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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO THE UNIFORM COMMERCIAL CODE

Introduced By: Representatives Kennedy, Azzinaro, Edwards, Kazarian, and Diaz

Date Introduced: January 18, 2024

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 6A-1-201, 6A-1-204, 6A-1-301 and 6A-1-306 of the General Laws
2 in Chapter 6A-1 entitled "General Provisions" are hereby amended to read as follows:

3 **6A-1-201. General definitions.**

4 (a) Unless the context otherwise requires, words or phrases defined in this section, or in
5 the additional definitions contained in other chapters of title 6A that apply to particular chapters or
6 parts thereof, have the meanings stated.

7 (b) Subject to definitions contained in other chapters of title 6A that apply to particular
8 chapters or parts thereof:

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

11 (2) "Aggrieved party" means a party entitled to pursue a remedy.

12 (3) "Agreement"; as distinguished from "contract", means the bargain of the parties in fact,
13 as found in their language or inferred from other circumstances, including course of performance,
14 course of dealing, or usage of trade as provided in § 6A-1-303.

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

17 (5) "Bearer" means a person in control of a negotiable electronic document of title or a
18 person in possession of a negotiable instrument, negotiable tangible document of title, or
19 certificated security that is payable to bearer or indorsed in blank.

1 (6) “Bill of lading” means a document of title evidencing the receipt of goods for shipment
2 issued by a person engaged in the business of directly or indirectly transporting or forwarding
3 goods. This term does not include a warehouse receipt.

4 (7) “Branch” includes a separately incorporated foreign branch of a bank.

5 (8) “Burden of establishing” a fact means the burden of persuading the trier of fact that the
6 existence of the fact is more probable than its nonexistence.

7 (9) “Buyer in ordinary course of business” means a person that buys goods in good faith,
8 without knowledge that the sale violates the rights of another person in the goods, and in the
9 ordinary course from a person, other than a pawnbroker, in the business of selling goods of that
10 kind. A person buys goods in the ordinary course if the sale to the person comports with the usual
11 or customary practices in the kind of business in which the seller is engaged or with the seller’s
12 own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or
13 minehead is a person in the business of selling goods of that kind. A buyer in ordinary course of
14 business may buy for cash, by exchange of other property, or on secured or unsecured credit, and
15 may acquire goods or documents of title under a preexisting contract for sale. Only a buyer that
16 takes possession of the goods or has a right to recover the goods from the seller under Chapter 2
17 may be a buyer in ordinary course of business. “Buyer in ordinary course of business” does not
18 include a person that acquires goods in a transfer in bulk or as security for or in total or partial
19 satisfaction of a money debt.

20 (10) “Conspicuous”; with reference to a term, means so written, displayed, or presented
21 that, based on the totality of the circumstances, a reasonable person against which it is to operate
22 ought to have noticed it. Whether a term is “conspicuous” or not is a decision for the court.
23 ~~Conspicuous terms include the following:~~

24 ~~(A) A heading in capitals equal to or greater in size than the surrounding text, or in~~
25 ~~contrasting type, font, or color to the surrounding text of the same or lesser size; and~~

26 ~~(B) Language in the body of a record or display in larger type than the surrounding text, or~~
27 ~~in contrasting type, font, or color to the surrounding text of the same size, or set off from~~
28 ~~surrounding text of the same size by symbols or other marks that call attention to the language In~~
29 deciding whether a term is conspicuous, the court shall consider all relevant factors, including:

30 (A) The use of headings and text that contrast with the surrounding text;

31 (B) The placement of the term in the record;

32 (C) If terms are available only through the use of a hyperlink, in addition to the placement
33 of the hyperlink;

34 (i) Whether there is language drawing attention to the hyperlink and describing its function;

- 1 (ii) The size and color of the text used for the hyperlink and any related language; and
2 (iii) Whether the text is accessible using assistive technology;
3 (D) The language of the heading, if any;
4 (E) The effort needed to access the term; and
5 (F) Whether the person against which the term is to operate must separately assent to or
6 acknowledge the term.

7 (11) “Consumer” means an individual who enters into a transaction primarily for personal,
8 family, or household purposes.

9 (12) “Contract”, as distinguished from “agreement”, means the total legal obligation that
10 results from the parties’ agreement as determined by title 6A as supplemented by any other
11 applicable laws.

12 (13) “Creditor” includes a general creditor, a secured creditor, a lien creditor, and any
13 representative of creditors, including an assignee for the benefit of creditors, a trustee in
14 bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor’s or
15 assignor’s estate.

16 (14) “Defendant” includes a person in the position of defendant in a counterclaim, cross-
17 claim, or third-party claim.

18 (15) “Delivery”, with respect to an electronic document of title means voluntary transfer
19 of control and with respect to an instrument, a tangible document of title, or an authoritative tangible
20 copy of a record evidencing chattel paper, means voluntary transfer of possession.

21 (16)

22 “Document of title” means a record:

23 (i) That in the regular course of business or financing is treated as adequately evidencing
24 that the person in possession or control of the record is entitled to receive, control, hold, and dispose
25 of the record and the goods the record covers; and

26 (ii) That purports to be issued by or addressed to a bailee and to cover goods in the bailee’s
27 possession which are either identified or are fungible portions of an identified mass. The term
28 includes a bill of lading, transport document, dock warrant, dock receipt, warehouse receipt, and
29 order for delivery of goods.

30 An electronic document of title means a document of title evidenced by a record consisting
31 of information stored in an electronic medium. A tangible document of title means a document of
32 title evidenced by a record consisting of information that is inscribed on a tangible medium.

33 (16.1) "Electronic" means relating to technology having electrical, digital, magnetic,
34 wireless, optical, electromagnetic, or similar capabilities.

1 (17) "Fault" means a default, breach, or wrongful act or omission.

2 (18) "Fungible goods" means:

3 (A) Goods of which any unit, by nature or usage of trade, is the equivalent of any other like

4 unit; or

5 (B) Goods that by agreement are treated as equivalent.

6 (19) "Genuine" means free of forgery or counterfeiting.

7 (20) "Good faith" means honesty in fact in the conduct or transaction concerned.

8 (21) "Holder" means:

9 (A) The person in possession of a negotiable instrument that is payable either to bearer or

10 to an identified person that is the person in possession;

11 (B) The person in possession of a negotiable tangible document of title if the goods are

12 deliverable either to bearer or to the order of the person in possession; or

13 (C) The person in control other than pursuant to § 6A-7-106(g) of a negotiable electronic

14 document of title.

15 (22) "Insolvency proceeding" includes an assignment for the benefit of creditors or other

16 proceeding intended to liquidate or rehabilitate the estate of the person involved.

17 (23) "Insolvent" means:

18 (A) Having generally ceased to pay debts in the ordinary course of business other than as

19 a result of bona fide dispute;

20 (B) Being unable to pay debts as they become due; or

21 (C) Being insolvent within the meaning of federal bankruptcy law.

22 (24) "Money" means a medium of exchange that is currently authorized or adopted by a

23 domestic or foreign government. The term includes a monetary unit of account established by an

24 intergovernmental organization or by agreement between two (2) or more countries. The term

25 "money" does not include an electronic record that is a medium of exchange recorded and

26 transferable in a system that existed and operated for the medium of exchange before the medium

27 of exchange was authorized or adopted by the government.

28 (25) "Organization" means a person other than an individual.

29 (26) "Party", as distinguished from "third-party", means a person that has engaged in a

30 transaction or made an agreement subject to title 6A.

31 (27) "Person" means an individual, corporation, business trust, estate, trust, partnership,

32 limited liability company, association, joint venture, government, governmental subdivision,

33 agency, or instrumentality, ~~public corporation~~, or any other legal or commercial entity. The term

34 "person" includes a protected series, however denominated, of an entity if the protected series is

1 established under law other than this title that limits, or limits if conditions specified under the law
2 are satisfied, the ability of a creditor of the entity or of any other protected series of the entity to
3 satisfy a claim from assets of the protected series.

4 (28) “Present value” means the amount as of a date certain of one or more sums payable in
5 the future, discounted to the date certain by use of either an interest rate specified by the parties if
6 that rate is not manifestly unreasonable at the time the transaction is entered into or, if an interest
7 rate is not so specified, a commercially reasonable rate that takes into account the facts and
8 circumstances at the time the transaction is entered into.

9 (29) “Purchase” means taking by sale, lease, discount, negotiation, mortgage, pledge, lien,
10 security interest, issue or reissue, gift, or any other voluntary transaction creating an interest in
11 property.

12 (30) “Purchaser” means a person that takes by purchase.

13 (31) “Record” means information that is inscribed on a tangible medium or that is stored
14 in an electronic or other medium and is retrievable in perceivable form.

15 (32) “Remedy” means any remedial right to which an aggrieved party is entitled with or
16 without resort to a tribunal.

17 (33) “Representative” means a person empowered to act for another, including an agent,
18 an officer of a corporation or association, and a trustee, executor, or administrator of an estate.

19 (34) “Right” includes remedy.

20 (35) “Security interest” means an interest in personal property or fixtures which secures
21 payment or performance of an obligation. “Security interest” includes any interest of a consignor
22 and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in a transaction
23 that is subject to Chapter 9. “Security interest” does not include the special property interest of a
24 buyer of goods on identification of those goods to a contract for sale under § 6A-2-401, but a buyer
25 may also acquire a “security interest” by complying with Chapter 9. Except as otherwise provided
26 in § 6A-2-505, the right of a seller or lessor of goods under Chapter 2 or 2.1 to retain or acquire
27 possession of the goods is not a “security interest”, but a seller or lessor may also acquire a “security
28 interest” by complying with Chapter 9. The retention or reservation of title by a seller of goods
29 notwithstanding shipment or delivery to the buyer under § 6A-2-401 is limited in effect to a
30 reservation of a “security interest.” Whether a transaction in the form of a lease creates a “security
31 interest” is determined pursuant to § 6A-1-203.

32 (36) “Send” in connection with a ~~writing, record, or notice~~ record or notification means:

33 (A) To deposit in the mail, ~~or~~ deliver for transmission, or transmit by any other usual means
34 of communication with postage or cost of transmission provided for, ~~and properly addressed and,~~

1 ~~in the case of an instrument, to an address specified thereon or otherwise agreed, or if there be none~~
2 addressed to any address reasonable under the circumstances; or

3 (B) ~~In any other way to cause to be received any record or notice within the time it would~~
4 ~~have arrived if properly sent. To cause the record or notification to be received within the time it~~
5 would have been received if properly sent under subsection (b)(36)(A) of this section.

6 (37) ~~"Signed" includes using any symbol executed or adopted with present intention to~~
7 ~~adopt or accept a writing. "Sign" means, with present intent to authenticate or adopt a record:~~

8 (i) Execute or adopt a tangible symbol; or

9 (ii) Attach to or logically associate with the record an electronic symbol, sound, or process.

10 "Signed," "signing," and "signature" have corresponding meanings.

11 (38) "State" means a State of the United States, the District of Columbia, Puerto Rico, the
12 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the
13 United States.

14 (39) "Surety" includes a guarantor or other secondary obligor.

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

16 (41) "Unauthorized signature" means a signature made without actual, implied, or apparent
17 authority. The term includes a forgery.

18 (42) "Warehouse receipt" means a document of title issued by a person engaged in the
19 business of storing goods for hire. The term does not include a bill of lading.

20 (43) "Writing" includes printing, typewriting, or any other intentional reduction to tangible
21 form. "Written" has a corresponding meaning.

22 **6A-1-204. Value.**

23 Except as otherwise provided in chapters 3, 4, ~~and 5,~~ and 12 of this title, a person gives
24 value for rights if the person acquires them:

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

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

29 (3) By accepting delivery under a preexisting contract for purchase; or

30 (4) In return for any consideration sufficient to support a simple contract.

31 **6A-1-301. Territorial applicability — Parties' power to choose applicable law.**

32 (a) Except as otherwise provided in this section, when a transaction bears a reasonable
33 relation to this state and also to another state or nation, the parties may agree that the law either of
34 this state or of such other state or nation shall govern their rights and duties.

1 (b) In the absence of an agreement effective under subsection (a), and except as provided
2 in subsection (c), the Uniform Commercial Code applies to transactions bearing an appropriate
3 relation to this state.

4 (c) If one of the following provisions of title 6A specifies the applicable law, that provision
5 governs and a contrary agreement is effective only to the extent permitted by the law so specified:

6 (1) Section 6A-2-402;

7 (2) Sections 6A-2.1-105 and 6A-2.1-106;

8 (3) Section 6A-4-102;

9 (4) Section 6A-4.1-507;

10 (5) Section 6A-5-116;

11 (6) [RESERVED]

12 (7) Section 6A-8-110;

13 (8) Sections 6A-9-301 through 6A-9-307.;

14 (9) Section 6A-12-107.

15 **6A-1-306. Waiver or renunciation of claim or right after breach.**

16 A claim or right arising out of an alleged breach may be discharged in whole or in part
17 without consideration by agreement of the aggrieved party in ~~an authenticated~~ a signed record.

18 SECTION 2. Sections 6A-2-102, 6A-2-106, 6A-2-201, 6A-2-202, 6A-2-203, 6A-2-205
19 and 6A-2-209 of the General Laws in Chapter 6A-2 entitled "Sales" are hereby amended to read as
20 follows:

21 **6A-2-102. Scope — Certain security and other transactions excluded from this**
22 **chapter.**

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

27 (1) Unless the context otherwise requires, and except as provided in subsection (3) of this
28 section, this chapter applies to transactions in goods and, in the case of a hybrid transaction, it
29 applies to the extent provided in subsection (2) of this section.

30 (2) In a hybrid transaction:

31 (i) If the sale-of-goods aspects do not predominate, only the provisions of this chapter
32 which relate primarily to the sale-of-goods aspects of the transaction apply, and the provisions that
33 relate primarily to the transaction as a whole do not apply.

34 (ii) If the sale-of-goods aspects predominate, this chapter applies to the transaction, but

1 does not preclude application in appropriate circumstances of other law to aspects of the transaction
2 which do not relate to the sale of goods.

3 (3) This chapter does not:

4 (i) Apply to a transaction that, even though in the form of an unconditional contract to sell
5 or present sale, operates only to create a security interest; or

6 (ii) Impair or repeal a statute regulating sales to consumers, farmers, or other specified
7 classes of buyers.

8 ~~**6A-2-106. Definitions — “Contract” — “Agreement” — “Contract for sale” — “Sale”**~~
9 ~~**— “Present sale” — “Conforming” to contract — “Termination” — “Cancellation”.**~~
10 **Definitions — “Contract” — “Agreement” — “Contract for sale” — “Sale” — “Present sale”**
11 **— “Conforming” to contract — “Termination” — “Cancellation” — “Hybrid Transaction”.**

12 (1) In this chapter unless the context otherwise requires “contract” and “agreement” are
13 limited to those relating to the present or future sale of goods. “Contract for sale” includes both a
14 present sale of goods and a contract to sell goods at a future time. A “sale” consists in the passing
15 of title from the seller to the buyer for a price (§ 6A-2-401). A “present sale” means a sale which
16 is accomplished by the making of the contract.

17 (2) Goods or conduct including any part of a performance are “conforming” or conform to
18 the contract when they are in accordance with the obligations under the contract.

19 (3) “Termination” occurs when either party pursuant to a power created by agreement or
20 law puts an end to the contract otherwise than for its breach. On “termination” all obligations which
21 are still executory on both sides are discharged but any right based on prior breach or performance
22 survives.

23 (4) “Cancellation” occurs when either party puts an end to the contract for breach by the
24 other and its effect is the same as that of “termination” except that the cancelling party also retains
25 any remedy for breach of the whole contract or any unperformed balance.

26 (5) “Hybrid transaction” means a single transaction involving a sale of goods and:

27 (i) The provision of services;

28 (ii) A lease of other goods; or

29 (iii) A sale, lease, or license of property other than goods.

30 **6A-2-201. Formal requirements — Statute of frauds.**

31 (1) Except as otherwise provided in this section, a contract for the sale of goods for the
32 price of five hundred dollars (\$500) or more is not enforceable by way of action or defense unless
33 there is ~~some writing~~ a record sufficient to indicate that a contract for sale has been made between
34 the parties and signed by the party against whom enforcement is sought or by ~~his or her~~ the party's

1 authorized agent or broker. A writing record is not insufficient because it omits or incorrectly states
2 a term agreed upon but the contract is not enforceable under this ~~paragraph~~ subsection beyond the
3 quantity of goods shown in ~~such writing~~ the record.

4 (2) Between merchants if within a reasonable time a writing record in confirmation of the
5 contract and sufficient against the sender is received and the party receiving it has reason to know
6 its contents, it satisfies the requirements of subsection (1) against ~~such~~ the party unless ~~written~~
7 notice in a record of objection to its contents is given within ten (10) days after it is received.

8 (3) A contract which does not satisfy the requirements of subsection (1) but which is valid
9 in other respects is enforceable,

10 (a) If the goods are to be specially manufactured for the buyer and are not suitable for sale
11 to others in the ordinary course of the seller's business and the seller, before notice of repudiation
12 is received and under circumstances which reasonably indicate that the goods are for the buyer, has
13 made either a substantial beginning of their manufacture or commitments for their procurement; or

14 (b) If the party against whom enforcement is sought admits in his or her pleading, testimony
15 or otherwise in court that a contract for sale was made, but the contract is not enforceable under
16 this provision beyond the quantity of goods admitted; or

17 (c) With respect to goods for which payment has been made and accepted or which have
18 been received and accepted (§ 6A-2-606).

19 **6A-2-202. Final written expression — Parol or extrinsic evidence.**

20 Terms with respect to which the confirmatory memoranda of the parties agree or which are
21 otherwise set forth in a writing record intended by the parties as a final expression of their
22 agreement with respect to such terms as are included therein may not be contradicted by evidence
23 of any prior agreement or of a contemporaneous oral agreement but may be explained or
24 supplemented,

25 (a) By course of performance, course of dealing, or usage of trade (§ 6A-1-303); and

26 (b) By evidence of consistent additional terms unless the court finds the writing record to
27 have been intended also as a complete and exclusive statement of the terms of the agreement.

28 **6A-2-203. Seals inoperative.**

29 The affixing of a seal to a writing record evidencing a contract for sale or an offer to buy
30 or sell goods does not constitute the writing record a sealed instrument and the law with respect to
31 sealed instruments does not apply to such a contract or offer.

32 **6A-2-205. Firm offers.**

33 An offer by a merchant to buy or sell goods in a signed writing record which by its terms
34 gives assurance that it will be held open is not revocable, for lack of consideration, during the time

1 stated, or if no time is stated for a reasonable time, but in no event may such period of irrevocability
2 exceed three (3) months; but any such term of assurance on a form supplied by the offeree must be
3 separately signed by the offeror.

4 **6A-2-209. Modification, rescission, and waiver.**

5 (1) An agreement modifying a contract within this chapter needs no consideration to be
6 binding.

7 (2) A signed agreement which excludes modification or rescission except by a signed
8 writing or other signed record cannot be otherwise modified or rescinded, but except as between
9 merchants such a requirement on a form supplied by the merchant must be separately signed by the
10 other party.

11 (3) The requirements of the statute of frauds section of this chapter (§ 6A-2-201) must be
12 satisfied if the contract as modified is within its provisions.

13 (4) Although an attempt at modification or rescission does not satisfy the requirements of
14 subsection (2) or (3) it can operate as a waiver.

15 (5) A party who has made a waiver affecting an executory portion of the contract may
16 retract the waiver by reasonable notification received by the other party that strict performance will
17 be required of any term waived, unless the retraction would be unjust in view of a material change
18 of position in reliance on the waiver.

19 SECTION 3. Sections 6A-2.1-102, 6A-2.1-103, 6A-2.1-107, 6A-2.1-201, 6A-2.1-202, 6A-
20 2.1-203, 6A-2.1-205 and 6A-2.1-208 of the General Laws in Chapter 6A-2.1 entitled "Leases" are
21 hereby amended to read as follows:

22 **6A-2.1-102. Scope.**

23 (1) This chapter applies to any transaction, regardless of form, that creates a lease and, in
24 the case of a hybrid lease, it applies to the extent provided in subsection (b) of this section.

25 (2) In a hybrid lease;

26 (a) If the lease-of goods aspects do not predominate;

27 (i) Only the provisions of this chapter which relate primarily to the lease-of-goods aspects
28 of the transaction apply, and the provisions that relate primarily to the transaction as a whole do
29 not apply;

30 (ii) Section 6A-2.1-209 applies if the lease is a finance lease; and

31 (iii) Section 6A-2.1-407 applies to the promises of the lessee in a finance lease to the extent
32 the promises are consideration for the right to possession and use of the leased goods.

33 (b) If the lease-of-goods aspects predominate, this chapter applies to the transaction, but
34 does not preclude application in appropriate circumstances of other law to aspects of the lease

1 which do not relate to the lease of goods.

2 **6A-2.1-103. Definitions and index of definitions.**

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

4 (a) “Buyer in ordinary course of business” means a person who in good faith and without
5 knowledge that the sale to him or her is in violation of the ownership rights or security interest or
6 leasehold interest of a third party in the goods buys in ordinary course from a person in the business
7 of selling goods of that kind but does not include a pawnbroker. “Buying” may be for cash or by
8 exchange of other property or on secured or unsecured credit and includes acquiring goods or
9 documents of title under a preexisting contract for sale but does not include a transfer in bulk or as
10 security for or in total or partial satisfaction of a money debt.

11 (b) “Cancellation” occurs when either party puts an end to the lease contract for default by
12 the other party.

13 (c) “Commercial unit” means such a unit of goods as by commercial usage is a single whole
14 for purposes of lease and division of which materially impairs its character or value on the market
15 or in use. A commercial unit may be a single chapter, as a machine, or a set of chapters, as a suite
16 of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in
17 use or in the relevant market as a single whole.

18 (d) “Conforming” goods or performance under a lease contract means goods or
19 performance that are in accordance with the obligations under the lease contract.

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

23 (f) “Fault” means wrongful act, omission, breach, or default.

24 (g) “Finance lease” means a lease with respect to which:

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

26 (ii) The lessor acquires the goods or the right to possession and use of the goods in
27 connection with the lease; and

28 (iii) One of the following occurs:

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

31 (B) The lessee’s approval of the contract by which the lessor acquired the goods or the
32 right to possession and use of the goods is a condition to effectiveness of the lease contract;

33 (C) The lessee, before signing the lease contract, receives an accurate and complete
34 statement designating the promises and warranties, and any disclaimers of warranties, limitations

1 or modifications of remedies, or liquidated damages, including those of a third party, such as the
2 manufacturer of the goods, provided to the lessor by the person supplying the goods in connection
3 with or as part of the contract by which the lessor acquired the goods or the right to possession and
4 use of the goods; or

5 (D) If the lease is not a consumer lease, the lessor, before the lessee signs the lease contract,
6 informs the lessee in writing (a) of the identity of the person supplying the goods to the lessor,
7 unless the lessee has selected that person and directed the lessor to acquire the goods or the right to
8 possession and use of the goods from that person, (b) that the lessee is entitled under this chapter
9 to the promises and warranties, including those of any third party, provided to the lessor by the
10 person supplying the goods in connection with or as part of the contract by which the lessor
11 acquired the goods or the right to possession and use of the goods, and (c) that the lessee may
12 communicate with the person supplying the goods to the lessor and receive an accurate and
13 complete statement of those promises and warranties, including any disclaimers and limitations of
14 them or of remedies.

15 (h) "Goods" means all things that are movable at the time of identification to the lease
16 contract, or are fixtures (§ 6A-2.1-309), but the term does not include money, documents,
17 instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and
18 gas, before extraction. The term also includes the unborn young of animals.

19 (h.1) "Hybrid lease" means a single transaction involving a lease of goods and;

20 (1) The provision of services;

21 (2) A sale of other goods; or

22 (3) A sale, lease, or license of property other than goods.

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

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

30 (k) "Lease agreement" means the bargain, with respect to the lease, of the lessor and the
31 lessee in fact as found in their language or by implication from other circumstances including
32 course of dealing or usage of trade or course of performance as provided in this chapter. Unless the
33 context clearly indicates otherwise, the term includes a sublease agreement.

34 (l) "Lease contract" means the total legal obligation that results from the lease agreement

1 as affected by this chapter and any other applicable rules of law. Unless the context clearly indicates
2 otherwise, the term includes a sublease contract.

3 (m) “Leasehold interest” means the interest of the lessor or the lessee under a lease contract.

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

6 (o) “Lessee in ordinary course of business” means a person who in good faith and without
7 knowledge that the lease to him or her is in violation of the ownership rights or security interest or
8 leasehold interest of a third party in the goods leases in ordinary course from a person in the
9 business of selling or leasing goods of that kind but does not include a pawnbroker. “Leasing” may
10 be for cash or by exchange of other property or on secured or unsecured credit and includes
11 acquiring goods or documents of title under a preexisting lease contract but does not include a
12 transfer in bulk or as security for or in total or partial satisfaction of a money debt.

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

15 (q) “Lessor’s residual interest” means the lessor’s interest in the goods after expiration,
16 termination, or cancellation of the lease contract.

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

19 (s) “Lot” means a parcel or a single chapter that is the subject matter of a separate lease or
20 delivery, whether or not it is sufficient to perform the lease contract.

21 (t) “Merchant lessee” means a lessee that is a merchant with respect to goods of the kind
22 subject to the lease.

23 (u) “Present value” means the amount as of a date certain of one or more sums payable in
24 the future, discounted to the date certain. The discount is determined by the interest rate specified
25 by the parties if the rate was not manifestly unreasonable at the time the transaction was entered
26 into; otherwise, the discount is determined by a commercially reasonable rate that takes into
27 account the facts and circumstances of each case at the time the transaction was entered into.

28 (v) “Purchase” includes taking by sale, lease, mortgage, security interest, pledge, gift, or
29 any other voluntary transaction creating an interest in goods.

30 (w) “Sublease” means a lease of goods the right to possession and use of which was
31 acquired by the lessor as a lessee under an existing lease.

32 (x) “Supplier” means a person from whom a lessor buys or leases goods to be leased under
33 a finance lease.

34 (y) “Supply contract” means a contract under which a lessor buys or leases goods to be

1 leased.

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

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

5 "Accessions": § 6A-2.1-310(1).

6 "Construction mortgage": § 6A-2.1-309(1)(d).

7 "Encumbrance": § 6A-2.1-309(1)(e).

8 "Fixtures": § 6A-2.1-309(1)(a).

9 "Fixture filing": § 6A-2.1-309(1)(b).

10 "Purchase money lease": § 6A-2.1-309(1)(c).

11 (3) The following definitions in other chapters apply to this Chapter:

12 "Account": § 6A-9-102(a)(2).

13 "Between merchants": § 6A-2-104(3).

14 "Buyer": § 6A-2-103(1)(a).

15 "Chattel paper": § 6A-9-102(a)(11).

16 "Consumer goods": § 6A-9-102(a)(23).

17 "Document": § 6A-9-102(a)(30).

18 "Entrusting": § 6A-2-403(3).

19 "General intangibles": § 6A-9-102(a)(42).

20 "Good faith": § 6A-2-103(1)(b).

21 "Instrument": § 6A-9-102(a)(47).

22 "Merchant": § 6A-2-104(1).

23 "Mortgage": § 6A-9-102(a)(55).

24 "Pursuant to commitment": § 6A-9-102(a)(69).

25 "Receipt": § 6A-2-103(1)(c).

26 "Sale": § 6A-2-106(1).

27 "Sale on approval": § 6A-2-326.

28 "Sale or return": § 6A-2-326.

29 "Seller": § 6A-2-103(1)(d).

30 (4) In addition, chapter 1 of this title contains general definitions and principles of
31 construction and interpretation applicable throughout this chapter.

32 **6A-2.1-107. Waiver or renunciation of claim or right after default.**

33 Any claim or right arising out of an alleged default or breach of warranty may be discharged
34 in whole or in part without consideration by a ~~written~~ signed and in a signed waiver or renunciation ~~signed and in a signed~~

1 record delivered by the aggrieved party.

2 **6A-2.1-201. Statute of frauds.**

3 (1) A lease contract is not enforceable by way of action or defense unless:

4 (a) The total payments to be made under the lease contract, excluding payments for options
5 to renew or buy, are less than \$ 1,000; or

6 (b) There is a writing record, signed by the party against whom enforcement is sought or
7 by that party's authorized agent, sufficient to indicate that a lease contract has been made between
8 the parties and to describe the goods leased and the lease term.

9 (2) Any description of leased goods or of the lease term is sufficient and satisfies subsection
10 (1)(b), whether or not it is specific, if it reasonably identifies what is described.

11 (3) A writing record is not insufficient because it omits or incorrectly states a term agreed
12 upon, but the lease contract is not enforceable under subsection (1)(b) beyond the lease term and
13 the quantity of goods shown in the writing record.

14 (4) A lease contract that does not satisfy the requirements of subsection (1), but which is
15 valid in other respects, is enforceable:

16 (a) If the goods are to be specially manufactured or obtained for the lessee and are not
17 suitable for lease or sale to others in the ordinary course of the lessor's business, and the lessor,
18 before notice of repudiation is received and under circumstances that reasonably indicate that the
19 goods are for the lessee, has made either a substantial beginning of their manufacture or
20 commitments for their procurement;

21 (b) If the party against whom enforcement is sought admits in that party's pleading,
22 testimony or otherwise in court that a lease contract was made, but the lease contract is not
23 enforceable under this provision beyond the quantity of goods admitted; or

24 (c) With respect to goods that have been received and accepted by the lessee.

25 (5) The lease term under a lease contract referred to in subsection (4) is:

26 (a) If there is a writing record signed by the party against whom enforcement is sought or
27 by that party's authorized agent specifying the lease term, the term so specified;

28 (b) If the party against whom enforcement is sought admits in that party's pleading,
29 testimony, or otherwise in court a lease term, the term so admitted; or

30 (c) A reasonable lease term.

31 **6A-2.1-202. ~~Final written expression: parol or extrinsic evidence.~~Final expression:**
32 **Parol or extrinsic evidence.**

33 Terms with respect to which the confirmatory memoranda of the parties agree or which are
34 otherwise set forth in a writing record intended by the parties as a final expression of their

1 agreement with respect to such terms as are included therein may not be contradicted by evidence
2 of any prior agreement or of a contemporaneous oral agreement but may be explained or
3 supplemented:

4 (a) By course of dealing or usage of trade or by course of performance; and

5 (b) By evidence of consistent additional terms unless the court finds the ~~writing~~ record to
6 have been intended also as a complete and exclusive statement of the terms of the agreement.

7 **6A-2.1-203. Seals inoperative.**

8 The affixing of a seal to a ~~writing~~ record evidencing a lease contract or an offer to enter
9 into a lease contract does not render the ~~writing~~ record a sealed instrument, and the law with respect
10 to sealed instruments does not apply to the lease contract or offer.

11 **6A-2.1-205. Firm offers.**

12 An offer by a merchant to lease goods to or from another person in a signed ~~writing~~ record
13 that by its terms gives assurance it will be held open is not revocable, for lack of consideration,
14 during the time stated or, if no time is stated, for a reasonable time, but in no event may the period
15 of irrevocability exceed 3 months. Any such term of assurance on a form supplied by the offeree
16 must be separately signed by the offeror.

17 **6A-2.1-208. Modification, rescission, and waiver.**

18 (1) An agreement modifying a lease contract needs no consideration to be binding.

19 (2) A signed lease agreement that excludes modification or rescission except by a signed
20 ~~writing~~ record may not be otherwise modified or rescinded, but, except as between merchants, such
21 a requirement on a form supplied by a merchant must be separately signed by the other party.

22 (3) Although an attempt at modification or rescission does not satisfy the requirements of
23 subsection (2), it may operate as a waiver.

24 (4) A party who has made a waiver affecting an executory portion of a lease contract may
25 retract the waiver by reasonable notification received by the other party that strict performance will
26 be required of any term waived, unless the retraction would be unjust in view of a material change
27 of position in reliance on the waiver.

28 SECTION 4. Sections 6A-3-104, 6A-3-105, 6A-3-401 and 6A-3-604 of the General Laws
29 in Chapter 6A-3 entitled "Negotiable Instruments" are hereby amended to read as follows:

30 **6A-3-104. Negotiable instrument.**

31 (a) Except as provided in subsections (c) and (d), "negotiable instrument" means an
32 unconditional promise or order to pay a fixed amount of money, with or without interest or other
33 charges described in the promise or order, if it:

34 (1) Is payable to bearer or to order at the time it is issued or first comes into possession of

1 a holder;

2 (2) Is payable on demand or at a definite time; and

3 (3) Does not state any other undertaking or instruction by the person promising or ordering
4 payment to do any act in addition to the payment of money, but the promise or order may contain
5 (i) an undertaking or power to give, maintain, or protect collateral to secure payment, (ii) an
6 authorization or power to the holder to confess judgment or realize on or dispose of collateral, ~~or~~
7 (iii) a waiver of the benefit of any law intended for the advantage or protection of an obligor; (iv)
8 a term that specifies the law that governs the promise or order; or (v) an undertaking to resolve, in
9 a specified forum, a dispute concerning the promise or order.

10 (b) “Instrument” means a negotiable instrument.

11 (c) An order that meets all of the requirements of subsection (a), except paragraph (1), and
12 otherwise falls within the definition of “check” in subsection (f) is a negotiable instrument and a
13 check.

14 (d) A promise or order other than a check is not an instrument if, at the time it is issued or
15 first comes into possession of a holder, it contains a conspicuous statement, however expressed, to
16 the effect that the promise or order is not negotiable or is not an instrument governed by this chapter.

17 (e) An instrument is a “note” if it is a promise and is a “draft” if it is an order. If an
18 instrument falls within the definition of both “note” and “draft,” a person entitled to enforce the
19 instrument may treat it as either.

20 (f) “Check” means (i) a draft, other than a documentary draft, payable on demand and
21 drawn on a bank or (ii) a cashier’s check or teller’s check. An instrument may be a check even
22 though it is described on its face by another term, such as “money order.”

23 (g) “Cashier’s check” means a draft with respect to which the drawer and drawee are the
24 same bank or branches of the same bank.

25 (h) “Teller’s check” means a draft drawn by a bank (i) on another bank, or (ii) payable at
26 or through a bank.

27 (i) “Traveler’s check” means an instrument that (i) is payable on demand, (ii) is drawn on
28 or payable at or through a bank, (iii) is designated by the term “traveler’s check” or by a
29 substantially similar term, and (iv) requires, as a condition to payment, a countersignature by a
30 person whose specimen signature appears on the instrument.

31 (j) “Certificate of deposit” means an instrument containing an acknowledgment by a bank
32 that a sum of money has been received by the bank and a promise by the bank to repay the sum of
33 money. A certificate of deposit is a note of the bank.

34 **6A-3-105. Issue of instrument.**

1 1. "Issue" means:

2 ~~The~~ (1) The first delivery of an instrument by the maker or drawer, whether to a holder or
3 nonholder, for the purpose of giving rights on the instrument to any person; ~~or~~

4 (2) If agreed by the payee, the first transmission by the drawer to the payee of an image of
5 an item and information derived from the item that enables the depository bank to collect the item
6 by transferring or presenting under federal law an electronic check.

7 (b) An unissued instrument, or an unissued incomplete instrument that is completed, is
8 binding on the maker or drawer, but nonissuance is a defense. An instrument that is conditionally
9 issued or is issued for a special purpose is binding on the maker or drawer, but failure of the
10 condition or special purpose to be fulfilled is a defense.

11 (c) "Issuer" applies to issued and unissued instruments and means a maker or drawer of an
12 instrument.

13 **6A-3-401. Signature.**

14 ~~(a)~~ A person is not liable on an instrument unless (i) the person signed the instrument, or
15 (ii) the person is represented by an agent or representative who signed the instrument and the
16 signature is binding on the represented person under § 6A-3-402.

17 ~~(b) A signature may be made (i) manually or by means of a device or machine, and (ii) by~~
18 ~~the use of any name, including a trade or assumed name, or by a word, mark, or symbol executed~~
19 ~~or adopted by a person with present intention to authenticate a writing.~~

20 **6A-3-604. Discharge by cancellation or renunciation.**

21 (a) A person entitled to enforce an instrument, with or without consideration, may
22 discharge the obligation of a party to pay the instrument (i) by an intentional voluntary act, such as
23 surrender of the instrument to the party, destruction, mutilation, or cancellation of the instrument,
24 cancellation or striking out of the party's signature, or the addition of words to the instrument
25 indicating discharge, or (ii) by agreeing not to sue or otherwise renouncing rights against the party
26 by a signed ~~writing~~ record. The obligation of a party to pay a check is not discharged solely by
27 destruction of the check in connection with a process in which information is extracted from the
28 check and an image of the check is made and, subsequently, the information and image are
29 transmitted for payment.

30 (b) Cancellation or striking out of an indorsement pursuant to subsection (a) does not affect
31 the status and rights of a party derived from the indorsement.

32 SECTION 5. Sections 6A-4.1-103, 6A-4.1-201, 6A-4.1-202, 6A-4.1-203, 6A-4.1-207, 6A-
33 4.1-208, 6A-4.1-210, 6A-4.1-211 and 6A-4.1-305 of the General Laws in Chapter 6A-4.1 entitled
34 "Funds Transfers" are hereby amended to read as follows:

1 **6A-4.1-103. Payment order — Definitions.**

2 (a) In this chapter:

3 (1) “Payment order” means an instruction of a sender to a receiving bank, transmitted
4 orally, ~~electronically, or in writing~~ or in a record, to pay, or to cause another bank to pay, a fixed
5 or determinable amount of money to a beneficiary if:

6 (i) The instruction does not state a condition to payment to the beneficiary other than time
7 of payment;

8 (ii) The receiving bank is to be reimbursed by debiting an account of, or otherwise receiving
9 payment from, the sender; and

10 (iii) The instruction is transmitted by the sender directly to the receiving bank or to an
11 agent, funds-transfer system, or communication system for transmittal to the receiving bank.

12 (2) “Beneficiary” means the person to be paid by the beneficiary’s bank.

13 (3) “Beneficiary’s bank” means the bank identified in a payment order in which an account
14 of the beneficiary is to be credited pursuant to the order or which otherwise is to make payment to
15 the beneficiary if the order does not provide for payment to an account.

16 (4) “Receiving bank” means the bank to which the sender’s instruction is addressed.

17 (5) “Sender” means the person giving the instruction to the receiving bank.

18 (b) If an instruction complying with subsection (a)(1) is to make more than one payment
19 to a beneficiary, the instruction is a separate payment order with respect to each payment.

20 (c) A payment order is issued when it is sent to the receiving bank.

21 **6A-4.1-201. Security procedure.**

22 “Security procedure” means a procedure established by agreement of a customer and a
23 receiving bank for the purpose of (i) verifying that a payment order or communication amending
24 or cancelling a payment order is that of the customer, or (ii) detecting error in the transmission or
25 the content of the payment order or communication. A security procedure may impose an obligation
26 on the receiving bank or the customer and may require the use of algorithms or other codes,
27 identifying words ~~or~~ numbers, symbols, sounds, biometrics, encryption, callback procedures, or
28 similar security devices. Comparison of a signature on a payment order or communication with an
29 authorized specimen signature of the customer or requiring a payment order to be sent from a
30 known email address, IP address, or telephone number is not by itself a security procedure.

31 **6A-4.1-202. Authorized and verified payment orders.**

32 (a) A payment order received by the receiving bank is the authorized order of the person
33 identified as sender if that person authorized the order or is otherwise bound by it under the law of
34 agency.

1 (b) If a bank and its customer have agreed that the authenticity of payment orders issued to
2 the bank in the name of the customer as sender will be verified pursuant to a security procedure, a
3 payment order received by the receiving bank is effective as the order of the customer whether or
4 not authorized, if (i) the security procedure is a commercially reasonable method of providing
5 security against unauthorized payment orders, and (ii) the bank provides that it accepted the
6 payment order in good faith and in compliance with the bank's obligations under the security
7 procedure and any ~~written~~ agreement or instruction of the customer evidenced by a record
8 restricting acceptance of payment orders issued in the name of the customer. The bank is not
9 required to follow an instruction that violates ~~a written~~ an agreement with the customer, evidenced
10 by a record, or notice of which is not received at a time and in a manner affording the bank a
11 reasonable opportunity to act on it before the payment order is accepted.

12 (c) Commercial reasonableness of a security procedure is a question of law to be
13 determined by considering the wishes of the customer expressed to the bank, the circumstances of
14 the customer known to the bank, including the mix, type, and frequency of payment orders normally
15 issued by the customer to the bank, alternative security procedures offered to the customer, and
16 security procedures in general use by customers and receiving banks similarly situated. A security
17 procedure is deemed to be commercially reasonable if (i) the security procedure was chosen by the
18 customer after the bank offered, and the customer refused, a security procedure that was
19 commercially reasonable for that customer, and (ii) the customer expressly agreed in ~~writing~~ a
20 record to be bound by any payment order, whether or not authorized, issued in its name and
21 accepted by the bank in compliance with the bank's obligations under the security procedure chosen
22 by the customer.

23 (d) The term "sender" in this chapter includes the customer in whose name a payment order
24 is issued if the order is the authorized order of the customer under subsection (a), or it is effective
25 as the order of the customer under subsection (b).

26 (e) This section applies to amendments and cancellations of payment orders to the same
27 extent it applies to payment orders.

28 (f) Except as provided in this section and in § 6A-4.1-203(a)(1), rights and obligations
29 arising under this section and § 6A-4.1-203 may not be varied by agreement.

30 **6A-4.1-203. Unenforceability of certain verified payment orders.**

31 (a) If an accepted payment order is not, under § 6A-4.1-202(a), an authorized order of a
32 customer identified as sender, but is effective as an order of the customer pursuant to § 6A-4.1-
33 202(b), the following rules apply:

34 (1) By express ~~written~~ agreement evidenced by a record, the receiving bank may limit the

1 extent to which it is entitled to enforce or retain payment of the payment order.

2 (2) The receiving bank is not entitled to enforce or retain payment of the payment order if
3 the customer proves that the order was not caused, directly or indirectly, by a person (i) entrusted
4 at any time with duties to act for the customer with respect to payment orders or the security
5 procedure, or (ii) who obtained access to transmitting facilities of the customer or who obtained,
6 from a source controlled by the customer and without authority of the receiving bank, information
7 facilitating breach of the security procedures, regardless of how the information was obtained or
8 whether the customer was at fault. Information includes any access device, computer software, or
9 the like.

10 (b) This section applies to amendments of payment orders to the same extent it applies to
11 payment orders.

12 **6A-4.1-207. Misdescription of beneficiary.**

13 (a) Subject to subsection (b), if, in a payment order received by the beneficiary's bank, the
14 name, bank account number, or other identification of the beneficiary refers to a nonexistent or
15 unidentifiable person or account, no person has rights as a beneficiary of the order and acceptance
16 of the order cannot occur.

17 (b) If a payment order received by the beneficiary's bank identifies the beneficiary both by
18 name and by an identifying or bank account number and the name and number identify different
19 persons, the following rules apply:

20 (1) Except as otherwise provided in subsection (c), if the beneficiary's bank does not know
21 that the name and number refer to different persons, it may rely on the number as the proper
22 identification of the beneficiary of the order. The beneficiary's bank need not determine whether
23 the name and number refer to the same person.

24 (2) If the beneficiary's bank pays the person identified by name or knows that the name
25 and number identify different persons, no person has rights as beneficiary except the person paid
26 by the beneficiary's bank if that person was entitled to receive payment from the originator of the
27 funds transfer. If no person has rights as beneficiary, acceptance of the order cannot occur.

28 (c) If (i) a payment order described in subsection (b) is accepted, (ii) the originator's
29 payment order described the beneficiary inconsistently by name and number, and (iii) the
30 beneficiary's bank pays the person identified by number as permitted by subsection (b)(1), the
31 following rules apply:

32 (1) If the originator is a bank, the originator is obliged to pay its order.

33 (2) If the originator is not a bank and proves that the person identified by number was not
34 entitled to receive payment from the originator, the originator is not obliged to pay its order unless

1 the originator's bank proves that the originator, before acceptance of the originator's order, had
2 notice that payment of a payment order issued by the originator might be made by the beneficiary's
3 bank on the basis of an identifying or bank account number even if it identifies a person different
4 from the named beneficiary. Proof of notice may be made by any admissible evidence. The
5 originator's bank satisfies the burden of proof if it proves that the originator, before the payment
6 order was accepted, signed a ~~writing~~ writing record stating the information to which the notice relates.

7 (d) In a case governed by subsection (b)(1), if the beneficiary's bank rightfully pays the
8 person identified by number and that person was not entitled to receive payment from the
9 originator, the amount paid may be recovered from that person to the extent allowed by the law
10 governing mistake and restitution as follows:

11 (1) If the originator is obliged to pay its payment order as stated in subsection (c), the
12 originator has the right to recover.

13 (2) If the originator is not a bank and is not obliged to pay its payment order, the originator's
14 bank has the right to recover.

15 **6A-4.1-208. Misdescription of intermediary bank or beneficiary's bank.**

16 (a) This subsection applies to a payment order identifying an intermediary bank or the
17 beneficiary's bank only by an identifying number.

18 (1) The receiving bank may rely on the number as the proper identification of the
19 intermediary or beneficiary's bank and need not determine whether the number identifies a bank.

20 (2) The sender is obliged to compensate the receiving bank for any loss and expenses
21 incurred by the receiving bank as a result of its reliance on the number in executing or attempting
22 to execute the order.

23 (b) This subsection applies to a payment order identifying an intermediary bank or the
24 beneficiary's bank both by name and an identifying number if the name and number identify
25 different persons.

26 (1) If the sender is a bank, the receiving bank may rely on the number as the proper
27 identification of the intermediary or beneficiary's bank if the receiving bank, when it executes the
28 sender's order, does not know that the name and number identify different persons. The receiving
29 bank need not determine whether the name and number refer to the same person or whether the
30 number refers to a bank. The sender is obliged to compensate the receiving bank for any loss and
31 expenses incurred by the receiving bank as a result of its reliance on the number in executing or
32 attempting to execute the order.

33 (2) If the sender is not a bank and the receiving bank proves that the sender, before the
34 payment order was accepted, had notice that the receiving bank might rely on the number as the

1 proper identification of the intermediary or beneficiary's bank even if it identifies a person different
2 from the bank identified by name, the rights and obligations of the sender and the receiving bank
3 are governed by subsection (b)(1), as though the sender were a bank. Proof of notice may be made
4 by any admissible evidence. The receiving bank satisfies the burden of proof if it proves that the
5 sender, before the payment order was accepted, signed a ~~writing~~ record stating the information to
6 which the notice relates.

7 (3) Regardless of whether the sender is a bank, the receiving bank may rely on the same as
8 the proper identification of the intermediary or beneficiary's bank if the receiving bank, at the time
9 it executes the sender's order, does not know that the name and number identify different persons.
10 The receiving bank need not determine whether the name and number refer to the same person.

11 (4) If the receiving bank knows that the name and number identify different persons,
12 reliance on either the name or the number in executing the sender's payment order is a breach of
13 the obligation stated in § 6A-4.1-302(a)(1).

14 **6A-4.1-210. Rejection of payment order.**

15 (a) A payment order is rejected by the receiving bank by a notice of rejection transmitted
16 to the sender orally, ~~electronically, or in writing~~ or in a record. A notice of rejection need not use
17 any particular words and is sufficient if it indicates that the receiving bank is rejecting the order or
18 will not execute or pay the order. Rejection is effective when the notice is given if transmission is
19 by a means that is reasonable in the circumstances. If notice of rejection is given by a means that
20 is not reasonable, rejection is effective when the notice is received. If an agreement of the sender
21 and receiving bank establishes the means to be used to reject a payment order, (i) any means
22 complying with the agreement is reasonable and (ii) any means not complying is not reasonable
23 unless no significant delay in receipt of the notice resulted from the use of the noncomplying means.

24 (b) This subsection applies if a receiving bank other than the beneficiary's bank fails to
25 execute a payment order despite the existence on the execution date of a withdrawable credit
26 balance in an authorized account of the sender sufficient to cover the order. If the sender does not
27 receive notice of rejection of the order on the execution date and the authorized account of the
28 sender does not bear interest, the bank is obliged to pay interest to the sender on the amount of the
29 order for the number of days elapsing after the execution date to the earlier of the day the order is
30 canceled pursuant to § 6A-4.1-211(d) or the day the sender receives notice or learns that the order
31 was not executed, counting the final day of the period as an elapsed day. If the withdrawable credit
32 balance during that period falls below the amount of the order, the amount of interest is reduced
33 accordingly.

34 (c) If a receiving bank suspends payments, all unaccepted payment orders issued to it are

1 deemed rejected at the time the bank suspends payments.

2 (d) Acceptance of a payment order precludes a later rejection of the order. Rejection of a
3 payment order precludes a later acceptance of the order.

4 **6A-4.1-211. Cancellation and amendment of payment order.**

5 (a) A communication of the sender of a payment order cancelling or amending the order
6 may be transmitted to the receiving bank orally, ~~electronically, or in writing~~ or in a record. If a
7 security procedure is in effect between the sender and the receiving bank, the communication is not
8 effective to cancel or amend the order unless the communication is verified pursuant to the security
9 procedure or the bank agrees to the cancellation or amendment.

10 (b) Subject to subsection (a), a communication by the sender cancelling or amending a
11 payment order is effective to cancel or amend the order if notice of the communication is received
12 at a time and in a manner affording the receiving bank a reasonable opportunity to act on the
13 communication before the bank accepts the payment order.

14 (c) After a payment order has been accepted, cancellation or amendment of the order is not
15 effective unless the receiving bank agrees or a funds transfer system rule allows cancellation or
16 amendment without agreement of the bank.

17 (1) With respect to a payment order accepted by a receiving bank other than the
18 beneficiary's bank, cancellation or amendment is not effective unless a conforming cancellation or
19 amendment of the payment order issued by the receiving bank is also made.

20 (2) With respect to a payment order accepted by the beneficiary's bank, cancellation or
21 amendment is not effective unless the order was issued in execution of an unauthorized payment
22 order, or because of a mistake by a sender in the funds transfer which resulted in the issuance of a
23 payment order (i) that is a duplicate of a payment order previously issued by the sender, (ii) that
24 orders payment to a beneficiary not entitled to receive payment from the originator, or (iii) that
25 orders payment in an amount greater than the amount the beneficiary was entitled to receive from
26 the originator. If the payment order is canceled or amended, the beneficiary's bank is entitled to
27 recover from the beneficiary any amount paid to the beneficiary to the extent allowed by the law
28 governing mistake and restitution.

29 (d) An unaccepted payment order is canceled by operation of law at the close of the fifth
30 funds transfer business day of the receiving bank after the execution date or payment date of the
31 order.

32 (e) A canceled payment order cannot be accepted. If an accepted payment order is canceled,
33 the acceptance is nullified and no person has any right or obligation based on the acceptance.
34 Amendment of the payment order is deemed to be cancellation of the original order at the time of

1 amendment and issue of a new payment order in the amended form at the same time.

2 (f) Unless otherwise provided in an agreement of the parties or in a funds transfer system
3 rule, if the receiving bank, after accepting a payment order, agrees to cancellation or amendment
4 of the order by the sender or is bound by a funds transfer system rule allowing cancellation or
5 amendment without the bank's agreement, the sender, whether or not cancellation or amendment
6 is effective, is liable to the bank for any loss and expenses, including reasonable attorney's fees,
7 incurred by the bank as a result of the cancellation or amendment or attempted cancellation or
8 amendment.

9 (g) A payment order is not revoked by the death or legal incapacity of the sender unless
10 the receiving bank knows of the death or of an adjudication of incapacity by a court of competent
11 jurisdiction and has reasonable opportunity to act before acceptance of the order.

12 (h) A funds transfer system rule is not effective to the extent it conflicts with subsection
13 (c)(2).

14 **6A-4.1-305. Liability for late or improper execution or failure to execute payment**
15 **order.**

16 (a) If a funds transfer is completed but execution of a payment order by the receiving bank
17 in breach of § 6A-4.1-302 results in delay in payment to the beneficiary, the bank is obliged to pay
18 interest to either the originator or the beneficiary of the funds transfer for the period of delay caused
19 by the improper execution. Except as provided in subsection (c), additional damages are not
20 recoverable.

21 (b) If execution of a payment order by a receiving bank in breach of § 6A-4.1-302 results
22 in (i) noncompletion of the funds transfer, (ii) failure to use an intermediary bank designated by the
23 originator, or (iii) issuance of a payment order that does not comply with the terms of the payment
24 order of the originator, the bank is liable to the originator for its expenses in the funds transfer and
25 for incidental expenses and interest losses, to the extent not covered by subsection (a), resulting
26 from the improper execution. Except as provided in subsection (c), additional damages are not
27 recoverable.

28 (c) In addition to the amounts payable under subsections (a) and (b), damages, including
29 consequential damages, are recoverable to the extent provided in an express ~~written~~ agreement of
30 the receiving bank evidenced by a record.

31 (d) If a receiving bank fails to execute a payment order it was obliged by express agreement
32 to execute, the receiving bank is liable to the sender for its expenses in the transaction and for
33 incidental expenses and interest losses resulting from the failure to execute. Additional damages,
34 including consequential damages, are recoverable to the extent provided in an express written

1 agreement of the receiving bank, evidenced by a record but are not otherwise recoverable.

2 (e) Reasonable attorney's fees are recoverable if demand for compensation under
3 subsection (a) or (b) is made and refused before an action is brought on the claim. If a claim is
4 made for breach of an agreement under subsection (d) and the agreement does not provide for
5 damages, reasonable attorney's fees are recoverable if demand for compensation under subsection
6 (d) is made and refused before an action is brought on the claim.

7 (f) Except as stated in this section, the liability of a receiving bank under subsections (a)
8 and (b) may not be varied by agreement.

9 SECTION 6. Sections 6A-5-104 and 6A-5-116 of the General Laws in Chapter 6A-5
10 entitled "Letters of Credit" are hereby amended to read as follows:

11 **6A-5-104. Formal requirements.**

12 A letter of credit, confirmation, advice, transfer, amendment, or cancellation may be issued
13 in any form that is a signed record ~~and is authenticated (1) by a signature or (2) in accordance with~~
14 ~~the agreement of the parties or the standard practice referred to in § 6A-5-108(e).~~

15 **6A-5-116. Choice of law and forum.**

16 (a) The liability of an issuer, nominated person, or adviser for action or omission is
17 governed by the law of the jurisdiction chosen by an agreement in the form of a record signed ~~or~~
18 ~~otherwise authenticated~~ by the affected parties ~~in the manner provided in § 6A-5-104~~ or by a
19 provision in the person's letter of credit, confirmation, or other undertaking. The jurisdiction whose
20 law is chosen need not bear any relation to the transaction.

21 (b) Unless subsection (a) applies, the liability of an issuer, nominated person, or adviser
22 for action or omission is governed by the law of the jurisdiction in which the person is located. The
23 person is considered to be located at the address indicated in the person's undertaking. If more than
24 one address is indicated, the person is considered to be located at the address from which the
25 person's undertaking was issued.

26 (c) For the purpose of jurisdiction, choice of law, and recognition of interbranch letters of
27 credit, but not enforcement of a judgment, all branches of a bank are considered separate juridical
28 entities and a bank is considered to be located at the place where its relevant branch is considered
29 to be located under this subsection (d) of this section.

30 (d) A branch of a bank is considered to be located at the address indicated in the branch's
31 undertaking. If more than one address is indicated, the branch is considered to be located at the
32 address from which the undertaking was issued.

33 ~~(e)~~(e) Except as otherwise provided in this subsection, the liability of an issuer, nominated
34 person, or adviser is governed by any rules of custom or practice, such as the Uniform Customs

1 and Practice for Documentary Credits, to which the letter of credit, confirmation, or other
2 undertaking is expressly made subject. If (1) this chapter would govern the liability of an issuer,
3 nominated person, or adviser under subsection (a) or (b), (2) the relevant undertaking incorporates
4 rules of custom or practice, and (3) there is conflict between this chapter and those rules as applied
5 to that undertaking, those rules govern except to the extent of any conflict with the nonvariable
6 provisions specified in § 6A-5-103(c).

7 ~~(d)(f)~~ If there is conflict between this chapter and chapters 3, 4, 4.1 or 9 of this title, this
8 chapter governs.

9 ~~(e)(g)~~ The forum for settling disputes arising out of an undertaking within this chapter may
10 be chosen in the manner and with the binding effect that governing law may be chosen in
11 accordance with subsection (a).

12 SECTION 7. Sections 6A-7-102 and 6A-7-106 of the General Laws in Chapter 6A-7
13 entitled "Documents of Title" are hereby amended to read as follows:

14 **6A-7-102. Definitions and index of definitions.**

15 (a) In this chapter, unless the context otherwise requires:

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

18 (2) "Carrier" means a person that issues a bill of lading.

19 (3) "Consignee" means a person named in a bill of lading to which or to whose order the
20 bill promises delivery.

21 (4) "Consignor" means a person named in a bill of lading as the person from which the
22 goods have been received for shipment.

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

26 (6) "Good faith" means honesty in fact and the observance of reasonable commercial
27 standards of fair dealing.

28 (7) "Goods" means all things that are treated as movable for the purposes of a contract for
29 storage or transportation.

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

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

4 (10) ~~"Record" means information that is inscribed on a tangible medium or that is stored~~
5 ~~in an electronic or other medium and is retrievable in perceivable form.~~

6 (11) ~~"Sign" means, with present intent to authenticate or adopt a record:~~

7 ~~(A) To execute or adopt a tangible symbol; or~~

8 ~~(B) To attach to or logically associate with the record an electronic sound, symbol, or~~
9 ~~process.~~

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

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

12 (b) Definitions in other chapters applying to this chapter and the sections in which they
13 appear are:

14 (1) "Contract for sale," § 6A-2-106.

15 (2) "Lessee in the ordinary course of business," § 6A-2.1-103.

16 (3) "Receipt" of goods, § 6A-2-103.

17 (c) In addition, chapter 1 contains general definitions and principles of construction and
18 interpretation applicable throughout this chapter.

19 **6A-7-106. Control of electronic document of title.**

20 (a) A person has control of an electronic document of title if a system employed for
21 evidencing the transfer of interests in the electronic document reliably establishes that person as
22 the person to which the electronic document was issued or transferred.

23 (b) A system satisfies subsection (a), and a person ~~is deemed to have~~ has control of an
24 electronic document of title, if the document is created, stored, and ~~assigned~~ transferred in ~~such~~ a
25 manner that:

26 (1) A single authoritative copy of the document exists which is unique, identifiable, and,
27 except as otherwise provided in paragraphs (4), (5), and (6), unalterable;

28 (2) The authoritative copy identifies the person asserting control as:

29 (A) The person to which the document was issued; or

30 (B) If the authoritative copy indicates that the document has been transferred, the person
31 to which the document was most recently transferred;

32 (3) The authoritative copy is communicated to and maintained by the person asserting
33 control or its designated custodian;

34 (4) Copies or amendments that add or change an identified ~~assignee~~ transferee of the

1 authoritative copy can be made only with the consent of the person asserting control;

2 (5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a
3 copy that is not the authoritative copy; and

4 (6) Any amendment of the authoritative copy is readily identifiable as authorized or
5 unauthorized.

6 (c) A system satisfies subsection (a) of this section, and a person has control of an electronic
7 document of title, if an authoritative electronic copy of the document, a record attached to or
8 logically associated with the electronic copy, or a system in which the electronic copy is recorded:

9 (1) Enables the person readily to identify each electronic copy as either an authoritative
10 copy or a nonauthoritative copy;

11 (2) Enables the person readily to identify itself in any way, including by name, identifying
12 number, cryptographic key, office, or account number, as the person to which each authoritative
13 electronic copy was issued or transferred; and

14 (3) Gives the person exclusive power, subject to subsection (d) of this section, to:

15 (i) Prevent others from adding or changing the person to which each authoritative electronic
16 copy has been issued or transferred; and

17 (ii) Transfer control of each authoritative electronic copy.

18 (d) Subject to subsection (e) of this section, a power is exclusive under subsections (c)(3)(i)
19 and (ii) of this section even if:

20 (1) The authoritative electronic copy, a record attached to, or logically associated with the
21 authoritative electronic copy, or a system in which the authoritative electronic copy is recorded
22 limits the use of the document of title or has a protocol that is programmed to cause a change,
23 including a transfer or loss of control; or

24 (2) The power is shared with another person.

25 (e) A power of a person is not shared with another person under subsection (d)(2) of this
26 section and the person's power is not exclusive if:

27 (1) The person can exercise the power only if the power also is exercised by the other
28 person; and

29 (2) The other person:

30 (i) Can exercise the power without exercise of the power by the person; or

31 (ii) Is the transferor to the person of an interest in the document of title.

32 (f) If a person has the powers specified in subsections (c)(3)(i) and (ii) of this section, the
33 powers are presumed to be exclusive.

34 (g) A person has control of an electronic document of title if another person, other than the

1 transferor to the person of an interest in the document:

2 (1) Has control of the document and acknowledges that it has control on behalf of the
3 person; or

4 (2) Obtains control of the document after having acknowledged that it will obtain control
5 of the document on behalf of the person.

6 (h) A person that has control under this section is not required to acknowledge that it has
7 control on behalf of another person.

8 (i) If a person acknowledges that it has or will obtain control on behalf of another person,
9 unless the person otherwise agrees or law other than this chapter or chapter 6A-9 otherwise
10 provides, the person does not owe any duty to the other person and is not required to confirm the
11 acknowledgment to any other person.

12 SECTION 8. Sections 6A-8-102, 6A-8-103, 6A-8-106, 6A-8-110 and 6A-8-303 of the
13 General Laws in Chapter 6A-8 entitled "Investment Securities" are hereby amended to read as
14 follows:

15 **6A-8-102. Definitions.**

16 (a) In this chapter:

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

20 (2) "Bearer form," as applied to a certificated security, means a form in which the security
21 is payable to the bearer of the security certificate according to its terms but not by reason of an
22 indorsement.

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

25 (4) "Certificated security" means a security that is represented by a certificate.

26 (5) "Clearing corporation" means:

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

28 (ii) A federal reserve bank; or

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

34 (6) "Communicate" means to:

- 1 (i) Send a signed ~~writing~~ record; or
2 (ii) Transmit information by any mechanism agreed upon by the persons transmitting and
3 receiving the information.

4 (7) “Entitlement holder” means a person identified in the records of a securities
5 intermediary as the person having a security entitlement against the securities intermediary. If a
6 person acquires a security entitlement by virtue of § 6A-8-501(b)(2) or (3), that person is the
7 entitlement holder.

8 (8) “Entitlement order” means a notification communicated to a securities intermediary
9 directing transfer or redemption of a financial asset to which the entitlement holder has a security
10 entitlement.

11 (9) “Financial asset,” except as otherwise provided in § 6A-8-103, means:

12 (i) A security;

13 (ii) An obligation of a person or a share, participation, or other interest in a person or in
14 property or an enterprise of a person, which is, or is of a type, dealt in or traded on financial markets,
15 or which is recognized in any area in which it is issued or dealt in as a medium for investment; or

16 (iii) Any property that is held by a securities intermediary for another person in a securities
17 account if the securities intermediary has expressly agreed with the other person that the property
18 is to be treated as a financial asset under this chapter.

19 As context requires, the term means either the interest itself or the means by which a
20 person’s claim to it is evidenced, including a certificated or uncertificated security, a security
21 certificate, or a security entitlement.

22 (10) “Good faith,” for purposes of the obligation of good faith in the performance or
23 enforcement of contracts or duties within this chapter, means honesty in fact and the observance of
24 reasonable commercial standards of fair dealing.

25 (11) “Indorsement” means a signature that alone or accompanied by other words is made
26 on a security certificate in registered form or on a separate document for the purpose of assigning,
27 transferring, or redeeming the security or granting a power to assign, transfer, or redeem it.

28 (12) “Instruction” means a notification communicated to the issuer of an uncertificated
29 security which directs that the transfer of the security be registered or that the security be redeemed.

30 (13) “Registered form,” as applied to a certificated security, means a form in which:

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

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

34 (14) “Securities intermediary” means:

1 (i) A clearing corporation; or
2 (ii) A person, including a bank or broker, that in the ordinary course of its business
3 maintains securities accounts for others and is acting in that capacity.

4 (15) "Security," except as otherwise provided in § 6A-8-103, means an obligation of an
5 issuer or a share, participation, or other interest in an issuer or in property or an enterprise of an
6 issuer:

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

9 (ii) Which is one of a class or series or by its terms is divisible into a class or series of
10 shares, participations, interests, or obligations; and

11 (iii) Which:

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

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

15 (16) "Security certificate" means a certificate representing a security.

16 (17) "Security entitlement" means the rights and property interest of an entitlement holder
17 with respect to a financial asset specified in part 5 of this chapter.

18 (18) "Uncertificated security" means a security that is not represented by a certificate.

19 (b) ~~Other~~ The following definitions applying to in this chapter and the sections in which
20 ~~they appear are other chapters of this title apply to this chapter:~~

21 "Appropriate person" § 6A-8-107

22 "Control" § 6A-8-106

23 "Controllable account" § 6A-9-102

24 "Controllable electronic record" § 6A-12-102

25 "Controllable payment intangible" § 6A-9-102

26 "Delivery" § 6A-8-301

27 "Investment company security" § 6A-8-103

28 "Issuer" § 6A-8-201

29 "Overissue" § 6A-8-210

30 "Protected purchaser" § 6A-8-303

31 "Securities account" § 6A-8-501

32 (c) In addition, chapter 1 of this title contains general definitions and principles of
33 construction and interpretation applicable throughout this chapter.

34 (d) The characterization of a person, business, or transaction for purposes of this chapter

1 does not determine the characterization of the person, business, or transaction for purposes of any
2 other law, regulation, or rule.

3 **6A-8-103. Rules for determining whether certain obligations and interests are**
4 **securities or financial assets.**

5 (a) A share or similar equity interest issued by a corporation, business trust, joint stock
6 company, or similar entity is a security.

7 (b) An “investment company security” is a security. “Investment company security” means
8 a share or similar equity interest issued by an entity that is registered as an investment company
9 under the federal investment company laws, an interest in a unit investment trust that is so
10 registered, or a face-amount certificate issued by a face-amount certificate company that is so
11 registered. Investment company security does not include an insurance policy or endowment policy
12 or annuity contract issued by an insurance company.

13 (c) An interest in a partnership or limited liability company is not a security unless it is
14 dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that
15 it is a security governed by this chapter, or it is an investment company security. However, an
16 interest in a partnership or limited liability company is a financial asset if it is held in a securities
17 account.

18 (d) A writing that is a security certificate is governed by this chapter and not by chapter 3
19 of this title, even though it also meets the requirements of that chapter. However, a negotiable
20 instrument governed by chapter 3 of this title is a financial asset if it is held in a securities account.

21 (e) An option or similar obligation issued by a clearing corporation to its participants is not
22 a security, but is a financial asset.

23 (f) A commodity contract, as defined in § 6A-9-102(a)(15), is not a security or a financial
24 asset.

25 (g) A document of title is not a financial asset unless subsection 6A-8-102(a)(9)(iii) applies.

26 (h) A controllable account, controllable electronic record, or controllable payment
27 intangible is not a financial asset unless § 6A-8-102(a)(9)(iii) applies.

28 **6A-8-106. Control.**

29 (a) A purchaser has “control” of a certificated security in bearer form if the certificated
30 security is delivered to the purchaser.

31 (b) A purchaser has “control” of a certificated security in registered form if the certificated
32 security is delivered to the purchaser, and:

33 (1) the certificate is indorsed to the purchaser or in blank by an effective indorsement; or

34 (2) the certificate is registered in the name of the purchaser, upon original issue or

1 registration of transfer by the issuer.

2 (c) A purchaser has “control” of an uncertificated security if:

3 (1) the uncertificated security is delivered to the purchaser; or

4 (2) the issuer has agreed that it will comply with instructions originated by the purchaser
5 without further consent by the registered owner.

6 (d) A purchaser has “control” of a security entitlement if:

7 (1) the purchaser becomes the entitlement holder;

8 (2) the securities intermediary has agreed that it will comply with entitlement orders
9 originated by the purchaser without further consent by the entitlement holder; or

10 (3) ~~another person has control of the security entitlement on behalf of the purchaser or,~~
11 ~~having previously acquired control of the security entitlement, acknowledges that it has control on~~
12 ~~behalf of the purchaser~~ person, other than the transferor to the purchaser of an interest in the security
13 entitlement:

14 (i) has control of the security entitlement and acknowledges that it has control on behalf of
15 the purchaser; or

16 (ii) obtains control of the security entitlement after having acknowledged that it will obtain
17 control of the security entitlement on behalf of the purchaser.

18 (e) If an interest in a security entitlement is granted by the entitlement holder to the
19 entitlement holder’s own securities intermediary, the securities intermediary has control.

20 (f) A purchaser who has satisfied the requirements of subsection (c) or (d) has control even
21 if the registered owner in the case of subsection (c) or the entitlement holder in the case of
22 subsection (d) retains the right to make substitutions for the uncertificated security or security
23 entitlement, to originate instructions or entitlement orders to the issuer or securities intermediary,
24 or otherwise to deal with the uncertificated security or security entitlement.

25 (g) An issuer or a securities intermediary may not enter into an agreement of the kind
26 described in subsection (c)(2) or (d)(2) without the consent of the registered owner or entitlement
27 holder, but an issuer or a securities intermediary is not required to enter into such an agreement
28 even though the registered owner or entitlement holder so directs. An issuer or securities
29 intermediary that has entered into such an agreement is not required to confirm the existence of the
30 agreement to another party unless requested to do so by the registered owner or entitlement holder.

31 (h) A person that has control under this section is not required to acknowledge that it has
32 control on behalf of a purchaser.

33 (i) If a person acknowledges that it has or will obtain control on behalf of a purchaser,
34 unless the person otherwise agrees or law other than this chapter or chapter 6A-9 otherwise

1 provides, the person does not owe any duty to the purchaser and is not required to confirm the
2 acknowledgment to any other person.

3 **6A-8-110. Applicability — Choice of law.**

4 (a) The local law of the issuer’s jurisdiction, as specified in subsection (d), governs:

5 (1) the validity of a security;

6 (2) the rights and duties of the issuer with respect to registration of transfer;

7 (3) the effectiveness of registration of transfer by the issuer;

8 (4) whether the issuer owes any duties to an adverse claimant to a security; and

9 (5) whether an adverse claim can be asserted against a person to whom transfer of a
10 certificated or uncertificated security is registered or a person who obtains control of an
11 uncertificated security.

12 (b) The local law of the securities intermediary’s jurisdiction, as specified in subsection

13 (e), governs:

14 (1) acquisition of a security entitlement from the securities intermediary;

15 (2) the rights and duties of the securities intermediary and entitlement holder arising out of
16 a security entitlement;

17 (3) whether the securities intermediary owes any duties to an adverse claimant to a security
18 entitlement; and

19 (4) whether an adverse claim can be asserted against a person who acquires a security
20 entitlement from the securities intermediary or a person who purchases a security entitlement or
21 interest therein from an entitlement holder.

22 (c) The local law of the jurisdiction in which a security certificate is located at the time of
23 delivery governs whether an adverse claim can be asserted against a person to whom the security
24 certificate is delivered.

25 (d) “Issuer’s jurisdiction” means the jurisdiction under which the issuer of the security is
26 organized or, if permitted by the law of that jurisdiction, the law of another jurisdiction specified
27 by the issuer. An issuer organized under the law of this State may specify the law of another
28 jurisdiction as the law governing the matters specified in subsection (a)(2) through (5).

29 (e) The following rules determine a “securities intermediary’s jurisdiction” for purposes of
30 this section:

31 (1) If an agreement between the securities intermediary and its entitlement holder
32 governing the securities account expressly provides that a particular jurisdiction is the securities
33 intermediary’s jurisdiction for purposes of this part, this chapter, or this title, that jurisdiction is the
34 securities intermediary’s jurisdiction.

1 (2) If paragraph (1) does not apply and an agreement between the securities intermediary
2 and its entitlement holder governing the securities account expressly provides that the agreement
3 is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's
4 jurisdiction.

5 (3) If neither paragraph (1) nor paragraph (2) applies and an agreement between the
6 securities intermediary and its entitlement holder governing the securities account expressly
7 provides that the securities account is maintained at an office in a particular jurisdiction, that
8 jurisdiction is the securities intermediary's jurisdiction.

9 (4) If none of the preceding paragraphs applies, the securities intermediary's jurisdiction is
10 the jurisdiction in which the office identified in an account statement as the office serving the
11 entitlement holder's account is located.

12 (5) If none of the preceding paragraphs applies, the securities intermediary's jurisdiction is
13 the jurisdiction in which the chief executive office of the securities intermediary is located.

14 (f) A securities intermediary's jurisdiction is not determined by the physical location of
15 certificates representing financial assets, or by the jurisdiction in which is organized the issuer of
16 the financial asset with respect to which an entitlement holder has a security entitlement, or by the
17 location of facilities for data processing or other record keeping concerning the account.

18 (g) The local law of the issuer's jurisdiction or the securities intermediary's jurisdiction
19 governs a matter or transaction specified in subsections (a) or (b) of this section even if the matter
20 or transaction does not bear any relation to the jurisdiction.

21 **6A-8-303. Protected purchaser.**

22 (a) "Protected purchaser" means a purchaser of a certificated or uncertificated security, or
23 of an interest therein, who:

24 (1) gives value;

25 (2) does not have notice of any adverse claim to the security; and

26 (3) obtains control of the certificated or uncertificated security.

27 (b) ~~In addition to acquiring the rights of a purchaser, a~~ A protected purchaser ~~also~~ acquires
28 its interest in the security free of any adverse claim.

29 SECTION 9. Sections 6A-9-102, 6A-9-104, 6A-9-105, 6A-9-203, 6A-9-204, 6A-9-207,
30 6A-9-208, 6A-9-209, 6A-9-210, 6A-9-301, 6A-9-304, 6A-9-305, 6A-9-310, 6A-9-312, 6A-9-313,
31 6A-9-314, 6A-9-316, 6A-9-317, 6A-9-323, 6A-9-324, 6A-9-330, 6A-9-331, 6A-9-332, 6A-9-334,
32 6A-9-341, 6A-9-404, 6A-9-406, 6A-9-408, 6A-9-509, 6A-9-513, 6A-9-601, 6A-9-605, 6A-9-608,
33 6A-9-611, 6A-9-613, 6A-9-614, 6A-9-615, 6A-9-616, 6A-9-619, 6A-9-620, 6A-9-621, 6A-9-624
34 and 6A-9-628 of the General Laws in Chapter 6A-9 entitled "Secured Transactions" are hereby

1 amended to read as follows:

2 **6A-9-102. Definitions.**

3 (a) **Chapter 9 definitions.** In this chapter:

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

6 (2) "Account", except as used in "account for", "account statement", "account to",
7 "commodity account in subsection (a)(14) of this section", "customer's account", "deposit account
8 in subsection (a)(29) of this section", "on account of", and "statement of account" means a right to
9 payment of a monetary obligation, whether or not earned by performance, (i) for property that has
10 been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered
11 or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation
12 incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a
13 vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or
14 information contained on or for use with the card, or (viii) as winnings in a lottery or other game
15 of chance operated or sponsored by a State, governmental unit of a State, or person licensed or
16 authorized to operate the game by a State or governmental unit of a State. The term includes
17 controllable accounts and health-care-insurance receivables. The term does not include (i) ~~rights to~~
18 ~~payment evidenced by chattel paper or an instrument~~, (ii) commercial tort claims, (iii) deposit
19 accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, ~~or~~ (vi) rights to
20 payment for money or funds advanced or sold, other than rights arising out of the use of a credit or
21 charge card or information contained on or for use with the card, or (vii) rights to payment
22 evidenced by an instrument.

23 (3) "Account debtor" means a person obligated on an account, chattel paper, or general
24 intangible. The term does not include persons obligated to pay a negotiable instrument, even if the
25 negotiable instrument constitutes part of evidences chattel paper.

26 (4) "Accounting", except as used in "accounting for", means a record:

27 (i) ~~Authenticated~~ Signed by a secured party;

28 (ii) Indicating the aggregate unpaid secured obligations as of a date not more than 35 days
29 earlier or 35 days later than the date of the record; and

30 (iii) Identifying the components of the obligations in reasonable detail.

31 (5) "Agricultural lien" means an interest in farm products:

32 (i) Which secures payment or performance of an obligation for:

33 (A) Goods or services furnished in connection with a debtor's farming operation; or

34 (B) Rent on real property leased by a debtor in connection with its farming operation;

1 (ii) Which is created by statute in favor of a person that:

2 (A) In the ordinary course of its business furnished goods or services to a debtor in

3 connection with a debtor's farming operation; or

4 (B) Leased real property to a debtor in connection with the debtor's farming operation; and

5 (iii) Whose effectiveness does not depend on the person's possession of the personal

6 property.

7 (6) "As-extracted collateral" means:

8 (i) Oil, gas, or other minerals that are subject to a security interest that:

9 (A) Is created by a debtor having an interest in the minerals before extraction; and

10 (B) Attaches to the minerals as extracted; or

11 (ii) Accounts arising out of the sale at the wellhead or minehead of oil, gas, or other

12 minerals in which the debtor had an interest before extraction.

13 (7) ~~"Authenticate" means:~~

14 ~~(i) To sign; or~~

15 ~~(ii) With present intent to adopt or accept a record, to attach to or logically associate with~~

16 ~~the record an electronic sound, symbol, or process. [RESERVED]~~

17 (7.1) "Assignee" except as used in "assignee for benefit of creditors," means a person:

18 (i) In whose favor a security interest that secures an obligation is created or provided for

19 under a security agreement, whether or not the obligation is outstanding; or

20 (ii) To which an account, chattel paper, payment intangible, or promissory note has been

21 sold. The term includes a person to which a security interest has been transferred by a secured party.

22 (7.2) "Assignor" means a person that

23 (i) Under a security agreement creates or provides for a security interest that secures an

24 obligation; or

25 (ii) Sells an account, chattel paper, payment intangible, or promissory note. The term

26 includes a secured party that has transferred a security interest to another person.

27 (8) "Bank" means an organization that is engaged in the business of banking. The term

28 includes savings banks, savings and loan associations, credit unions, and trust companies.

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

30 (10) "Certificate of title" means a certificate of title with respect to which a statute provides

31 for the security interest in question to be indicated on the certificate as a condition or result of the

32 security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

33 The term includes another record maintained as an alternative to a certificate of title by the

34 governmental unit that issues certificates of title if a statute permits the security interest in question

1 to be indicated on the record as a condition or result of the security interest's obtaining priority over
2 the rights of a lien creditor with respect to the collateral.

3 (11) "Chattel paper" means: ~~a record or records that evidence both a monetary obligation~~
4 ~~and a security interest in specific goods, a security interest in specific goods and software used in~~
5 ~~the goods, a security interest in specific goods and license of software used in the goods, a lease of~~
6 ~~specific goods, or a lease of specific goods and license of software used in the goods. In this~~
7 ~~paragraph, "monetary obligation" means a monetary obligation secured by the goods or owed under~~
8 ~~a lease of the goods and includes a monetary obligation with respect to software used in the goods.~~
9 ~~The term does not include (i) charters or other contracts involving the use or hire of a vessel or (ii)~~
10 ~~records that evidence a right to payment arising out of the use of a credit or charge card or~~
11 ~~information contained on or for use with the card. If a transaction is evidenced by records that~~
12 ~~include an instrument or series of instruments, the group of records taken together constitutes~~
13 ~~chattel paper.~~

14 (i) A right to payment of a monetary obligation secured by specific goods, if the right to
15 payment and security agreement are evidenced by a record; or

16 (ii) A right to payment of a monetary obligation owed by a lessee under a lease agreement
17 with respect to specific goods and a monetary obligation owed by the lessee in connection with the
18 transaction giving rise to the lease, if:

19 (A) The right to payment and lease agreement are evidenced by a record; and

20 (B) The predominant purpose of the transaction giving rise to the lease was to give the
21 lessee the right to possession and use of the goods.

22 The term "chattel paper" does not include a right to payment arising out of a charter or
23 other contract involving the use or hire of a vessel or a right to payment arising out of the use of a
24 credit or charge card or information contained on or for use with the card.

25 (12) "Collateral" means the property subject to a security interest or agricultural lien. The
26 term includes:

27 (i) Proceeds to which a security interest attaches;

28 (ii) Accounts, chattel paper, payment intangibles, and promissory notes that have been sold;

29 and

30 (iii) Goods that are the subject of a consignment.

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

32 (i) The claimant is an organization; or

33 (ii) The claimant is an individual and the claim:

34 (A) Arose in the course of the claimant's business or profession; and

1 (B) Does not include damages arising out of personal injury to or the death of an individual.

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

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

6 (i) Traded on or subject to the rules of a board of trade that has been designated as a contract
7 market for such a contract pursuant to federal commodities laws; or

8 (ii) Traded on a foreign commodity board of trade, exchange, or market, and is carried on
9 the books of a commodity intermediary for a commodity customer.

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

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

13 (i) Is registered as a futures commission merchant under federal commodities law; or

14 (ii) In the ordinary course of its business provides clearance or settlement services for a
15 board of trade that has been designated as a contract market pursuant to federal commodities law.

16 (18) "Communicate" means:

17 (i) To send a written or other tangible record;

18 (ii) To transmit a record by any means agreed upon by the persons sending and receiving
19 the record; or

20 (iii) In the case of transmission of a record to or by a filing office, to transmit a record by
21 any means prescribed by filing-office rule.

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

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

25 (i) The merchant:

26 (A) Deals in goods of that kind under a name other than the name of the person making
27 delivery;

28 (B) Is not an auctioneer; and

29 (C) Is not generally known by its creditors to be substantially engaged in selling the goods
30 of others;

31 (ii) With respect to each delivery, the aggregate value of the goods is \$1,000 or more at the
32 time of delivery;

33 (iii) The goods are not consumer goods immediately before delivery; and

34 (iv) The transaction does not create a security interest that secures an obligation.

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

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

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

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

6 (i) An individual incurs an obligation primarily for personal, family, or household
7 purposes; and

8 (ii) A security interest in consumer goods secures the obligation.

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

12 (26) "Consumer transaction" means a transaction in which (i) an individual incurs an
13 obligation primarily for personal, family, or household purposes, (ii) a security interest secures the
14 obligation, and (iii) the collateral is held or acquired primarily for personal, family, or household
15 purposes. The term includes consumer-goods transactions.

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

17 (i) Identifies, by its file number, the initial financing statement to which it relates; and

18 (ii) Indicates that it is a continuation statement for, or that it is filed to continue the
19 effectiveness of, the identified financing statement.

20 (27.1) "Controllable account" means an account evidenced by a controllable electronic
21 record that provides that the account debtor undertakes to pay the person that has control under §
22 6A-12-105 of the controllable electronic record.

23 (27.2) "Controllable payment intangible" means a payment intangible evidenced by a
24 controllable electronic record that provides that the account debtor undertakes to pay the person
25 that has control under § 6A-12-105 of the controllable electronic record.

26 (28) "Debtor" means:

27 (i) A person having an interest, other than a security interest or other lien, in the collateral,
28 whether or not the person is an obligor;

29 (ii) A seller of accounts, chattel paper, payment intangibles, or promissory notes; or

30 (iii) A consignee.

31 (29) "Deposit account" means a demand, time, savings, passbook, or similar account
32 maintained with a bank. The term does not include investment property or accounts evidenced by
33 an instrument.

34 (30) "Document" means a document of title or a receipt of the type described in § 6A-7-

1 201(b).

2 (31) ~~“Electronic chattel paper” means chattel paper evidenced by a record or records~~
3 ~~consisting of information stored in an electronic medium.~~ [RESERVED]

4 (31.1) “Electronic money” means money in an electronic form.

5 (32) “Encumbrance” means a right, other than an ownership interest, in real property. The
6 term includes mortgages and other liens on real property.

7 (33) “Equipment” means goods other than inventory, farm products, or consumer goods.

8 (34) “Farm products” means goods, other than standing timber, with respect to which the
9 debtor is engaged in a farming operation and which are:

10 (i) Crops grown, growing, or to be grown, including:

11 (A) Crops produced on trees, vines, and bushes; and

12 (B) Aquatic goods, including seaweeds, produced in aquacultural operations;

13 (ii) Livestock, born or unborn, including fish, shellfish and other aquatic goods produced
14 in aquacultural operations;

15 (iii) Supplies used or produced in a farming operation; or

16 (iv) Products of crops or livestock in their unmanufactured states.

17 (35) “Farming operation” means raising, cultivating, propagating, fattening, grazing, or
18 any other farming, livestock, or aquacultural operation.

19 (36) “File number” means the number assigned to an initial financing statement pursuant
20 to § 6A-9-519(a).

21 (37) “Filing office” means an office designated in § 6A-9-501 as the place to file a
22 financing statement.

23 (38) “Filing-office rule” means a rule adopted pursuant to § 6A-9-526.

24 (39) “Financing statement” means a record or records composed of an initial financing
25 statement and any filed record relating to the initial financing statement.

26 (40) “Fixture filing” means the filing of a financing statement covering goods that are or
27 are to become fixtures and satisfying § 6A-9-502(a) and (b). The term includes the filing of a
28 financing statement covering goods of a transmitting utility which are or are to become fixtures.

29 (41) “Fixtures” means goods that have become so related to particular real property that an
30 interest in them arises under real property law.

31 (42) “General intangible” means any personal property, including things in action, other
32 than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods,
33 instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or
34 other minerals before extraction. The term includes controllable electronic records payment

1 intangibles and software.

2 (43) “Good faith” means honesty in fact and the observance of reasonable commercial
3 standards of fair dealing.

4 (44) “Goods” means all things that are movable when a security interest attaches. The term
5 includes (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance or
6 contract for sale, (iii) the unborn young of animals, (iv) crops grown, growing, or to be grown, even
7 if the crops are produced on trees, vines, or bushes, and (v) manufactured homes. The term also
8 includes a computer program embedded in goods and any supporting information provided in
9 connection with a transaction relating to the program if (i) the program is associated with the goods
10 in such a manner that it customarily is considered part of the goods, or (ii) by becoming the owner
11 of the goods, a person acquires a right to use the program in connection with the goods. The term
12 does not include a computer program embedded in goods that consist solely of the medium in which
13 the program is embedded. The term also does not include accounts, chattel paper, commercial tort
14 claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-
15 of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

16 (45) “Governmental unit” means a subdivision, agency, department, county, parish,
17 municipality, or other unit of the government of the United States, a State, or a foreign country.
18 The term includes an organization having a separate corporate existence if the organization is
19 eligible to issue debt on which interest is exempt from income taxation under the laws of the United
20 States.

21 (46) “Health-care-insurance receivable” means an interest in or claim under a policy of
22 insurance which is a right to payment of a monetary obligation for health-care goods or services
23 provided or to be provided.

24 (47) “Instrument” means a negotiable instrument or any other writing that evidences a right
25 to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type
26 that in ordinary course of business is transferred by delivery with any necessary indorsement or
27 assignment. The term does not include (i) investment property, (ii) letters of credit, or (iii) writings
28 that evidence a right to payment arising out of the use of a credit or charge card or information
29 contained on or for use with the card, or (iv) writings that evidence chattel paper.

30 (48) “Inventory” means goods, other than farm products, which:

31 (i) Are leased by a person as lessor;

32 (ii) Are held by a person for sale or lease or to be furnished under a contract of service;

33 (iii) Are furnished by a person under a contract of service; or

34 (iv) Consist of raw materials, work in process, or materials used or consumed in a business.

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

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

5 (51) "Letter-of-credit right" means a right to payment or performance under a letter of
6 credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment
7 or performance. The term does not include the right of a beneficiary to demand payment or
8 performance under a letter of credit.

9 (52) "Lien creditor" means:

10 (i) A creditor that has acquired a lien on the property involved by attachment, levy, or the
11 like;

12 (ii) An assignee for benefit of creditors from the time of assignment;

13 (iii) A trustee in bankruptcy from the date of the filing of the petition; or

14 (iv) A receiver in equity from the time of appointment.

15 (53) "Manufactured home" means a structure, transportable in one or more sections, which,
16 in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or,
17 when erected on site, is 320 or more square feet, and which is built on a permanent chassis and
18 designed to be used as a dwelling with or without a permanent foundation when connected to the
19 required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems
20 contained therein. The term includes any structure that meets all of the requirements of this
21 paragraph except the size requirements and with respect to which the manufacturer voluntarily files
22 a certification required by the United States Secretary of Housing and Urban Development and
23 complies with the standards established under Title 42 of the United States Code.

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

25 (i) That creates a purchase-money security interest in a manufactured home, other than a
26 manufactured home held as inventory; or

27 (ii) In which a manufactured home, other than a manufactured home held as inventory, is
28 the primary collateral.

29 (54.1) "Money" has the meaning in § 6A-1-201, but does not include:

30 (i) A deposit account; or

31 (ii) Money in an electronic form that cannot be subjected to control under § 6A-9-105.1.

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

34 (56) "New debtor" means a person that becomes bound as debtor under § 6A-9-203(d) by

1 a security agreement previously entered into by another person.

2 (57) “New value” means (i) money, (ii) money’s worth in property, services, or new credit,
3 or (iii) release by a transferee of an interest in property previously transferred to the transferee. The
4 term does not include an obligation substituted for another obligation.

5 (58) “Noncash proceeds” means proceeds other than cash proceeds.

6 (59) “Obligor” means a person that, with respect to an obligation secured by a security
7 interest in or an agricultural lien on the collateral, (i) owes payment or other performance of the
8 obligation, (ii) has provided property other than the collateral to secure payment or other
9 performance of the obligation, or (iii) is otherwise accountable in whole or in part for payment or
10 other performance of the obligation. The term does not include issuers or nominated persons under
11 a letter of credit.

12 (60) “Original debtor”[;] except as used in § 6A-9-310(c), means a person that, as debtor,
13 entered into a security agreement to which a new debtor has become bound under § 6A-9-203(d).

14 (61) “Payment intangible” means a general intangible under which the account debtor’s
15 principal obligation is a monetary obligation. The term includes a controllable payment intangible.

16 (62) “Person related to”[;] with respect to an individual, means:

17 (i) The spouse of the individual;

18 (ii) A brother, brother-in-law, sister, or sister-in-law of the individual;

19 (iii) An ancestor or lineal descendant of the individual or the individual’s spouse; or

20 (iv) Any other relative, by blood or marriage, of the individual or the individual’s spouse
21 who shares the same home with the individual.

22 (63) “Person related to”[;] with respect to an organization, means:

23 (i) A person directly or indirectly controlling, controlled by, or under common control with
24 the organization;

25 (ii) An officer or director of, or a person performing similar functions with respect to, the
26 organization;

27 (iii) An officer or director of, or a person performing similar functions with respect to, a
28 person described in subparagraph (i);

29 (iv) The spouse of an individual described in subparagraph (i), (ii), or (iii); or

30 (v) An individual who is related by blood or marriage to an individual described in
31 subparagraph (i), (ii), (iii), or (iv) and shares the same home with the individual.

32 (64) “Proceeds”[;] except as used in § 6A-9-609(b), means the following property:

33 (i) Whatever is acquired upon the sale, lease, license, exchange, or other disposition of
34 collateral;

1 (ii) Whatever is collected on, or distributed on account of, collateral;

2 (iii) Rights arising out of collateral;

3 (iv) To the extent of the value of collateral, claims arising out of the loss, nonconformity,
4 or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

5 (v) To the extent of the value of collateral and to the extent payable to the debtor or the
6 secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement
7 of rights in, or damage to, the collateral.

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

11 (66) "Proposal" means a record ~~authenticated~~ signed by a secured party which includes the
12 terms on which the secured party is willing to accept collateral in full or partial satisfaction of the
13 obligation it secures pursuant to §§ 6A-9-620, 6A-9-621, and 6A-9-622.

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

15 (i) Debt securities are issued;

16 (ii) All or a portion of the securities issued have an initial stated maturity of at least 20
17 years; and

18 (iii) The debtor, obligor, secured party, account debtor or other person obligated on
19 collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest
20 is a State or a governmental unit of a State.

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

23 (i) A record consisting of the record initially filed with or issued by a state or the United
24 States to form or organize an organization and any record filed with or issued by the state of the
25 United States which amends or restates the initial record;

26 (ii) An organic record of a business trust consisting of the record initially filed with a state
27 and any record filed with the state which amends or restates the initial record, if a statute of the
28 state governing business trusts requires that the record be filed with the state; or

29 (iii) A record consisting of legislation enacted by the legislature of a state or the Congress
30 of the United States which forms or organizes an organization, any record amending the legislation,
31 and any record filed with or issued by the state or the United States which amends or restates the
32 name of the organization.

33 (69) "Pursuant to commitment"; with respect to an advance made or other value given by
34 a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event

1 of default or other event not within the secured party's control has relieved or may relieve the
2 secured party from its obligation.

3 (70) "Record"; except as used in "for record", "of record", "record or legal title", and
4 "record owner", means information that is inscribed on a tangible medium or which is stored in an
5 electronic or other medium and is retrievable in perceivable form.

6 (71) "Registered organization" means an organization formed or organized solely under
7 the law of a single State or the United States by the filing of a public organic record with, the
8 issuance of a public organic record by, or the enactment of legislation by the state or United States.
9 The term includes a business trust that is formed or organized under the law of a single state if a
10 statute of the state governing business trusts requires that the business trust's organic record be
11 filed with the state.

12 (72) "Secondary obligor" means an obligor to the extent that:

13 (i) The obligor's obligation is secondary; or

14 (ii) The obligor has a right of recourse with respect to an obligation secured by collateral
15 against the debtor, another obligor, or property of either.

16 (73) "Secured party" means:

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

19 (ii) A person that holds an agricultural lien;

20 (iii) A consignor;

21 (iv) A person to which accounts, chattel paper, payment intangibles, or promissory notes
22 have been sold;

23 (v) A trustee, indenture trustee, agent, collateral agent, or other representative in whose
24 favor a security interest or agricultural lien is created or provided for; or

25 (vi) A person that holds a security interest arising under § 6A-2-401, 6A-2-505, 6A-2-
26 711(3), 6A-2.1-508(5), 6A-4-210, or 6A-5-118.

27 (74) "Security agreement" means an agreement that creates or provides for a security
28 interest.

29 (75) ~~"Send", in connection with a record or notification, means:~~

30 ~~(i) To deposit in the mail, deliver for transmission, or transmit by any other usual means of~~
31 ~~communication, with postage or cost of transmission provided for, addressed to any address~~
32 ~~reasonable under the circumstances; or~~

33 ~~(ii) To cause the record or notification to be received within the time that it would have~~
34 ~~been received if properly sent under subparagraph (i). [RESERVED]~~

1 (76) “Software” means a computer program and any supporting information provided in
2 connection with a transaction relating to the program. The term does not include a computer
3 program that is included in the definition of goods.

4 (77) “State” means a State of the United States, the District of Columbia, Puerto Rico, the
5 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the
6 United States.

7 (78) “Supporting obligation” means a letter-of-credit right or secondary obligation that
8 supports the payment or performance of an account, chattel paper, a document, a general intangible,
9 an instrument, or investment property.

10 ~~(79) “Tangible chattel paper” means chattel paper evidenced by a record or records~~
11 ~~consisting of information that is inscribed on a tangible medium.~~ [RESERVED]

12 (79.1) “Tangible money” means money in a tangible form.

13 (80) “Termination statement” means an amendment of a financing statement which:

14 (i) Identifies, by its file number, the initial financing statement to which it relates; and

15 (ii) Indicates either that it is a termination statement or that the identified financing
16 statement is no longer effective.

17 (81) “Transmitting utility” means a person primarily engaged in the business of:

18 (i) Operating a railroad, subway, street railway, or trolley bus;

19 (ii) Transmitting communications electrically, electromagnetically, or by light;

20 (iii) Transmitting goods by pipeline or sewer; or

21 (iv) Transmitting or producing and transmitting electricity, steam, gas, or water.

22 (b) **Definitions in other chapters.** “Control” as provided in § 6A-7-106 and the following
23 definitions in other chapters apply to this chapter:

24 “Applicant”- § 6A-5-102.

25 “Beneficiary”- § 6A-5-102.

26 “Broker”- § 6A-8-102.

27 “Certificated security”- § 6A-8-102.

28 “Check”- § 6A-3-104.

29 “Clearing corporation”- § 6A-8-102.

30 “Contract for sale”- § 6A-2-106.

31 “Controllable electronic record” § 6A-12-102.

32 “Customer”- § 6A-4-104.

33 “Entitlement holder”- § 6A-8-102.

34 “Financial asset”- § 6A-8-102.

1 “Holder in due course”- § 6A-3-302.
2 “Issuer” (with respect to a letter of credit or letter-of-credit right). § 6A-5-102.
3 “Issuer” (with respect to a security). § 6A-8-201.
4 “Issuer” (with respect to documents of title). § 6A-7-102.
5 “Lease”- § 6A-2.1-103.
6 “Lease agreement”- § 6A-2.1-103.
7 “Lease contract”- § 6A-2.1-103.
8 “Leasehold interest”- § 6A-2.1-103.
9 “Lessee”- § 6A-2.1-103.
10 “Lessee in ordinary course of business”- § 6A-2.1-103.
11 “Lessor”- § 6A-2.1-103.
12 “Lessor’s residual interest”- § 6A-2.1-103.
13 “Letter of credit”- § 6A-5-102.
14 “Merchant”- § 6A-2-104.
15 “Negotiable instrument”- § 6A-3-104.
16 “Nominated person”- § 6A-5-102.
17 “Note”- § 6A-3-104.
18 “Proceeds of a letter of credit”- § 6A-5-114.
19 “Protected purchaser” § 6A-8-303.
20 “Prove”- § 6A-3-103.
21 “Qualifying purchaser” § 6A-12-102.
22 “Sale”- § 6A-2-106.
23 “Securities account”- § 6A-8-501.
24 “Securities intermediary”- § 6A-8-102.
25 “Security”- § 6A-8-102.
26 “Security certificate”- § 6A-8-102.
27 “Security entitlement”- § 6A-8-102.
28 “Uncertificated security”- § 6A-8-102.
29 (c) **Chapter 1 definitions and principles.** Chapter 1 of this title contains general
30 definitions and principles of construction and interpretation applicable throughout this chapter.
31 **6A-9-104. Control of deposit account.**
32 (a) Requirements for control. A secured party has control of a deposit account if:
33 (1) the secured party is the bank with which the deposit account is maintained;
34 (2) the debtor, secured party, and bank have agreed ~~in an authenticated~~ a signed record that

1 the bank will comply with instructions originated by the secured party directing disposition of the
2 funds in the deposit account without further consent by the debtor; ~~or~~

3 (3) the secured party becomes the bank's customer with respect to the deposit account; or

4 (4) Another person, other than the debtor:

5 (i) Has control of the deposit account and acknowledges that it has control on behalf of the
6 secured party; or

7 (ii) Obtains control of the deposit account after having acknowledged that it will obtain
8 control of the deposit account on behalf of the secured party.

9 (b) Debtor's right to direct disposition. A secured party that has satisfied subsection (a) has
10 control, even if the debtor retains the right to direct the disposition of funds from the deposit
11 account.

12 **6A-9-105. Control of electronic chattel paper Control of electronic copy of record**
13 **evidencing chattel paper.**

14 (a) General rule: control of ~~electronic chattel paper~~. ~~A secured party has control of an~~
15 ~~electronic chattel paper if a system employed for evidencing the transfer of interests in the chattel~~
16 ~~paper reliably establishes the secured party as the person to which the chattel paper was assigned.~~
17 electronic copy of record evidencing chattel paper. A purchaser has control of an authoritative
18 electronic copy of a record evidencing chattel paper if a system employed for evidencing the
19 assignment of interests in the chattel paper reliably establishes the purchaser as the person to which
20 the authoritative electronic copy was assigned.

21 (b) ~~Specific facts giving control. A system satisfies subsection (a) if the record or records~~
22 ~~comprising the chattel paper are created, stored, and assigned in such a manner that:~~

23 ~~(1) A single authoritative copy of the record or records exists which is unique, identifiable~~
24 ~~and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;~~

25 ~~(2) The authoritative copy identifies the secured party as the assignee of the record or~~
26 ~~records;~~

27 ~~(3) The authoritative copy is communicated to and maintained by the secured party or its~~
28 ~~designated custodian;~~

29 ~~(4) Copies or amendments that add or change an identified assignee of the authoritative~~
30 ~~copy can be made only with the consent of the secured party;~~

31 ~~(5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a~~
32 ~~copy that is not the authoritative copy; and~~

33 ~~(6) Any amendment of the authoritative copy is readily identifiable as authorized or~~
34 ~~unauthorized.~~

1 (b) Single authoritative copy. A system satisfies subsection (a) of this section if the record
2 or records evidencing the chattel paper are created, stored, and assigned in a manner that:

3 (1) A single authoritative copy of the record or records exists which is unique, identifiable,
4 and, except as otherwise provided in subsections (b)(4), (b)(5), and (b)(6), of this section
5 unalterable;

6 (2) The authoritative copy identifies the purchaser as the assignee of the record or records;

7 (3) The authoritative copy is communicated to and maintained by the purchaser or its
8 designated custodian;

9 (4) Copies or amendments that add or change an identified assignee of the authoritative
10 copy can be made only with the consent of the purchaser;

11 (5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a
12 copy that is not the authoritative copy; and

13 (6) Any amendment of the authoritative copy is readily identifiable as authorized or
14 unauthorized.

15 (c) One or more authoritative copies. A system satisfies subsection (a) of this section, and
16 a purchaser has control of an authoritative electronic copy of a record evidencing chattel paper, if
17 the electronic copy, a record attached to or logically associated with the electronic copy, or a system
18 in which the electronic copy is recorded:

19 (1) Enables the purchaser readily to identify each electronic copy as either an authoritative
20 copy or a nonauthoritative copy;

21 (2) Enables the purchaser readily to identify itself in any way, including by name,
22 identifying number, cryptographic key, office, or account number, as the assignee of the
23 authoritative electronic copy; and

24 (3) Gives the purchaser exclusive power, subject to subsection (d) of this section, to:

25 (i) Prevent others from adding or changing an identified assignee of the authoritative
26 electronic copy; and

27 (ii) Transfer control of the authoritative electronic copy.

28 (d) Meaning of exclusive. Subject to subsection (e) of this section, a power is exclusive
29 under subsections (c)(3)(i) and (ii) of this section even if:

30 (1) The authoritative electronic copy, a record attached to or logically associated with the
31 authoritative electronic copy, or a system in which the authoritative electronic copy is recorded
32 limits the use of the authoritative electronic copy or has a protocol programmed to cause a change,
33 including a transfer or loss of control; or

34 (2) The power is shared with another person.

1 (e) When power not shared with another person. A power of a purchaser is not shared with
2 another person under subsection (d)(2) of this section and the purchaser's power is not exclusive
3 if:

4 (1) The purchaser can exercise the power only if the power also is exercised by the other
5 person; and

6 (2) The other person:

7 (i) Can exercise the power without exercise of the power by the purchaser; or

8 (ii) Is the transferor to the purchaser of an interest in the chattel paper.

9 (f) Presumption of exclusivity of certain powers. If a purchaser has the powers specified in
10 subsections (c)(3)(i) and (ii) of this section, the powers are presumed to be exclusive.

11 (g) Obtaining control through another person. A purchaser has control of an authoritative
12 electronic copy of a record evidencing chattel paper if another person, other than the transferor to
13 the purchaser of an interest in the chattel paper:

14 (1) Has control of the authoritative electronic copy and acknowledges that it has control on
15 behalf of the purchaser; or

16 (2) Obtains control of the authoritative electronic copy after having acknowledged that it
17 will obtain control of the electronic copy on behalf of the purchaser.

18 **6A-9-203. Attachment and enforceability of security interest; proceeds; supporting**
19 **obligations; formal requisites.**

20 (a) Attachment. A security interest attaches to collateral when it becomes enforceable
21 against the debtor with respect to the collateral, unless an agreement expressly postpones the time
22 of attachment.

23 (b) Enforceability. Except as otherwise provided in subsections (c) through (i), a security
24 interest is enforceable against the debtor and third parties with respect to the collateral only if:

25 (1) Value has been given;

26 (2) The debtor has rights in the collateral or the power to transfer rights in the collateral to
27 a secured party; and

28 (3) One of the following conditions is met:

29 (i) The debtor has ~~authenticated~~ signed a security agreement that provides a description of
30 the collateral and, if the security interest covers timber to be cut, a description of the land concerned;

31 (ii) The collateral is not a certificated security and is in the possession of the secured party
32 under § 6A-9-313 pursuant to the debtor's security agreement;

33 (iii) The collateral is a certificated security in registered form and the security certificate
34 has been delivered to the secured party under § 6A-8-301 pursuant to the debtor's security

1 agreement; or

2 (iv) The collateral is controllable accounts, controllable electronic records, controllable
3 payment intangibles, deposit accounts, electronic ~~chattel paper~~ documents, electronic money,
4 investment property, or letter-of-credit rights, ~~or electronic documents~~, and the secured party has
5 control under §§ 6A-7-106, 6A-9-104, 6A-9-105, 6A-9-105.1, 6A-9-106, ~~or 6A-9-107~~ , or 6A-9-
6 107.1 pursuant to the debtor's security agreement; or

7 (v) The collateral is chattel paper and the secured party has possession and control under §
8 6A-9-314.1 pursuant to the debtor's security agreement.

9 (c) Other UCC provisions. Subsection (b) is subject to § 6A-4-210 on the security interest
10 of a collecting bank, § 6A-5-118 on the security interest of a letter-of-credit issuer or nominated
11 person, § 6A-9-110 on a security interest arising under chapter 2 or 2.1, and § 6A-9-206 on security
12 interests in investment property.

13 (d) When person becomes bound by another person's security agreement. A person
14 becomes bound as debtor by a security agreement entered into by another person if, by operation
15 of law other than this chapter or by contract:

16 (1) The security agreement becomes effective to create a security interest in the person's
17 property; or

18 (2) The person becomes generally obligated for the obligations of the other person,
19 including the obligation secured under the security agreement, and acquires or succeeds to all or
20 substantially all of the assets of the other person.

21 (e) Effect of new debtor becoming bound. If a new debtor becomes bound as debtor by a
22 security agreement entered into by another person:

23 (1) The agreement satisfies subsection (b)(3) with respect to existing or after-acquired
24 property of the new debtor to the extent the property is described in the agreement; and

25 (2) Another agreement is not necessary to make a security interest in the property
26 enforceable.

27 (f) Proceeds and supporting obligations. The attachment of a security interest in collateral
28 gives the secured party the rights to proceeds provided by § 6A-9-315 and is also attachment of a
29 security interest in a supporting obligation for the collateral.

30 (g) Lien securing right to payment. The attachment of a security interest in a right to
31 payment or performance secured by a security interest or other lien on personal or real property is
32 also attachment of a security interest in the security interest, mortgage, or other lien.

33 (h) Security entitlement carried in securities account. The attachment of a security interest
34 in a securities account is also attachment of a security interest in the security entitlements carried

1 in the securities account.

2 (i) Commodity contracts carried in commodity account. The attachment of a security
3 interest in a commodity account is also attachment of a security interest in the commodity contracts
4 carried in the commodity account.

5 **6A-9-204. After-acquired property; future advances.**

6 (a) After-acquired collateral. Except as otherwise provided in subsection (b), a security
7 agreement may create or provide for a security interest in after-acquired collateral.

8 (b) When after-acquired property clause not effective. ~~A~~ Subject to subsection (c)(1) of
9 this section, a security interest does not attach under a term constituting an after-acquired property
10 clause to:

11 (1) Consumer goods, other than an accession when given as additional security, unless the
12 debtor acquires rights in them within 10 days after the secured party gives value; or

13 (2) A commercial tort claim.

14 (c) Limitation on subsection (b) of this section. Subsection (b) of this section does not
15 prevent a security interest from attaching:

16 (1) To consumer goods as proceeds under § 6A-9-315(a) or commingled goods under §
17 6A-9-336(c);

18 (2) To a commercial tort claim as proceeds under § 6A-9-315(a); or

19 (3) Under an after-acquired property clause to property that is proceeds of consumer goods
20 or a commercial tort claim.

21 ~~(e)~~(d) Future advances and other value. A security agreement may provide that collateral
22 secures, or that accounts, chattel paper, payment intangibles, or promissory notes are sold in
23 connection with, future advances or other value, whether or not the advances or value are given
24 pursuant to commitment.

25 **6A-9-207. Rights and duties of secured party having possession or control of**
26 **collateral.**

27 (a) Duty of care when secured party in possession. Except as otherwise provided in
28 subsection (d), a secured party shall use reasonable care in the custody and preservation of collateral
29 in the secured party's possession. In the case of chattel paper or an instrument, reasonable care
30 includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

31 (b) Expenses, risks, duties, and rights when secured party in possession. Except as
32 otherwise provided in subsection (d), if a secured party has possession of collateral:

33 (1) Reasonable expenses, including the cost of insurance and payment of taxes or other
34 charges, incurred in the custody, preservation, use, or operation of the collateral are chargeable to

1 the debtor and are secured by the collateral;

2 (2) The risk of accidental loss or damage is on the debtor to the extent of a deficiency in
3 any effective insurance coverage;

4 (3) The secured party shall keep the collateral identifiable, but fungible collateral may be
5 commingled; and

6 (4) The secured party may use or operate the collateral:

7 (i) For the purpose of preserving the collateral or its value;

8 (ii) As permitted by an order of a court having competent jurisdiction; or

9 (iii) Except in the case of consumer goods, in the manner and to the extent agreed by the
10 debtor.

11 (c) Duties and rights when secured party in possession or control. Except as otherwise
12 provided in subsection (d), a secured party having possession of collateral or control of collateral
13 under §§ 6A-7-106, 6A-9-104, 6A-9-105, 6A-9-105.1, 6A-9-106, ~~or 6A-9-107~~, or 6A-9-107.1:

14 (1) May hold as additional security any proceeds, except money or funds, received from
15 the collateral;

16 (2) Shall apply money or funds received from the collateral to reduce the secured
17 obligation, unless remitted to the debtor; and

18 (3) May create a security interest in the collateral.

19 (d) Buyer of certain rights to payment. If the secured party is a buyer of accounts, chattel
20 paper, payment intangibles, or promissory notes or a consignor:

21 (1) Subsection (a) does not apply unless the secured party is entitled under an agreement:

22 (i) To charge back uncollected collateral; or

23 (ii) Otherwise to full or limited recourse against the debtor or a secondary obligor based on
24 the nonpayment or other default of an account debtor or other obligor on the collateral; and

25 (2) Subsections (b) and (c) do not apply.

26 **6A-9-208. Additional duties of secured party having control of collateral.**

27 (a) Applicability of section. This section applies to cases in which there is no outstanding
28 secured obligation and the secured party is not committed to make advances, incur obligations, or
29 otherwise give value.

30 (b) Duties of secured party after receiving demand from debtor. Within 10 days after
31 receiving ~~an authenticated~~ a signed demand by the debtor:

32 (1) A secured party having control of a deposit account under § 6A-9-104(a)(2) shall send
33 to the bank with which the deposit account is maintained ~~an authenticated statement~~ a signed record
34 that releases the bank from any further obligation to comply with instructions originated by the

1 secured party;

2 (2) A secured party having control of a deposit account under § 6A-9-104(a)(3) shall:

3 (i) Pay the debtor the balance on deposit in the deposit account; or

4 (ii) Transfer the balance on deposit into a deposit account in the debtor's name;

5 (3) ~~A secured party, other than a buyer, having control of electronic chattel paper under §~~
6 ~~6A-9-105 shall:~~

7 ~~(i) Communicate the authoritative copy of the electronic chattel paper to the debtor or its~~
8 ~~designated custodian;~~

9 ~~(ii) If the debtor designates a custodian that is the designated custodian with which the~~
10 ~~authoritative copy of the electronic chattel paper is maintained for the secured party, communicate~~
11 ~~to the custodian an authenticated record releasing the designated custodian from any further~~
12 ~~obligation to comply with instructions originated by the secured party and instructing the custodian~~
13 ~~to comply with instructions originated by the debtor; and~~

14 ~~(iii) Take appropriate action to enable the debtor or its designated custodian to make copies~~
15 ~~of or revisions to the authoritative copy which add or change an identified assignee of the~~
16 ~~authoritative copy without the consent of the secured party; A secured party, other than a buyer,~~
17 ~~having control of electronic chattel paper under § 6A-9-105 of an authoritative electronic copy of~~
18 ~~a record evidencing chattel paper shall transfer control of the electronic copy to the debtor or a~~
19 ~~person designated by the debtor;~~

20 (4) A secured party having control of investment property under § 6A-8-106(d)(2) or 6A-
21 9-106(b) shall send to the securities intermediary or commodity intermediary with which the
22 security entitlement or commodity contract is maintained ~~an authenticated~~ a signed record that
23 releases the securities intermediary or commodity intermediary from any further obligation to
24 comply with entitlement orders or directions originated by the secured party;

25 (5) A secured party having control of a letter-of-credit right under § 6A-9-107 shall send
26 to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to
27 the secured party ~~an authenticated~~ a signed release from any further obligation to pay or deliver
28 proceeds of the letter of credit to the secured party; ~~and~~

29 (6) ~~A secured party having control of an electronic document shall:~~

30 ~~(a) Give control of the electronic document to the debtor or its designated custodian;~~

31 ~~(b) If the debtor designates a custodian that is the designated custodian with which the~~
32 ~~authoritative copy of the electronic document is maintaining for the secured party, communicate to~~
33 ~~the custodian an authenticated record releasing the designated custodian from any further obligation~~
34 ~~to comply with instructions originated by the secured party and instructing the custodian to comply~~

1 ~~with instructions originated by the debtor; and~~

2 ~~(e) Take appropriate action to enable the debtor or its designated custodian to make copies~~
3 ~~of or revisions to the authoritative copy which add or change an identified assignee of the~~
4 ~~authoritative copy without the consent of the secured party. A secured party having control under~~
5 ~~§ 6A-7-106 of an authoritative electronic copy of an electronic document of title shall transfer~~
6 ~~control of the electronic copy to the debtor or a person designated by the debtor;~~

7 ~~(7) A secured party having control under § 6A-9-105.1 of electronic money shall transfer~~
8 ~~control of the electronic money to the debtor or a person designated by the debtor; and~~

9 ~~(8) A secured party having control under § 6A-12-105 of a controllable electronic record,~~
10 ~~other than a buyer of a controllable account or controllable payment intangible evidenced by the~~
11 ~~controllable electronic record, shall transfer control of the controllable electronic record to the~~
12 ~~debtor or a person designated by the debtor.~~

13 **6A-9-209. Duties of secured party if account debtor has been notified of assignment.**

14 (a) Applicability of section. Except as otherwise provided in subsection (c), this section
15 applies if:

16 (1) There is no outstanding secured obligation; and

17 (2) The secured party is not committed to make advances, incur obligations, or otherwise
18 give value.

19 (b) Duties of secured party after receiving demand from debtor. Within 10 days after
20 receiving ~~an authenticated~~ a signed demand by the debtor, a secured party shall send to an account
21 debtor that has received notification under §§ 6A-9-406(a) or 6A-12-106(b) of an assignment to
22 the secured party as assignee ~~under § 6A-9-406(a) an authenticated~~ a signed record that releases
23 the account debtor from any further obligation to the secured party.

24 (c) Inapplicability to sales. This section does not apply to an assignment constituting the
25 sale of an account, chattel paper, or payment intangible.

26 **6A-9-210. Request for accounting; request regarding list of collateral or statement of**
27 **account.**

28 (a) Definitions. In this section:

29 (1) "Request" means a record of a type described in paragraph (2), (3), or (4).

30 (2) "Request for an accounting" means a record ~~authenticated~~ signed by a debtor requesting
31 that the recipient provide an accounting of the unpaid obligations secured by collateral and
32 reasonably identifying the transaction or relationship that is the subject of the request.

33 (3) "Request regarding a list of collateral" means a record ~~authenticated~~ signed by a debtor
34 requesting that the recipient approve or correct a list of what the debtor believes to be the collateral

1 securing an obligation and reasonably identifying the transaction or relationship that is the subject
2 of the request.

3 (4) “Request regarding a statement of account” means a record ~~authenticated~~ signed by a
4 debtor requesting that the recipient approve or correct a statement indicating what the debtor
5 believes to be the aggregate amount of unpaid obligations secured by collateral as of a specified
6 date and reasonably identifying the transaction or relationship that is the subject of the request.

7 (b) Duty to respond to requests. Subject to subsections (c), (d), (e), and (f), a secured party,
8 other than a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a
9 consignor, shall comply with a request within 14 days after receipt:

10 (1) In the case of a request for an accounting, by ~~authenticating~~ signing and sending to the
11 debtor an accounting; and

12 (2) In the case of a request regarding a list of collateral or a request regarding a statement
13 of account, by ~~authenticating~~ signing and sending to the debtor an approval or correction.

14 (c) Request regarding list of collateral; statement concerning type of collateral. A secured
15 party that claims a security interest in all of a particular type of collateral owned by the debtor may
16 comply with a request regarding a list of collateral by sending to the debtor ~~an authenticated~~ a
17 signed record including a statement to that effect within 14 days after receipt.

18 (d) Request regarding list of collateral; no interest claimed. A person that receives a request
19 regarding a list of collateral, claims no interest in the collateral when it receives the request, and
20 claimed an interest in the collateral at an earlier time shall comply with the request within 14 days
21 after receipt by sending to the debtor ~~an authenticated~~ a signed record:

22 (1) Disclaiming any interest in the collateral; and

23 (2) If known to the recipient, providing the name and mailing address of any assignee of
24 or successor to the recipient’s interest in the collateral.

25 (e) Request for accounting or regarding statement of account; no interest in obligation
26 claimed. A person that receives a request for an accounting or a request regarding a statement of
27 account, claims no interest in the obligations when it receives the request, and claimed an interest
28 in the obligations at an earlier time shall comply with the request within 14 days after receipt by
29 sending to the debtor ~~an authenticated~~ a signed record:

30 (1) Disclaiming any interest in the obligations; and

31 (2) If known to the recipient, providing the name and mailing address of any assignee of
32 or successor to the recipient’s interest in the obligations.

33 (f) Charges for responses. A debtor is entitled without charge to one response to a request
34 under this section during any six-month period. The secured party may require payment of a charge

1 not exceeding \$ 25 for each additional response.

2 **6A-9-301. Law governing perfection and priority of security interests.**

3 Except as otherwise provided in §§ 6A-9-303 through ~~6A-9-306~~ 6A-9-306.2, the following
4 rules determine the law governing perfection, the effect of perfection or nonperfection, and the
5 priority of a security interest in collateral:

6 (1) Except as otherwise provided in this section, while a debtor is located in a jurisdiction,
7 the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and
8 the priority of a security interest in collateral.

9 (2) While collateral is located in a jurisdiction, the local law of that jurisdiction governs
10 perfection, the effect of perfection or nonperfection, and the priority of a possessory security
11 interest in that collateral.

12 (3) Except as otherwise provided in paragraph (4), while tangible negotiable documents,
13 goods, instruments, ~~money, or tangible chattel paper~~ or tangible money is located in a jurisdiction,
14 the local law of that jurisdiction governs:

15 (i) Perfection of a security interest in the goods by filing a fixture filing;

16 (ii) Perfection of a security interest in timber to be cut; and

17 (iii) The effect of perfection or nonperfection and the priority of a nonpossessory security
18 interest in the collateral.

19 (4) The local law of the jurisdiction in which the wellhead or minehead is located governs
20 perfection, the effect of perfection or nonperfection, and the priority of a security interest in as-
21 extracted collateral.

22 **6A-9-304. Law governing perfection and priority of security interests in deposit**
23 **accounts.**

24 (a) Law of bank's jurisdiction governs. The local law of a bank's jurisdiction governs
25 perfection, the effect of perfection or nonperfection, and the priority of a security interest in a
26 deposit account maintained with that bank even if the transaction does not bear any relation to the
27 bank's jurisdiction.

28 (b) Bank's jurisdiction. The following rules determine a bank's jurisdiction for purposes
29 of this part:

30 (1) If an agreement between the bank and its customer governing the deposit account
31 expressly provides that a particular jurisdiction is the bank's jurisdiction for purposes of this part,
32 this chapter, or the Uniform Commercial Code, that jurisdiction is the bank's jurisdiction.

33 (2) If paragraph (1) does not apply and an agreement between the bank and its customer
34 governing the deposit account expressly provides that the agreement is governed by the law of a

1 particular jurisdiction, that jurisdiction is the bank's jurisdiction.

2 (3) If neither paragraph (1) nor paragraph (2) applies and an agreement between the bank
3 and its customer governing the deposit account expressly provides that the deposit account is
4 maintained at an office in a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

5 (4) If none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction
6 in which the office identified in an account statement as the office serving the customer's account
7 is located.

8 (5) If none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction
9 in which the chief executive office of the bank is located.

10 **6A-9-305. Law governing perfection and priority of security interests in investment**
11 **property.**

12 (a) Governing law: general rules. Except as otherwise provided in subsection (c), the
13 following rules apply:

14 (1) While a security certificate is located in a jurisdiction, the local law of that jurisdiction
15 governs perfection, the effect of perfection or nonperfection, and the priority of a security interest
16 in the certificated security represented thereby.

17 (2) The local law of the issuer's jurisdiction as specified in § 6A-8-110(d) governs
18 perfection, the effect of perfection or nonperfection, and the priority of a security interest in an
19 uncertificated security.

20 (3) The local law of the securities intermediary's jurisdiction as specified in § 6A-8-110(e)
21 governs perfection, the effect of perfection or nonperfection, and the priority of a security interest
22 in a security entitlement or securities account.

23 (4) The local law of the commodity intermediary's jurisdiction governs perfection, the
24 effect of perfection or nonperfection, and the priority of a security interest in a commodity contract
25 or commodity account.

26 (5) Subsections (a)(2), (a)(3) and (a)(4) of this section apply even if the transaction does
27 not bear any relation to the jurisdiction.

28 (b) Commodity intermediary's jurisdiction. The following rules determine a commodity
29 intermediary's jurisdiction for purposes of this part:

30 (1) If an agreement between the commodity intermediary and commodity customer
31 governing the commodity account expressly provides that a particular jurisdiction is the commodity
32 intermediary's jurisdiction for purposes of this part, this chapter, or the Uniform Commercial Code,
33 that jurisdiction is the commodity intermediary's jurisdiction.

34 (2) If paragraph (1) does not apply and an agreement between the commodity intermediary

1 and commodity customer governing the commodity account expressly provides that the agreement
2 is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's
3 jurisdiction.

4 (3) If neither paragraph (1) nor paragraph (2) applies and an agreement between the
5 commodity intermediary and commodity customer governing the commodity account expressly
6 provides that the commodity account is maintained at an office in a particular jurisdiction, that
7 jurisdiction is the commodity intermediary's jurisdiction.

8 (4) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction
9 is the jurisdiction in which the office identified in an account statement as the office serving the
10 commodity customer's account is located.

11 (5) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction
12 is the jurisdiction in which the chief executive office of the commodity intermediary is located.

13 (c) When perfection governed by law of jurisdiction where debtor located. The local law
14 of the jurisdiction in which the debtor is located governs:

15 (1) Perfection of a security interest in investment property by filing;

16 (2) Automatic perfection of a security interest in investment property created by a broker
17 or securities intermediary; and

18 (3) Automatic perfection of a security interest in a commodity contract or commodity
19 account created by a commodity intermediary.

20 **6A-9-310. When filing required to perfect security interest or agricultural lien;**
21 **security interests and agricultural liens to which filing provisions do not apply.**

22 (a) General rule: perfection by filing. Except as otherwise provided in subsection (b) and §
23 6A-9-312(b), a financing statement must be filed to perfect all security interests and agricultural
24 liens.

25 (b) Exceptions: filing not necessary. The filing of a financing statement is not necessary to
26 perfect a security interest:

27 (1) That is perfected under § 6A-9-308(d), (e), (f), or (g);

28 (2) That is perfected under § 6A-9-309 when it attaches;

29 (3) In property subject to a statute, regulation, or treaty described in § 6A-9-311(a);

30 (4) In goods in possession of a bailee which is perfected under § 6A-9-312(d)(1) or (2);

31 (5) In certificated securities, documents, goods, or instruments which is perfected without
32 filing, control or possession under § 6A-9-312(e), (f), or (g);

33 (6) In collateral in the secured party's possession under § 6A-9-313;

34 (7) In a certificated security which is perfected by delivery of the security certificate to the

1 secured party under § 6A-9-313;

2 (8) In controllable accounts, controllable electronic records, controllable payment
3 intangibles, deposit accounts, ~~electronic chattel paper~~, electronic documents, investment property,
4 or letter-of-credit rights which is perfected by control under § 6A-9-314;

5 (9) In chattel paper which is perfected by possession and control under § 6A-9-314.1;

6 ~~(9)~~(10) In proceeds which is perfected under § 6A-9-315; or

7 ~~(10)~~(11) That is perfected under § 6A-9-316.

8 (c) Assignment of perfected security interest. If a secured party assigns a perfected security
9 interest or agricultural lien, a filing under this chapter is not required to continue the perfected status
10 of the security interest against creditors of and transferees from the original debtor.

11 ~~**6A-9-312. Perfection of security interests in chattel paper, deposit accounts,**~~
12 ~~**documents, goods covered by documents, instruments, investment property, letter of credit**~~
13 ~~**rights, and money; perfection by permissive filing; temporary perfection without filing or**~~
14 ~~**transfer of possession**~~ **Perfection of security interests in chattel paper, controllable accounts,**
15 **controllable electronic records, controllable payment intangibles, deposit accounts,**
16 **negotiable documents, goods covered by documents, instruments, investment property,**
17 **letter-of-credit rights, and money; perfection by permissive filing; temporary perfection**
18 **without filing or transfer of possession.**

19 (a) Perfection by filing permitted. A security interest in chattel paper, ~~negotiable~~
20 ~~documents,~~ controllable accounts, controllable electronic records, controllable payment
21 intangibles, instruments, ~~or investment property,~~ or negotiable documents may be perfected by
22 filing.

23 (b) Control or possession of certain collateral. Except as otherwise provided in § 6A-9-
24 315(c) and (d) for proceeds:

25 (1) A security interest in a deposit account may be perfected only by control under § 6A-
26 9-314;

27 (2) And except as otherwise provided in § 6A-9-308(d), a security interest in a letter-of-
28 credit right may be perfected only by control under § 6A-9-314; ~~and~~

29 (3) A security interest in tangible money may be perfected only by the secured party's
30 taking possession under § 6A-9-313; and

31 (4) A security interest in electronic money may be perfected only by control under § 6A-
32 9-314.

33 (c) Goods covered by negotiable document. While goods are in the possession of a bailee
34 that has issued a negotiable document covering the goods:

1 (1) A security interest in the goods may be perfected by perfecting a security interest in the
2 document; and

3 (2) A security interest perfected in the document has priority over any security interest that
4 becomes perfected in the goods by another method during that time.

5 (d) Goods covered by nonnegotiable document. While goods are in the possession of a
6 bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods
7 may be perfected by:

8 (1) Issuance of a document in the name of the secured party;

9 (2) The bailee's receipt of notification of the secured party's interest; or

10 (3) Filing as to the goods.

11 (e) Temporary perfection: new value. A security interest in certificated securities,
12 negotiable documents, or instruments is perfected without filing or the taking of possession or
13 control for a period of 20 days from the time it attaches to the extent that it arises for new value
14 given under ~~an authenticated~~ a signed security agreement.

15 (f) Temporary perfection: goods or documents made available to debtor. A perfected
16 security interest in a negotiable document or goods in possession of a bailee, other than one that
17 has issued a negotiable document for the goods, remains perfected for 20 days without filing if the
18 secured party makes available to the debtor the goods or documents representing the goods for the
19 purpose of:

20 (1) Ultimate sale or exchange; or

21 (2) Loading, unloading, storing, shipping, transshipping, manufacturing, processing, or
22 otherwise dealing with them in a manner preliminary to their sale or exchange.

23 (g) Temporary perfection: delivery of security certificate or instrument to debtor. A
24 perfected security interest in a certificated security or instrument remains perfected for 20 days
25 without filing if the secured party delivers the security certificate or instrument to the debtor for the
26 purpose of:

27 (1) Ultimate sale or exchange; or

28 (2) Presentation, collection, enforcement, renewal, or registration of transfer.

29 (h) Expiration of temporary perfection. After the 20-day period specified in subsection (e),
30 (f), or (g) expires, perfection depends upon compliance with this chapter.

31 **6A-9-313. When possession by or delivery to secured party perfects security interest**
32 **without filing.**

33 (a) Perfection by possession or delivery. Except as otherwise provided in subsection (b), a
34 secured party may perfect a security interest in ~~tangible negotiable documents~~, goods, instruments,

1 ~~negotiable tangible documents or tangible money, or tangible chattel paper~~ by taking possession of
2 the collateral. A secured party may perfect a security interest in certificated securities by taking
3 delivery of the certificated securities under § 6A-8-301.

4 (b) Goods covered by certificate of title. With respect to goods covered by a certificate of
5 title issued by this State, a secured party may perfect a security interest in the goods by taking
6 possession of the goods only in the circumstances described in § 6A-9-316(d).

7 (c) Collateral in possession of person other than debtor. With respect to collateral other
8 than certificated securities and goods covered by a document, a secured party takes possession of
9 collateral in the possession of a person other than the debtor, the secured party, or a lessee of the
10 collateral from the debtor in the ordinary course of the debtor's business, when:

11 (1) The person in possession ~~authenticates~~ signs a record acknowledging that it holds
12 possession of the collateral for the secured party's benefit; or

13 (2) The person takes possession of the collateral after having ~~authenticated~~ signed a record
14 acknowledging that it will hold possession of the collateral for the secured party's benefit.

15 (d) Time of perfection by possession; continuation of perfection. If perfection of a security
16 interest depends upon possession of the collateral by a secured party, perfection occurs ~~no~~ not
17 earlier than the time the secured party takes possession and continues only while the secured party
18 retains possession.

19 (e) Time of perfection by delivery; continuation of perfection. A security interest in a
20 certificated security in registered form is perfected by delivery when delivery of the certificated
21 security occurs under § 6A-8-301 and remains perfected by delivery until the debtor obtains
22 possession of the security certificate.

23 (f) Acknowledgment not required. A person in possession of collateral is not required to
24 acknowledge that it holds possession for a secured party's benefit.

25 (g) Effectiveness of acknowledgment; no duties or confirmation. If a person acknowledges
26 that it holds possession for the secured party's benefit:

27 (1) The acknowledgment is effective under subsection (c) or § 6A-8-301(a), even if the
28 acknowledgment violates the rights of a debtor; and

29 (2) Unless the person otherwise agrees or law other than this chapter otherwise provides,
30 the person does not owe any duty to the secured party and is not required to confirm the
31 acknowledgment to another person.

32 (h) Secured party's delivery to person other than debtor. A secured party having possession
33 of collateral does not relinquish possession by delivering the collateral to a person other than the
34 debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if

1 the person was instructed before the delivery or is instructed contemporaneously with the delivery:

2 (1) To hold possession of the collateral for the secured party's benefit; or

3 (2) To redeliver the collateral to the secured party.

4 (i) Effect of delivery under subsection (h); no duties or confirmation. A secured party does
5 not relinquish possession, even if a delivery under subsection (h) violates the rights of a debtor. A
6 person to which collateral is delivered under subsection (h) does not owe any duty to the secured
7 party and is not required to confirm the delivery to another person unless the person otherwise
8 agrees or law other than this chapter otherwise provides.

9 **6A-9-314. Perfection by control.**

10 (a) Perfection by control. A security interest in ~~investment property, deposit accounts,~~
11 ~~letter of credit rights, electronic chattel paper or electronic documents~~ controllable accounts,
12 controllable electronic records, controllable payment intangibles, deposit accounts, electronic
13 documents, electronic money, investment property, or letter-of-credit rights may be perfected by
14 control of the collateral under §§ 6A-7-106, 6A-9-104, ~~6A-9-105~~ 6A-9-105.1, 6A-9-106, ~~or~~ 6A-9-
15 107, or 6A-9-107.1.

16 (b) Specified collateral: time of perfection by control; continuation of perfection. A security
17 interest in ~~deposit accounts, electronic chattel paper, letter of credit rights or electronic documents~~
18 controllable accounts, controllable electronic records, controllable payment intangibles, deposit
19 accounts, electronic documents, electronic money, or letter-of-credit rights is perfected by control
20 under §§ 6A-7-106, 6A-9-104, 6A-9-105, 6A-9-105.1, ~~or~~ 6A-9-107 or 6A-9-107.1 ~~when not earlier~~
21 than the time the secured party obtains control and remains perfected by control only while the
22 secured party retains control.

23 (c) Investment property: time of perfection by control; continuation of perfection. A
24 security interest in investment property is perfected by control under § 6A-9-106 ~~from~~ not earlier
25 than the time the secured party obtains control and remains perfected by control until:

26 (1) The secured party does not have control; and

27 (2) One of the following occurs:

28 (i) If the collateral is a certificated security, the debtor has or acquires possession of the
29 security certificate;

30 (ii) If the collateral is an uncertificated security, the issuer has registered or registers the
31 debtor as the registered owner; or

32 (iii) If the collateral is a security entitlement, the debtor is or becomes the entitlement
33 holder.

34 **6A-9-316. Effect of change in governing law.**

1 (a) General rule: effect on perfection of change in governing law. A security interest
2 perfected pursuant to the law of the jurisdiction designated in § ~~§§~~ 6A-9-301(1), ~~or~~ 6A-9-305(c),
3 6A-9-306.1(d) or 6A-9-306.2(b) remains perfected until the earliest of:

4 (1) The time perfection would have ceased under the law of that jurisdiction;

5 (2) The expiration of four months after a change of the debtor's location to another
6 jurisdiction; or

7 (3) The expiration of one year after a transfer of collateral to a person that thereby becomes
8 a debtor and is located in another jurisdiction.

9 (b) Security interest perfected or unperfected under law of new jurisdiction. If a security
10 interest described in subsection (a) becomes perfected under the law of the other jurisdiction before
11 the earliest time or event described in that subsection, it remains perfected thereafter. If the security
12 interest does not become perfected under the law of the other jurisdiction before the earliest time
13 or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser
14 of the collateral for value.

15 (c) Possessory security interest in collateral moved to new jurisdiction. A possessory
16 security interest in collateral, other than goods covered by a certificate of title and as-extracted
17 collateral consisting of goods, remains continuously perfected if:

18 (1) The collateral is located in one jurisdiction and subject to a security interest perfected
19 under the law of that jurisdiction;

20 (2) Thereafter the collateral is brought into another jurisdiction; and

21 (3) Upon entry into the other jurisdiction, the security interest is perfected under the law of
22 the other jurisdiction.

23 (d) Goods covered by certificate of title from this state. Except as otherwise provided in
24 subsection (e), a security interest in goods covered by a certificate of title which is perfected by any
25 method under the law of another jurisdiction when the goods become covered by a certificate of
26 title from this State remains perfected until the security interest would have become unperfected
27 under the law of the other jurisdiction had the goods not become so covered.

28 (e) When subsection (d) security interest becomes unperfected against purchasers. A
29 security interest described in subsection (d) becomes unperfected as against a purchaser of the
30 goods for value and is deemed never to have been perfected as against a purchaser of the goods for
31 value if the applicable requirements for perfection under § 6A-9-311(b) or 6A-9-313 are not
32 satisfied before the earlier of:

33 (1) The time the security interest would have become unperfected under the law of the
34 other jurisdiction had the goods not become covered by a certificate of title from this State; or

1 (2) The expiration of four months after the goods had become so covered.

2 (f) Change in jurisdiction of chattel paper, controllable electronic record, bank, issuer,
3 nominated person, securities intermediary, or commodity intermediary. A security interest in
4 chattel paper, controllable accounts, controllable electronic records, controllable payment
5 intangibles, deposit accounts, letter-of-credit rights, or investment property which is perfected
6 under the law of the chattel paper's jurisdiction, the controllable electronic record's jurisdiction, the
7 bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities
8 intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains
9 perfected until the earlier of:

10 (1) The time the security interest would have become unperfected under the law of that
11 jurisdiction; or

12 (2) The expiration of four months after a change of the applicable jurisdiction to another
13 jurisdiction.

14 (g) Subsection (f) security interest perfected or unperfected under law of new jurisdiction.
15 If a security interest described in subsection (f) becomes perfected under the law of the other
16 jurisdiction before the earlier of the time or the end of the period described in that subsection, it
17 remains perfected thereafter. If the security interest does not become perfected under the law of the
18 other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected
19 and is deemed never to have been perfected as against a purchaser of the collateral for value.

20 (h) Effect on filed financing statement of change in governing law. The following rules
21 apply to collateral to which a security interest attaches within four (4) months after the debtor
22 changes its location to another jurisdiction:

23 (1) A financing statement filed before the change pursuant to the law of the jurisdiction
24 designated in subdivision 6A-9-301(1) or subsection 6A-9-305(c) is effective to perfect a security
25 interest in the collateral if the financing statement would have been effective to perfect a security
26 interest in the collateral had the debtor not changed its location.

27 (2) If a security interest perfected by a financing statement that is effective under
28 subdivision (1) becomes perfected under the law of the other jurisdiction before the earlier of the
29 time the financing statement would have become ineffective under the law of the jurisdiction
30 designated in subdivision 6A-9-301(1) or subsection 6A-9-305(c) or the expiration of the four (4)
31 month period, it remains perfected thereafter. If the security interest does not become perfected
32 under the law of the other jurisdiction before the earlier time or event, it becomes unperfected and
33 is deemed never to have been perfected as against a purchaser of the collateral for value.

34 (i) Effect of change in governing law on financing statement filed against original debtor.

1 If a financing statement naming an original debtor is filed pursuant to the law of the jurisdiction
2 designated in subdivision 6A-9-301(1) or subsection 6A-9-305(c) and the new debtor is located in
3 another jurisdiction, the following rules apply:

4 (1) The financing statement is effective to perfect a security interest in collateral acquired
5 by the new debtor before, and within four (4) months after, the new debtor becomes bound under
6 subsection 6A-9-203(d), if the financing statement would have been effective to perfect a security
7 interest in the collateral had the collateral been acquired by the original debtor.

8 (2) A security interest perfected by the financing statement and which becomes perfected
9 under the law of the other jurisdiction before the earlier of the time the financing statement would
10 have become ineffective under the law of the jurisdiction designated in subdivision 6A-9-301(1) or
11 subsection 6A-9-305(c) or the expiration of the four (4) month period remains perfected thereafter.
12 A security interest that is perfected by the financing statement but which does not become perfected
13 under the law of the other jurisdiction before the earlier time or event becomes unperfected and is
14 deemed never to have been perfected as against a purchaser of the collateral for value.

15 **6A-9-317. Interests that take priority over or take free of security interest or**
16 **agricultural lien.**

17 (a) Conflicting security interests and rights of lien creditors. A security interest or
18 agricultural lien is subordinate to the rights of:

19 (1) A person entitled to priority under § 6A-9-322; and

20 (2) Except as otherwise provided in subsection (e), a person that becomes a lien creditor
21 before the earlier of the time: (i) the security interest or agricultural lien is perfected; or (ii) one of
22 the conditions specified in § 6A-9-203(b)(3) is met and a financing statement covering the collateral
23 is filed.

24 (b) Buyers that receive delivery. Except as otherwise provided in subsection (e), a buyer,
25 other than a secured party, of ~~tangible chattel paper, tangible documents,~~ goods, instruments,
26 tangible documents, or a certificated security takes free of a security interest or agricultural lien if
27 the buyer gives value and receives delivery of the collateral without knowledge of the security
28 interest or agricultural lien and before it is perfected.

29 (c) Lessees that receive delivery. Except as otherwise provided in subsection (e), a lessee
30 of goods takes free of a security interest or agricultural lien if the lessee gives value and receives
31 delivery of the collateral without knowledge of the security interest or agricultural lien and before
32 it is perfected.

33 (d) Licensees and buyers of certain collateral. A Subject to subsection (f) through (i) of this
34 section, a licensee of a general intangible or a buyer, other than a secured party, of collateral other

1 than ~~tangible chattel papers, tangible documents,~~ electronic money, goods, instruments, tangible
2 documents, or a certificated security takes free of a security interest if the licensee or buyer gives
3 value without knowledge of the security interest and before it is perfected.

4 (e) Purchase-money security interest. Except as otherwise provided in §§ 6A-9-320 and
5 6A-9-321, if a person files a financing statement with respect to a purchase-money security interest
6 before or within 20 days after the debtor receives delivery of the collateral, the security interest
7 takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the
8 security interest attaches and the time of filing.

9 (f) Buyers of chattel paper. A buyer, other than a secured party, of chattel paper takes free
10 of a security interest if, without knowledge of the security interest and before it is perfected, the
11 buyer gives value and:

12 (1) Receives delivery of each authoritative tangible copy of the record evidencing the
13 chattel paper; and

14 (2) If each authoritative electronic copy of the record evidencing the chattel paper can be
15 subjected to control under § 6A-9-105, obtains control of each authoritative electronic copy.

16 (g) Buyers of electronic documents. A buyer of an electronic document takes free of a
17 security interest if, without knowledge of the security interest and before it is perfected, the buyer
18 gives value and, if each authoritative electronic copy of the document can be subjected to control
19 under § 6A-7-106, obtains control of each authoritative electronic copy.

20 (h) Buyers of controllable electronic records. A buyer of a controllable electronic record
21 takes free of a security interest if, without knowledge of the security interest and before it is
22 perfected, the buyer gives value and obtains control of the controllable electronic record.

23 (i) Buyers of controllable accounts and controllable payment intangibles. A buyer, other
24 than a secured party, of a controllable account or a controllable payment intangible takes free of a
25 security interest if, without knowledge of the security interest and before it is perfected, the buyer
26 gives value and obtains control of the controllable account or controllable payment intangible.

27 **6A-9-323. Future advances.**

28 (a) When priority based on time of advance. Except as otherwise provided in subsection
29 (c), for purposes of determining the priority of a perfected security interest under § 6A-9-322(a)(1),
30 perfection of the security interest dates from the time an advance is made to the extent that the
31 security interest secures an advance that:

32 (1) Is made while the security interest is perfected only:

33 (i) Under § 6A-9-309 when it attaches; or

34 (ii) Temporarily under § 6A-9-312(e), (f), or (g); and

1 (2) Is not made pursuant to a commitment entered into before or while the security interest
2 is perfected by a method other than under § 6A-9-309 or § 6A-9-312(e), (f), or (g).

3 (b) Lien creditor. Except as otherwise provided in subsection (c), a security interest is
4 subordinate to the rights of a person that becomes a lien creditor to the extent that the security
5 interest secures an advance made more than 45 days after the person becomes a lien creditor unless
6 the advance is made:

7 (1) Without knowledge of the lien; or

8 (2) Pursuant to a commitment entered into without knowledge of the lien.

9 (c) Buyer of receivables. Subsections (a) and (b) do not apply to a security interest held by
10 a secured party that is a buyer of accounts, chattel paper, payment intangibles, or promissory notes
11 or a consignor.

12 (d) Buyer of goods. Except as otherwise provided in subsection (e), a buyer of goods ~~other~~
13 ~~than a buyer in ordinary course of business~~ takes free of a security interest to the extent that it
14 secures advances made after the earlier of:

15 (1) The time the secured party acquires knowledge of the buyer's purchase; or

16 (2) 45 days after the purchase.

17 (e) Advances made pursuant to commitment: priority of buyer of goods. Subsection (d)
18 does not apply if the advance is made pursuant to a commitment entered into without knowledge
19 of the buyer's purchase and before the expiration of the 45-day period.

20 (f) Lessee of goods. Except as otherwise provided in subsection (g), a lessee of goods, ~~other~~
21 ~~than a lessee in ordinary course of business~~, takes the leasehold interest free of a security interest
22 to the extent that it secures advances made after the earlier of:

23 (1) The time the secured party acquires knowledge of the lease; or

24 (2) 45 days after the lease contract becomes enforceable.

25 (g) Advances made pursuant to commitment: priority of lessee of goods. Subsection (f)
26 does not apply if the advance is made pursuant to a commitment entered into without knowledge
27 of the lease and before the expiration of the 45-day period.

28 **6A-9-324. Priority of purchase-money security interests.**

29 (a) General rule: purchase-money priority. Except as otherwise provided in subsection (g),
30 a perfected purchase-money security interest in goods other than inventory or livestock has priority
31 over a conflicting security interest in the same goods, and, except as otherwise provided in § 6A-
32 9-327, a perfected security interest in its identifiable proceeds also has priority, if the purchase-
33 money security interest is perfected when the debtor receives possession of the collateral or within
34 20 days thereafter.

1 (b) Inventory purchase-money priority. Subject to subsection (c) and except as otherwise
2 provided in subsection (g), a perfected purchase-money security interest in inventory has priority
3 over a conflicting security interest in the same inventory, has priority over a conflicting security
4 interest in chattel paper or an instrument constituting proceeds of the inventory and in proceeds of
5 the chattel paper, if so provided in § 6A-9-330, and, except as otherwise provided in § 6A-9-327,
6 also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash
7 proceeds are received on or before the delivery of the inventory to a buyer, if:

8 (1) The purchase-money security interest is perfected when the debtor receives possession
9 of the inventory;

10 (2) The purchase-money secured party sends ~~an authenticated~~ a signed notification to the
11 holder of the conflicting security interest;

12 (3) The holder of the conflicting security interest receives the notification within five years
13 before the debtor receives possession of the inventory; and

14 (4) The notification states that the person sending the notification has or expects to acquire
15 a purchase-money security interest in inventory of the debtor and describes the inventory.

16 (c) Holders of conflicting inventory security interests to be notified. Subsections (b)(2)
17 through (4) apply only if the holder of the conflicting security interest had filed a financing
18 statement covering the same types of inventory:

19 (1) If the purchase-money security interest is perfected by filing, before the date of the
20 filing; or

21 (2) If the purchase-money security interest is temporarily perfected without filing or
22 possession under § 6A-9-312(f), before the beginning of the 20-day period thereunder.

23 (d) Livestock purchase-money priority. Subject to subsection (e) and except as otherwise
24 provided in subsection (g), a perfected purchase-money security interest in livestock that are farm
25 products has priority over a conflicting security interest in the same livestock, and, except as
26 otherwise provided in § 6A-9-327, a perfected security interest in their identifiable proceeds and
27 identifiable products in their unmanufactured states also has priority, if:

28 (1) The purchase-money security interest is perfected when the debtor receives possession
29 of the livestock;

30 (2) The purchase-money secured party sends ~~an authenticated~~ a signed notification to the
31 holder of the conflicting security interest;

32 (3) The holder of the conflicting security interest receives the notification within six months
33 before the debtor receives possession of the livestock; and

34 (4) The notification states that the person sending the notification has or expects to acquire

1 a purchase-money security interest in livestock of the debtor and describes the livestock.

2 (e) Holders of conflicting livestock security interests to be notified. Subsections (d)(2)
3 through (4) apply only if the holder of the conflicting security interest had filed a financing
4 statement covering the same types of livestock:

5 (1) If the purchase-money security interest is perfected by filing, before the date of the
6 filing; or

7 (2) If the purchase-money security interest is temporarily perfected without filing or
8 possession under § 6A-9-312(f), before the beginning of the 20-day period thereunder.

9 (f) Software purchase-money priority. Except as otherwise provided in subsection (g), a
10 perfected purchase-money security interest in software has priority over a conflicting security
11 interest in the same collateral, and, except as otherwise provided in § 6A-9-327, a perfected security
12 interest in its identifiable proceeds also has priority, to the extent that the purchase-money security
13 interest in the goods in which the software was acquired for use has priority in the goods and
14 proceeds of the goods under this section.

15 (g) Conflicting purchase-money security interests. If more than one security interest
16 qualifies for priority in the same collateral under subsection (a), (b), (d), or (f):

17 (1) A security interest securing an obligation incurred as all or part of the price of the
18 collateral has priority over a security interest securing an obligation incurred for value given to
19 enable the debtor to acquire rights in or the use of collateral; and

20 (2) In all other cases, § 6A-9-322(a) applies to the qualifying security interests.

21 **6A-9-330. Priority of purchaser of chattel paper or instrument.**

22 (a) Purchaser's priority: security interest claimed merely as proceeds. A purchaser of
23 chattel paper has priority over a security interest in the chattel paper which is claimed merely as
24 proceeds of inventory subject to a security interest if:

25 (1) In good faith and in the ordinary course of the purchaser's business, the purchaser gives
26 new value, ~~and~~ takes possession of each authoritative tangible copy of the record evidencing the
27 chattel paper or ~~and~~ obtains control of ~~the chattel paper~~ under § 6A-9-105 of each authoritative
28 electronic copy of the record evidencing the chattel paper; and

29 (2) ~~The chattel paper does~~ authoritative copies of the record evidencing the chattel paper
30 do not indicate that it ~~the chattel paper~~ has been assigned to an identified assignee other than the
31 purchaser.

32 (b) Purchaser's priority: other security interests. A purchaser of chattel paper has priority
33 over a security interest in the chattel paper which is claimed other than merely as proceeds of
34 inventory subject to a security interest if the purchaser gives new value, ~~and~~ takes possession of

1 each authoritative tangible copy of the record evidencing the chattel paper, or and obtains control
2 of under § 6A-9-105 of each authoritative electronic copy of the record evidencing the chattel paper
3 under § 6A-9-105 in good faith, in the ordinary course of the purchaser's business, and without
4 knowledge that the purchase violates the rights of the secured party.

5 (c) Chattel paper purchaser's priority in proceeds. Except as otherwise provided in § 6A-
6 9-327, a purchaser having priority in chattel paper under subsection (a) or (b) also has priority in
7 proceeds of the chattel paper to the extent that:

8 (1) Section 6A-9-322 provides for priority in the proceeds; or

9 (2) The proceeds consist of the specific goods covered by the chattel paper or cash proceeds
10 of the specific goods, even if the purchaser's security interest in the proceeds is unperfected.

11 (d) Instrument purchaser's priority. Except as otherwise provided in § 6A-9-331(a), a
12 purchaser of an instrument has priority over a security interest in the instrument perfected by a
13 method other than possession if the purchaser gives value and takes possession of the instrument
14 in good faith and without knowledge that the purchase violates the rights of the secured party.

15 (e) Holder of purchase-money security interest gives new value. For purposes of
16 subsections (a) and (b), the holder of a purchase-money security interest in inventory gives new
17 value for chattel paper constituting proceeds of the inventory.

18 (f) Indication of assignment gives knowledge. For purposes of subsections (b) and (d), if
19 the authoritative copies of the record evidencing chattel paper or an instrument ~~indicates~~ indicate
20 that the chattel paper or instrument has been assigned to an identified secured party other than
21 the purchaser, a purchaser of the chattel paper or instrument has knowledge that the purchase
22 violates the rights of the secured party.

23 **6A-9-331. Priority of rights of purchasers of instruments, documents, and securities**
24 **under other chapters; priority of interests in financial assets and security entitlements under**
25 **chapter 8 Priority of rights of purchasers of controllable accounts, controllable electronic**
26 **records, controllable payment intangibles, documents, instruments and securities under**
27 **other chapters; priority of interests in financial assets and security entitlements and**
28 **protection against assertion of claim under chapters 8 and 12.**

29 (a) Rights under chapters 3, 7, ~~and 8,~~ and 12 not limited. This chapter does not limit the
30 rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document
31 of title has been duly negotiated, or a protected purchaser of a security or a qualifying purchaser of
32 a controllable account, controllable electronic record, or controllable payment intangible. These
33 holders or purchasers take priority over an earlier security interest, even if perfected, to the extent
34 provided in chapters 3, 7, ~~and 8,~~ and 12.

1 (b) Protection under ~~chapter~~ chapters 8 and 12. This chapter does not limit the rights of or
2 impose liability on a person to the extent that the person is protected against the assertion of a claim
3 under chapter 8 or 12.

4 (c) Filing not notice. Filing under this chapter does not constitute notice of a claim or
5 defense to the holders, or purchasers, or persons described in subsections (a) and (b).

6 **6A-9-332. Transfer of money; transfer of funds from deposit account** **Transfer of**
7 **tangible money; transfer of funds from deposit account.**

8 (a) Transferee of tangible money. A transferee of tangible money takes the money free of
9 a security interest ~~unless the transferee acts~~ if the transferee receives the funds without acting in
10 collusion with the debtor in violating the rights of the secured party.

11 (b) Transferee of funds from deposit account. A transferee of funds from a deposit account
12 takes the funds free of a security interest in the deposit account ~~unless the transferee acts~~ if the
13 transferee receives the funds without acting in collusion with the debtor in violating the rights of
14 the secured party.

15 (c) Transferee of electronic money. A transferee of electronic money takes the money free
16 of a security interest if the transferee obtains control of the money without acting in collusion with
17 the debtor in violating the rights of the secured party.

18 **6A-9-334. Priority of security interests in fixtures and crops.**

19 (a) Security interest in fixtures under this chapter. A security interest under this chapter
20 may be created in goods that are fixtures or may continue in goods that become fixtures. A security
21 interest does not exist under this chapter in ordinary building materials incorporated into an
22 improvement on land.

23 (b) Security interest in fixtures under real-property law. This chapter does not prevent
24 creation of an encumbrance upon fixtures under real property law.

25 (c) General rule: subordination of security interest in fixtures. In cases not governed by
26 subsections (d) through (h), a security interest in fixtures is subordinate to a conflicting interest of
27 an encumbrancer or owner of the related real property other than the debtor.

28 (d) Fixtures purchase-money priority. Except as otherwise provided in subsection (h), a
29 perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or
30 owner of the real property if the debtor has an interest of record in or is in possession of the real
31 property and:

- 32 (1) The security interest is a purchase-money security interest;
33 (2) The interest of the encumbrancer or owner arises before the goods become fixtures; and
34 (3) The security interest is perfected by a fixture filing before the goods become fixtures

1 or within 20 days thereafter.

2 (e) Priority of security interest in fixtures over interests in real property. A perfected
3 security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of
4 the real property if:

5 (1) The debtor has an interest of record in the real property or is in possession of the real
6 property and the security interest:

7 (i) Is perfected by a fixture filing before the interest of the encumbrancer or owner is of
8 record; and

9 (ii) Has priority over any conflicting interest of a predecessor in title of the encumbrancer
10 or owner;

11 (2) Before the goods become fixtures, the security interest is perfected by any method
12 permitted by this chapter and the fixtures are readily removable:

13 (i) Factory or office machines;

14 (ii) Equipment that is not primarily used or leased for use in the operation of the real
15 property; or

16 (iii) Replacements of domestic appliances that are consumer goods;

17 (3) The conflicting interest is a lien on the real property obtained by legal or equitable
18 proceedings after the security interest was perfected by any method permitted by this chapter; or

19 (4) The security interest is:

20 (i) Created in a manufactured home in a manufactured-home transaction; and

21 (ii) Perfected pursuant to a statute described in § 6A-9-311(a)(2).

22 (f) Priority based on consent, disclaimer, or right to remove. A security interest in fixtures,
23 whether or not perfected, has priority over a conflicting interest of an encumbrancer or owner of
24 the real property if:

25 (1) The encumbrancer or owner has, in ~~an authenticated~~ a signed record, consented to the
26 security interest or disclaimed an interest in the goods as fixtures; or

27 (2) The debtor has a right to remove the goods as against the encumbrancer or owner.

28 (g) Continuation of paragraph (f)(2) priority. The priority of the security interest under
29 paragraph (f)(2) continues for a reasonable time if the debtor's right to remove the goods as against
30 the encumbrancer or owner terminates.

31 (h) Priority of construction mortgage. A mortgage is a construction mortgage to the extent
32 that it secures an obligation incurred for the construction of an improvement on land, including the
33 acquisition cost of the land, if a recorded record of the mortgage so indicates. Except as otherwise
34 provided in subsections (e) and (f), a security interest in fixtures is subordinate to a construction

1 mortgage if a record of the mortgage is recorded before the goods become fixtures and the goods
2 become fixtures before the completion of the construction. A mortgage has this priority to the same
3 extent as a construction mortgage to the extent that it is given to refinance a construction mortgage.

4 (i) Priority of security interest in crops. A perfected security interest in crops growing on
5 real property has priority over a conflicting interest of an encumbrancer or owner of the real
6 property if the debtor has an interest of record in or is in possession of the real property.

7 **6A-9-341. Bank's rights and duties with respect to deposit account.**

8 Except as otherwise provided in § 6A-9-340(c), and unless the bank otherwise agrees in an
9 ~~authenticated~~ a signed record, a bank's rights and duties with respect to a deposit account
10 maintained with the bank are not terminated, suspended, or modified by:

- 11 (1) The creation, attachment, or perfection of a security interest in the deposit account;
12 (2) The bank's knowledge of the security interest; or
13 (3) The bank's receipt of instructions from the secured party.

14 **6A-9-404. Rights acquired by assignee; claims and defenses against assignee.**

15 (a) Assignee's rights subject to terms, claims, and defenses; exceptions. Unless an account
16 debtor has made an enforceable agreement not to assert defenses or claims, and subject to
17 subsections (b) through (e), the rights of an assignee are subject to:

18 (1) All terms of the agreement between the account debtor and assignor and any defense
19 or claim in recoupment arising from the transaction that gave rise to the contract; and

20 (2) Any other defense or claim of the account debtor against the assignor which accrues
21 before the account debtor receives a notification of the assignment ~~authenticated~~ signed by the
22 assignor or the assignee.

23 (b) Account debtor's claim reduces amount owed to assignee. Subject to subsection (c) and
24 except as otherwise provided in subsection (d), the claim of an account debtor against an assignor
25 may be asserted against an assignee under subsection (a) only to reduce the amount the account
26 debtor owes.

27 (c) Rule for individual under other law. This section is subject to law other than this chapter
28 which establishes a different rule for an account debtor who is an individual and who incurred the
29 obligation primarily for personal, family, or household purposes.

30 (d) Omission of required statement in consumer transaction. In a consumer transaction, if
31 a record evidences the account debtor's obligation, law other than this chapter requires that the
32 record include a statement to the effect that the account debtor's recovery against an assignee with
33 respect to claims and defenses against the assignor may not exceed amounts paid by the account
34 debtor under the record, and the record does not include such a statement, the extent to which a

1 claim of an account debtor against the assignor may be asserted against an assignee is determined
2 as if the record included such a statement.

3 (e) Inapplicability to health-care-insurance receivable. This section does not apply to an
4 assignment of a health-care-insurance receivable.

5 **6A-9-406. Discharge of account debtor; notification of assignment; identification and**
6 **proof of assignment; restrictions on assignment of accounts, chattel paper, payment**
7 **intangibles, and promissory notes ineffective.**

8 (a) Discharge of account debtor; effect of notification. Subject to subsections (b) through
9 (i) and (l), an account debtor on an account, chattel paper, or a payment intangible may discharge
10 its obligation by paying the assignor until, but not after, the account debtor receives a notification,
11 ~~authenticated~~ signed by the assignor or the assignee, that the amount due or to become due has been
12 assigned and that payment is to be made to the assignee. After receipt of the notification, the
13 account debtor may discharge its obligation by paying the assignee and may not discharge the
14 obligation by paying the assignor.

15 (b) When notification ineffective. Subject to ~~subsection~~ subsections (h) and (l), notification
16 is ineffective under subsection (a):

17 (1) If it does not reasonably identify the rights assigned;

18 (2) To the extent that an agreement between an account debtor and a seller of a payment
19 intangible limits the account debtor's duty to pay a person other than the seller and the limitation
20 is effective under law other than this chapter; or

21 (3) At the option of an account debtor, if the notification notifies the account debtor to
22 make less than the full amount of any installment or other periodic payment to the assignee, even
23 if:

24 (i) Only a portion of the account, chattel paper, or payment intangible has been assigned to
25 that assignee;

26 (ii) A portion has been assigned to another assignee; or

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

28 (c) Proof of assignment. Subject to ~~subsection~~ subsections (h) and (l), if requested by the
29 account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been
30 made. Unless the assignee complies, the account debtor may discharge its obligation by paying the
31 assignor, even if the account debtor has received a notification under subsection (a).

32 (d) Term restricting assignment generally ineffective. In this subsection, "promissory note"
33 includes a negotiable instrument that evidences chattel paper. Except as otherwise provided in
34 ~~subsection~~ subsections (e) and (k) and § 6A-2.1-303 and § 6A-9-407, and subject to subsection (h),

1 a term in an agreement between an account debtor and an assignor or in a promissory note is
2 ineffective to the extent that it:

3 (1) Prohibits, restricts, or requires the consent of the account debtor or person obligated on
4 the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or
5 enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory
6 note; or

7 (2) Provides that the assignment or transfer or the creation, attachment, perfection, or
8 enforcement of the security interest may give rise to a default, breach, right of recoupment, claim,
9 defense, termination, right of termination, or remedy under the account, chattel paper, payment
10 intangible, or promissory note.

11 (e) Inapplicability of subsection (d) to certain sales. Subsection (d) does not apply to the
12 sale of a payment intangible or promissory note, other than a sale pursuant to a disposition under §
13 6A-9-610 or an acceptance of collateral under § 6A-9-620.

14 (f) Legal restrictions on assignment generally ineffective. Except as otherwise provided in
15 subsection (k) and §§ 6A-2.1-303 and 6A-9-407 and subject to subsections (h) and (i), a rule of
16 law, statute, or regulation that prohibits, restricts, or requires the consent of a government,
17 governmental body or official, or account debtor to the assignment or transfer of, or creation of a
18 security interest in, an account or chattel paper is ineffective to the extent that the rule of law,
19 statute, or regulation:

20 (1) Prohibits, restricts, or requires the consent of the government, governmental body or
21 official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection,
22 or enforcement of a security interest in the account or chattel paper; or

23 (2) Provides that the assignment or transfer or the creation, attachment, perfection, or
24 enforcement of the security interest may give rise to a default, breach, right of recoupment, claim,
25 defense, termination, right of termination, or remedy under the account or chattel paper.

26 (g) Subsection (b)(3) not waivable. Subject to ~~subsection~~ subsections (h) and (l) of this
27 section, an account debtor may not waive or vary its option under subsection (b)(3).

28 (h) Rule for individual under other law. This section is subject to law other than this chapter
29 which establishes a different rule for an account debtor who is an individual and who incurred the
30 obligation primarily for personal, family, or household purposes.

31 (i) Inapplicability to health-care-insurance receivable. This section does not apply to an
32 assignment of a health-care-insurance receivable.

33 (j) Section prevails over inconsistent law. This section prevails over any statutes, rules, and
34 regulations inconsistent with this section.

1 (k) Inapplicability to interests in certain entities. Subsections (d), (f), and (j) of this section
2 do not apply to a security interest in an ownership interest in a general partnership, limited
3 partnership, or limited liability company.

4 (l) Inapplicability of certain subsections. Subsections (a), (b), (c), and (g) of this section do
5 not apply to a controllable account or controllable payment intangible.

6 **6A-9-408. Restrictions on assignment of promissory notes, health-care insurance**
7 **receivables, and certain general intangibles ineffective.**

8 (a) Term restricting assignment generally ineffective. Except as otherwise provided in
9 ~~subsection~~ subsections (b) and (f), a term in a promissory note or in an agreement between an
10 account debtor and a debtor which relates to a health-care-insurance receivable or a general
11 intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or
12 requires the consent of the person obligated on the promissory note or the account debtor to, the
13 assignment or transfer of, or creation, attachment, or perfection of a security interest in, the
14 promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent
15 that the term:

16 (1) Would impair the creation, attachment, or perfection of a security interest; or

17 (2) Provides that the assignment or transfer or the creation, attachment, or perfection of the
18 security interest may give rise to a default, breach, right of recoupment, claim, defense, termination,
19 right of termination, or remedy under the promissory note, health-care-insurance receivable, or
20 general intangible.

21 (b) Applicability of subsection (a) to sales of certain rights to payment. Subsection (a)
22 applies to a security interest in a payment intangible or promissory note only if the security interest
23 arises out of a sale of the payment intangible or promissory note, other than a sale pursuant to a
24 disposition under § 6A-9-610 or an acceptance of collateral under § 6A-9-620.

25 (c) Legal restrictions on assignment generally ineffective. ~~A~~ Except as otherwise provided
26 in subsection (f) of this section, rule of law, statute, or regulation that prohibits, restricts, or requires
27 the consent of a government, governmental body or official, person obligated on a promissory note,
28 or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory
29 note, health-care-insurance receivable, or general intangible, including a contract, permit, license,
30 or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law,
31 statute, or regulation:

32 (1) Would impair the creation, attachment, or perfection of a security interest; or

33 (2) Provides that the assignment or transfer or the creation, attachment, or perfection of the
34 security interest may give rise to a default, breach, right of recoupment, claim, defense, termination,

1 right of termination, or remedy under the promissory note, health-care-insurance receivable, or
2 general intangible.

3 (d) Limitation on ineffectiveness under subsections (a) and (c). To the extent that a term in
4 a promissory note or in an agreement between an account debtor and a debtor which relates to a
5 health-care-insurance receivable or general intangible or a rule of law, statute, or regulation
6 described in subsection (c) would be effective under law other than this chapter but is ineffective
7 under subsection (a) or (c), the creation, attachment, or perfection of a security interest in the
8 promissory note, health-care-insurance receivable, or general intangible:

9 (1) Is not enforceable against the person obligated on the promissory note or the account
10 debtor;

11 (2) Does not impose a duty or obligation on the person obligated on the promissory note
12 or the account debtor;

13 (3) Does not require the person obligated on the promissory note or the account debtor to
14 recognize the security interest, pay or render performance to the secured party, or accept payment
15 or performance from the secured party;

16 (4) Does not entitle the secured party to use or assign the debtor's rights under the
17 promissory note, health-care-insurance receivable, or general intangible, including any related
18 information or materials furnished to the debtor in the transaction giving rise to the promissory
19 note, health-care-insurance receivable, or general intangible;

20 (5) Does not entitle the secured party to use, assign, possess, or have access to any trade
21 secrets or confidential information of the person obligated on the promissory note or the account
22 debtor; and

23 (6) Does not entitle the secured party to enforce the security interest in the promissory note,
24 health-care-insurance receivable, or general intangible.

25 (e) Section prevails over inconsistent law. This section prevails over any statutes, rules,
26 and regulations inconsistent with this section.

27 (f) Inapplicability to interests in certain entities. This section does not apply to a security
28 interest in an ownership interest in a general partnership, limited partnership, or limited liability
29 company.

30 (g) "Promissory note." In this section, "promissory note" includes a negotiable instrument
31 that evidences chattel paper.

32 **6A-9-509. Persons entitled to file a record.**

33 (a) Person entitled to file record. A person may file an initial financing statement,
34 amendment that adds collateral covered by a financing statement, or amendment that adds a debtor

1 to a financing statement only if:

2 (1) The debtor authorizes the filing in ~~an authenticated~~ a signed record or pursuant to
3 subsection (b) or (c); or

4 (2) The person holds an agricultural lien that has become effective at the time of filing and
5 the financing statement covers only collateral in which the person holds an agricultural lien.

6 (b) Security agreement as authorization. By ~~authenticating~~ signing or becoming bound as
7 debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing
8 statement, and an amendment, covering:

9 (1) The collateral described in the security agreement; and

10 (2) Property that becomes collateral under § 6A-9-315(a)(2), whether or not the security
11 agreement expressly covers proceeds.

12 (c) Acquisition of collateral as authorization. By acquiring collateral in which a security
13 interest or agricultural lien continues under § 6A-9-315(a)(1), a debtor authorizes the filing of an
14 initial financing statement, and an amendment, covering the collateral and property that becomes
15 collateral under § 6A-9-315(a)(2).

16 (d) Person entitled to file certain amendments. A person may file an amendment other than
17 an amendment that adds collateral covered by a financing statement or an amendment that adds a
18 debtor to a financing statement only if:

19 (1) The secured party of record authorizes the filing; or

20 (2) The amendment is a termination statement for a financing statement as to which the
21 secured party of record has failed to file or send a termination statement as required by § 6A-9-
22 513(a) or (c), the debtor authorizes the filing, and the termination statement indicates that the debtor
23 authorized it to be filed.

24 (e) Multiple secured parties of record. If there is more than one secured party of record for
25 a financing statement, each secured party of record may authorize the filing of an amendment under
26 subsection (d).

27 **6A-9-513. Termination statement.**

28 (a) Consumer goods. A secured party shall cause the secured party of record for a financing
29 statement to file a termination statement for the financing statement if the financing statement
30 covers consumer goods and:

31 (1) There is no obligation secured by the collateral covered by the financing statement and
32 no commitment to make an advance, incur an obligation, or otherwise give value; or

33 (2) The debtor did not authorize the filing of the initial financing statement.

34 (b) Time for compliance with subsection (a). To comply with subsection (a), a secured

1 party shall cause the secured party of record to file the termination statement:

2 (1) Within one month after there is no obligation secured by the collateral covered by the
3 financing statement and no commitment to make an advance, incur an obligation, or otherwise give
4 value; or

5 (2) If earlier, within twenty (20) days after the secured party receives ~~an authenticated a~~
6 signed demand from a debtor.

7 (c) Other collateral. In cases not governed by subsection (a), within 20 days after a secured
8 party receives ~~an authenticated a signed~~ demand from a debtor, the secured party shall cause the
9 secured party of record for a financing statement to send to the debtor a termination statement for
10 the financing statement or file the termination statement in the filing office if:

11 (1) Except in the case of a financing statement covering accounts or chattel paper that has
12 been sold or goods that are the subject of a consignment, there is no obligation secured by the
13 collateral covered by the financing statement and no commitment to make an advance, incur an
14 obligation, or otherwise give value;

15 (2) The financing statement covers accounts or chattel paper that has been sold but as to
16 which the account debtor or other person obligated has discharged its obligation;

17 (3) The financing statement covers goods that were the subject of a consignment to the
18 debtor but are not in the debtor's possession; or

19 (4) The debtor did not authorize the filing of the initial financing statement.

20 (d) Effect of filing termination statement. Except as otherwise provided in § 6A-9-510,
21 upon the filing of a termination statement with the filing office, the financing statement to which
22 the termination statement relates ceases to be effective. Except as otherwise provided in § 6A-9-
23 510, for purposes of §§ 6A-9-519(g), 6A-9-522(a), and 6A-9-523(c), the filing with the filing office
24 of a termination statement relating to a financing statement that indicates that the debtor is a
25 transmitting utility also causes the effectiveness of the financing statement to lapse.

26 **6A-9-601. Rights after default; judicial enforcement; consignor or buyer of accounts,**
27 **chattel paper, payment intangibles, or promissory notes.**

28 (a) Rights of secured party after default. After default, a secured party has the rights
29 provided in this part and, except as otherwise provided in § 6A-9-602, those provided by agreement
30 of the parties. A secured party:

31 (1) May reduce a claim to judgment, foreclose, or otherwise enforce the claim, security
32 interest, or agricultural lien by any available judicial procedure; and

33 (2) If the collateral is documents, may proceed either as to the documents or as to the goods
34 they cover.

1 (b) Rights and duties of secured party in possession or control. A secured party in
2 possession of collateral or control of collateral under § 6A-7-106, 6A-9-104, 6A-9-105, 6A-9-105.1
3 6A-9-106, ~~or 6A-9-107~~ or 6A-9-107.1 has the rights and duties provided in § 6A-9-207.

4 (c) Rights cumulative; simultaneous exercise. The rights under subsections (a) and (b) are
5 cumulative and may be exercised simultaneously.

6 (d) Rights of debtor and obligor. Except as otherwise provided in subsection (g) and § 6A-
7 9-605, after default, a debtor and an obligor have the rights provided in this part and by agreement
8 of the parties.

9 (e) Lien of levy after judgment. If a secured party has reduced its claim to judgment, the
10 lien of any levy that may be made upon the collateral by virtue of an execution based upon the
11 judgment relates back to the earliest of:

- 12 (1) The date of perfection of the security interest or agricultural lien in the collateral;
- 13 (2) The date of filing a financing statement covering the collateral; or
- 14 (3) Any date specified in a statute under which the agricultural lien was created.

15 (f) Execution sale. A sale pursuant to an execution is a foreclosure of the security interest
16 or agricultural lien by judicial procedure within the meaning of this section. A secured party may
17 purchase at the sale and thereafter hold the collateral free of any other requirements of this chapter.

18 (g) Consignor or buyer of certain rights to payment. Except as otherwise provided in § 6A-
19 9-607(c), this part imposes no duties upon a secured party that is a consignor or is a buyer of
20 accounts, chattel paper, payment intangibles, or promissory notes.

21 **6A-9-605. Unknown debtor or secondary obligor.**

22 A(a) In general: No duty owed by secured party. Except as provided in subsection (b) of
23 this section, a secured party does not owe a duty based on its status as secured party:

- 24 (1) To a person that is a debtor or obligor, unless the secured party knows:
 - 25 (i) That the person is a debtor or obligor;
 - 26 (ii) The identity of the person; and
 - 27 (iii) How to communicate with the person; or
- 28 (2) To a secured party or lienholder that has filed a financing statement against a person,
29 unless the secured party knows:
 - 30 (i) That the person is a debtor; and
 - 31 (ii) The identity of the person.

32 (b) Exception: Secured party owes duty to debtor or obligor. A secured party owes a duty
33 based on its status as a secured party to a person if, at the time the secured party obtains control of
34 collateral that is a controllable account, controllable electronic record, or controllable payment

1 intangible or at the time the security interest attaches to the collateral, whichever is later:

2 (1) The person is a debtor or obligor; and

3 (2) The secured party knows that the information in subsection (a)(1)(i), (ii), or (iii) of this
4 section relating to the person is not provided by the collateral, a record attached to or logically
5 associated with the collateral, or the system in which the collateral is recorded.

6 **6A-9-608. Application of proceeds of collection or enforcement; liability for deficiency**
7 **and right to surplus.**

8 (a) Application of proceeds, surplus, and deficiency if obligation secured. If a security
9 interest or agricultural lien secures payment or performance of an obligation, the following rules
10 apply:

11 (1) A secured party shall apply or pay over for application the cash proceeds of collection
12 or enforcement under § 6A-9-607 in the following order to:

13 (i) The reasonable expenses of collection and enforcement and, to the extent provided for
14 by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by
15 the secured party;

16 (ii) The satisfaction of obligations secured by the security interest or agricultural lien under
17 which the collection or enforcement is made; and

18 (iii) The satisfaction of obligations secured by any subordinate security interest in or other
19 lien on the collateral subject to the security interest or agricultural lien under which the collection
20 or enforcement is made if the secured party receives ~~an authenticated~~ a signed demand for proceeds
21 before distribution of the proceeds is completed.

22 (2) If requested by a secured party, a holder of a subordinate security interest or other lien
23 shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder
24 complies, the secured party need not comply with the holder's demand under paragraph (1)(iii).

25 (3) A secured party need not apply or pay over for application noncash proceeds of
26 collection and enforcement under § 6A-9-607 unless the failure to do so would be commercially
27 unreasonable. A secured party that applies or pays over for application noncash proceeds shall do
28 so in a commercially reasonable manner.

29 (4) A secured party shall account to and pay a debtor for any surplus, and the obligor is
30 liable for any deficiency.

31 (b) No surplus or deficiency in sales of certain rights to payment. If the underlying
32 transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes, the debtor
33 is not entitled to any surplus, and the obligor is not liable for any deficiency.

34 **6A-9-611. Notification before disposition of collateral.**

1 (a) "Notification date." In this section, "notification date" means the earlier of the date on
2 which:

3 (1) A secured party sends to the debtor and any secondary obligor ~~an authenticated~~ a signed
4 notification of disposition; or

5 (2) The debtor and any secondary obligor waive the right to notification.

6 (b) Notification of disposition required. Except as otherwise provided in subsection (d), a
7 secured party that disposes of collateral under § 6A-9-610 shall send to the persons specified in
8 subsection (c) a reasonable ~~authenticated~~ signed notification of disposition.

9 (c) Persons to be notified. To comply with subsection (b), the secured party shall send ~~an~~
10 ~~authenticated~~ a signed notification of disposition to:

11 (1) The debtor;

12 (2) Any secondary obligor; and

13 (3) If the collateral is other than consumer goods:

14 (i) Any other person from which the secured party has received, before the notification
15 date, ~~an authenticated~~ a signed notification of a claim of an interest in the collateral;

16 (ii) Any other secured party or lienholder that, 10 days before the notification date, held a
17 security interest in or other lien on the collateral perfected by the filing of a financing statement
18 that:

19 (A) Identified the collateral;

20 (B) Was indexed under the debtor's name as of that date; and

21 (C) Was filed in the office in which to file a financing statement against the debtor covering
22 the collateral as of that date; and

23 (iii) Any other secured party that, 10 days before the notification date, held a security
24 interest in the collateral perfected by compliance with a statute, regulation, or treaty described in §
25 6A-9-311(a).

26 (d) Subsection (b) inapplicable: perishable collateral; recognized market. Subsection (b)
27 does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type
28 customarily sold on a recognized market.

29 (e) Compliance with subsection (c)(3)(ii). A secured party complies with the requirement
30 for notification prescribed by subsection (c)(3)(ii) if:

31 (1) Not later than 20 days or earlier than 30 days before the notification date, the secured
32 party requests, in a commercially reasonable manner, information concerning financing statements
33 indexed under the debtor's name in the office indicated in subsection (c)(3)(ii); and

34 (2) Before the notification date, the secured party:

- 1 (i) Did not receive a response to the request for information; or
2 (ii) Received a response to the request for information and sent ~~an authenticated~~ a signed
3 notification of disposition to each secured party or other lienholder named in that response whose
4 financing statement covered the collateral.

5 **6A-9-613. Contents and form of notification before disposition of collateral —**

6 **General.**

7 (a) Contents and form of notification. Except in a consumer-goods transaction, the
8 following rules apply:

9 (1) The contents of a notification of disposition are sufficient if the notification:

- 10 (i) Describes the debtor and the secured party;
11 (ii) Describes the collateral that is the subject of the intended disposition;
12 (iii) States the method of intended disposition;
13 (iv) States that the debtor is entitled to an accounting of the unpaid indebtedness and states
14 the charge, if any, for an accounting; and

15 (v) States the time and place of a public disposition or the time after which any other
16 disposition is to be made.

17 (2) Whether the contents of a notification that lacks any of the information specified in
18 paragraph (1) are nevertheless sufficient is a question of fact.

19 (3) The contents of a notification providing substantially the information specified in
20 paragraph (1) are sufficient, even if the notification includes:

- 21 (i) Information not specified by that paragraph; or
22 (ii) Minor errors that are not seriously misleading.
23 (4) A particular phrasing of the notification is not required.

24 (5) The following form of notification and the form appearing in § ~~6A-9-614(3)~~ 6A-9-
25 614(a)(3), when completed in accordance with the instructions in subsection (b) of this section and
26 § 6A-9-614(b), each provides sufficient information:

27 ~~NOTIFICATION OF DISPOSITION OF COLLATERAL~~
28 ~~To: [Name of debtor, obligor, or other person to which the notification is sent]~~
29 ~~From: [Name, address, and telephone number of secured party]~~
30 ~~Name of Debtor(s): [Include only if debtor(s) are not an addressee]~~
31 ~~[For a public disposition:]~~
32 ~~We will sell [or lease or license, as applicable] the [describe collateral] [to the highest qualified~~
33 ~~bidder] in public as follows:~~
34 ~~Day and Date:~~

1 ~~Time:~~

2 ~~Place:~~

3 ~~[For a private disposition:]~~

4 ~~We will sell [or lease or license, as applicable] the [describe collateral] privately sometime~~
5 ~~after [day and date].~~

6 ~~You are entitled to an accounting of the unpaid indebtedness secured by the property that~~
7 ~~we intend to sell [or lease or license, as applicable] [for a charge of \$]. You may request~~
8 ~~an accounting by calling us at [telephone number]~~

9 ~~End of Form~~

10 (Date)

11 NOTIFICATION OF DISPOSITION OF COLLATERAL

12 To: (Name of debtor, obligor, or other person to which the notification is sent)

13 From: (Name, address, and telephone number of secured party)

14 (1) Name of any debtor that is not an addressee: (Name of each debtor)

15 (2) We will sell (describe collateral) (to the highest qualified bidder) at public sale. A sale
16 could include a lease or license. The sale will be held as follows:

17 (Date)

18 (Time)

19 (Place)

20 (3) We will sell (describe collateral) at private sale sometime after (date). A sale could
21 include a lease or license.

22 (4) You are entitled to an accounting of the unpaid indebtedness secured by the property
23 that we intend to sell or, as applicable, lease or license.

24 (5) If you request an accounting you must pay a charge of \$ (amount).

25 (6) You may request an accounting by calling us at (telephone number).

26 [End of Form]

27 (b) Instructions for form of notification. The following instructions apply to the form of
28 notification in subsection (a)(5) of this section:

29 (1) The instructions in this subsection refer to the numbers in braces before items in the
30 form of notification in subsection (a)(5) of this section. Do not include the numbers or braces in the
31 notification. The numbers and braces are used only for the purpose of these instructions.

32 (2) Include and complete item (1) only if there is a debtor that is not an addressee of the
33 notification and list the name or names.

34 (3) Include and complete either item (2), if the notification relates to a public disposition

1 of the collateral, or item (3), if the notification relates to a private disposition of the collateral. If
2 item (2) is included, include the words “to the highest qualified bidder” only if applicable.

3 (4) Include and complete items (4) and (6).

4 (5) Include and complete item (5) only if the sender will charge the recipient for an
5 accounting.

6 **20236A-9-614. Contents and form of notification before disposition of collateral —**
7 **Consumer-goods transaction.**

8 (a) Contents and form of notification. In a consumer-goods transaction, the following rules
9 apply:

10 (1) A notification of disposition must provide the following information:

11 (i) The information specified in § ~~6A-9-613(1)~~ 6A-9-613(a)(1);

12 (ii) A description of any liability for a deficiency of the person to which the notification is
13 sent;

14 (iii) A telephone number from which the amount that must be paid to the secured party to
15 redeem the collateral under § 6A-9-623 is available; and

16 (iv) A telephone number or mailing address from which additional information concerning
17 the disposition and the obligation secured is available.

18 (2) A particular phrasing of the notification is not required.

19 (3) The following form of notification, when completed in accordance with the instructions
20 in subsection (b) of this section, provides sufficient information:

21 ~~[Name and address of secured party]~~

22 ~~[Date]~~

23 ~~NOTICE OF OUR PLAN TO SELL PROPERTY~~

24 ~~[Name and address of any obligor who is also a debtor]~~

25 ~~Subject: [Identification of Transaction]~~

26 ~~We have your [describe collateral], because you broke promises in our agreement.~~

27 ~~[For a public disposition:]~~

28 ~~We will sell [describe collateral] at public sale. A sale could include a lease or~~
29 ~~license. The sale will be held as follows:~~

30 ~~Date:~~

31 ~~Time:~~

32 ~~Place:~~

33 ~~You may attend the sale and bring bidders if you want.~~

34 ~~[For a private disposition:]~~

1 We will sell [describe collateral] at private sale sometime after [date]. A sale could include
2 a lease or license.

3 The money that we get from the sale (after paying our costs) will reduce the amount you
4 owe. If we get less money than you owe, you [will or will not, as applicable] still owe us the
5 difference. If we get more money than you owe, you will get the extra money, unless we must pay
6 it to someone else.

7 You can get the property back at any time before we sell it by paying us the full amount
8 you owe (not just the past due payments), including our expenses. To learn the exact amount you
9 must pay, call us at [telephone number].

10 If you want us to explain to you in writing how we have figured the amount that you owe
11 us, you may call us at [telephone number] [or write us at [secured party's address]] and request a
12 written explanation. [We will charge you \$ for the explanation if we sent you another written
13 explanation of the amount you owe us within the last six months.]

14 If you need more information about the sale call us at [telephone number] [or write us at
15 [secured party's address]].

16 We are sending this notice to the following other people who have an interest in [describe
17 collateral] or who owe money under your agreement:

18 [Names of all other debtors and obligors, if any]

19 [End of Form]

20 (Name and address of secured party)

21 (Date)

22 NOTICE OF OUR PLAN TO SELL PROPERTY

23 (Name and address of any obligor who is also a debtor)

24 Subject: (Identify transaction)

25 We have your (describe collateral), because you broke promises in our agreement.

26 (1) We will sell (describe collateral) at public sale. A sale could include a lease or license.

27 The sale will be held as follows:

28 (Date)

29 (Time)

30 (Place)

31 You may attend the sale and bring bidders if you want.

32 (2) We will sell (describe collateral) at private sale sometime after (date). A sale could
33 include a lease or license.

34 (3) The money that we get from the sale, after paying our costs, will reduce the amount

1 you owe. If we get less money than you owe, you (will or will not, as applicable) still owe us the
2 difference. If we get more money than you owe, you will get the extra money, unless we must pay
3 it to someone else.

4 (4) You can get the property back at any time before we sell it by paying us the full amount
5 you owe, not just the past due payments, including our expenses. To learn the exact amount you
6 must pay, call us at (telephone number).

7 (5) If you want us to explain to you in (writing) (writing or in (description of electronic
8 record) (description of electronic record) how we have figured the amount that you owe us, (6) Call
9 us at (telephone number) (or) (write us at (secured party's address)) (or contact us by (description
10 of electronic communication method)) (7) and Request (a written explanation) (a written
11 explanation or an explanation in (description of electronic record)) (an explanation in (description
12 of electronic record)).

13 (8) We will charge you \$ (amount) for the explanation if we sent you another written
14 explanation of the amount you owe us within the last six (6) months.

15 (9) If you need more information about the sale (call us at (telephone number)) (or) (write
16 us at (secured party's address)) (or contact us by (description of electronic communication
17 method)).

18 (10) We are sending this notice to the following other people who have an interest in
19 (describe collateral) or who owe money under your agreement:

20 (Names of all other debtors and obligors, if any)

21 [End of Form]

22 (b) Instructions for form of notification. The following instructions apply to the form of
23 notification in subsection (a)(3) of this section:

24 (1) The instructions in this subsection refer to the numbers in braces before items in the
25 form of notification in subsection (a)(3) of this section. Do not include the numbers or braces in the
26 notification. The numbers and braces are used only for the purpose of these instructions.

27 (2) Include and complete either item (1), if the notification relates to a public disposition
28 of the collateral, or item (2), if the notification relates to a private disposition of the collateral.

29 (3) Include and complete items (3), (4), (5), (6), and (7).

30 (4) In item (5), include and complete any one of the three (3) alternative methods for the
31 explanation writing, writing or electronic record, or electronic record.

32 (5) In item (6), include the telephone number. In addition, the sender may include and
33 complete either or both of the two (2) additional alternative methods of communication writing or
34 electronic communication for the recipient of the notification to communicate with the sender.

1 Neither of the two additional methods of communication is required to be included.

2 (6) In item (7), include and complete the method or methods for the explanation writing,
3 writing or electronic record, or electronic record included in item (5).

4 (7) Include and complete item (8) only if a written explanation is included in item (5) as a
5 method for communicating the explanation and the sender will charge the recipient for another
6 written explanation.

7 (8) In item (9), include either the telephone number or the address or both the telephone
8 number and the address. In addition, the sender may include and complete the additional method
9 of communication electronic communication for the recipient of the notification to communicate
10 with the sender. The additional method of electronic communication is not required to be included.

11 (9) If item (10) does not apply, insert “None” after “agreement:”.

12 (4) A notification in the form of paragraph (3) is sufficient, even if additional information
13 appears at the end of the form.

14 (5) A notification in the form of paragraph (3) is sufficient, even if it includes errors in
15 information not required by paragraph (1), unless the error is misleading with respect to rights
16 arising under this chapter.

17 (6) If a notification under this section is not in the form of paragraph (3), law other than
18 this chapter determines the effect of including information not required by paragraph (1).

19 **6A-9-615. Application of proceeds of disposition; liability for deficiency and right to**
20 **surplus.**

21 (a) Application of proceeds. A secured party shall apply or pay over for application the
22 cash proceeds of disposition under § 6A-9-610 in the following order to:

23 (1) The reasonable expenses of retaking, holding, preparing for disposition, processing,
24 and disposing, and, to the extent provided for by agreement and not prohibited by law, reasonable
25 attorney’s fees and legal expenses incurred by the secured party;

26 (2) The satisfaction of obligations secured by the security interest or agricultural lien under
27 which the disposition is made;

28 (3) The satisfaction of obligations secured by any subordinate security interest in or other
29 subordinate lien on the collateral if:

30 (i) The secured party receives from the holder of the subordinate security interest or other
31 lien ~~an authenticated~~ a signed demand for proceeds before distribution of the proceeds is completed;
32 and

33 (ii) In a case in which a consignor has an interest in the collateral, the subordinate security
34 interest or other lien is senior to the interest of the consignor; and

1 (4) A secured party that is a consignor of the collateral if the secured party receives from
2 the consignor ~~an authenticated~~ a signed demand for proceeds before distribution of the proceeds is
3 completed.

4 (b) Proof of subordinate interest. If requested by a secured party, a holder of a subordinate
5 security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable
6 time. Unless the holder does so, the secured party need not comply with the holder's demand under
7 subsection (a)(3).

8 (c) Application of noncash proceeds. A secured party need not apply or pay over for
9 application noncash proceeds of disposition under § 6A-9-610 unless the failure to do so would be
10 commercially unreasonable. A secured party that applies or pays over for application noncash
11 proceeds shall do so in a commercially reasonable manner.

12 (d) Surplus or deficiency if obligation secured. If the security interest under which a
13 disposition is made secures payment or performance of an obligation, after making the payments
14 and applications required by subsection (a) and permitted by subsection (c):

15 (1) Unless subsection (a)(4) requires the secured party to apply or pay over cash proceeds
16 to a consignor, the secured party shall account to and pay a debtor for any surplus; and

17 (2) The obligor is liable for any deficiency.

18 (e) No surplus or deficiency in sales of certain rights to payment. If the underlying
19 transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes:

20 (1) The debtor is not entitled to any surplus; and

21 (2) The obligor is not liable for any deficiency.

22 (f) Calculation of surplus or deficiency in disposition to person related to secured party.
23 The surplus or deficiency following a disposition is calculated based on the amount of proceeds
24 that would have been realized in a disposition complying with this part to a transferee other than
25 the secured party, a person related to the secured party, or a secondary obligor if:

26 (1) The transferee in the disposition is the secured party, a person related to the secured
27 party, or a secondary obligor; and

28 (2) The amount of proceeds of the disposition is significantly below the range of proceeds
29 that a complying disposition to a person other than the secured party, a person related to the secured
30 party, or a secondary obligor would have brought.

31 (g) Cash proceeds received by junior secured party. A secured party that receives cash
32 proceeds of a disposition in good faith and without knowledge that the receipt violates the rights of
33 the holder of a security interest or other lien that is not subordinate to the security interest or
34 agricultural lien under which the disposition is made:

- 1 (1) Takes the cash proceeds free of the security interest or other lien;
- 2 (2) Is not obligated to apply the proceeds of the disposition to the satisfaction of obligations
- 3 secured by the security interest or other lien; and
- 4 (3) Is not obligated to account to or pay the holder of the security interest or other lien for
- 5 any surplus.

6 **6A-9-616. Explanation of calculation of surplus or deficiency.**

7 (a) Definitions. In this section:

8 (1) "Explanation" means a ~~writing~~ record that:

- 9 (i) States the amount of the surplus or deficiency;
- 10 (ii) Provides an explanation in accordance with subsection (c) of how the secured party
- 11 calculated the surplus or deficiency;
- 12 (iii) States, if applicable, that future debits, credits, charges, including additional credit
- 13 service charges or interest, rebates, and expenses may affect the amount of the surplus or
- 14 deficiency; and
- 15 (iv) Provides a telephone number or mailing address from which additional information
- 16 concerning the transaction is available.

17 (2) "Request" means a record:

- 18 (i) ~~Authenticated~~ Signed by a debtor or consumer obligor;
- 19 (ii) Requesting that the recipient provide an explanation; and
- 20 (iii) Sent after disposition of the collateral under § 6A-9-610.

21 (b) Explanation of calculation. In a consumer-goods transaction in which the debtor is

22 entitled to a surplus or a consumer obligor is liable for a deficiency under § 6A-9-615, the secured

23 party shall:

24 (1) Send an explanation to the debtor or consumer obligor, as applicable, after the

25 disposition and:

26 (i) Before or when the secured party accounts to the debtor and pays any surplus or first

27 makes ~~written~~ demand in a record on the consumer obligor after the disposition for payment of the

28 deficiency; and

29 (ii) Within 14 days after receipt of a request; or

30 (2) In the case of a consumer obligor who is liable for a deficiency, within 14 days after

31 receipt of a request, send to the consumer obligor a record waiving the secured party's right to a

32 deficiency.

33 (c) Required information. To comply with subsection (a)(1)(ii), a ~~writing~~ an explanation

34 must provide the following information in the following order:

1 (1) The aggregate amount of obligations secured by the security interest under which the
2 disposition was made, and, if the amount reflects a rebate of unearned interest or credit service
3 charge, an indication of that fact, calculated as of a specified date:

4 (i) If the secured party takes or receives possession of the collateral after default, not more
5 than 35 days before the secured party takes or receives possession; or

6 (ii) If the secured party takes or receives possession of the collateral before default or does
7 not take possession of the collateral, not more than 35 days before the disposition;

8 (2) The amount of proceeds of the disposition;

9 (3) The aggregate amount of the obligations after deducting the amount of proceeds;

10 (4) The amount, in the aggregate or by type, and types of expenses, including expenses of
11 retaking, holding, preparing for disposition, processing, and disposing of the collateral, and
12 attorney's fees secured by the collateral which are known to the secured party and relate to the
13 current disposition;

14 (5) The amount, in the aggregate or by type, and types of credits, including rebates of
15 interest or credit service charges, to which the obligor is known to be entitled and which are not
16 reflected in the amount in paragraph (1); and

17 (6) The amount of the surplus or deficiency.

18 (d) Substantial compliance. A particular phrasing of the explanation is not required. An
19 explanation complying substantially with the requirements of subsection (a) is sufficient, even if it
20 includes minor errors that are not seriously misleading.

21 (e) Charges for responses. A debtor or consumer obligor is entitled without charge to one
22 response to a request under this section during any six-month period in which the secured party did
23 not send to the debtor or consumer obligor an explanation pursuant to subsection (b)(1). The
24 secured party may require payment of a charge not exceeding \$ 25 for each additional response.

25 **6A-9-619. Transfer of record or legal title.**

26 (a) "Transfer statement." In this section, "transfer statement" means a record ~~authenticated~~
27 signed by a secured party stating:

28 (1) That the debtor has defaulted in connection with an obligation secured by specified
29 collateral;

30 (2) That the secured party has exercised its post-default remedies with respect to the
31 collateral;

32 (3) That, by reason of the exercise, a transferee has acquired the rights of the debtor in the
33 collateral; and

34 (4) The name and mailing address of the secured party, debtor, and transferee.

1 (b) Effect of transfer statement. A transfer statement entitles the transferee to the transfer
2 of record of all rights of the debtor in the collateral specified in the statement in any official filing,
3 recording, registration, or certificate-of-title system covering the collateral. If a transfer statement
4 is presented with the applicable fee and request form to the official or office responsible for
5 maintaining the system, the official or office shall:

6 (1) Accept the transfer statement;

7 (2) Promptly amend its records to reflect the transfer; and

8 (3) If applicable, issue a new appropriate certificate of title in the name of the transferee.

9 (c) Transfer not a disposition; no relief of secured party's duties. A transfer of the record
10 or legal title to collateral to a secured party under subsection (b) or otherwise is not of itself a
11 disposition of collateral under this chapter and does not of itself relieve the secured party of its
12 duties under this chapter.

13 **6A-9-620. Acceptance of collateral in full or partial satisfaction of obligation;**
14 **compulsory disposition of collateral.**

15 (a) Conditions to acceptance in satisfaction. Except as otherwise provided in subsection
16 (g), a secured party may accept collateral in full or partial satisfaction of the obligation it secures
17 only if:

18 (1) The debtor consents to the acceptance under subsection (c);

19 (2) The secured party does not receive, within the time set forth in subsection (d), a
20 notification of objection to the proposal ~~authenticated~~ signed by:

21 (i) A person to which the secured party was required to send a proposal under § 6A-9-621;

22 or

23 (ii) Any other person, other than the debtor, holding an interest in the collateral subordinate
24 to the security interest that is the subject of the proposal;

25 (3) If the collateral is consumer goods, the collateral is not in the possession of the debtor
26 when the debtor consents to the acceptance; and

27 (4) Subsection (e) does not require the secured party to dispose of the collateral or the
28 debtor waives the requirement pursuant to § 6A-9-624.

29 (b) Purported acceptance ineffective. A purported or apparent acceptance of collateral
30 under this section is ineffective unless:

31 (1) The secured party consents to the acceptance in an ~~authenticated~~ signed record or sends
32 a proposal to the debtor; and

33 (2) The conditions of subsection (a) are met.

34 (c) Debtor's consent. For purposes of this section:

1 (1) A debtor consents to an acceptance of collateral in partial satisfaction of the obligation
2 it secures only if the debtor agrees to the terms of the acceptance in a record ~~authenticated~~ signed
3 after default; and

4 (2) A debtor consents to an acceptance of collateral in full satisfaction of the obligation it
5 secures only if the debtor agrees to the terms of the acceptance in a record ~~authenticated~~ signed
6 after default or the secured party:

7 (i) Sends to the debtor after default a proposal that is unconditional or subject only to a
8 condition that collateral not in the possession of the secured party be preserved or maintained;

9 (ii) In the proposal, proposes to accept collateral in full satisfaction of the obligation it
10 secures; and

11 (iii) Does not receive a notification of objection ~~authenticated~~ signed by the debtor within
12 20 days after the proposal is sent.

13 (d) Effectiveness of notification. To be effective under subsection (a)(2), a notification of
14 objection must be received by the secured party:

15 (1) In the case of a person to which the proposal was sent pursuant to § 6A-9-621, within
16 20 days after notification was sent to that person; and

17 (2) In other cases:

18 (i) Within 20 days after the last notification was sent pursuant to § 6A-9-621; or

19 (ii) If a notification was not sent, before the debtor consents to the acceptance under
20 subsection (c).

21 (e) Mandatory disposition of consumer goods. A secured party that has taken possession
22 of collateral shall dispose of the collateral pursuant to § 6A-9-610 within the time specified in
23 subsection (f) if:

24 (1) 60 percent of the cash price has been paid in the case of a purchase-money security
25 interest in consumer goods; or

26 (2) 60 percent of the principal amount of the obligation secured has been paid in the case
27 of a non-purchase-money security interest in consumer goods.

28 (f) Compliance with mandatory disposition requirement. To comply with subsection (e),
29 the secured party shall dispose of the collateral:

30 (1) Within 90 days after taking possession; or

31 (2) Within any longer period to which the debtor and all secondary obligors have agreed in
32 an agreement to that effect entered into and ~~authenticated~~ signed after default.

33 (g) No partial satisfaction in consumer transaction. In a consumer transaction, a secured
34 party may not accept collateral in partial satisfaction of the obligation it secures.

1 **6A-9-621. Notification of proposal to accept collateral.**

2 (a) Persons to which proposal to be sent. A secured party that desires to accept collateral
3 in full or partial satisfaction of the obligation it secures shall send its proposal to:

4 (1) Any person from which the secured party has received, before the debtor consented to
5 the acceptance, ~~an authenticated~~ a signed notification of a claim of an interest in the collateral;

6 (2) Any other secured party or lienholder that, 10 days before the debtor consented to the
7 acceptance, held a security interest in or other lien on the collateral perfected by the filing of a
8 financing statement that:

9 (i) Identified the collateral;

10 (ii) Was indexed under the debtor's name as of that date; and

11 (iii) Was filed in the office or offices in which to file a financing statement against the
12 debtor covering the collateral as of that date; and

13 (3) Any other secured party that, 10 days before the debtor consented to the acceptance,
14 held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty
15 described in § 6A-9-311(a).

16 (b) Proposal to be sent to secondary obligor in partial satisfaction. A secured party that
17 desires to accept collateral in partial satisfaction of the obligation it secures shall send its proposal
18 to any secondary obligor in addition to the persons described in subsection (a).

19 **6A-9-624. Waiver.**

20 (a) Waiver of disposition notification. A debtor or secondary obligor may waive the right
21 to notification of disposition of collateral under § 6A-9-611 only by an agreement to that effect
22 entered into and ~~authenticated~~ signed after default.

23 (b) Waiver of mandatory disposition. A debtor may waive the right to require disposition
24 of collateral under § 6A-9-620(e) only by an agreement to that effect entered into and ~~authenticated~~
25 signed after default.

26 (c) Waiver of redemption right. Except in a consumer-goods transaction, a debtor or
27 secondary obligor may waive the right to redeem collateral under § 6A-9-623 only by an agreement
28 to that effect entered into and ~~authenticated~~ signed after default.

29 **6A-9-628. Nonliability and limitation on liability of secured party; liability of**
30 **secondary obligor.**

31 (a) Limitation of liability of secured party for noncompliance with chapter. ~~Unless Subject~~
32 to subsection (f) of this section, unless a secured party knows that a person is a debtor or obligor,
33 knows the identity of the person, and knows how to communicate with the person:

34 (1) The secured party is not liable to the person, or to a secured party or lienholder that has

1 filed a financing statement against the person, for failure to comply with this chapter; and

2 (2) The secured party's failure to comply with this chapter does not affect the liability of
3 the person for a deficiency.

4 (b) Limitation of liability based on status as secured party. A Subject to subsection (f) of
5 this section, a secured party is not liable because of its status as secured party:

6 (1) To a person that is a debtor or obligor, unless the secured party knows:

7 (i) That the person is a debtor or obligor;

8 (ii) The identity of the person; and

9 (iii) How to communicate with the person; or

10 (2) To a secured party or lienholder that has filed a financing statement against a person,
11 unless the secured party knows:

12 (i) That the person is a debtor; and

13 (ii) The identity of the person.

14 (c) Limitation of liability if reasonable belief that transaction not a consumer-goods
15 transaction or consumer transaction. A secured party is not liable to any person, and a person's
16 liability for a deficiency is not affected, because of any act or omission arising out of the secured
17 party's reasonable belief that a transaction is not a consumer-goods transaction or a consumer
18 transaction or that goods are not consumer goods, if the secured party's belief is based on its
19 reasonable reliance on:

20 (1) A debtor's representation concerning the purpose for which collateral was to be used,
21 acquired, or held; or

22 (2) An obligor's representation concerning the purpose for which a secured obligation was
23 incurred.

24 (d) Limitation of liability for statutory damages. A secured party is not liable to any person
25 under § 6A-9-625(c)(2) for its failure to comply with § 6A-9-616.

26 (e) Limitation of multiple liability for statutory damages. A secured party is not liable under
27 § 6A-9-625(c)(2) more than once with respect to any one secured obligation.

28 (f) Exception: Limitation of liability under subsections (a) and (b) of this section does not
29 apply. Subsections (a) and (b) of this section do not apply to limit the liability of a secured party to
30 a person if, at the time the secured party obtains control of collateral that is a controllable account,
31 controllable electronic record, or controllable payment intangible or at the time the security interest
32 attaches to the collateral, whichever is later:

33 (1) The person is a debtor or obligor; and

34 (2) The secured party knows that the information in subsection (b)(1)(i), (ii), or (iii) of this

1 section relating to the person is not provided by the collateral, a record attached to or logically
2 associated with the collateral, or the system in which the collateral is recorded.

3 SECTION 10. Chapter 6A-9 of the General Laws entitled "Secured Transactions" is hereby
4 amended by adding thereto the following sections:

5 **6A-9-105.1. Control of electronic money.**

6 (a) General rule: control of electronic money. A person has control of electronic money if:

7 (1) The electronic money, a record attached to or logically associated with the electronic
8 money, or a system in which the electronic money is recorded gives the person:

9 (i) Power to avail itself of substantially all the benefit from the electronic money; and

10 (ii) Exclusive power, subject to subsection (b) of this section, to:

11 (A) Prevent others from availing themselves of substantially all the benefit from the
12 electronic money; and

13 (B) Transfer control of the electronic money to another person or cause another person to
14 obtain control of other electronic money as a result of the transfer of the electronic money; and

15 (2) The electronic money, a record attached to or logically associated with the electronic
16 money, or a system in which the electronic money is recorded enables the person readily to identify
17 itself in any way, including by name, identifying number, cryptographic key, office, or account
18 number, as having the powers under subsection (a)(1) of this section.

19 (b) Meaning of exclusive. Subject to subsection (c) of this section, a power is exclusive
20 under subsections (a)(1)(ii)(A) and (B) of this section even if:

21 (1) The electronic money, a record attached to or logically associated with the electronic
22 money, or a system in which the electronic money is recorded limits the use of the electronic money
23 or has a protocol programmed to cause a change, including a transfer or loss of control; or

24 (2) The power is shared with another person.

25 (c) When power not shared with another person. A power of a person is not shared with
26 another person under subsection (b)(2) of this section and the person's power is not exclusive if:

27 (1) The person can exercise the power only if the power also is exercised by the other
28 person; and

29 (2) The other person:

30 (i) Can exercise the power without exercise of the power by the person; or

31 (ii) Is the transferor to the person of an interest in the electronic money.

32 (d) Presumption of exclusivity of certain powers. If a person has the powers specified in
33 subsections (a)(1)(ii)(A) and (B) of this section, the powers are presumed to be exclusive.

34 (e) Control through another person. A person has control of electronic money if another

1 person, other than the transferor to the person of an interest in the electronic money:

2 (1) Has control of the electronic money and acknowledges that it has control on behalf of
3 the person; or

4 (2) Obtains control of the electronic money after having acknowledged that it will obtain
5 control of the electronic money on behalf of the person.

6 **6A-9-107.1. Control of controllable electronic record, controllable account, or**
7 **controllable payment intangible.**

8 (a) Control under § 6A-12-105. A secured party has control of a controllable electronic
9 record as provided in § 6A-12-105.

10 (b) Control of controllable account and controllable payment intangible. A secured party
11 has control of a controllable account or controllable payment intangible if the secured party has
12 control of the controllable electronic record that evidences the controllable account or controllable
13 payment intangible.

14 **6A-9-107.2. No requirement to acknowledge or confirm; No duties.**

15 (a) No requirement to acknowledge. A person that has control under §§ 6A-9-104, 6A-9-
16 105, or 6A-9-105.1 is not required to acknowledge that it has control on behalf of another person.

17 (b) No duties or confirmation. If a person acknowledges that it has or will obtain control
18 on behalf of another person, unless the person otherwise agrees or law other than this chapter
19 otherwise provides, the person does not owe any duty to the other person and is not required to
20 confirm the acknowledgment to any other person.

21 **6A-9-306.1. Law governing perfection and priority of security interests in chattel**
22 **paper.**

23 (a) Chattel paper evidenced by authoritative electronic copy. Except as provided in
24 subsection (d) of this section, if chattel paper is evidenced only by an authoritative electronic copy
25 of the chattel paper or is evidenced by an authoritative electronic copy and an authoritative tangible
26 copy, the local law of the chattel paper's jurisdiction governs perfection, the effect of perfection or
27 nonperfection, and the priority of a security interest in the chattel paper, even if the transaction does
28 not bear any relation to the chattel paper's jurisdiction.

29 (b) Chattel paper's jurisdiction. The following rules determine the chattel paper's
30 jurisdiction under this section:

31 (1) If the authoritative electronic copy of the record evidencing chattel paper, or a record
32 attached to or logically associated with the electronic copy and readily available for review,
33 expressly provides that a particular jurisdiction is the chattel paper's jurisdiction for purposes of
34 this part, this chapter, or this title, that jurisdiction is the chattel paper's jurisdiction.

1 (2) If subsection (b)(1) of this section does not apply and the rules of the system in which
2 the authoritative electronic copy is recorded are readily available for review and expressly provide
3 that a particular jurisdiction is the chattel paper’s jurisdiction for purposes of this part, this chapter,
4 or this title, that jurisdiction is the chattel paper’s jurisdiction.

5 (3) If subsection (b)(1) and (b)(2) of this section do not apply and the authoritative
6 electronic copy, or a record attached to or logically associated with the electronic copy and readily
7 available for review, expressly provides that the chattel paper is governed by the law of a particular
8 jurisdiction, that jurisdiction is the chattel paper’s jurisdiction.

9 (4) If subsections (b)(1), (b)(2), and (b)(3) of this section do not apply and the rules of the
10 system in which the authoritative electronic copy is recorded are readily available for review and
11 expressly provide that the chattel paper or the system is governed by the law of a particular
12 jurisdiction, that jurisdiction is the chattel paper’s jurisdiction.

13 (5) If subsections (b)(1) through (b)(4) of this section do not apply, the chattel paper’s
14 jurisdiction is the jurisdiction in which the debtor is located.

15 (c) Chattel paper evidenced by authoritative tangible copy. If an authoritative tangible copy
16 of a record evidences chattel paper and the chattel paper is not evidenced by an authoritative
17 electronic copy, while the authoritative tangible copy of the record evidencing chattel paper is
18 located in a jurisdiction, the local law of that jurisdiction governs:

19 (1) Perfection of a security interest in the chattel paper by possession under § 6A-9-314.1;
20 and

21 (2) The effect of perfection or nonperfection and the priority of a security interest in the
22 chattel paper.

23 (d) When perfection governed by law of jurisdiction where debtor located. The local law
24 of the jurisdiction in which the debtor is located governs perfection of a security interest in chattel
25 paper by filing.

26 **6A-9-306.2. Law governing perfection and priority of security interests in controllable**
27 **accounts, controllable electronic records, and controllable payment intangibles.**

28 (a) Governing law: general rules. Except as provided in subsection (b) of this section, the
29 local law of the controllable electronic record’s jurisdiction specified in § 6A-12-107(c) and (d)
30 governs perfection, the effect of perfection or nonperfection, and the priority of a security interest
31 in a controllable electronic record and a security interest in a controllable account or controllable
32 payment intangible evidenced by the controllable electronic record.

33 (b) When perfection governed by law of jurisdiction where debtor located. The local law
34 of the jurisdiction in which the debtor is located governs:

1 chattel paper, an electronic document of title, electronic money, investment property, or a
2 transferable record.

3 (2) “Qualifying purchaser” means a purchaser of a controllable electronic record or an
4 interest in a controllable electronic record that obtains control of the controllable electronic record
5 for value, in good faith, and without notice of a claim of a property right in the controllable
6 electronic record.

7 (3) “Transferable record” has the meaning provided for that term in:

8 (i) Section 201(a)(1) of the Electronic Signatures in Global and National Commerce Act,
9 15 U.S.C. Section 7021(a)(1); or

10 (ii) Section 42-127.1-16(a) of the Uniform Electronic Transactions Act.

11 (4) “Value” has the meaning provided in § 6A-3-303(a), as if references in that subsection
12 to an “instrument” were references to a controllable account, controllable electronic record, or
13 controllable payment intangible.

14 (b) Definitions in chapter 6A-9. The definitions in chapter 6A-9 of “account debtor”,
15 “controllable account”, “controllable payment intangible”, “chattel paper”, “deposit account”,
16 “electronic money”, and “investment property” apply to this chapter.

17 (c) Chapter 6A-1 definitions and principles. Chapter 6A-1 contains general definitions and
18 principles of construction and interpretation applicable throughout this chapter.

19 **6A-12-103. Relation to chapter 9 and consumer laws.**

20 (a) Chapter 6A-9 governs in case of conflict. If there is conflict between this chapter and
21 Chapter 6A-9, Chapter 6A-9 governs.

22 (b) Applicable consumer law and other laws. A transaction subject to this chapter is subject
23 to:

24 (1) Any applicable rule of law that establishes a different rule for consumers;

25 (2) Any other statute or regulation that regulates the rates, charges, agreements, and
26 practices for loans, credit sales, or other extensions of credit; and

27 (3) Any consumer-protection statute or regulation.

28 **6A-12-104. Rights in controllable account, controllable electronic record, and**
29 **controllable payment intangible.**

30 (a) Applicability of section to controllable account and controllable payment intangible.
31 This section applies to the acquisition and purchase of rights in a controllable account or
32 controllable payment intangible, including the rights and benefits under subsections (c), (d), (e),
33 (g), and (h) of this section of a purchaser and qualifying purchaser, in the same manner this section
34 applies to a controllable electronic record.

1 **(b) Control of controllable account and controllable payment intangible.** To determine
2 whether a purchaser of a controllable account or a controllable payment intangible is a qualifying
3 purchaser, the purchaser obtains control of the account or payment intangible if it obtains control
4 of the controllable electronic record that evidences the account or payment intangible.

5 **(c) Applicability of other law to acquisition of rights.** Except as provided in this section,
6 law other than this chapter determines whether a person acquires a right in a controllable electronic
7 record and the right the person acquires.

8 **(d) Shelter principle and purchase of limited interest.** A purchaser of a controllable
9 electronic record acquires all rights in the controllable electronic record that the transferor had or
10 had power to transfer, except that a purchaser of a limited interest in a controllable electronic record
11 acquires rights only to the extent of the interest purchased.

12 **(e) Rights of qualifying purchaser.** A qualifying purchaser acquires its rights in the
13 controllable electronic record free of a claim of a property right in the controllable electronic record.

14 **(f) Limitation of rights of qualifying purchaser in other property.** Except as provided in
15 subsections (a) and (e) of this section for a controllable account and a controllable payment
16 intangible or law other than this chapter, a qualifying purchaser takes a right to payment, right to
17 performance, or other interest in property evidenced by the controllable electronic record subject
18 to a claim of a property right in the right to payment, right to performance, or other interest in
19 property.

20 **(g) No-action protection for qualifying purchaser.** An action may not be asserted against a
21 qualifying purchaser based on both a purchase by the qualifying purchaser of a controllable
22 electronic record and a claim of a property right in another controllable electronic record, whether
23 the action is framed in conversion, replevin, constructive trust, equitable lien, or other theory.

24 **(h) Filing not notice.** Filing of a financing statement under chapter 6A-9 is not notice of a
25 claim of a property right in a controllable electronic record.

26 **6A-12-105. Control of controllable electronic record.**

27 **(a) General rule: control of controllable electronic record.** A person has control of a
28 controllable electronic record if the electronic record, a record attached to or logically associated
29 with the electronic record, or a system in which the electronic record is recorded:

30 **(1) Gives the person:**

31 **(i) Power to avail itself of substantially all the benefit from the electronic record; and**

32 **(ii) Exclusive power, subject to subsection (b) of this section, to:**

33 **(A) Prevent others from availing themselves of substantially all the benefit from the**
34 electronic record; and

1 (B) Transfer control of the electronic record to another person or cause another person to
2 obtain control of another controllable electronic record as a result of the transfer of the electronic
3 record; and

4 (2) Enables the person readily to identify itself in any way, including by name, identifying
5 number, cryptographic key, office, or account number, as having the powers specified in subsection
6 (a)(1).

7 (b) Meaning of exclusive. Subject to subsection (c) of this section, a power is exclusive
8 under subsection (a)(1)(ii)(A) and (B) of this section even if:

9 (1) The controllable electronic record, a record attached to or logically associated with the
10 electronic record, or a system in which the electronic record is recorded, limits the use of the
11 electronic record or has a protocol programmed to cause a change, including a transfer or loss of
12 control or a modification of benefits afforded by the electronic record; or

13 (2) The power is shared with another person.

14 (c) When power not shared with another person. A power of a person is not shared with
15 another person under subsection (b)(2) of this section and the person's power is not exclusive if:

16 (1) The person can exercise the power only if the power also is exercised by the other
17 person; and

18 (2) The other person:

19 (i) Can exercise the power without exercise of the power by the person; or

20 (ii) Is the transferor to the person of an interest in the controllable electronic record or a
21 controllable account or controllable payment intangible evidenced by the controllable electronic
22 record.

23 (d) Presumption of exclusivity of certain powers. If a person has the powers specified in
24 subsection (a)(1)(ii)(A) and (B) of this section, the powers are presumed to be exclusive.

25 (e) Control through another person. A person has control of a controllable electronic record
26 if another person, other than the transferor to the person of an interest in the controllable electronic
27 record or a controllable account or controllable payment intangible evidenced by the controllable
28 electronic record:

29 (1) Has control of the electronic record and acknowledges that it has control on behalf of
30 the person; or

31 (2) Obtains control of the electronic record after having acknowledged that it will obtain
32 control of the electronic record on behalf of the person.

33 (f) No requirement to acknowledge. A person that has control under this section is not
34 required to acknowledge that it has control on behalf of another person.

1 (g) No duties or confirmation. If a person acknowledges that it has or will obtain control
2 on behalf of another person, unless the person otherwise agrees or law other than this chapter or
3 chapter 6A-9 otherwise provides, the person does not owe any duty to the other person and is not
4 required to confirm the acknowledgment to any other person.

5 **6A-12-106. Discharge of account debtor on controllable account or controllable**
6 **payment intangible.**

7 (a) Discharge of account debtor. An account debtor on a controllable account or
8 controllable payment intangible may discharge its obligation by paying:

9 (1) The person having control of the controllable electronic record that evidences the
10 controllable account or controllable payment intangible; or

11 (2) Except as provided in subsection (b) of this section, a person that formerly had control
12 of the controllable electronic record.

13 (b) Content and effect of notification. Subject to subsection (d) of this section, the account
14 debtor may not discharge its obligation by paying a person that formerly had control of the
15 controllable electronic record if the account debtor receives a notification that:

16 (1) Is signed by a person that formerly had control or the person to which control was
17 transferred;

18 (2) Reasonably identifies the controllable account or controllable payment intangible;

19 (3) Notifies the account debtor that control of the controllable electronic record that
20 evidences the controllable account or controllable payment intangible was transferred;

21 (4) Identifies the transferee, in any reasonable way, including by name, identifying number,
22 cryptographic key, office, or account number; and

23 (5) Provides a commercially reasonable method by which the account debtor is to pay the
24 transferee.

25 (c) Discharge following effective notification. After receipt of a notification that complies
26 with subsection (b) of this section, the account debtor may discharge its obligation by paying in
27 accordance with the notification and may not discharge the obligation by paying a person that
28 formerly had control.

29 (d) When notification ineffective. Subject to subsection (h) of this section, notification is
30 ineffective under subsection (b) of this section:

31 (1) Unless, before the notification is sent, the account debtor and the person that, at that
32 time, had control of the controllable electronic record that evidences the controllable account or
33 controllable payment intangible agree in a signed record to a commercially reasonable method by
34 which a person may furnish reasonable proof that control has been transferred;

1 (2) To the extent an agreement between the account debtor and seller of a payment
2 intangible limits the account debtor's duty to pay a person other than the seller and the limitation
3 is effective under law other than this chapter; or

4 (3) At the option of the account debtor, if the notification notifies the account debtor to:

5 (i) Divide a payment;

6 (ii) Make less than the full amount of an installment or other periodic payment; or

7 (iii) Pay any part of a payment by more than one method or to more than one person.

8 (e) Proof of transfer of control. Subject to subsection (h) of this section, if requested by the
9 account debtor, the person giving the notification under subsection (b) of this section seasonably
10 shall furnish reasonable proof, using the method in the agreement referred to in subsection (d)(1)
11 of this section, that control of the controllable electronic record has been transferred. Unless the
12 person complies with the request, the account debtor may discharge its obligation by paying a
13 person that formerly had control, even if the account debtor has received a notification under
14 subsection (b) of this section.

15 (f) What constitutes reasonable proof. A person furnishes reasonable proof under
16 subsection (e) of this section that control has been transferred if the person demonstrates, using the
17 method in the agreement referred to in subsection (d)(1) of this section, that the transferee has the
18 power to:

19 (1) Avail itself of substantially all the benefit from the controllable electronic record;

20 (2) Prevent others from availing themselves of substantially all the benefit from the
21 controllable electronic record; and

22 (3) Transfer the powers specified in subsections (f)(1) and (f)(2) of this section to another
23 person.

24 (g) Rights not waivable. Subject to subsection (h) of this section, an account debtor may
25 not waive or vary its rights under subsections (d)(1) and (e) of this section or its option under
26 subsection (d)(3) of this section.

27 (h) Rule for individual under other law. This section is subject to law other than this chapter
28 which establishes a different rule for an account debtor who is an individual and who incurred the
29 obligation primarily for personal, family, or household purposes.

30 **6A-12-107. Governing law.**

31 (a) Governing law: general rule. Except as provided in subsection (b) of this section, the
32 local law of a controllable electronic record's jurisdiction governs a matter covered by this chapter.

33 (b) Governing law: § 6A-12-106. For a controllable electronic record that evidences a
34 controllable account or controllable payment intangible, the local law of the controllable electronic

1 record's jurisdiction governs a matter covered by § 6A-12-106 unless an effective agreement
2 determines that the local law of another jurisdiction governs.

3 (c) Controllable electronic record's jurisdiction. The following rules determine a
4 controllable electronic record's jurisdiction under this section:

5 (1) If the controllable electronic record, or a record attached to or logically associated with
6 the controllable electronic record and readily available for review, expressly provides that a
7 particular jurisdiction is the controllable electronic record's jurisdiction for purposes of this chapter
8 or this title, that jurisdiction is the controllable electronic record's jurisdiction.

9 (2) If subsection (c)(1) of this section does not apply and the rules of the system in which
10 the controllable electronic record is recorded are readily available for review and expressly provide
11 that a particular jurisdiction is the controllable electronic record's jurisdiction for purposes of this
12 chapter or this title, that jurisdiction is the controllable electronic record's jurisdiction.

13 (3) If subsections (c)(1) and (c)(2) of this section do not apply and the controllable
14 electronic record, or a record attached to or logically associated with the controllable electronic
15 record and readily available for review, expressly provides that the controllable electronic record
16 is governed by the law of a particular jurisdiction, that jurisdiction is the controllable electronic
17 record's jurisdiction.

18 (4) If subsections (c)(1), (c)(2) and (c)(3) of this section do not apply and the rules of the
19 system in which the controllable electronic record is recorded are readily available for review and
20 expressly provide that the controllable electronic record or the system is governed by the law of a
21 particular jurisdiction, that jurisdiction is the controllable electronic record's jurisdiction.

22 (5) If subsections (c)(1) through (c)(4) of this section do not apply, the controllable
23 electronic record's jurisdiction is the District of Columbia.

24 (d) Applicability of chapter 12. If subsection (c)(5) of this section applies and chapter 12
25 of title 6A is not in effect in the District of Columbia without material modification, the governing
26 law for a matter covered by this chapter is the law of the District of Columbia as though chapter 12
27 of title 6A were in effect in the District of Columbia without material modification. In this
28 subsection, "Chapter 12" means Article 12 of Uniform Commercial Code Amendments (2022).

29 (e) Relation of matter or transaction to controllable electronic record's jurisdiction not
30 necessary. To the extent subsections (a) and (b) of this section provide that the local law of the
31 controllable electronic record's jurisdiction governs a matter covered by this chapter, that law
32 governs even if the matter or a transaction to which the matter relates does not bear any relation to
33 the controllable electronic record's jurisdiction.

34 (f) Rights of purchasers determined at time of purchase. The rights acquired under § 6A-

1 12-104 by a purchaser or qualifying purchaser are governed by the law applicable under this section
2 at the time of purchase.

3 SECTION 12. Title 6A of the General Laws entitled "UNIFORM COMMERCIAL CODE"
4 is hereby amended by adding thereto the following chapter:

5 CHAPTER 11

6 TRANSITIONAL PROVISIONS FOR UNIFORM COMMERCIAL CODE AMENDMENTS

7 (2022)

8 PART 1

9 GENERAL PROVISIONS AND DEFINITIONS

10 **6A-11-101. Short title.**

11 This chapter shall be known and may be cited as "Transitional Provisions for Uniform
12 Commercial Code Amendments (2022)".

13 **6A-11-102. Definitions.**

14 (a) Chapter 11 of title 6A definitions. In this chapter:

15 (1) "Adjustment date" means July 1, 2025.

16 (2) "Amendatory act" means the public law by which this chapter is added to this title.

17 (3) "Chapter 12" means chapter 12 of this title.

18 (4) "Chapter 12 property" means a controllable account, controllable electronic record, or
19 controllable payment intangible.

20 (b) Definitions in other chapters. The following definitions in other chapters of this title
21 apply to this chapter:

22 "Controllable account" § 6A-9-102.

23 "Controllable electronic record" § 6A-12-102.

24 "Controllable payment intangible" § 6A-9-102.

25 "Electronic money" § 6A-9-102.

26 "Financing statement" § 6A-9-102.

27 (c) Chapter 1 of title 6A definitions and principles. Chapter 1 of title 6A contains general
28 definitions and principles of construction and interpretation applicable throughout this chapter.

29 PART 2

30 GENERAL TRANSITIONAL PROVISIONS

31 **6A-11-201. Saving Clause.**

32 Except as provided in Part 3 of this chapter, a transaction validly entered into before
33 January 1, 2024 and the rights, duties, and interests flowing from the transaction remain valid
34 thereafter and may be terminated, completed, consummated, or enforced as required or permitted

1 by law other than this title or, if applicable, this title, as though the amendatory act had not taken
2 effect.

3 PART 3

4 TRANSITIONAL PROVISIONS FOR CHAPTER 9 AND 12

5 **6A-11-301. Saving Clause.**

6 (a) Pre-effective-date transaction, lien, or interest. Except as provided in this part, chapter
7 9 as amended by the amendatory act and chapter 12 apply to a transaction, lien, or other interest in
8 property, even if the transaction, lien, or interest was entered into, created, or acquired before
9 January 1, 2024.

10 (b) Continuing validity. Except as provided in subsection (c) of this section and § 6A-11-
11 301 through § 6A-11-306:

12 (1) A transaction, lien, or interest in property that was validly entered into, created, or
13 transferred before January 1, 2024 and was not governed by this title, but would be subject to
14 chapter 9 of title 6A as amended by the amendatory act or chapter 12 of title 6A if it had been
15 entered into, created, or transferred on or after January 1, 2024, including the rights, duties, and
16 interests flowing from the transaction, lien, or interest, remains valid on and after January 1, 2024;
17 and

18 (2) The transaction, lien, or interest may be terminated, completed, consummated, and
19 enforced as required or permitted by the amendatory act or by the law that would apply if the
20 amendatory act had not taken effect.

21 (c) Pre-effective-date proceeding. The amendatory act does not affect an action, case, or
22 proceeding commenced before January 1, 2024.

23 **6A-11-302. Security interest perfected before effective date.**

24 (a) Continuing perfection: perfection requirements satisfied. A security interest that is
25 enforceable and perfected immediately before January 1, 2024, is a perfected security interest under
26 the amendatory act if, on January 1, 2024, the requirements for enforceability and perfection under
27 the amendatory act are satisfied without further action.

28 (b) Continuing perfection: enforceability or perfection requirements not satisfied. If a
29 security interest is enforceable and perfected immediately before January 1, 2024, but the
30 requirements for enforceability or perfection under the amendatory act are not satisfied on January
31 1, 2024, the security interest:

32 (1) Is a perfected security interest until the earlier of the time perfection would have ceased
33 under the law in effect immediately before January 1, 2024 or the adjustment date;

34 (2) Remains enforceable thereafter only if the security interest satisfies the requirements

1 for enforceability under § 6A-9-203, as amended by the amendatory act, before the adjustment date;
2 and

3 (3) Remains perfected thereafter only if the requirements for perfection under the
4 amendatory act are satisfied before the time specified in subsection (b)(1) of this section.

5 **6A-11-303. Security interest unperfected before effective date.**

6 A security interest that is enforceable immediately before January 1, 2024, but is
7 unperfected at that time:

8 (1) Remains an enforceable security interest until the adjustment date;

9 (2) Remains enforceable thereafter if the security interest becomes enforceable under § 6A-
10 9-203, as amended by the amendatory act, on January 1, 2024, or before the adjustment date; and

11 (3) Becomes perfected:

12 (i) Without further action, on January 1, 2024, if the requirements for perfection under the
13 amendatory act are satisfied before or at that time; or

14 (ii) When the requirements for perfection are satisfied if the requirements are satisfied after
15 that time.

16 **6A-11-304. Effectiveness of actions taken before effective date.**

17 (a) Pre-effective-date action; attachment and perfection before adjustment date. If action,
18 other than the filing of a financing statement, is taken before January 1, 2024, and the action would
19 have resulted in perfection of the security interest had the security interest become enforceable
20 before January 1, 2024, the action is effective to perfect a security interest that attaches under the
21 amendatory act before the adjustment date. An attached security interest becomes unperfected on
22 the adjustment date unless the security interest becomes a perfected security interest under the
23 amendatory act before the adjustment date.

24 (b) Pre-effective-date filing. The filing of a financing statement before January 1, 2024, is
25 effective to perfect a security interest on January 1, 2024, to the extent the filing would satisfy the
26 requirements for perfection under the amendatory act.

27 (c) Pre-effective-date enforceability action. The taking of an action before January 1, 2024,
28 is sufficient for the enforceability of a security interest on January 1, 2024, if the action would
29 satisfy the requirements for enforceability under the amendatory act.

30 **6A-11-305. Priority.**

31 (a) Determination of priority. Subject to subsections (b) and (c) of this section, the
32 amendatory act determines the priority of conflicting claims to collateral.

33 (b) Established priorities. Subject to subsection (c) of this section, if the priorities of claims
34 to collateral were established before January 1, 2024, chapter 9 of title 6A as in effect before

1 January 1, 2024, determines priority.

2 (c) Determination of certain priorities on adjustment date. On the adjustment date, to the
3 extent the priorities determined by chapter 9 of title 6A as amended by the amendatory act modify
4 the priorities established before January 1, 2024, the priorities of claims to chapter 12 of title 6A
5 property and electronic money established before January 1, 2024, cease to apply.

6 **6A-11-306. Priority of claims when priority rules of chapter 9 do not apply.**

7 (a) Determination of priority. Subject to subsections (b) and (c) of this section, chapter 12
8 of title 6A determines the priority of conflicting claims to chapter 12 of title 6A property when the
9 priority rules of chapter 9 of title 6A as amended by the amendatory act do not apply.

10 (b) Established priorities. Subject to subsection (c) of this section, when the priority rules
11 of chapter 9 of title 6A as amended by the amendatory act do not apply and the priorities of claims
12 to chapter 12 of title 6A property were established before January 1, 2024, law other than chapter
13 12 of title 6A determines priority.

14 (c) Determination of certain priorities on adjustment date. When the priority rules of
15 chapter 9 of title 6 A as amended by the amendatory act do not apply, to the extent the priorities
16 determined by the amendatory act modify the priorities established before January 1, 2024, the
17 priorities of claims to Chapter 12 of title 6A property established before January 1, 2024, cease to
18 apply on the adjustment date.

19 PART 4

20 OFFICIAL COMMENTS

21 **6A-11-401. Official comments.**

22 It is the intention of the general assembly that the official comments to the Uniform
23 Commercial Code Amendments (2022) as approved and recommended for enactment in all the
24 States by the National Conference of Commissioners on Uniform State Laws in 2022 represent the
25 express legislative intent of the general assembly and shall be used as a guide for interpretation of
26 the provisions of this title.

27 SECTION 13. Nothing in this act may be construed to support, endorse, create, or
28 implement a national digital currency.

29 SECTION 14. This act shall take effect on the earlier of passage or July 1, 2024.

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LC004083/SUB A
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