

1 **UNIFORM COMMERCIAL CODE AMENDMENTS**

2 2013 GENERAL SESSION

3 STATE OF UTAH

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

5 House Sponsor: Derek E. Brown

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Uniform Commercial Code to address secured transactions and
10 repeal outdated language.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ modifies definition provisions;
- 14 ▶ addresses control of electronic chattel paper;
- 15 ▶ modifies provision addressing location of debtor;
- 16 ▶ addresses certificate of title;
- 17 ▶ provides for rules that apply when there is a change in governing law;
- 18 ▶ addresses interests that take priority over or take free of security interest or
19 agricultural lien;
- 20 ▶ modifies provisions related to priority of security interests created by new debtor;
- 21 ▶ addresses the application of statute to the sale of a payment intangible or promissory
22 note;
- 23 ▶ addresses contents of financing statements;
- 24 ▶ modifies provisions related to name of debtor and secured party;
- 25 ▶ addresses effect of certain events on effectiveness of financing statement;
- 26 ▶ clarifies filings by a transmitting utility;
- 27 ▶ modifies provisions related to what constitutes a filing and the effectiveness of a
28 filing;
- 29 ▶ addresses claims concerning inaccurate or wrongfully filed records;

- 30 ▶ updates the reference to revisions incorporated into chapter;
- 31 ▶ addresses collection and enforcement by secured party;
- 32 ▶ enacts transition provisions for 2010 amendments;
- 33 ▶ repeals Chapter 11, Corrected Uniform Commercial Code - Effective Date and
- 34 Transition Provisions; and
- 35 ▶ makes technical and conforming changes.

36 Money Appropriated in this Bill:

37 None

38 Other Special Clauses:

39 This bill takes effect on July 1, 2013.

40 This bill provides revisor instructions.

41 Utah Code Sections Affected:

42 AMENDS:

43 **70A-2a-103**, as last amended by Laws of Utah 2007, Chapter 272

44 **70A-9a-102**, as last amended by Laws of Utah 2006, Chapter 42

45 **70A-9a-105**, as enacted by Laws of Utah 2000, Chapter 252

46 **70A-9a-307**, as enacted by Laws of Utah 2000, Chapter 252

47 **70A-9a-311**, as enacted by Laws of Utah 2000, Chapter 252

48 **70A-9a-316**, as enacted by Laws of Utah 2000, Chapter 252

49 **70A-9a-317**, as last amended by Laws of Utah 2006, Chapter 42

50 **70A-9a-326**, as enacted by Laws of Utah 2000, Chapter 252

51 **70A-9a-406**, as enacted by Laws of Utah 2000, Chapter 252

52 **70A-9a-408**, as enacted by Laws of Utah 2000, Chapter 252

53 **70A-9a-502**, as enacted by Laws of Utah 2000, Chapter 252

54 **70A-9a-503**, as enacted by Laws of Utah 2000, Chapter 252

55 **70A-9a-507**, as enacted by Laws of Utah 2000, Chapter 252

56 **70A-9a-515**, as enacted by Laws of Utah 2000, Chapter 252

57 **70A-9a-516**, as enacted by Laws of Utah 2000, Chapter 252

- 58 **70A-9a-518**, as enacted by Laws of Utah 2000, Chapter 252
- 59 **70A-9a-520**, as last amended by Laws of Utah 2002, Chapter 291
- 60 **70A-9a-521**, as enacted by Laws of Utah 2000, Chapter 252
- 61 **70A-9a-607**, as enacted by Laws of Utah 2000, Chapter 252

62 ENACTS:

- 63 **70A-9a-801**, Utah Code Annotated 1953
- 64 **70A-9a-802**, Utah Code Annotated 1953
- 65 **70A-9a-803**, Utah Code Annotated 1953
- 66 **70A-9a-804**, Utah Code Annotated 1953
- 67 **70A-9a-805**, Utah Code Annotated 1953
- 68 **70A-9a-806**, Utah Code Annotated 1953
- 69 **70A-9a-807**, Utah Code Annotated 1953
- 70 **70A-9a-808**, Utah Code Annotated 1953

71 REPEALS:

- 72 **70A-11-101**, as enacted by Laws of Utah 1977, Chapter 272
- 73 **70A-11-102**, as enacted by Laws of Utah 1977, Chapter 272
- 74 **70A-11-103**, as enacted by Laws of Utah 1977, Chapter 272
- 75 **70A-11-104**, as enacted by Laws of Utah 1977, Chapter 272
- 76 **70A-11-105**, as last amended by Laws of Utah 2003, Chapter 131
- 77 **70A-11-106**, as last amended by Laws of Utah 2003, Chapter 131
- 78 **70A-11-107**, as enacted by Laws of Utah 1977, Chapter 272
- 79 **70A-11-108**, as enacted by Laws of Utah 1977, Chapter 272



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

82 Section 1. Section **70A-2a-103** is amended to read:

83 **70A-2a-103. Definitions -- Index of definitions.**

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

85 (a) "Buyer in ordinary course of business" means a person, who in good faith and

86 without knowledge that the sale to him is in violation of the ownership rights or security
87 interest or leasehold interest of a third party in the goods, buys in ordinary course from a person
88 in the business of selling goods of that kind, but does not include a pawnbroker. "Buying" may
89 be for cash or by exchange of other property or on secured or unsecured credit and includes
90 acquiring goods or documents of title under a preexisting contract for sale, but does not include
91 a transfer in bulk, or as security for, or in total or partial satisfaction of a money debt.

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

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

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

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

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

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

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

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

109 (iii) one of the following occurs:

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

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

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

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

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

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

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

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

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

139 (j) "Lease" means a transfer of the right to possession and use of goods for a term, in
140 return for consideration. Unless the context clearly indicates otherwise, the term includes a
141 sublease. But a sale, including a sale on approval or a sale or return, or retention or creation of

142 a security interest is not a lease.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

189 (a) "Accessions," Section 70A-2a-310.

190 (b) "Construction mortgage," Section 70A-2a-309.

191 (c) "Encumbrance," Section 70A-2a-309.

192 (d) "Fixtures," Section 70A-2a-309.

193 (e) "Fixture filing," Section 70A-2a-309.

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

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

196 (a) "Account," Subsection 70A-9a-102(2).

197 (b) "Between merchants," Section 70A-2-104.

- 198 (c) "Buyer," Section 70A-2-103.
- 199 (d) "Chattel paper," Subsection 70A-9a-102(11).
- 200 (e) "Consumer goods," Subsection 70A-9a-102(23).
- 201 (f) "Document," Subsection 70A-9a-102(30).
- 202 (g) "Entrusting," Section 70A-2-403.
- 203 (h) "General intangible," Subsection 70A-9a-102(42).
- 204 (i) "Good faith," Section 70A-2-103[;].
- 205 (j) "Instrument," Subsection 70A-9a-102[~~(46)~~](47).
- 206 (k) "Merchant," Section 70A-2-104.
- 207 (l) "Mortgage," Subsection 70A-9a-102[~~(54)~~](55).
- 208 (m) "Pursuant to commitment," Subsection 70A-9a-102[~~(67)~~](69).
- 209 (n) "Receipt," Section 70A-2-103.
- 210 (o) "Sale," Section 70A-2-106.
- 211 (p) "Sale on approval," Section 70A-2-326.
- 212 (q) "Sale or return," Section 70A-2-326.
- 213 (r) "Seller," Section 70A-2-103.
- 214 (4) In addition, Title 70A, Chapter 1a, Uniform Commercial Code - General
- 215 Provisions, contains general definitions and principles of construction and interpretation
- 216 applicable throughout this chapter.
- 217 Section 2. Section **70A-9a-102** is amended to read:
- 218 **70A-9a-102. Definitions and index of definitions.**
- 219 In this chapter:
- 220 (1) "Accession" means goods that are physically united with other goods in such a
- 221 manner that the identity of the original goods is not lost.
- 222 (2) (a) "Account," except as used in "account for," means a right to payment of a
- 223 monetary obligation, whether or not earned by performance:
- 224 (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise
- 225 disposed of;

- 226 (ii) for services rendered or to be rendered;
- 227 (iii) for a policy of insurance issued or to be issued;
- 228 (iv) for a secondary obligation incurred or to be incurred;
- 229 (v) for energy provided or to be provided;
- 230 (vi) for the use or hire of a vessel under a charter or other contract;
- 231 (vii) arising out of the use of a credit or charge card or information contained on or for
- 232 use with the card; or
- 233 (viii) as winnings in a lottery or other game of chance operated or sponsored by a state,
- 234 governmental unit of a state, or person licensed or authorized to operate the game by a state or
- 235 governmental unit of a state.
- 236 (b) "Account" includes health-care-insurance receivables.
- 237 (c) "Account" does not include:
- 238 (i) rights to payment evidenced by chattel paper or an instrument;
- 239 (ii) commercial tort claims;
- 240 (iii) deposit accounts;
- 241 (iv) investment property;
- 242 (v) letter-of-credit rights or letters of credit; or
- 243 (vi) rights to payment for money or funds advanced or sold, other than rights arising
- 244 out of the use of a credit or charge card or information contained on or for use with the card.
- 245 (3) (a) "Account debtor" means a person obligated on an account, chattel paper, or
- 246 general intangible.
- 247 (b) "Account debtor" does not include persons obligated to pay a negotiable
- 248 instrument, even if the instrument constitutes part of chattel paper.
- 249 (4) "Accounting," except as used in "accounting for," means a record:
- 250 (a) authenticated by a secured party;
- 251 (b) indicating the aggregate unpaid secured obligations as of a date not more than 35
- 252 days earlier or 35 days later than the date of the record; and
- 253 (c) identifying the components of the obligations in reasonable detail.

- 254 (5) "Agricultural lien" means an interest, other than a security interest, in farm
255 products:
- 256 (a) which secures payment or performance of an obligation for:
- 257 (i) goods or services furnished in connection with a debtor's farming operation; or
258 (ii) rent on real property leased by a debtor in connection with its farming operation;
- 259 (b) which is created by statute in favor of a person that:
- 260 (i) in the ordinary course of its business furnished goods or services to a debtor in
261 connection with a debtor's farming operation; or
262 (ii) leased real property to a debtor in connection with the debtor's farming operation;
- 263 and
- 264 (c) whose effectiveness does not depend on the person's possession of the personal
265 property.
- 266 (6) "As-extracted collateral" means:
- 267 (a) oil, gas, or other minerals that are subject to a security interest that:
- 268 (i) is created by a debtor having an interest in the minerals before extraction; and
269 (ii) attaches to the minerals as extracted; or
- 270 (b) accounts arising out of the sale at the wellhead or minehead of oil, gas, or other
271 minerals in which the debtor had an interest before extraction.
- 272 (7) "Authenticate" means:
- 273 (a) to sign; or
274 ~~[(b) to execute or otherwise adopt a symbol, or encrypt or similarly process a record in
275 whole or in part, with the present intent of the authenticating person to identify the person and
276 adopt or accept a record.]~~
- 277 (b) with present intent to adopt or accept a record, to attach to or logically associate
278 with the record an electronic sound, symbol, or process.
- 279 (8) (a) "Bank" means an organization that is engaged in the business of banking.
- 280 (b) "Bank" includes:
- 281 (i) a depository institution as defined in Section 7-1-103; and

282 (ii) a trust company.

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

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

289 (b) "Certificate of title" includes another record maintained as an alternative to a
290 certificate of title by the governmental unit that issues certificates of title if a statute permits the
291 security interest in question to be indicated on the record as a condition or result of the security
292 interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

293 (11) (a) "Chattel paper" means a record or records that evidence both a monetary
294 obligation and a security interest in specific goods, a security interest in specific goods and
295 software used in the goods, a security interest in specific goods and license of software used in
296 the goods, a lease of specific goods, or a lease of specific goods and license of software used in
297 the goods. In this Subsection (11), "monetary obligation" means a monetary obligation secured
298 by the goods or owed under a lease of the goods and includes a monetary obligation with
299 respect to software used in the goods.

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

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

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

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

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

307 "Collateral" includes:

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

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

310 sold; and

311 (c) goods that are the subject of a consignment.

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

313 (a) the claimant is an organization; or

314 (b) the claimant is an individual and the claim:

315 (i) arose in the course of the claimant's business or profession; and

316 (ii) does not include damages arising out of personal injury to or the death of an
317 individual.

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

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

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

325 (b) traded on a foreign commodity board of trade, exchange, or market, and is carried
326 on the books of a commodity intermediary for a commodity customer.

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

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

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

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

334 (18) "Communicate" means:

335 (a) to send a written or other tangible record;

336 (b) to transmit a record by any means agreed upon by the persons sending and
337 receiving the record; or

338 (c) in the case of transmission of a record to or by a filing office, to transmit a record
339 by any means prescribed by filing-office rule.

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

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

343 (a) the merchant:

344 (i) deals in goods of that kind under a name other than the name of the person making
345 delivery;

346 (ii) is not an auctioneer; and

347 (iii) is not generally known by its creditors to be substantially engaged in selling the
348 goods of others;

349 (b) with respect to each delivery, the aggregate value of the goods is \$1,000 or more at
350 the time of delivery;

351 (c) the goods are not consumer goods immediately before delivery; and

352 (d) the transaction does not create a security interest that secures an obligation.

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

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

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

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

358 (a) an individual incurs an obligation primarily for personal, family, or household
359 purposes; and

360 (b) a security interest in consumer goods secures the obligation.

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

364 (26) (a) "Consumer transaction" means a transaction in which:

365 (i) an individual incurs an obligation primarily for personal, family, or household

366 purposes;

367 (ii) a security interest secures the obligation; and

368 (iii) the collateral is held or acquired primarily for personal, family, or household

369 purposes.

370 (b) "Consumer transaction" includes consumer-goods transactions.

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

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

373 (b) indicates that it is a continuation statement for, or that it is filed to continue the

374 effectiveness of, the identified financing statement.

375 (28) "Debtor" means:

376 (a) a person having an interest, other than a security interest or other lien, in the

377 collateral, whether or not the person is an obligor;

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

379 (c) a consignee.

380 (29) (a) "Deposit account" means a demand, time, savings, passbook, or similar

381 account maintained with a bank.

382 (b) "Deposit account" does not include investment property or accounts evidenced by

383 an instrument.

384 (30) "Document" means a document of title or a receipt of the type described in

385 Subsection 70A-7a-201(2).

386 (31) "Electronic chattel paper" means chattel paper evidenced by a record or records

387 consisting of information stored in an electronic medium.

388 (32) "Encumbrance" means a right, other than an ownership interest, in real property.

389 "Encumbrance" includes mortgages and other liens on real property.

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

391 goods.

392 (34) "Farm products" means goods, other than standing timber, with respect to which

393 the debtor is engaged in a farming operation and which are:

- 394 (a) crops grown, growing, or to be grown, including:
395 (i) crops produced on trees, vines, and bushes; and
396 (ii) aquatic goods produced in aquacultural operations;
397 (b) livestock, born or unborn, including aquatic goods produced in aquacultural
398 operations;
399 (c) supplies used or produced in a farming operation; or
400 (d) products of crops or livestock in their unmanufactured states.
401 (35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or
402 any other farming, livestock, or aquacultural operation.
403 (36) "File number" means the number assigned to an initial financing statement
404 pursuant to Subsection 70A-9a-519(1).
405 (37) "Filing office" means an office designated in Section 70A-9a-501 as the place to
406 file a financing statement.
407 (38) "Filing-office rule" means a rule adopted pursuant to Section 70A-9a-526.
408 (39) "Financing statement" means a record or records composed of an initial financing
409 statement and any filed record relating to the initial financing statement.
410 (40) (a) "Fixture filing" means the filing of a financing statement covering goods that
411 are or are to become fixtures and satisfying Subsections 70A-9a-502(1) and (2).
412 (b) "Fixture filing" includes the filing of a financing statement covering goods of a
413 transmitting utility which are or are to become fixtures.
414 (41) "Fixtures" means goods that have become so related to particular real property that
415 an interest in them arises under real property law.
416 (42) (a) "General intangible" means any personal property, including things in action,
417 other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods,
418 instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or
419 other minerals before extraction.
420 (b) "General intangible" includes payment intangibles and software.
421 (43) "Good faith" means honesty in fact and the observance of reasonable commercial

422 standards of fair dealing.

423 (44) (a) "Goods" means all things that are movable when a security interest attaches.

424 (b) "Goods" includes:

425 (i) fixtures;

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

428 (iii) the unborn young of animals;

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

431 (v) manufactured homes.

432 (c) "Goods" also includes a computer program embedded in goods and any supporting
433 information provided in connection with a transaction relating to the program if:

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

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

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

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

443 (45) (a) "Governmental unit" means a subdivision, agency, department, county, parish,
444 municipality, or other unit of the government of the United States, a state, or a foreign country.

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

448 (46) "Health-care-insurance receivable" means an interest in or claim under a policy of
449 insurance which is a right to payment of a monetary obligation for health-care goods or

450 services provided.

451 (47) (a) "Instrument" means a negotiable instrument or any other writing that evidences
452 a right to the payment of a monetary obligation, is not itself a security agreement or lease, and
453 is of a type that in ordinary course of business is transferred by delivery with any necessary
454 indorsement or assignment.

455 (b) "Instrument" does not include:

456 (i) investment property;

457 (ii) letters of credit; or

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

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

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

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

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

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

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

468 (50) "Jurisdiction of organization," with respect to a registered organization, means the
469 jurisdiction under whose law the organization is formed or organized.

470 (51) (a) "Letter-of-credit right" means a right to payment or performance under a letter
471 of credit, whether or not the beneficiary has demanded or is at the time entitled to demand
472 payment or performance.

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

475 (52) "Lien creditor" means:

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

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

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

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

481 (53) (a) "Manufactured home" means a structure, transportable in one or more sections,
482 which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in
483 length, or, when erected on site, is 320 or more square feet, and which is built on a permanent
484 chassis and designed to be used as a dwelling with or without a permanent foundation when
485 connected to the required utilities, and includes the plumbing, heating, air-conditioning, and
486 electrical systems contained therein.

487 (b) "Manufactured home" includes any structure that meets all of the requirements of
488 this Subsection (53) except the size requirements and with respect to which the manufacturer
489 voluntarily files a certification required by the United States Secretary of Housing and Urban
490 Development and complies with the standards established under Title 42 of the United States
491 Code.

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

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

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

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

499 (56) "New debtor" means a person that becomes bound as debtor under Subsection
500 70A-9a-203(4) by a security agreement previously entered into by another person.

501 (57) (a) "New value" means:

502 (i) money;

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

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

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

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

508 (59) (a) "Obligor" means a person that, with respect to an obligation secured by a
509 security interest in or an agricultural lien on the collateral:

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

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

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

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

516 (60) "Original debtor," except as used in Subsection 70A-9a-310(3), means a person
517 that, as debtor, entered into a security agreement to which a new debtor has become bound
518 under Subsection 70A-9a-203(4).

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

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

522 (a) the spouse of the individual;

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

524 (c) an ancestor or lineal descendant of the individual or the individual's spouse; or

525 (d) any other relative, by blood or marriage, of the individual or the individual's spouse
526 who shares the same home with the individual.

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

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

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

532 (c) an officer or director of, or a person performing similar functions with respect to, a
533 person described in Subsection (63)(a);

534 (d) the spouse of an individual described in Subsection (63)(a), (b), or (c); or
535 (e) an individual who is related by blood or marriage to an individual described in
536 Subsection (63)(a), (b), (c), or (d) and shares the same home with the individual.

537 (64) "Proceeds," except as used in Subsection 70A-9a-609(2), means the following
538 property:

- 539 (a) whatever is acquired upon the sale, lease, license, exchange, or other disposition of
540 collateral;
- 541 (b) whatever is collected on, or distributed on account of, collateral;
- 542 (c) rights arising out of collateral;
- 543 (d) to the extent of the value of collateral, claims arising out of the loss,
544 nonconformity, or interference with the use of, defects or infringement of rights in, or damage
545 to, the collateral; or
- 546 (e) to the extent of the value of collateral and to the extent payable to the debtor or the
547 secured party, insurance payable by reason of the loss or nonconformity of, defects or
548 infringement of rights in, or damage to, the collateral.

549 (65) "Promissory note" means an instrument that evidences a promise to pay a
550 monetary obligation, does not evidence an order to pay, and does not contain an
551 acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

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

555 (67) "Public-finance transaction" means a secured transaction in connection with
556 which:

- 557 (a) debt securities are issued;
- 558 (b) all or a portion of the securities issued have an initial stated maturity of at least 20
559 years; and
- 560 (c) the debtor, obligor, secured party, account debtor or other person obligated on
561 collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security

562 interest is a state or a governmental unit of a state.

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

565 (a) a record consisting of the record initially filed with or issued by a state or the
566 United States to form or organize an organization and any record filed with or issued by the
567 state or the United States which amends or restates the initial record;

568 (b) an organic record of a business trust consisting of the record initially filed with a
569 state and any record filed with the state which amends or restates the initial record, if a statute
570 of the state governing business trusts requires that the record be filed with the state; or

571 (c) a record consisting of legislation enacted by the legislature of a state or the
572 Congress of the United States which forms or organizes an organization, any record amending
573 the legislation, and any record filed with or issued by the state or the United States which
574 amends or restates the name of the organization.

575 [(68)] (69) "Pursuant to commitment," with respect to an advance made or other value
576 given by a secured party, means pursuant to the secured party's obligation, whether or not a
577 subsequent event of default or other event not within the secured party's control has relieved or
578 may relieve the secured party from its obligation.

579 [(69)] (70) "Record," except as used in "for record," "of record," "record or legal title,"
580 and "record owner," means information that is inscribed on a tangible medium or which is
581 stored in an electronic or other medium and is retrievable in perceivable form.

582 [(70)] (71) (a) "Registered organization" means an organization formed or organized
583 solely under the law of a single state or the United States [~~and as to which the state or the~~
584 ~~United States must maintain a public record showing the organization to have been organized.]
585 by the filing of a public organic record with, the issuance of a public organic record by, or the
586 enactment of legislation by the state or the United States.~~

587 (b) "Registered organization" includes a business trust that is formed or organized
588 under the law of a single state if a statute of the state governing business trusts requires that the
589 business trust's organic record be filed with the state.

590 [~~(71)~~] (72) "Secondary obligor" means an obligor to the extent that:

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

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

594 [~~(72)~~] (73) "Secured party" means:

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

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

598 (c) a consignor;

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

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

603 (f) a person that holds a security interest arising under Section 70A-2-401, 70A-2-505,
604 70A-4-210, or 70A-5-118 or Subsection 70A-2-711(3) or 70A-2a-508(5).

605 [~~(73)~~] (74) "Security agreement" means an agreement that creates or provides for a
606 security interest.

607 [~~(74)~~] (75) "Send," in connection with a record or notification, means:

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

611 (b) to cause the record or notification to be received within the time that it would have
612 been received if properly sent under Subsection [~~(74)~~] (75)(a).

613 [~~(75)~~] (76) (a) "Software" means a computer program and any supporting information
614 provided in connection with a transaction relating to the program.

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

617 [~~(76)~~] (77) "State" means a state of the United States, the District of Columbia, Puerto

618 Rico, the United States Virgin Islands, or any territory or insular possession subject to the
619 jurisdiction of the United States.

620 ~~[(77)]~~ (78) "Supporting obligation" means a letter-of-credit right or secondary
621 obligation that supports the payment or performance of an account, chattel paper, a document,
622 a general intangible, an instrument, or investment property.

623 ~~[(78)]~~ (79) "Tangible chattel paper" means chattel paper evidenced by a record or
624 records consisting of information that is inscribed on a tangible medium.

625 ~~[(79)]~~ (80) "Termination statement" means an amendment of a financing statement
626 which:

- 627 (a) identifies, by its file number, the initial financing statement to which it relates; and
- 628 (b) indicates either that it is a termination statement or that the identified financing
629 statement is no longer effective.

630 ~~[(80)]~~ (81) "Transmitting utility" means a person primarily engaged in the business of:

- 631 (a) operating a railroad, subway, street railway, or trolley bus;
- 632 (b) transmitting communications electrically, electromagnetically, or by light;
- 633 (c) transmitting goods by pipeline or sewer; or
- 634 (d) transmitting or producing and transmitting electricity, steam, gas, or water.

635 Section 3. Section **70A-9a-105** is amended to read:

636 **70A-9a-105. Control of electronic chattel paper.**

637 (1) A secured party has control of electronic chattel paper if a system employed by
638 evidencing the transfer of interests in the chattel paper reliably establishes the secured party as
639 the person to whom the chattel paper was assigned.

640 (2) A system satisfies Subsection (1) if the record or records comprising the chattel
641 paper are created, stored, and assigned in such a manner that:

642 ~~[(1)]~~ (a) a single authoritative copy of the record or records exists which is unique,
643 identifiable and, except as otherwise provided in Subsections ~~[(4), (5), and (6)]~~ (2)(d), (e), and
644 (f), unalterable;

645 ~~[(2)]~~ (b) the authoritative copy identifies the secured party as the assignee of the record

646 or records;

647 ~~[(3)]~~ (c) the authoritative copy is communicated to and maintained by the secured party
648 or its designated custodian;

649 ~~[(4)]~~ (d) copies or ~~[revisions]~~ amendments that add or change an identified assignee of
650 the authoritative copy can be made only with the ~~[participation]~~ consent of the secured party;

651 ~~[(5)]~~ (e) each copy of the authoritative copy and any copy of a copy is readily
652 identifiable as a copy that is not the authoritative copy; and

653 ~~[(6)]~~ (f) any ~~[revision]~~ amendment of the authoritative copy is readily identifiable as
654 ~~[an]~~ authorized or unauthorized ~~[revision]~~.

655 Section 4. Section **70A-9a-307** is amended to read:

656 **70A-9a-307. Location of debtor.**

657 (1) In this section, "place of business" means a place where a debtor conducts its
658 affairs.

659 (2) Except as otherwise provided in this section, the following rules determine a
660 debtor's location:

661 (a) A debtor who is an individual is located at the individual's principal residence.

662 (b) A debtor that is an organization and has only one place of business is located at its
663 place of business.

664 (c) A debtor that is an organization and has more than one place of business is located
665 at its chief executive office.

666 (3) Subsection (2) applies only if a debtor's residence, place of business, or chief
667 executive office, as applicable, is located in a jurisdiction whose law generally requires
668 information concerning the existence of a nonpossessory security interest to be made generally
669 available in a filing, recording, or registration system as a condition or result of the security
670 interest's obtaining priority over the rights of a lien creditor with respect to the collateral. If
671 Subsection (2) does not apply, the debtor is located in the District of Columbia.

672 (4) A person that ceases to exist, have a residence, or have a place of business
673 continues to be located in the jurisdiction specified by Subsections (2) and (3).

674 (5) A registered organization that is organized under the law of a state is located in that
675 state.

676 (6) Except as otherwise provided in Subsection (9), a registered organization that is
677 organized under the law of the United States and a branch or agency of a bank that is not
678 organized under the law of the United States or a state are located:

679 (a) in the state that the law of the United States designates, if the law designates a state
680 of location;

681 (b) in the state that the registered organization, branch, or agency designates, if the law
682 of the United States authorizes the registered organization, branch, or agency to designate its
683 state of location, including by designating its main office, home office, or other comparable
684 office; or

685 (c) in the District of Columbia, if neither Subsection (6)(a) nor Subsection (6)(b)
686 applies.

687 (7) A registered organization continues to be located in the jurisdiction specified by
688 Subsection (5) or (6) notwithstanding:

689 (a) the suspension, revocation, forfeiture, or lapse of the registered organization's status
690 as such in its jurisdiction of organization; or

691 (b) the dissolution, winding up, or cancellation of the existence of the registered
692 organization.

693 (8) The United States is located in the District of Columbia.

694 (9) A branch or agency of a bank that is not organized under the law of the United
695 States or a state is located in the state in which the branch or agency is licensed, if all branches
696 and agencies of the bank are licensed in only one state.

697 (10) A foreign air carrier under the Federal Aviation Act of 1958, as amended, is
698 located at the designated office of the agent upon which service of process may be made on
699 behalf of the carrier.

700 (11) This section applies only for purposes of this part.

701 Section 5. Section **70A-9a-311** is amended to read:

702 **70A-9a-311. Perfection of security interests in property subject to certain**
703 **statutes, regulations, and treaties.**

704 (1) Except as otherwise provided in Subsection (4), the filing of a financing statement
705 is not necessary or effective to perfect a security interest in property subject to:

706 (a) a statute, regulation, or treaty of the United States whose requirements for a security
707 interest's obtaining priority over the rights of a lien creditor with respect to the property
708 preempt Subsection 70A-9a-310(1);

709 (b) Section 41-1a-601; or

710 (c) a [~~certificate-of-title~~] statute of another jurisdiction which provides for a security
711 interest to be indicated on [~~the~~] a certificate of title as a condition or result of the security
712 interest's obtaining priority over the rights of a lien creditor with respect to the property.

713 (2) Compliance with the requirements of a statute, regulation, or treaty described in
714 Subsection (1) for obtaining priority over the rights of a lien creditor is equivalent to the filing
715 of a financing statement under this chapter. Except as otherwise provided in Subsection (4),
716 Section 70A-9a-313, and Subsections 70A-9a-316(4) and (5) for goods covered by a certificate
717 of title, a security interest in property subject to a statute, regulation, or treaty described in
718 Subsection (1) may be perfected only by compliance with those requirements, and a security
719 interest so perfected remains perfected notwithstanding a change in the use or transfer of
720 possession of the collateral.

721 (3) Except as otherwise provided in Subsection (4) and Subsections 70A-9a-316(4) and
722 (5), duration and renewal of perfection of a security interest perfected by compliance with the
723 requirements prescribed by a statute, regulation, or treaty described in Subsection (1) are
724 governed by the statute, regulation, or treaty. In other respects, the security interest is subject
725 to this chapter.

726 (4) During any period in which collateral subject to a statute specified in Subsection
727 (1)(b) is inventory held for sale or lease by a person or leased by that person as lessor and that
728 person is in the business of selling goods of that kind, this section does not apply to a security
729 interest in that collateral created by that person.

730 Section 6. Section **70A-9a-316** is amended to read:

731 **70A-9a-316. Effect of change in governing law.**

732 (1) A security interest perfected pursuant to the law of the jurisdiction designated in
733 Subsection 70A-9a-301(1) or 70A-9a-305(3) remains perfected until the earliest of:

734 (a) the time perfection would have ceased under the law of that jurisdiction;

735 (b) the expiration of four months after a change of the debtor's location to another
736 jurisdiction; or

737 (c) the expiration of one year after a transfer of collateral to a person that thereby
738 becomes a debtor and is located in another jurisdiction.

739 (2) If a security interest described in Subsection (1) becomes perfected under the law of
740 the other jurisdiction before the earliest time or event described in that subsection, it remains
741 perfected thereafter. If the security interest does not become perfected under the law of the
742 other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never
743 to have been perfected as against a purchaser of the collateral for value.

744 (3) A possessory security interest in collateral, other than goods covered by a certificate
745 of title and as-extracted collateral consisting of goods, remains continuously perfected if:

746 (a) the collateral is located in one jurisdiction and subject to a security interest
747 perfected under the law of that jurisdiction;

748 (b) thereafter the collateral is brought into another jurisdiction; and

749 (c) upon entry into the other jurisdiction, the security interest is perfected under the law
750 of the other jurisdiction.

751 (4) Except as otherwise provided in Subsection (5), a security interest in goods covered
752 by a certificate of title which is perfected by any method under the law of another jurisdiction
753 when the goods become covered by a certificate of title from this state remains perfected until
754 the security interest would have become unperfected under the law of the other jurisdiction had
755 the goods not become so covered.

756 (5) A security interest described in Subsection (4) becomes unperfected as against a
757 purchaser of the goods for value and is deemed never to have been perfected as against a

758 purchaser of the goods for value if the applicable requirements for perfection under Subsection
759 70A-9a-311(2) or Section 70A-9a-313 are not satisfied before the earlier of:

760 (a) the time the security interest would have become unperfected under the law of the
761 other jurisdiction had the goods not become covered by a certificate of title from this state; or

762 (b) the expiration of four months after the goods had become so covered.

763 (6) A security interest in deposit accounts, letter-of-credit rights, or investment
764 property which is perfected under the law of the bank's jurisdiction, the issuer's jurisdiction, a
765 nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity
766 intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

767 (a) the time the security interest would have become unperfected under the law of that
768 jurisdiction; or

769 (b) the expiration of four months after a change of the applicable jurisdiction to another
770 jurisdiction.

771 (7) If a security interest described in Subsection (6) becomes perfected under the law of
772 the other jurisdiction before the earlier of the time or the end of the period described in that
773 subsection, it remains perfected thereafter. If the security interest does not become perfected
774 under the law of the other jurisdiction before the earlier of that time or the end of that period, it
775 becomes unperfected and is deemed never to have been perfected as against a purchaser of the
776 collateral for value.

777 (8) The following rules apply to collateral to which a security interest attaches within
778 four months after the debtor changes its location to another jurisdiction:

779 (a) A financing statement filed before the change pursuant to the law of the jurisdiction
780 designated in Subsection 70A-9a-301(1) or 70A-9a-305(3) is effective to perfect a security
781 interest in the collateral if the financing statement would have been effective to perfect a
782 security interest in the collateral had the debtor not changed its location.

783 (b) If a security interest perfected by a financing statement that is effective under
784 Subsection (8)(a) becomes perfected under the law of the other jurisdiction before the earlier of
785 the time the financing statement would have been ineffective under the law of the jurisdiction

786 designated in Subsection 70A-9a-301(1) or 70A-9a-305(3) or the expiration of the four-month
787 period, it remains perfected thereafter. If the security interest does not become perfected under
788 the law of the other jurisdiction before the earlier time or event, it becomes unperfected and is
789 deemed never to have been perfected as against a purchaser of the collateral for value.

790 (9) If a financing statement naming an original debtor is filed pursuant to the law of the
791 jurisdiction designated in Subsection 70A-9a-301(1) or 70A-9a-305(3) and the new debtor is
792 located in another jurisdiction, the following rules apply:

793 (a) The financing statement is effective to perfect a security interest in collateral
794 acquired by the new debtor before, and within four months after, the new debtor becomes
795 bound under Subsection 70A-9a-203(4), if the financing statement would have been effective
796 to perfect a security interest in the collateral had the collateral been acquired by the original
797 debtor.

798 (b) A security interest perfected by the financing statement and which becomes
799 perfected under the law of the other jurisdiction before the earlier of the time the financing
800 statement would have been ineffective under the law of the jurisdiction designated in
801 Subsection 70A-9a-301(1) or 70A-9a-305(3) or the expiration of the four-month period
802 remains perfected thereafter. A security interest that is perfected by the financing statement but
803 which does not become perfected under the law of the other jurisdiction before the earlier time
804 or event becomes unperfected and is deemed never to have been perfected as against a
805 purchaser of the collateral for value.

806 Section 7. Section **70A-9a-317** is amended to read:

807 **70A-9a-317. Interests that take priority over or take free of security interest or**
808 **agricultural lien.**

809 (1) A security interest or agricultural lien is subordinate to the rights of:

810 (a) a person entitled to priority under Section 70A-9a-322; and

811 (b) except as otherwise provided in Subsection (5), a person that becomes a lien
812 creditor before the earlier of the time:

813 (i) the security interest or agricultural lien is perfected; or

814 (ii) one of the conditions specified in Subsection 70A-9a-203(2)(c) is met and a
815 financing statement covering the collateral is filed.

816 (2) Except as otherwise provided in Subsection (5), a buyer, other than a secured party,
817 of tangible chattel paper, tangible documents, goods, instruments, or a ~~[security certificate]~~
818 certificated security takes free of a security interest or agricultural lien if the buyer gives value
819 and receives delivery of the collateral without knowledge of the security interest or agricultural
820 lien and before it is perfected.

821 (3) Except as otherwise provided in Subsection (5), a lessee of goods takes free of a
822 security interest or agricultural lien if the lessee gives value and receives delivery of the
823 collateral without knowledge of the security interest or agricultural lien and before it is
824 perfected.

825 (4) A licensee of a general intangible or a buyer, other than a secured party, of
826 ~~[accounts, electronic chattel paper, electronic documents, general intangibles, or investment~~
827 ~~property other than]~~ collateral other than tangible chattel paper, tangible documents, goods,
828 instruments, or a certificated security takes free of a security interest if the licensee or buyer
829 gives value without knowledge of the security interest and before it is perfected.

830 (5) Except as otherwise provided in Sections 70A-9a-320 and 70A-9a-321, if a person
831 files a financing statement with respect to a purchase-money security interest before or within
832 20 days after the debtor receives delivery of the collateral, the security interest takes priority
833 over the rights of a buyer, lessee, or lien creditor which arise between the time the security
834 interest attaches and the time of filing.

835 Section 8. Section **70A-9a-326** is amended to read:

836 **70A-9a-326. Priority of security interests created by new debtor.**

837 (1) Subject to Subsection (2), a security interest that is created by a new debtor ~~[which~~
838 ~~is perfected]~~ in collateral in which the new debtor has or acquires rights and is perfected solely
839 by a filed financing statement that [is effective solely under Section 70A-9a-508 in collateral in
840 ~~which a new debtor has or acquires rights]~~ would be ineffective to perfect the security interest
841 but for the application of Subsection 70A-9a-316(9)(a) or Section 70A-9a-508 is subordinate to

842 a security interest in the same collateral which is perfected other than by such a filed financing
843 statement [~~that is effective solely under Section 70A-9a-508~~].

844 (2) The other provisions of this part determine the priority among conflicting security
845 interests in the same collateral perfected by filed financing statements [~~that are effective solely~~
846 ~~under Section 70A-9a-508~~] described in Subsection (1). However, if the security agreements
847 to which a new debtor became bound as debtor were not entered into by the same original
848 debtor, the conflicting security interests rank according to priority in time of the new debtor's
849 having become bound.

850 Section 9. Section **70A-9a-406** is amended to read:

851 **70A-9a-406. Discharge of account debtor -- Notification of assignment --**
852 **Identification and proof of assignment -- Restrictions on assignment of accounts, chattel**
853 **paper, payment intangibles, and promissory notes ineffective.**

854 (1) Subject to Subsections (2) through (9), an account debtor on an account, chattel
855 paper, or a payment intangible may discharge its obligation by paying the assignor until, but not
856 after, the account debtor receives a notification, authenticated by the assignor or the assignee,
857 that the amount due or to become due has been assigned and that payment is to be made to the
858 assignee. After receipt of the notification, the account debtor may discharge its obligation by
859 paying the assignee and may not discharge the obligation by paying the assignor.

860 (2) Subject to Subsection (8), notification is ineffective under Subsection (1):

861 (a) if it does not reasonably identify the rights assigned;

862 (b) to the extent that an agreement between an account debtor and a seller of a payment
863 intangible limits the account debtor's duty to pay a person other than the seller and the
864 limitation is effective under law other than this chapter; or

865 (c) at the option of an account debtor, if the notification notifies the account debtor to
866 make less than the full amount of any installment or other periodic payment to the assignee,
867 even if:

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

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

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

872 (3) Subject to Subsection (8), if requested by the account debtor, an assignee shall
873 seasonably furnish reasonable proof that the assignment has been made. Unless the assignee
874 complies, the account debtor may discharge its obligation by paying the assignor, even if the
875 account debtor has received a notification under Subsection (1).

876 (4) Except as otherwise provided in Subsection (5) and Sections 70A-2a-303 and
877 70A-9a-407, and subject to Subsection (8), a term in an agreement between an account debtor
878 and an assignor or in a promissory note is ineffective to the extent that it:

879 (a) prohibits, restricts, or requires the consent of the account debtor or person obligated
880 on the promissory note to the assignment or transfer of, or the creation, attachment, perfection,
881 or enforcement of a security interest in, the account, chattel paper, payment intangible, or
882 promissory note; or

883 (b) provides that the assignment or transfer or the creation, attachment, perfection, or
884 enforcement of the security interest may give rise to a default, breach, right of recoupment,
885 claim, defense, termination, right of termination, or remedy under the account, chattel paper,
886 payment intangible, or promissory note.

887 (5) Subsection (4) does not apply to the sale of a payment intangible or promissory
888 note, other than a sale pursuant to a disposition under Section 70A-9a-610 or an acceptance of
889 collateral under Section 70A-9a-620.

890 (6) Except as otherwise provided in Sections 70A-2a-303 and 70A-9a-407 and subject
891 to Subsections (8) and (9), a rule of law, statute, or regulation that prohibits, restricts, or
892 requires the consent of a government, governmental body or official, or account debtor to the
893 assignment or transfer of, or creation of a security interest in, an account or chattel paper is
894 ineffective to the extent that the rule of law, statute, or regulation:

895 (a) prohibits, restricts, or requires the consent of the government, governmental body or
896 official, or account debtor to the assignment or transfer of, or the creation, attachment,
897 perfection, or enforcement of a security interest in the account or chattel paper; or

898 (b) provides that the assignment or transfer or the creation, attachment, perfection, or
899 enforcement of the security interest may give rise to a default, breach, right of recoupment,
900 claim, defense, termination, right of termination, or remedy under the account or chattel paper.

901 (7) Subject to Subsection (8), an account debtor may not waive or vary its option under
902 Subsection (2)(c).

903 (8) This section is subject to law other than this chapter which establishes a different
904 rule for an account debtor who is an individual and who incurred the obligation primarily for
905 personal, family, or household purposes.

906 (9) This section does not apply to an assignment of a health-care-insurance receivable.

907 Section 10. Section **70A-9a-408** is amended to read:

908 **70A-9a-408. Restrictions on assignment of promissory notes,**
909 **health-care-insurance receivables, and certain general intangibles ineffective.**

910 (1) Except as otherwise provided in Subsection (2), a term in a promissory note or in
911 an agreement between an account debtor and a debtor which relates to a health-care-insurance
912 receivable or a general intangible, including a contract, permit, license, or franchise, and which
913 term prohibits, restricts, or requires the consent of the person obligated on the promissory note
914 or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of
915 a security interest in, the promissory note, health-care-insurance receivable, or general
916 intangible, is ineffective to the extent that the term:

917 (a) would impair the creation, attachment, or perfection of a security interest; or

918 (b) provides that the assignment or transfer or the creation, attachment, or perfection of
919 the security interest may give rise to a default, breach, right of recoupment, claim, defense,
920 termination, right of termination, or remedy under the promissory note, health-care-insurance
921 receivable, or general intangible.

922 (2) Subsection (1) applies to a security interest in a payment intangible or promissory
923 note only if the security interest arises out of a sale of the payment intangible or promissory
924 note, other than a sale pursuant to a disposition under Section 70A-9a-610 or an acceptance of
925 collateral under Section 70A-9a-620.

926 (3) A rule of law, statute, or regulation that prohibits, restricts, or requires the consent
927 of a government, governmental body or official, person obligated on a promissory note, or
928 account debtor to the assignment or transfer of, or creation of a security interest in, a
929 promissory note, health-care-insurance receivable, or general intangible, including a contract,
930 permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent
931 that the rule of law, statute, or regulation:

932 (a) would impair the creation, attachment, or perfection of a security interest; or

933 (b) provides that the assignment or transfer or the creation, attachment, or perfection of
934 the security interest may give rise to a default, breach, right of recoupment, claim, defense,
935 termination, right of termination, or remedy under the promissory note, health-care-insurance
936 receivable, or general intangible.

937 (4) To the extent that a term in a promissory note or in an agreement between an
938 account debtor and a debtor which relates to a health-care-insurance receivable or general
939 intangible or a rule of law, statute, or regulation described in Subsection (3) would be effective
940 under law other than this chapter but is ineffective under Subsection (1) or (3), the creation,
941 attachment, or perfection of a security interest in the promissory note, health-care-insurance
942 receivable, or general intangible:

943 (a) is not enforceable against the person obligated on the promissory note or the
944 account debtor;

945 (b) does not impose a duty or obligation on the person obligated on the promissory
946 note or the account debtor;

947 (c) does not require the person obligated on the promissory note or the account debtor
948 to recognize the security interest, pay or render performance to the secured party, or accept
949 payment or performance from the secured party;

950 (d) does not entitle the secured party to use or assign the debtor's rights under the
951 promissory note, health-care-insurance receivable, or general intangible, including any related
952 information or materials furnished to the debtor in the transaction giving rise to the promissory
953 note, health-care-insurance receivable, or general intangible;

954 (e) does not entitle the secured party to use, assign, possess, or have access to any trade
955 secrets or confidential information of the person obligated on the promissory note or the
956 account debtor; and

957 (f) does not entitle the secured party to enforce the security interest in the promissory
958 note, health-care-insurance receivable, or general intangible.

959 Section 11. Section **70A-9a-502** is amended to read:

960 **70A-9a-502. Contents of financing statement -- Record of mortgage as financing**
961 **statement -- Time of filing financing statement.**

962 (1) Subject to Subsection (2), a financing statement is sufficient only if it:

- 963 (a) provides the name of the debtor;
- 964 (b) provides the name of the secured party or a representative of the secured party; and
- 965 (c) indicates the collateral covered by the financing statement.

966 (2) Except as otherwise provided in Subsection 70A-9a-501(2), to be sufficient, a
967 financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a
968 fixture filing and covers goods that are or are to become fixtures, must satisfy Subsection (1)
969 and also:

- 970 (a) indicate that it covers this type of collateral;
- 971 (b) indicate that it is to be filed for record in the real property records;
- 972 (c) provide a legal description of the real property to which the collateral is related; and
- 973 (d) if the debtor does not have an interest of record in the real property, provide the
974 name of a record owner.

975 (3) A record of a mortgage is effective, from the date of recording, as a financing
976 statement filed as a fixture filing or as a financing statement covering as-extracted collateral or
977 timber to be cut only if:

- 978 (a) the record indicates the goods or accounts that it covers;
- 979 (b) the goods are or are to become fixtures related to the real property described in the
980 record or the collateral is related to the real property described in the record and is as-extracted
981 collateral or timber to be cut;

982 (c) the record satisfies the requirements for a financing statement in this section [~~other~~
983 ~~than an indication~~], but:

984 (i) the record need not indicate that it is to be filed in the real property records; and

985 (ii) the record sufficiently provides the name of a debtor who is an individual if it
986 provides the individual name of the debtor or the surname and first personal name of the
987 debtor, even if the debtor is an individual to whom Subsection 70A-9a-503(1)(d) applies; and

988 (d) the record is recorded.

989 (4) A financing statement may be filed before a security agreement is made or a
990 security interest otherwise attaches.

991 (5) (a) The requirements of Title 57 do not apply to a financing statement filed or
992 recorded in a filing office described in Subsection 70A-9a-501(1)(a) that:

993 (i) covers as-extracted collateral or timber to be cut; or

994 (ii) (A) is filed as a fixture filing; and

995 (B) covers goods that are or are to become fixtures.

996 (b) For purposes of Subsection (5)(a), the requirements of Title 57 include
997 requirements related to:

998 (i) execution;

999 (ii) acknowledgment;

1000 (iii) certification; and

1001 (iv) originality.

1002 Section 12. Section **70A-9a-503** is amended to read:

1003 **70A-9a-503. Name of debtor and secured party.**

1004 (1) A financing statement sufficiently provides the name of the debtor:

1005 (a) except as otherwise provided in Subsection (1)(c), if the debtor is a registered
1006 organization or the collateral is held in a trust that is a registered organization, only if the
1007 financing statement provides the name [~~of the debtor indicated on the public record of the~~
1008 ~~debtor's~~] that is stated to be the registered organization's name on the public organic record
1009 most recently filed with or issued or enacted by the registered organization's jurisdiction of

1010 organization which ~~[shows the debtor to have been organized]~~ purports to state, amend, or
1011 restate the registered organization's name;

1012 (b) ~~[if the debtor is a decedent's estate]~~ subject to Subsection (6), if the collateral is
1013 being administered by the personal representative of a decedent, only if the financing statement
1014 provides, as the name of the debtor, the name of the decedent and, in a separate part of the
1015 financing statement, indicates that the ~~[debtor is an estate]~~ collateral is being administered by a
1016 personal representative;

1017 ~~[(c) if the debtor is a trust or a trustee acting with respect to property held in trust, only~~
1018 ~~if the financing statement:]~~

1019 ~~[(i) provides the name specified for the trust in its organic documents or, if no name is~~
1020 ~~specified, provides the name of the settlor and additional information sufficient to distinguish~~
1021 ~~the debtor from other trusts having one or more of the same settlors; and]~~

1022 ~~[(ii) indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee~~
1023 ~~acting with respect to property held in trust; and]~~

1024 (c) if the collateral is held in a trust that is not a registered organization, only if the
1025 financing statement:

1026 (i) provides, as the name of the debtor:

1027 (A) if the organic record of the trust specifies a name for the trust, the name specified;

1028 or

1029 (B) if the organic record of the trust does not specify a name for the trust, the name of
1030 the settlor or testator; and

1031 (ii) in a separate part of the financing statement:

1032 (A) if the name provided in accordance with Subsection (1)(c)(i)(A), indicates the
1033 collateral is held in a trust; or

1034 (B) if the name is provided in accordance with Subsection (1)(c)(i)(B), provides
1035 additional information sufficient to distinguish the trust from other trusts having one or more of
1036 the same settlors or the same testator and indicates that the collateral is held in a trust, unless
1037 the additional information so indicates;

1038 (d) subject to Subsection (7), if the debtor is an individual to whom the state Driver
1039 License Division of the Department of Public Safety has issued a driver license that has not
1040 expired, or if the debtor does not have an unexpired driver license, an individual to whom the
1041 state Driver License Division of the Department of Public Safety has issued an unexpired
1042 identification card, only if the financing statement provides the name of the individual which is
1043 indicated on the driver license or identification card;

1044 (e) if the debtor is an individual to whom Subsection (1)(d) does not apply, only if the
1045 financing statement provides the individual name of the debtor or the surname and first
1046 personal name of the debtor; and

1047 [~~(d)~~] (f) in other cases:

1048 (i) if the debtor has a name, only if [it] the financing statement provides the [individual
1049 or] organizational name of the debtor; and

1050 (ii) if the debtor does not have a name, only if it provides the names of the partners,
1051 members, associates, or other persons comprising the debtor, in a manner that each name
1052 provided would be sufficient if the person named were the debtor.

1053 (2) A financing statement that provides the name of the debtor in accordance with
1054 Subsection (1) is not rendered ineffective by the absence of:

1055 (a) a trade name or other name of the debtor; or

1056 (b) unless required under Subsection (1)[~~(d)~~](f)(ii), names of partners, members,
1057 associates, or other persons comprising the debtor.

1058 (3) A financing statement that provides only the debtor's trade name does not
1059 sufficiently provide the name of the debtor.

1060 (4) Failure to indicate the representative capacity of a secured party or representative of
1061 a secured party does not affect the sufficiency of a financing statement.

1062 (5) A financing statement may provide the name of more than one debtor and the name
1063 of more than one secured party.

1064 (6) The name of the decedent indicated on the order appointing the personal
1065 representative of the decedent issued by the court having jurisdiction over the collateral is

1066 sufficient as the "name of the decedent" under Subsection (1)(b).

1067 (7) If this state has issued to an individual more than one driver license or identification
1068 card of a kind described in Subsection (1)(d), the one that was issued most recently is the one
1069 to which Subsection (1)(d) refers.

1070 (8) In this section, the "name of the settlor or testator" means:

1071 (a) if the settlor is a registered organization, the name that is stated to be the settlor's
1072 name on the public organic record most recently filed with or issued or enacted by the settlor's
1073 jurisdiction of organization which purports to state, amend, or restate the settlor's name; or

1074 (b) in the other cases, the name of the settlor or testator indicated in the trust's organic
1075 record.

1076 Section 13. Section **70A-9a-507** is amended to read:

1077 **70A-9a-507. Effect of certain events on effectiveness of financing statement.**

1078 (1) A filed financing statement remains effective with respect to collateral that is sold,
1079 exchanged, leased, licensed, or otherwise disposed of and in which a security interest or
1080 agricultural lien continues, even if the secured party knows of or consents to the disposition.

1081 (2) Except as otherwise provided in Subsection (3) and Section 70A-9a-508, a
1082 financing statement is not rendered ineffective if, after the financing statement is filed, the
1083 information provided in the financing statement becomes seriously misleading under Section
1084 70A-9a-506.

1085 (3) If [~~a debtor so changes its~~] the name that a filed financing statement [~~becomes~~]
1086 provides for a debtor becomes insufficient as the name of the debtor under Subsection
1087 70A-9a-503(1) so that the financing statement becomes seriously misleading under Section
1088 70A-9a-506:

1089 (a) the financing statement is effective to perfect a security interest in collateral
1090 acquired by the debtor before, or within four months after, the [~~change~~] filed financing
1091 statement becomes seriously misleading; and

1092 (b) the financing statement is not effective to perfect a security interest in collateral
1093 acquired by the debtor more than four months after the [~~change~~] filed financing statement

1094 becomes seriously misleading, unless an amendment to the financing statement which renders
1095 the financing statement not seriously misleading is filed within four months after the [change]
1096 financing statement became seriously misleading.

1097 Section 14. Section **70A-9a-515** is amended to read:

1098 **70A-9a-515. Duration and effectiveness of financing statement -- Effect of lapsed**
1099 **financing statement.**

1100 (1) Except as otherwise provided in Subsections (2), (5), (6), and (7), a filed financing
1101 statement is effective for a period of five years after the date of filing.

1102 (2) Except as otherwise provided in Subsections (5), (6), and (7), an initial financing
1103 statement filed in connection with a public-finance transaction or manufactured-home
1104 transaction is effective for a period of 30 years after the date of filing if it indicates that it is
1105 filed in connection with a public-finance transaction or manufactured-home transaction.

1106 (3) The effectiveness of a filed financing statement lapses on the expiration of the
1107 period of its effectiveness unless before the lapse a continuation statement is filed pursuant to
1108 Subsection (4). Upon lapse, a financing statement ceases to be effective and any security
1109 interest or agricultural lien that was perfected by the financing statement becomes unperfected,
1110 unless the security interest is perfected otherwise. If the security interest or agricultural lien
1111 becomes unperfected upon lapse, it is deemed never to have been perfected as against a
1112 purchaser of the collateral for value.

1113 (4) A continuation statement may be filed only within six months before the expiration
1114 of the five-year period specified in Subsection (1) or the 30-year period specified in Subsection
1115 (2), whichever is applicable.

1116 (5) Except as otherwise provided in Section 70A-9a-510, upon timely filing of a
1117 continuation statement, the effectiveness of the initial financing statement continues for a
1118 period of five years commencing on the day on which the financing statement would have
1119 become ineffective in the absence of the filing. Upon the expiration of the five-year period, the
1120 financing statement lapses in the same manner as provided in Subsection (3), unless, before the
1121 lapse, another continuation statement is filed pursuant to Subsection (4). Succeeding

1122 continuation statements may be filed in the same manner to continue the effectiveness of the
1123 initial financing statement.

1124 (6) If a debtor is a transmitting utility and a filed initial financing statement so
1125 indicates, the financing statement is effective until a termination statement is filed.

1126 (7) A record of a mortgage that is effective as a financing statement filed as a fixture
1127 filing under Subsection 70A-9a-502(3) remains effective as a financing statement filed as a
1128 fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise
1129 terminates as to the real property.

1130 Section 15. Section **70A-9a-516** is amended to read:

1131 **70A-9a-516. What constitutes filing -- Effectiveness of filing.**

1132 (1) Except as otherwise provided in Subsection (2) or (4), communication of a record
1133 to a filing office and tender of the filing fee or acceptance of the record by the filing office
1134 constitutes filing.

1135 (2) Filing does not occur with respect to a record that a filing office refuses to accept
1136 because:

1137 (a) the record is not communicated by a method or medium of communication
1138 authorized by the filing office;

1139 (b) an amount equal to or greater than the applicable filing fee is not tendered;

1140 (c) the filing office is unable to index the record because:

1141 (i) in the case of an initial financing statement, the record does not provide a name for
1142 the debtor;

1143 (ii) in the case of an amendment or [~~correction~~] information statement, the record:

1144 (A) does not identify the initial financing statement as required by Section 70A-9a-512
1145 or 70A-9a-518, as applicable; or

1146 (B) identifies an initial financing statement whose effectiveness has lapsed under
1147 Section 70A-9a-515;

1148 (iii) in the case of an initial financing statement that provides the name of a debtor
1149 identified as an individual or an amendment that provides a name of a debtor identified as an

1150 individual which was not previously provided in the financing statement to which the record
1151 relates, the record does not identify the debtor's ~~[last name]~~ surname; or

1152 (iv) in the case of a record filed or recorded in the filing office described in Subsection
1153 70A-9a-501(1)(a), the record does not provide a sufficient description of the real property to
1154 which it relates;

1155 (d) in the case of an initial financing statement or an amendment that adds a secured
1156 party of record, the record does not provide a name and mailing address for the secured party of
1157 record;

1158 (e) in the case of an initial financing statement or an amendment that provides a name
1159 of a debtor which was not previously provided in the financing statement to which the
1160 amendment relates, the record does not:

1161 (i) provide a mailing address for the debtor; or

1162 (ii) indicate whether the name provided as the name of the debtor is the name of an
1163 individual or an organization; ~~[or]~~

1164 ~~[(iii) if the financing statement indicates that the debtor is an organization, provide:]~~

1165 ~~[(A) a type of organization for the debtor;]~~

1166 ~~[(B) a jurisdiction of organization for the debtor; or]~~

1167 ~~[(C) an organizational identification number for the debtor or indicate that the debtor~~
1168 ~~has none;]~~

1169 (f) in the case of an assignment reflected in an initial financing statement under
1170 Subsection 70A-9a-514(1) or an amendment filed under Subsection 70A-9a-514(2), the record
1171 does not provide a name and mailing address for the assignee; or

1172 (g) in the case of a continuation statement, the record is not filed within the six-month
1173 period prescribed by Subsection 70A-9a-515(4).

1174 (3) For purposes of Subsection (2):

1175 (a) a record does not provide information if the filing office is unable to read or
1176 decipher the information; and

1177 (b) a record that does not indicate that it is an amendment or identify an initial

1178 financing statement to which it relates, as required by Section 70A-9a-512, 70A-9a-514, or
1179 70A-9a-518, is an initial financing statement.

1180 (4) A filing office may refuse to accept a record for filing, and if it does so, filing does
1181 not occur with respect to the record, because:

1182 (a) the debtor is an individual and the debtor's name contains unusually placed and
1183 apparently unnecessary punctuation, symbols, or other nonalphabetic characters;

1184 (b) the record, in the collateral description or elsewhere, including an attachment,
1185 discloses personally identifying information such as a Social Security number, driver license
1186 number, identification card number, bank account number, credit or debit card account number,
1187 date of birth, or place of birth; or

1188 (c) the debtor is an individual and the record indicates that the debtor is a transmitting
1189 utility.

1190 ~~[(4)]~~ (5) A record that is communicated to the filing office with tender of the filing fee,
1191 but which the filing office refuses to accept for a reason other than one set forth in Subsection
1192 (2) or (4), is effective as a filed record except as against a purchaser of the collateral which
1193 gives value in reasonable reliance upon the absence of the record from the files.

1194 Section 16. Section **70A-9a-518** is amended to read:

1195 **70A-9a-518. Claim concerning inaccurate or wrongfully filed record.**

1196 (1) A person may file in the filing office ~~[a correction]~~ an information statement with
1197 respect to a record indexed there under the person's name if the person believes that the record
1198 is inaccurate or was wrongfully filed.

1199 (2) ~~[A correction]~~ An information statement under Subsection (1) must:

1200 (a) identify the record to which it relates by~~[(i)]~~ the file number assigned to the initial
1201 financing statement to which the record relates; ~~[and]~~

1202 ~~[(ii) if the correction statement relates to a record filed or recorded in a filing office~~
1203 ~~described in Subsection 70A-9a-501(1)(a):]~~

1204 ~~[(A) (i) the entry number of the initial financing statement; or]~~

1205 ~~[(ii) the book and page where that the initial financing statement was filed or recorded;~~

1206 and]

1207 [~~(B)~~ the information specified in Subsection 70A-9a-502(2);]

1208 [~~(b)~~ indicate that it is a correction statement; and]

1209 (b) indicate that it is an information statement; and

1210 (c) provide the basis for the person's belief that the record is inaccurate and indicate the

1211 manner in which the person believes the record should be amended to cure any inaccuracy or

1212 provide the basis for the person's belief that the record was wrongfully filed.

1213 (3) A person may file in the filing office an information statement with respect to a

1214 record filed there if the person is a secured party of record with respect to the financing

1215 statement to which the record relates and believes that the person that filed the record was not

1216 entitled to do so under Subsection 70A-9a-509(4).

1217 (4) An information statement under Subsection (3) must:

1218 (a) identify the record to which it relates by the file number assigned to the initial

1219 financing statement to which the record relates;

1220 (b) indicate that it is an information statement; and

1221 (c) provide the basis for the person's belief that the person that filed the record was not

1222 entitled to do so under Subsection 70A-9a-509(4).

1223 [~~(3)~~] (5) The filing of [a correction] an information statement does not affect the

1224 effectiveness of an initial financing statement or other filed record.

1225 Section 17. Section **70A-9a-520** is amended to read:

1226 **70A-9a-520. Acceptance and refusal to accept record.**

1227 (1) A filing office shall refuse to accept a record for filing for a reason set forth in

1228 Subsection 70A-9a-516(2) or (4) and may refuse to accept a record for filing only for a reason

1229 set forth in Subsection 70A-9a-516(2).

1230 (2) If a filing office refuses to accept a record for filing, it shall communicate to the

1231 person that presented the record the fact of and reason for the refusal and the date and time the

1232 record would have been filed had the filing office accepted it. The communication must be

1233 made at the time and in the manner prescribed by filing-office rule but, in the case of a filing

1234 office described in Subsection 70A-9a-501(1)(b), in no event more than two business days after
1235 the filing office receives the record.

1236 (3) A filed financing statement satisfying Subsections 70A-9a-502(1) and (2) is
1237 effective, even if the filing office is required to refuse to accept it for filing under Subsection
1238 (1). However, Section 70A-9a-338 applies to a filed financing statement providing information
1239 described in Subsection 70A-9a-516(2)(e) which is incorrect at the time the financing
1240 statement is filed.

1241 (4) If a record communicated to a filing office provides information that relates to more
1242 than one debtor, this part applies as to each debtor separately.

1243 (5) This section does not apply to a filing office described in Subsection
1244 70A-9a-501(1)(a).

1245 Section 18. Section **70A-9a-521** is amended to read:

1246 **70A-9a-521. Uniform form of written financing statement and amendment.**

1247 (1) A filing office that accepts written records may not refuse to accept a written initial
1248 financing statement in the form and format set forth in the final official text of the [~~1999~~] 2010
1249 revisions to Article 9 of the Uniform Commercial Code promulgated by The American Law
1250 Institute and the National Conference of Commissioners on Uniform State Laws, except for a
1251 reason set forth in Subsection 70A-9a-516(2) or (4).

1252 (2) A filing office that accepts written records may not refuse to accept a written record
1253 in the form and format set forth in the final official text of the [~~1999~~] 2010 revisions to Article
1254 9 of the Uniform Commercial Code promulgated by The American Law Institute and the
1255 National Conference of Commissioners on Uniform State Laws, except for a reason set forth in
1256 Subsection 70A-9a-516(2) or (4).

1257 Section 19. Section **70A-9a-607** is amended to read:

1258 **70A-9a-607. Collection and enforcement by secured party.**

1259 (1) If so agreed, and in any event after default, a secured party:

1260 (a) may notify an account debtor or other person obligated on collateral to make
1261 payment or otherwise render performance to or for the benefit of the secured party;

1262 (b) may take any proceeds to which the secured party is entitled under Section
1263 70A-9a-315;

1264 (c) may enforce the obligations of an account debtor or other person obligated on
1265 collateral and exercise the rights of the debtor with respect to the obligation of the account
1266 debtor or other person obligated on collateral to make payment or otherwise render
1267 performance to the debtor, and with respect to any property that secures the obligations of the
1268 account debtor or other person obligated on the collateral;

1269 (d) if it holds a security interest in a deposit account perfected by control under
1270 Subsection 70A-9a-104(1)(a), may apply the balance of the deposit account to the obligation
1271 secured by the deposit account; and

1272 (e) if it holds a security interest in a deposit account perfected by control under
1273 Subsection 70A-9a-104(1)(b) or (c), may instruct the bank to pay the balance of the deposit
1274 account to or for the benefit of the secured party.

1275 (2) If necessary to enable a secured party to exercise under Subsection (1)(c) the right
1276 of a debtor to enforce a mortgage nonjudicially, the secured party may record in the office in
1277 which a record of the mortgage is recorded:

1278 (a) a copy of the security agreement that creates or provides for a security interest in the
1279 obligation secured by the mortgage; and

1280 (b) the secured party's sworn affidavit in recordable form stating that:

- 1281 (i) a default has occurred with respect to the obligation secured by the mortgage; and
1282 (ii) the secured party is entitled to enforce the mortgage nonjudicially.

1283 (3) A secured party shall proceed in a commercially reasonable manner if the secured
1284 party:

1285 (a) undertakes to collect from or enforce an obligation of an account debtor or other
1286 person obligated on collateral; and

1287 (b) is entitled to charge back uncollected collateral or otherwise to full or limited
1288 recourse against the debtor or a secondary obligor.

1289 (4) A secured party may deduct from the collections made pursuant to Subsection (3)

1290 reasonable expenses of collection and enforcement, including reasonable attorney's fees and
1291 legal expenses incurred by the secured party.

1292 (5) This section does not determine whether an account debtor, bank, or other person
1293 obligated on collateral owes a duty to a secured party.

1294 Section 20. Section **70A-9a-801** is enacted to read:

1295 **Part 8. Transition Provisions for 2010 Amendments**

1296 **70A-9a-801. Savings clause.**

1297 (1) Except as otherwise provided in this part, the bill applies to a transaction or lien
1298 within its scope, even if the transaction or lien was entered into or created before July 1, 2013.

1299 (2) This bill does not affect an action, case, or proceeding commenced before July 1,
1300 2013.

1301 Section 21. Section **70A-9a-802** is enacted to read:

1302 **70A-9a-802. Security interest perfected before effective date.**

1303 (1) A security interest that is a perfected security interest immediately before July 1,
1304 2013, is a perfected security interest under this chapter as amended by this bill if, when this bill
1305 takes effect, the applicable requirements for attachment and perfection under this chapter as
1306 amended by this bill are satisfied without further action.

1307 (2) Except as otherwise provided in Section 70A-9a-805, if immediately before July 1,
1308 2013, a security interest is a perfected security interest, but the applicable requirements for
1309 perfection under this chapter as amended by this bill are not satisfied when this bill takes effect,
1310 the security interest remains perfected thereafter only if the applicable requirements for
1311 perfection under this chapter as amended by this bill are satisfied within one year after July 1,
1312 2013.

1313 Section 22. Section **70A-9a-803** is enacted to read:

1314 **70A-9a-803. Security interest unperfected before effective date.**

1315 A security interest that is an unperfected security interest immediately before this bill
1316 takes effect becomes a perfected security interest:

1317 (1) without further action, when this bill takes effect if the applicable requirements for

1318 perfection under this chapter as amended by this bill are satisfied before or at that time; or

1319 (2) when the applicable requirements for perfection are satisfied if the requirements are
1320 satisfied after that time.

1321 Section 23. Section **70A-9a-804** is enacted to read:

1322 **70A-9a-804. Effectiveness of action taken before effective date.**

1323 (1) The filing of a financing statement before this bill takes effect is effective to perfect
1324 a security interest to the extent the filing would satisfy the applicable requirements for
1325 perfection under this chapter as amended by this bill.

1326 (2) This bill does not render ineffective an effective financing statement that, before
1327 this bill takes effect, is filed and satisfies the applicable requirements for perfection under the
1328 law of the jurisdiction governing perfection as provided in this chapter as it existed before
1329 amendment. However, except as otherwise provided in Subsections (3) and (4) and Section
1330 70A-9a-805, the financing statement ceases to be effective:

1331 (a) if the financing statement is filed in this state, at the time the financing statement
1332 would have ceased to be effective had this bill not taken effect; or

1333 (b) if the financing statement is filed in another jurisdiction, at the earlier of:

1334 (i) the time the financing statement would have ceased to be effective under the law of
1335 that jurisdiction; or

1336 (ii) June 30, 2018.

1337 (3) The filing of a continuation statement after this bill takes effect does not continue
1338 the effectiveness of a financing statement filed before this bill takes effect. However, upon the
1339 timely filing of a continuation statement after this bill takes effect and in accordance with the
1340 law of the jurisdiction governing perfection as provided in this chapter as amended by this bill,
1341 the effectiveness of a financing statement filed in the same office in that jurisdiction before this
1342 bill takes effect continues for the period provided by the law of that jurisdiction.

1343 (4) Subsection (2)(b)(ii) applies to a financing statement that, before this bill takes
1344 effect, is filed against a transmitting utility and satisfies the applicable requirements for
1345 perfection under the law of the jurisdiction governing perfection as provided in this chapter as

1346 it existed before amendment, only to the extent that this chapter as amended by this bill
1347 provides that the law of a jurisdiction other than the jurisdiction in which the financing
1348 statement is filed governs perfection of a security interest in collateral covered by the financing
1349 statement.

1350 (5) A financing statement that includes a financing statement filed before this bill takes
1351 effect and a continuation statement filed after this bill takes effect is effective only to the extent
1352 that it satisfies the requirements of Part 5, Filing, as amended by this bill for an initial financing
1353 statement. A financing statement that indicates that the debtor is a decedent's estate indicates
1354 that the collateral is being administered by a personal representative within the meaning of
1355 Subsection 70A-9a-503(1)(b) as amended by this bill. A financing statement that indicates that
1356 the debtor is a trust or is a trustee acting with respect to property held in trust indicates that the
1357 collateral is held in a trust within the meaning of Subsection 70A-9a-503(1)(c) as amended by
1358 this bill.

1359 Section 24. Section **70A-9a-805** is enacted to read:

1360 **70A-9a-805. When initial financing statement suffices to continue effectiveness of**
1361 **financing statement.**

1362 (1) The filing of an initial financing statement in the office specified in Section
1363 70A-9a-501 continues the effectiveness of a financing statement filed before this bill takes
1364 effect if:

1365 (a) the filing of an initial financing statement in that office would be effective to
1366 perfect a security interest under this chapter as amended by this bill;

1367 (b) the pre-effective-date financing statement was filed in an office in another state;

1368 and

1369 (c) the initial financing statement satisfies Subsection (3).

1370 (2) The filing of an initial financing statement under Subsection (1) continues the
1371 effectiveness of the pre-effective-date financing statement:

1372 (a) if the initial financing statement is filed before this bill takes effect, for the period
1373 provided in unamended Section 70A-9a-515 with respect to an initial financing statement; and

1374 (b) if the initial financing statement is filed after this bill takes effect, for the period
1375 provided in Section 70A-9a-515 as amended by this bill with respect to an initial financing
1376 statement.

1377 (3) To be effective for purposes of Subsection (1), an initial financing statement must:

1378 (a) satisfy the requirements of Part 5, Filing, as amended by this bill for an initial
1379 financing statement;

1380 (b) identify the pre-effective-date financing statement by indicating the office in which
1381 the financing statement was filed and providing the dates of filing and file numbers, if any, of
1382 the financing statement and of the most recent continuation statement filed with respect to the
1383 financing statement; and

1384 (c) indicate that the pre-effective-date financing statement remains effective.

1385 Section 25. Section **70A-9a-806** is enacted to read:

1386 **70A-9a-806. Amendment of pre-effective-date financing statement.**

1387 (1) In this section, "pre-effective-date financing statement" means a financing
1388 statement filed before this bill takes effect.

1389 (2) After this bill takes effect, a person may add or delete collateral covered by,
1390 continue or terminate the effectiveness of, or otherwise amend the information provided in, a
1391 pre-effective-date financing statement only in accordance with the law of the jurisdiction
1392 governing perfection as provided in this chapter as amended by this bill. However, the
1393 effectiveness of a pre-effective-date financing statement also may be terminated in accordance
1394 with the law of the jurisdiction in which the financing statement is filed.

1395 (3) Except as otherwise provided in Subsection (4), if the law of this state governs
1396 perfection of a security interest, the information in a pre-effective-date financing statement may
1397 be amended after this bill takes effect only if:

1398 (a) the pre-effective-date financing statement and an amendment are filed in the office
1399 specified in Section 70A-9a-501;

1400 (b) an amendment is filed in the office specified in Section 70A-9a-501 concurrently
1401 with, or after the filing in that office of, an initial financing statement that satisfies Subsection

1402 70A-9a-805(3); or

1403 (c) an initial financing statement that provides the information as amended and satisfies
1404 Subsection 70A-9a-805(3) is filed in the office specified in Section 70A-9a-501.

1405 (4) If the law of this state governs perfection of a security interest, the effectiveness of
1406 a pre-effective-date financing statement may be continued only under Subsections
1407 70A-9a-804(3) and (5) or Section 70A-9a-805.

1408 (5) Whether or not the law of this state governs perfection of a security interest, the
1409 effectiveness of a pre-effective-date financing statement filed in this state may be terminated
1410 after this bill takes effect by filing a termination statement in the office in which the
1411 pre-effective-date financing statement is filed, unless an initial financing statement that
1412 satisfies Subsection 70A-9a-805(3) has been filed in the office specified by the law of the
1413 jurisdiction governing perfection as provided in this chapter as amended by this bill as the
1414 office in which to file a financing statement.

1415 Section 26. Section **70A-9a-807** is enacted to read:

1416 **70A-9a-807. Person entitled to file initial financing statement or continuation**
1417 **statement.**

1418 A person may file an initial financing statement or a continuation statement under this
1419 part if:

1420 (1) the secured party of record authorizes the filing; and

1421 (2) the filing is necessary under this part:

1422 (a) to continue the effectiveness of a financing statement filed before this bill takes
1423 effect; or

1424 (b) to perfect or continue the perfection of a security interest.

1425 Section 27. Section **70A-9a-808** is enacted to read:

1426 **70A-9a-808. Priority.**

1427 This bill determines the priority of conflicting claims to collateral. However, if the
1428 relative priorities of the claims were established before this bill takes effect, this chapter as it
1429 existed before amendment determines priority.

1430 Section 28. **Repealer.**
1431 This bill repeals:
1432 Section **70A-11-101, Effective date.**
1433 Section **70A-11-102, Preservation of old transition provision.**
1434 Section **70A-11-103, Transition to corrected Uniform Commercial Code -- General**
1435 **rule.**
1436 Section **70A-11-104, Transition provision on change of requirement of filing.**
1437 Section **70A-11-105, Transition provision on change of place of filing.**
1438 Section **70A-11-106, Required refilings.**
1439 Section **70A-11-107, Transition provisions as to priorities.**
1440 Section **70A-11-108, Presumption that rule of law continues unchanged.**
1441 Section 29. **Effective date.**
1442 This bill takes effect on July 1, 2013.
1443 Section 30. **Revisor instructions.**
1444 The Legislature intends that the Office of Legislative Research and General Counsel, in
1445 preparing the Utah Code database for publication, replace the language in Sections 70A-9a-801
1446 through 70A-9a-808, from "this bill" with the bill's designated chapter number in the Laws of
1447 Utah.