

**Senator Lyle W. Hillyard** proposes the following substitute bill:

**UNIFORM COMMERCIAL CODE AMENDMENTS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lyle W. Hillyard**

House Sponsor: Derek E. Brown

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**LONG TITLE**

**General Description:**

This bill modifies the Uniform Commercial Code to address secured transactions and repeal outdated language.

**Highlighted Provisions:**

This bill:

- ▶ modifies definition provisions;
- ▶ addresses control of electronic chattel paper;
- ▶ modifies provision addressing location of debtor;
- ▶ addresses certificate of title;
- ▶ provides for rules that apply when there is a change in governing law;
- ▶ addresses interests that take priority over or take free of security interest or agricultural lien;
- ▶ modifies provisions related to priority of security interests created by new debtor;
- ▶ addresses the application of statute to the sale of a payment intangible or promissory note;
- ▶ addresses contents of financing statements;
- ▶ modifies provisions related to name of debtor and secured party;
- ▶ addresses effect of certain events on effectiveness of financing statement;

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- 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**  
 1038a **License Division of the Department of Public Safety** ←~~§~~ has issued  
 1039 a driver license that has not expired, or if the debtor does not have an unexpired driver license,  
 1040 an individual to whom the state ~~§~~→ **Driver License Division of the Department of Public Safety**  
 1040a ←~~§~~ has issued an unexpired identification card, only if the  
 1041 financing statement provides the name of the individual which is indicated on the driver license  
 1042 or identification card;

1043 (e) if the debtor is an individual to whom Subsection (1)(d) does not apply, only if the  
 1044 financing statement provides the individual name of the debtor or the surname and first  
 1045 personal name of the debtor; and

1046 ~~[(d)]~~ (f) in other cases:

1047 (i) if the debtor has a name, only if [it] the financing statement provides the [individual  
 1048 or] organizational name of the debtor; and

1049 (ii) if the debtor does not have a name, only if it provides the names of the partners,  
1050 members, associates, or other persons comprising the debtor, in a manner that each name  
1051 provided would be sufficient if the person named were the debtor.

1052 (2) A financing statement that provides the name of the debtor in accordance with  
1053 Subsection (1) is not rendered ineffective by the absence of:

1054 (a) a trade name or other name of the debtor; or

1055 (b) unless required under Subsection (1)~~(d)~~(f)(ii), names of partners, members,  
1056 associates, or other persons comprising the debtor.

1057 (3) A financing statement that provides only the debtor's trade name does not  
1058 sufficiently provide the name of the debtor.

1059 (4) Failure to indicate the representative capacity of a secured party or representative of  
1060 a secured party does not affect the sufficiency of a financing statement.

1061 (5) A financing statement may provide the name of more than one debtor and the name  
1062 of more than one secured party.

1063 (6) The name of the decedent indicated on the order appointing the personal  
1064 representative of the decedent issued by the court having jurisdiction over the collateral is  
1065 sufficient as the "name of the decedent" under Subsection (1)(b).

1066 (7) If this state has issued to an individual more than one driver license or identification  
1067 card of a kind described in Subsection (1)(d), the one that was issued most recently is the one  
1068 to which Subsection (1)(d) refers.

1069 (8) In this section, the "name of the settlor or testator" means:

1070 (a) if the settlor is a registered organization, the name that is stated to be the settlor's  
1071 name on the public organic record most recently filed with or issued or enacted by the settlor's  
1072 jurisdiction of organization which purports to state, amend, or restate the settlor's name; or

1073 (b) in the other cases, the name of the settlor or testator indicated in the trust's organic  
1074 record.

1075 Section 13. Section **70A-9a-507** is amended to read:

1076 **70A-9a-507. Effect of certain events on effectiveness of financing statement.**

1077 (1) A filed financing statement remains effective with respect to collateral that is sold,  
1078 exchanged, leased, licensed, or otherwise disposed of and in which a security interest or  
1079 agricultural lien continues, even if the secured party knows of or consents to the disposition.

1080 (2) Except as otherwise provided in Subsection (3) and Section 70A-9a-508, a  
1081 financing statement is not rendered ineffective if, after the financing statement is filed, the  
1082 information provided in the financing statement becomes seriously misleading under Section  
1083 70A-9a-506.

1084 (3) If [~~a debtor so changes its~~] the name that a filed financing statement [~~becomes~~]  
1085 provides for a debtor becomes insufficient as the name of the debtor under Subsection  
1086 70A-9a-503(1) so that the financing statement becomes seriously misleading under Section  
1087 70A-9a-506:

1088 (a) the financing statement is effective to perfect a security interest in collateral  
1089 acquired by the debtor before, or within four months after, the [~~change~~] filed financing  
1090 statement becomes seriously misleading; and

1091 (b) the financing statement is not effective to perfect a security interest in collateral  
1092 acquired by the debtor more than four months after the [~~change~~] filed financing statement  
1093 becomes seriously misleading, unless an amendment to the financing statement which renders  
1094 the financing statement not seriously misleading is filed within four months after the [~~change~~]  
1095 financing statement became seriously misleading.

1096 Section 14. Section **70A-9a-515** is amended to read:

1097 **70A-9a-515. Duration and effectiveness of financing statement -- Effect of lapsed**  
1098 **financing statement.**

1099 (1) Except as otherwise provided in Subsections (2), (5), (6), and (7), a filed financing  
1100 statement is effective for a period of five years after the date of filing.

1101 (2) Except as otherwise provided in Subsections (5), (6), and (7), an initial financing  
1102 statement filed in connection with a public-finance transaction or manufactured-home  
1103 transaction is effective for a period of 30 years after the date of filing if it indicates that it is  
1104 filed in connection with a public-finance transaction or manufactured-home transaction.

1105 (3) The effectiveness of a filed financing statement lapses on the expiration of the  
1106 period of its effectiveness unless before the lapse a continuation statement is filed pursuant to  
1107 Subsection (4). Upon lapse, a financing statement ceases to be effective and any security  
1108 interest or agricultural lien that was perfected by the financing statement becomes unperfected,  
1109 unless the security interest is perfected otherwise. If the security interest or agricultural lien  
1110 becomes unperfected upon lapse, it is deemed never to have been perfected as against a

1111 purchaser of the collateral for value.

1112 (4) A continuation statement may be filed only within six months before the expiration  
1113 of the five-year period specified in Subsection (1) or the 30-year period specified in Subsection  
1114 (2), whichever is applicable.

1115 (5) Except as otherwise provided in Section 70A-9a-510, upon timely filing of a  
1116 continuation statement, the effectiveness of the initial financing statement continues for a  
1117 period of five years commencing on the day on which the financing statement would have  
1118 become ineffective in the absence of the filing. Upon the expiration of the five-year period, the  
1119 financing statement lapses in the same manner as provided in Subsection (3), unless, before the  
1120 lapse, another continuation statement is filed pursuant to Subsection (4). Succeeding  
1121 continuation statements may be filed in the same manner to continue the effectiveness of the  
1122 initial financing statement.

1123 (6) If a debtor is a transmitting utility and a filed initial financing statement so  
1124 indicates, the financing statement is effective until a termination statement is filed.

1125 (7) A record of a mortgage that is effective as a financing statement filed as a fixture  
1126 filing under Subsection 70A-9a-502(3) remains effective as a financing statement filed as a  
1127 fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise  
1128 terminates as to the real property.

1129 Section 15. Section **70A-9a-516** is amended to read:

1130 **70A-9a-516. What constitutes filing -- Effectiveness of filing.**

1131 (1) Except as otherwise provided in Subsection (2) or (4), communication of a record  
1132 to a filing office and tender of the filing fee or acceptance of the record by the filing office  
1133 constitutes filing.

1134 (2) Filing does not occur with respect to a record that a filing office refuses to accept  
1135 because:

1136 (a) the record is not communicated by a method or medium of communication  
1137 authorized by the filing office;

1138 (b) an amount equal to or greater than the applicable filing fee is not tendered;

1139 (c) the filing office is unable to index the record because:

1140 (i) in the case of an initial financing statement, the record does not provide a name for  
1141 the debtor;

1142 (ii) in the case of an amendment or ~~[correction]~~ information statement, the record:  
1143 (A) does not identify the initial financing statement as required by Section 70A-9a-512  
1144 or 70A-9a-518, as applicable; or  
1145 (B) identifies an initial financing statement whose effectiveness has lapsed under  
1146 Section 70A-9a-515;  
1147 (iii) in the case of an initial financing statement that provides the name of a debtor  
1148 identified as an individual or an amendment that provides a name of a debtor identified as an  
1149 individual which was not previously provided in the financing statement to which the record  
1150 relates, the record does not identify the debtor's ~~[last name]~~ surname; or  
1151 (iv) in the case of a record filed or recorded in the filing office described in Subsection  
1152 70A-9a-501(1)(a), the record does not provide a sufficient description of the real property to  
1153 which it relates;  
1154 (d) in the case of an initial financing statement or an amendment that adds a secured  
1155 party of record, the record does not provide a name and mailing address for the secured party of  
1156 record;  
1157 (e) in the case of an initial financing statement or an amendment that provides a name  
1158 of a debtor which was not previously provided in the financing statement to which the  
1159 amendment relates, the record does not:  
1160 (i) provide a mailing address for the debtor; or  
1161 (ii) indicate whether the name provided as the name of the debtor is the name of an  
1162 individual or an organization; ~~[or]~~  
1163 ~~[(iii) if the financing statement indicates that the debtor is an organization, provide:]~~  
1164 ~~[(A) a type of organization for the debtor;]~~  
1165 ~~[(B) a jurisdiction of organization for the debtor; or]~~  
1166 ~~[(C) an organizational identification number for the debtor or indicate that the debtor~~  
1167 ~~has none;]~~  
1168 (f) in the case of an assignment reflected in an initial financing statement under  
1169 Subsection 70A-9a-514(1) or an amendment filed under Subsection 70A-9a-514(2), the record  
1170 does not provide a name and mailing address for the assignee; or  
1171 (g) in the case of a continuation statement, the record is not filed within the six-month  
1172 period prescribed by Subsection 70A-9a-515(4).

1173 (3) For purposes of Subsection (2):

1174 (a) a record does not provide information if the filing office is unable to read or  
1175 decipher the information; and

1176 (b) a record that does not indicate that it is an amendment or identify an initial  
1177 financing statement to which it relates, as required by Section 70A-9a-512, 70A-9a-514, or  
1178 70A-9a-518, is an initial financing statement.

1179 (4) A filing office may refuse to accept a record for filing, and if it does so, filing does  
1180 not occur with respect to the record, because:

1181 (a) the debtor is an individual and the debtor's name contains unusually placed and  
1182 apparently unnecessary punctuation, symbols, or other nonalphabetic characters;

1183 (b) the record, in the collateral description or elsewhere, including an attachment,  
1184 discloses personally identifying information such as a Social Security number, driver license  
1185 number, identification card number, bank account number, credit or debit card account number,  
1186 date of birth, or place of birth; or

1187 (c) the debtor is an individual and the record indicates that the debtor is a transmitting  
1188 utility.

1189 ~~[(4)]~~ (5) A record that is communicated to the filing office with tender of the filing fee,  
1190 but which the filing office refuses to accept for a reason other than one set forth in Subsection  
1191 (2) or (4), is effective as a filed record except as against a purchaser of the collateral which  
1192 gives value in reasonable reliance upon the absence of the record from the files.

1193 Section 16. Section **70A-9a-518** is amended to read:

1194 **70A-9a-518. Claim concerning inaccurate or wrongfully filed record.**

1195 (1) A person may file in the filing office ~~[a correction]~~ an information statement with  
1196 respect to a record indexed there under the person's name if the person believes that the record  
1197 is inaccurate or was wrongfully filed.

1198 (2) ~~[A correction]~~ An information statement under Subsection (1) must:

1199 (a) identify the record to which it relates by~~[(i)]~~ the file number assigned to the initial  
1200 financing statement to which the record relates; ~~[and]~~

1201 ~~[(ii) if the correction statement relates to a record filed or recorded in a filing office~~  
1202 ~~described in Subsection 70A-9a-501(1)(a):]~~

1203 ~~[(A) (i) the entry number of the initial financing statement; or]~~

1204 ~~[(H) the book and page where that the initial financing statement was filed or recorded;~~  
1205 and]

1206 ~~[(B) the information specified in Subsection 70A-9a-502(2);]~~

1207 ~~[(b) indicate that it is a correction statement; and]~~

1208 (b) indicate that it is an information statement; and

1209 (c) provide the basis for the person's belief that the record is inaccurate and indicate the  
1210 manner in which the person believes the record should be amended to cure any inaccuracy or  
1211 provide the basis for the person's belief that the record was wrongfully filed.

1212 (3) A person may file in the filing office an information statement with respect to a  
1213 record filed there if the person is a secured party of record with respect to the financing  
1214 statement to which the record relates and believes that the person that filed the record was not  
1215 entitled to do so under Subsection 70A-9a-509(4).

1216 (4) An information statement under Subsection (3) must:

1217 (a) identify the record to which it relates by the file number assigned to the initial  
1218 financing statement to which the record relates;

1219 (b) indicate that it is an information statement; and

1220 (c) provide the basis for the person's belief that the person that filed the record was not  
1221 entitled to do so under Subsection 70A-9a-509(4).

1222 ~~[(3)]~~ (5) The filing of ~~[a correction]~~ an information statement does not affect the  
1223 effectiveness of an initial financing statement or other filed record.

1224 Section 17. Section **70A-9a-520** is amended to read:

1225 **70A-9a-520. Acceptance and refusal to accept record.**

1226 (1) A filing office shall refuse to accept a record for filing for a reason set forth in  
1227 Subsection 70A-9a-516(2) or (4) and may refuse to accept a record for filing only for a reason  
1228 set forth in Subsection 70A-9a-516(2).

1229 (2) If a filing office refuses to accept a record for filing, it shall communicate to the  
1230 person that presented the record the fact of and reason for the refusal and the date and time the  
1231 record would have been filed had the filing office accepted it. The communication must be  
1232 made at the time and in the manner prescribed by filing-office rule but, in the case of a filing  
1233 office described in Subsection 70A-9a-501(1)(b), in no event more than two business days after  
1234 the filing office receives the record.



1235 (3) A filed financing statement satisfying Subsections 70A-9a-502(1) and (2) is  
1236 effective, even if the filing office is required to refuse to accept it for filing under Subsection  
1237 (1). However, Section 70A-9a-338 applies to a filed financing statement providing information  
1238 described in Subsection 70A-9a-516(2)(e) which is incorrect at the time the financing  
1239 statement is filed.

1240 (4) If a record communicated to a filing office provides information that relates to more  
1241 than one debtor, this part applies as to each debtor separately.

1242 (5) This section does not apply to a filing office described in Subsection  
1243 70A-9a-501(1)(a).

1244 Section 18. Section **70A-9a-521** is amended to read:

1245 **70A-9a-521. Uniform form of written financing statement and amendment.**

1246 (1) A filing office that accepts written records may not refuse to accept a written initial  
1247 financing statement in the form and format set forth in the final official text of the [1999] 2010  
1248 revisions to Article 9 of the Uniform Commercial Code promulgated by The American Law  
1249 Institute and the National Conference of Commissioners on Uniform State Laws, except for a  
1250 reason set forth in Subsection 70A-9a-516(2) or (4).

1251 (2) A filing office that accepts written records may not refuse to accept a written record  
1252 in the form and format set forth in the final official text of the [1999] 2010 revisions to Article  
1253 9 of the Uniform Commercial Code promulgated by The American Law Institute and the  
1254 National Conference of Commissioners on Uniform State Laws, except for a reason set forth in  
1255 Subsection 70A-9a-516(2) or (4).

1256 Section 19. Section **70A-9a-607** is amended to read:

1257 **70A-9a-607. Collection and enforcement by secured party.**

1258 (1) If so agreed, and in any event after default, a secured party:

1259 (a) may notify an account debtor or other person obligated on collateral to make  
1260 payment or otherwise render performance to or for the benefit of the secured party;

1261 (b) may take any proceeds to which the secured party is entitled under Section  
1262 70A-9a-315;

1263 (c) may enforce the obligations of an account debtor or other person obligated on  
1264 collateral and exercise the rights of the debtor with respect to the obligation of the account  
1265 debtor or other person obligated on collateral to make payment or otherwise render

1266 performance to the debtor, and with respect to any property that secures the obligations of the  
1267 account debtor or other person obligated on the collateral;

1268 (d) if it holds a security interest in a deposit account perfected by control under  
1269 Subsection 70A-9a-104(1)(a), may apply the balance of the deposit account to the obligation  
1270 secured by the deposit account; and

1271 (e) if it holds a security interest in a deposit account perfected by control under  
1272 Subsection 70A-9a-104(1)(b) or (c), may instruct the bank to pay the balance of the deposit  
1273 account to or for the benefit of the secured party.

1274 (2) If necessary to enable a secured party to exercise under Subsection (1)(c) the right  
1275 of a debtor to enforce a mortgage nonjudicially, the secured party may record in the office in  
1276 which a record of the mortgage is recorded:

1277 (a) a copy of the security agreement that creates or provides for a security interest in the  
1278 obligation secured by the mortgage; and

1279 (b) the secured party's sworn affidavit in recordable form stating that:

1280 (i) a default has occurred with respect to the obligation secured by the mortgage; and

1281 (ii) the secured party is entitled to enforce the mortgage nonjudicially.

1282 (3) A secured party shall proceed in a commercially reasonable manner if the secured  
1283 party:

1284 (a) undertakes to collect from or enforce an obligation of an account debtor or other  
1285 person obligated on collateral; and

1286 (b) is entitled to charge back uncollected collateral or otherwise to full or limited  
1287 recourse against the debtor or a secondary obligor.

1288 (4) A secured party may deduct from the collections made pursuant to Subsection (3)  
1289 reasonable expenses of collection and enforcement, including reasonable attorney's fees and  
1290 legal expenses incurred by the secured party.

1291 (5) This section does not determine whether an account debtor, bank, or other person  
1292 obligated on collateral owes a duty to a secured party.

1293 Section 20. Section **70A-9a-801** is enacted to read:

1294 **Part 8. Transition Provisions for 2010 Amendments**

1295 **70A-9a-801. Savings clause.**

1296 (1) Except as otherwise provided in this part, the bill applies to a transaction or lien

1297 within its scope, even if the transaction or lien was entered into or created before July 1, 2013.

1298 (2) This bill does not affect an action, case, or proceeding commenced before July 1,  
1299 2013.

1300 Section 21. Section **70A-9a-802** is enacted to read:

1301 **70A-9a-802. Security interest perfected before effective date.**

1302 (1) A security interest that is a perfected security interest immediately before July 1,  
1303 2013, is a perfected security interest under this chapter as amended by this bill if, when this bill  
1304 takes effect, the applicable requirements for attachment and perfection under this chapter as  
1305 amended by this bill are satisfied without further action.

1306 (2) Except as otherwise provided in Section 70A-9a-805, if immediately before July 1,  
1307 2013, a security interest is a perfected security interest, but the applicable requirements for  
1308 perfection under this chapter as amended by this bill are not satisfied when this bill takes effect,  
1309 the security interest remains perfected thereafter only if the applicable requirements for  
1310 perfection under this chapter as amended by this bill are satisfied within one year after July 1,  
1311 2013.

1312 Section 22. Section **70A-9a-803** is enacted to read:

1313 **70A-9a-803. Security interest unperfected before effective date.**

1314 A security interest that is an unperfected security interest immediately before this bill  
1315 takes effect becomes a perfected security interest:

1316 (1) without further action, when this bill takes effect if the applicable requirements for  
1317 perfection under this chapter as amended by this bill are satisfied before or at that time; or

1318 (2) when the applicable requirements for perfection are satisfied if the requirements are  
1319 satisfied after that time.

1320 Section 23. Section **70A-9a-804** is enacted to read:

1321 **70A-9a-804. Effectiveness of action taken before effective date.**

1322 (1) The filing of a financing statement before this bill takes effect is effective to perfect  
1323 a security interest to the extent the filing would satisfy the applicable requirements for  
1324 perfection under this chapter as amended by this bill.

1325 (2) This bill does not render ineffective an effective financing statement that, before  
1326 this bill takes effect, is filed and satisfies the applicable requirements for perfection under the  
1327 law of the jurisdiction governing perfection as provided in this chapter as it existed before

1328 amendment. However, except as otherwise provided in Subsections (3) and (4) and Section  
1329 70A-9a-805, the financing statement ceases to be effective:

1330 (a) if the financing statement is filed in this state, at the time the financing statement  
1331 would have ceased to be effective had this bill not taken effect; or

1332 (b) if the financing statement is filed in another jurisdiction, at the earlier of:

1333 (i) the time the financing statement would have ceased to be effective under the law of  
1334 that jurisdiction; or

1335 (ii) June 30, 2018.

1336 (3) The filing of a continuation statement after this bill takes effect does not continue  
1337 the effectiveness of a financing statement filed before this bill takes effect. However, upon the  
1338 timely filing of a continuation statement after this bill takes effect and in accordance with the  
1339 law of the jurisdiction governing perfection as provided in this chapter as amended by this bill,  
1340 the effectiveness of a financing statement filed in the same office in that jurisdiction before this  
1341 bill takes effect continues for the period provided by the law of that jurisdiction.

1342 (4) Subsection (2)(b)(ii) applies to a financing statement that, before this bill takes  
1343 effect, is filed against a transmitting utility and satisfies the applicable requirements for  
1344 perfection under the law of the jurisdiction governing perfection as provided in this chapter as  
1345 it existed before amendment, only to the extent that this chapter as amended by this bill  
1346 provides that the law of a jurisdiction other than the jurisdiction in which the financing  
1347 statement is filed governs perfection of a security interest in collateral covered by the financing  
1348 statement.

1349 (5) A financing statement that includes a financing statement filed before this bill takes  
1350 effect and a continuation statement filed after this bill takes effect is effective only to the extent  
1351 that it satisfies the requirements of Part 5, Filing, as amended by this bill for an initial financing  
1352 statement. A financing statement that indicates that the debtor is a decedent's estate indicates  
1353 that the collateral is being administered by a personal representative within the meaning of  
1354 Subsection 70A-9a-503(1)(b) as amended by this bill. A financing statement that indicates that  
1355 the debtor is a trust or is a trustee acting with respect to property held in trust indicates that the  
1356 collateral is held in a trust within the meaning of Subsection 70A-9a-503(1)(c) as amended by  
1357 this bill.

1358 Section 24. Section **70A-9a-805** is enacted to read:

1359            **70A-9a-805.** When initial financing statement suffices to continue effectiveness of  
1360 financing statement.

1361            (1) The filing of an initial financing statement in the office specified in Section  
1362 70A-9a-501 continues the effectiveness of a financing statement filed before this bill takes  
1363 effect if:

1364            (a) the filing of an initial financing statement in that office would be effective to  
1365 perfect a security interest under this chapter as amended by this bill;

1366            (b) the pre-effective-date financing statement was filed in an office in another state;  
1367 and

1368            (c) the initial financing statement satisfies Subsection (3).

1369            (2) The filing of an initial financing statement under Subsection (1) continues the  
1370 effectiveness of the pre-effective-date financing statement:

1371            (a) if the initial financing statement is filed before this bill takes effect, for the period  
1372 provided in unamended Section 70A-9a-515 with respect to an initial financing statement; and

1373            (b) if the initial financing statement is filed after this bill takes effect, for the period  
1374 provided in Section 70A-9a-515 as amended by this bill with respect to an initial financing  
1375 statement.

1376            (3) To be effective for purposes of Subsection (1), an initial financing statement must:

1377            (a) satisfy the requirements of Part 5, Filing, as amended by this bill for an initial  
1378 financing statement;

1379            (b) identify the pre-effective-date financing statement by indicating the office in which  
1380 the financing statement was filed and providing the dates of filing and file numbers, if any, of  
1381 the financing statement and of the most recent continuation statement filed with respect to the  
1382 financing statement; and

1383            (c) indicate that the pre-effective-date financing statement remains effective.

1384            Section 25. Section **70A-9a-806** is enacted to read:

1385            **70A-9a-806.** Amendment of pre-effective-date financing statement.

1386            (1) In this section, "pre-effective-date financing statement" means a financing  
1387 statement filed before this bill takes effect.

1388            (2) After this bill takes effect, a person may add or delete collateral covered by,  
1389 continue or terminate the effectiveness of, or otherwise amend the information provided in, a

1390 pre-effective-date financing statement only in accordance with the law of the jurisdiction  
1391 governing perfection as provided in this chapter as amended by this bill. However, the  
1392 effectiveness of a pre-effective-date financing statement also may be terminated in accordance  
1393 with the law of the jurisdiction in which the financing statement is filed.

1394 (3) Except as otherwise provided in Subsection (4), if the law of this state governs  
1395 perfection of a security interest, the information in a pre-effective-date financing statement may  
1396 be amended after this bill takes effect only if:

1397 (a) the pre-effective-date financing statement and an amendment are filed in the office  
1398 specified in Section 70A-9a-501;

1399 (b) an amendment is filed in the office specified in Section 70A-9a-501 concurrently  
1400 with, or after the filing in that office of, an initial financing statement that satisfies Subsection  
1401 70A-9a-805(3); or

1402 (c) an initial financing statement that provides the information as amended and satisfies  
1403 Subsection 70A-9a-805(3) is filed in the office specified in Section 70A-9a-501.

1404 (4) If the law of this state governs perfection of a security interest, the effectiveness of  
1405 a pre-effective-date financing statement may be continued only under Subsections  
1406 70A-9a-804(3) and (5) or Section 70A-9a-805.

1407 (5) Whether or not the law of this state governs perfection of a security interest, the  
1408 effectiveness of a pre-effective-date financing statement filed in this state may be terminated  
1409 after this bill takes effect by filing a termination statement in the office in which the  
1410 pre-effective-date financing statement is filed, unless an initial financing statement that  
1411 satisfies Subsection 70A-9a-805(3) has been filed in the office specified by the law of the  
1412 jurisdiction governing perfection as provided in this chapter as amended by this bill as the  
1413 office in which to file a financing statement.

1414 Section 26. Section **70A-9a-807** is enacted to read:

1415 **70A-9a-807. Person entitled to file initial financing statement or continuation**  
1416 **statement.**

1417 A person may file an initial financing statement or a continuation statement under this  
1418 part if:

1419 (1) the secured party of record authorizes the filing; and

1420 (2) the filing is necessary under this part:

1421 (a) to continue the effectiveness of a financing statement filed before this bill takes  
1422 effect; or

1423 (b) to perfect or continue the perfection of a security interest.

1424 Section 27. Section **70A-9a-808** is enacted to read:

1425 **70A-9a-808. Priority.**

1426 This bill determines the priority of conflicting claims to collateral. However, if the  
1427 relative priorities of the claims were established before this bill takes effect, this chapter as it  
1428 existed before amendment determines priority.

1429 Section 28. **Repealer.**

1430 This bill repeals:

1431 Section **70A-11-101, Effective date.**

1432 Section **70A-11-102, Preservation of old transition provision.**

1433 Section **70A-11-103, Transition to corrected Uniform Commercial Code -- General**  
1434 **rule.**

1435 Section **70A-11-104, Transition provision on change of requirement of filing.**

1436 Section **70A-11-105, Transition provision on change of place of filing.**

1437 Section **70A-11-106, Required refilings.**

1438 Section **70A-11-107, Transition provisions as to priorities.**

1439 Section **70A-11-108, Presumption that rule of law continues unchanged.**

1440 Section 29. **Effective date.**

1441 This bill takes effect on July 1, 2013.

1442 Section 30. **Revisor instructions.**

1443 The Legislature intends that the Office of Legislative Research and General Counsel, in  
1444 preparing the Utah Code database for publication, replace the language in Sections 70A-9a-801  
1445 through 70A-9a-808, from "this bill" with the bill's designated chapter number in the Laws of  
1446 Utah.