-5-102.
- 1864 (c) "Broker" Section 70A-8-101.
- 1865 (d) "Certificated security" Section 70A-8-101.
- 1866 (e) "Check" Section 70A-3-104.
- 1867 (f) "Clearing corporation" Section 70A-8-101.
- 1868 (g) "Contract for sale" Section 70A-2-106.
- 1869 (h) "Customer" Section 70A-4-104.
- 1870 (i) "Entitlement holder" Section 70A-8-101.
- 1871 (j) "Financial asset" Section 70A-8-101.
- 1872 (k) "Holder in due course" Section 70A-3-302.
- 1873 (l) (i) "Issuer" (with respect to a letter of credit or letter-of-credit right) Section
- 1874 70A-5-102.
- 1875 (ii) "Issuer" (with respect to a security) Section 70A-8-201.
- 1876 (iii) "Issuer" (with respect to documents of title) Section 70A-7a-102.
- 1877 (m) "Lease" Section 70A-2a-103.
- 1878 (n) "Lease agreement" Section 70A-2a-103.
- 1879 (o) "Lease contract" Section 70A-2a-103.
- 1880 (p) "Leasehold interest" Section 70A-2a-103.
- 1881 (q) "Lessee" Section 70A-2a-103.
- 1882 (r) "Lessee in ordinary course of business" Section 70A-2a-103.
- 1883 (s) "Lessor" Section 70A-2a-103.
- 1884 (t) "Lessor's residual interest" Section 70A-2a-103.
- 1885 (u) "Letter of credit" Section 70A-5-102.
- 1886 (v) "Merchant" Section 70A-2-104.
- 1887 (w) "Negotiable instrument" Section 70A-3-104.

- 1888 (x) "Nominated person" Section 70A-5-102.
- 1889 (y) "Note" Section 70A-3-104.
- 1890 (z) "Proceeds of a letter of credit" Section 70A-5-114.
- 1891 (aa) "Prove" Section 70A-3-103.
- 1892 (bb) "Sale" Section 70A-2-106.
- 1893 (cc) "Securities account" Section 70A-8-501.
- 1894 (dd) "Securities intermediary" Section 70A-8-101.
- 1895 (ee) "Security" Section 70A-8-101.
- 1896 (ff) "Security certificate" Section 70A-8-101.
- 1897 (gg) "Security entitlement" Section 70A-8-101.
- 1898 (hh) "Uncertificated security" Section 70A-8-101.
- 1899 (2) Chapter [±;] 1a, Uniform Commercial Code - General Provisions, contains general
 1900 definitions and principles of construction and interpretation applicable throughout this chapter.
 1901 Section 50. Section **70A-10-104** is amended to read:
 1902 **70A-10-104. Laws not repealed.**
 1903 Chapter 7a, Uniform Commercial Code - Documents of Title, does not repeal or modify
 1904 any laws prescribing the form or contents of documents of title or the services or facilities to be
 1905 afforded by bailees, or otherwise regulating bailees' businesses in respects not specifically dealt
 1906 with herein; but the fact that such laws are violated does not affect the status of a document of
 1907 title which otherwise complies with the definition of a document of title as defined in Section
 1908 [~~70A-1-201~~] 70A-1a-201.
- 1909 Section 51. Section **70C-2-204** is amended to read:
 1910 **70C-2-204. Certain negotiable instruments prohibited.**
 1911 With respect to a consumer credit sale not involving real property, the seller may not
 1912 take a negotiable instrument under Section 70A-3-104 other than a check as evidence of the
 1913 obligation of the buyer. A holder is not in good faith under Subsection [~~70A-1-201(19)~~]
 1914 70A-1a-201(2)(t) if he takes a negotiable instrument with notice that it is issued in violation of
 1915 this section. A holder in due course under Section 70A-3-302 is not subject to the liabilities set
 1916 forth in the provisions on the effect of violations on rights of parties under Section 70C-7-201.
- 1917 Section 52. **Repealer.**
 1918 This bill repeals:

- 1919 Section 70A-1-101, Short title.
- 1920 Section 70A-1-102, Purposes -- Rules of construction -- Variation by agreement.
- 1921 Section 70A-1-103, Supplementary general principles of law applicable.
- 1922 Section 70A-1-104, Construction against implicit repeal.
- 1923 Section 70A-1-105, Territorial application of title -- Parties' power to choose
- 1924 applicable law.
- 1925 Section 70A-1-106, Remedies to be liberally administered.
- 1926 Section 70A-1-107, Waiver or renunciation of claim or right after breach.
- 1927 Section 70A-1-108, Severability.
- 1928 Section 70A-1-109, Section captions.
- 1929 Section 70A-1-201, General definitions.
- 1930 Section 70A-1-202, Prima facie evidence by third-party documents.
- 1931 Section 70A-1-203, Obligation of good faith.
- 1932 Section 70A-1-204, Time -- Reasonable time -- "Seasonably."
- 1933 Section 70A-1-205, Course of dealing and usage of trade.
- 1934 Section 70A-1-206, Statute of frauds for kinds of personal property not otherwise
- 1935 covered.
- 1936 Section 70A-1-207, Performance or acceptance under reservation of rights.
- 1937 Section 70A-2-208, Course of performance or practical construction.
- 1938 Section 70A-2a-207, Course of performance or practical construction.

Legislative Review Note
as of 11-27-06 1:04 PM

Office of Legislative Research and General Counsel

S.B. 91 - Uniform Commercial Code - General Provisions

Fiscal Note

2007 General Session
State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

1/2/2007, 8:09:51 AM, Lead Analyst: Eckersley, S.

Office of the Legislative Fiscal Analyst