

Part 1
Short Title, General Construction and Subject Matter

70A-2-101 Short title.

This chapter shall be known and may be cited as Uniform Commercial Code -- Sales.

Enacted by Chapter 154, 1965 General Session

70A-2-102 Scope -- Certain security and other transactions excluded from this chapter.

Unless the context otherwise requires, this chapter applies to transactions in goods; it does not apply to any transaction which although in the form of an unconditional contract to sell or present sale is intended to operate only as a security transaction nor does this chapter impair or repeal any statute regulating sales to consumers, farmers or other specified classes of buyers.

Enacted by Chapter 154, 1965 General Session

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

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

- (a) "Buyer" means a person who buys or contracts to buy goods.
- (b) "Good faith" in the case of a merchant means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.
- (c) "Receipt" of goods means taking physical possession of them.
- (d) "Seller" means a person who sells or contracts to sell goods.

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

- (a) "Acceptance." Section 70A-2-606.
- (b) "Banker's credit." Section 70A-2-325.
- (c) "Between merchants." Section 70A-2-104.
- (d) "Cancellation." Subsection 70A-2-106(4).
- (e) "Commercial unit." Section 70A-2-105.
- (f) "Confirmed credit." Section 70A-2-325.
- (g) "Conforming to contract." Section 70A-2-106.
- (h) "Contract for sale." Section 70A-2-106.
- (i) "Cover." Section 70A-2-712.
- (j) "Entrusting." Section 70A-2-403.
- (k) "Financing agency." Section 70A-2-104.
- (l) "Future goods." Section 70A-2-105.
- (m) "Goods." Section 70A-2-105.
- (n) "Identification." Section 70A-2-501.
- (o) "Installment contract." Section 70A-2-612.
- (p) "Letter of Credit." Section 70A-2-325.
- (q) "Lot." Section 70A-2-105.
- (r) "Merchant." Section 70A-2-104.
- (s) "Overseas." Section 70A-2-323.
- (t) "Person in position of seller." Section 70A-2-707.
- (u) "Present sale." Section 70A-2-106.
- (v) "Sale." Section 70A-2-106.

- (w) "Sale on approval." Section 70A-2-326.
- (x) "Sale or return." Section 70A-2-326.
- (y) "Termination." Section 70A-2-106.
- (3) "Control" as provided in Section 70A-7a-106, and the following definitions in other chapters apply to this chapter:
 - (a) "Check." Section 70A-3-104.
 - (b) "Consignee." Section 70A-7a-102.
 - (c) "Consignor." Section 70A-7a-102.
 - (d) "Consumer goods." Section 70A-9a-102.
 - (e) "Dishonor." Section 70A-3-502.
 - (f) "Draft." Section 70A-3-104.
- (4) In addition, Chapter 1a, Uniform Commercial Code - General Provisions, contains general definitions and principles of construction and interpretation applicable throughout this chapter.

Amended by Chapter 272, 2007 General Session

70A-2-104 Definitions -- "Merchant" -- "Between merchants" -- "Financing agency."

- (1) "Merchant" means a person who deals in goods of the kind or otherwise by his occupation holds himself out as having knowledge or skill peculiar to the practices or goods involved in the transaction or to whom such knowledge or skill may be attributed by his employment of an agent or broker or other intermediary who by his occupation holds himself out as having such knowledge or skill.
- (2) "Financing agency" means a bank, finance company or other person who in the ordinary course of business makes advances against goods or documents of title or who by arrangement with either the seller or the buyer intervenes in ordinary course to make or collect payment due or claimed under the contract for sale, as by purchasing or paying the seller's draft or making advances against it or by merely taking it for collection whether or not documents of title accompany or are associated with the draft. "Financing agency" includes also a bank or other person who similarly intervenes between persons who are in the position of seller and buyer in respect to the goods (Section 70A-2-707).
- (3) "Between merchants" means in any transaction with respect to which both parties are chargeable with the knowledge or skill of merchants.

Amended by Chapter 42, 2006 General Session

70A-2-105 Definitions -- Transferability -- "Goods" -- "Future" goods -- "Lot" -- "Commercial unit."

- (1) "Goods" means all things (including specially manufactured goods) which are movable at the time of identification to the contract for sale other than the money in which the price is to be paid, investment securities (Chapter 8, Uniform Commercial Code - Investment Securities) and things in action. "Goods" also includes the unborn young of animals and growing crops and other identified things attached to realty (Section 70A-2-107).
- (2) Goods must be both existing and identified before any interest in them can pass. Goods which are not both existing and identified are "future" goods. A purported present sale of future goods or of any interest therein operates as a contract to sell.
- (3) There may be a sale of a part interest in existing identified goods.
- (4) An undivided share in an identified bulk of fungible goods is sufficiently identified to be sold although the quantity of the bulk is not determined. Any agreed proportion of such a bulk or

any quantity thereof agreed upon by number, weight or other measure may to the extent of the seller's interest in the bulk be sold to the buyer who then becomes an owner in common.

- (5) "Lot" means a parcel or a single article which is the subject matter of a separate sale or delivery, whether or not it is sufficient to perform the contract.
- (6) "Commercial unit" means such a unit of goods as by commercial usage is a single whole for purposes of sale and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article (as a machine) or a set of articles (as a suite of furniture or an assortment of sizes) or a quantity (as a bale, gross, or carload) or any other unit treated in use or in the relevant market as a single whole.

Enacted by Chapter 154, 1965 General Session

70A-2-106 Definitions -- "Contract" -- "Agreement" -- "Contract for sale" -- "Sale" -- "Present sale" -- "Conforming" to contract -- "Termination" -- "Cancellation."

- (1) In this chapter unless the context otherwise requires "contract" and "agreement" are limited to those relating to the present or future sale of goods. "Contract for sale" includes both a present sale of goods and a contract to sell goods at a future time. A "sale" consists in the passing of title from the seller to the buyer for a price (Section 70A-2-401). A "present sale" means a sale which is accomplished by the making of the contract.
- (2) Goods or conduct including any part of a performance are "conforming" or conform to the contract when they are in accordance with the obligations under the contract.
- (3) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the contract otherwise than for its breach. On "termination" all obligations which are still executory on both sides are discharged but any right based on prior breach or performance survives.
- (4) "Cancellation" occurs when either party puts an end to the contract for breach by the other and its effect is the same as that of "termination" except that the canceling party also retains any remedy for breach of the whole contract or any unperformed balance.

Enacted by Chapter 154, 1965 General Session

70A-2-107 Goods to be severed from realty -- Recording.

- (1) A contract for the sale of minerals or the like (including oil or gas) or a structure or its materials to be removed from realty is a contract for the sale of goods within this chapter if they are to be severed by the seller but until severance a purported present sale thereof which is not effective as a transfer of an interest in land is effective only as a contract to sell.
- (2) A contract for the sale apart from the land of growing crops or other things attached to realty and capable of severance without material harm thereto but not described in Subsection (1) or of timber to be cut is a contract for the sale of goods within this chapter whether the subject matter is to be severed by the buyer or by the seller even though it forms part of the realty at the time of contracting, and the parties can by identification effect a present sale before severance.
- (3) The provisions of this section are subject to any third- party rights provided by the law relating to realty records, and the contract for sale may be executed and recorded as a document transferring an interest in land and shall then constitute notice to third parties of the buyer's rights under the contract for sale.

Amended by Chapter 272, 1977 General Session

