

By: Senator(s) Carlton

To: Judiciary

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2998

1 AN ACT TO AMEND SECTIONS 75-9-701, 75-9-705 AND 75-9-710,  
2 MISSISSIPPI CODE OF 1972, TO CONFORM THE TRANSITION DATES FOR THE  
3 CONVERSION FROM UNIFORM COMMERCIAL CODE FORMER ARTICLE 9 TO  
4 REVISED ARTICLE 9 TO THE JANUARY 1, 2002, EFFECTIVE DATE; TO  
5 FURTHER AMEND SECTION 75-9-705, MISSISSIPPI CODE OF 1972, TO  
6 CLARIFY THE TERMINATION OF A FINANCING STATEMENT COVERING A  
7 MANUFACTURED HOME NOT CONSTITUTING INVENTORY; TO FURTHER AMEND  
8 SECTION 75-9-710, MISSISSIPPI CODE OF 1972, TO CLARIFY LOCAL  
9 FILING OF A TERMINATION STATEMENT; TO AMEND SECTION 75-9-102,  
10 MISSISSIPPI CODE OF 1972, TO CLARIFY DEFINITIONS; TO AMEND SECTION  
11 75-9-109, MISSISSIPPI CODE OF 1972, TO CLARIFY THE SCOPE OF  
12 ARTICLE 9 CONCERNING GOVERNMENTAL UNITS; TO AMEND SECTION  
13 75-9-304, MISSISSIPPI CODE OF 1972, TO CLARIFY THE PERFECTION OF  
14 SECURITY INTERESTS IN DEPOSIT ACCOUNTS; TO AMEND SECTION 75-9-309,  
15 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR PERFECTION UPON  
16 ATTACHMENT FOR LOTTERY WINNINGS; AND FOR RELATED PURPOSES.

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

18 **SECTION 1.** Section 75-9-701, Mississippi Code of 1972, is  
19 amended as follows:

20 75-9-701. (1) References in Part 7 to "this act" refer to  
21 the legislative enactment by which this part is added to Article 9  
22 of the Uniform Commercial Code.

23 (2) References in this part to "former Article 9" are to  
24 Article 9 found in Chapter 9 of Title 75 as in effect on December  
25 31, 2001.

26 **SECTION 2.** Section 75-9-705, Mississippi Code of 1972, is  
27 amended as follows:

28 [From January 1, 2002, until passage of Senate Bill No. 2998,  
29 2002 Regular Session, this section shall read as follows:]

30 75-9-705. (a) If action, other than the filing of a  
31 financing statement, is taken before this act takes effect and the  
32 action would have resulted in priority of a security interest over  
33 the rights of a person that becomes a lien creditor had the  
34 security interest become enforceable before this act takes effect,



35 the action is effective to perfect a security interest that  
36 attaches under this act within one (1) year after this act takes  
37 effect. An attached security interest becomes unperfected one (1)  
38 year after this act takes effect unless the security interest  
39 becomes a perfected security interest under this act before the  
40 expiration of that period.

41 (b) The filing of a financing statement before this act  
42 takes effect is effective to perfect a security interest to the  
43 extent the filing would satisfy the applicable requirements for  
44 perfection under this act.

45 (c) This act does not render ineffective an effective  
46 financing statement that, before this act takes effect, is filed  
47 and satisfies the applicable requirements for perfection under the  
48 law of the jurisdiction governing perfection as provided in former  
49 Section 75-9-103. However, except as otherwise provided in  
50 subsections (d) and (e) and Section 75-9-706, the financing  
51 statement ceases to be effective at the earlier of:

52 (1) The time the financing statement would have ceased  
53 to be effective under the law of the jurisdiction in which it is  
54 filed; or

55 (2) December 31, 2006.

56 (d) The filing of a continuation statement after this act  
57 takes effect does not continue the effectiveness of the financing  
58 statement filed before this act takes effect. However, upon the  
59 timely filing of a continuation statement after this act takes  
60 effect and in accordance with the law of the jurisdiction  
61 governing perfection as provided in Part 3, the effectiveness of a  
62 financing statement filed in the same office in that jurisdiction  
63 before this act takes effect continues for the period provided by  
64 the law of that jurisdiction.

65 (e) Subsection (c)(2) applies to a financing statement that,  
66 before this act takes effect, is filed against a transmitting  
67 utility and satisfies the applicable requirements for perfection



68 under the law of the jurisdiction governing perfection as provided  
69 in former Section 75-9-103 only to the extent that Part 3 provides  
70 that the law of a jurisdiction other than the jurisdiction in  
71 which the financing statement is filed governs perfection of a  
72 security interest in collateral covered by the financing  
73 statement.

74 (f) A financing statement that includes a financing  
75 statement filed before this act takes effect and a continuation  
76 statement filed after this act takes effect is effective only to  
77 the extent that it satisfies the requirements of Part 5 for an  
78 initial financing statement.

79 **[From and after passage of Senate Bill No. 2998, 2002 Regular**  
80 **Session, this section shall read as follows:]**

81 75-9-705. (a) If action, other than the filing of a  
82 financing statement, is taken before January 1, 2002 and the  
83 action would have resulted in priority of a security interest over  
84 the rights of a person that becomes a lien creditor had the  
85 security interest become enforceable before January 1, 2002, the  
86 action is effective to perfect a security interest that attaches  
87 under this act within one (1) year after January 1, 2002. An  
88 attached security interest becomes unperfected one (1) year after  
89 January 1, 2002 unless the security interest becomes a perfected  
90 security interest under this act before the expiration of that  
91 period.

92 (b) The filing of a financing statement before this act  
93 takes effect is effective to perfect a security interest to the  
94 extent the filing would satisfy the applicable requirements for  
95 perfection under this act.

96 (c) This act does not render ineffective an effective  
97 financing statement that, before January 1, 2002, is filed and  
98 satisfies the applicable requirements for perfection under the law  
99 of the jurisdiction governing perfection as provided in former  
100 Section 75-9-103. However, except as otherwise provided in



101 subsections (d) and (e) and Section 75-9-706, the financing  
102 statement ceases to be effective at the earlier of:

103 (1) The time the financing statement would have ceased  
104 to be effective under the law of the jurisdiction in which it is  
105 filed; or

106 (2) December 31, 2006.

107 Provided, however, a financing statement filed before January  
108 1, 2002, covering a manufactured home, other than a manufactured  
109 home constituting inventory, remains effective, if it so states,  
110 until a termination statement is filed.

111 (d) The filing of a continuation statement after January 1,  
112 2002 does not continue the effectiveness of the financing  
113 statement filed before January 1, 2002. However, upon the timely  
114 filing of a continuation statement after January 1, 2002 and in  
115 accordance with the law of the jurisdiction governing perfection  
116 as provided in Part 3, the effectiveness of a financing statement  
117 filed in the same office in that jurisdiction before January 1,  
118 2002 continues for the period provided by the law of that  
119 jurisdiction.

120 (e) Subsection (c)(2) applies to a financing statement that,  
121 before January 1, 2002, is filed against a transmitting utility  
122 and satisfies the applicable requirements for perfection under the  
123 law of the jurisdiction governing perfection as provided in former  
124 Section 75-9-103 only to the extent that Part 3 provides that the  
125 law of a jurisdiction other than the jurisdiction in which the  
126 financing statement is filed governs perfection of a security  
127 interest in collateral covered by the financing statement.

128 (f) A financing statement that includes a financing  
129 statement filed before January 1, 2002 and a continuation  
130 statement filed after January 1, 2002 is effective only to the  
131 extent that it satisfies the requirements of Part 5 for an initial  
132 financing statement.



133           **SECTION 3.** Section 75-9-710, Mississippi Code of 1972, is  
134 amended as follows:

135           **[From January 1, 2002, this section shall read as follows:]**

136           75-9-710. (a) In this section:

137                   (1) "Local-filing office" means a filing office, other  
138 than the statewide central filing office identified in Section  
139 75-9-401(1) of former Chapter 9, that is designated as the proper  
140 place to file a financing statement under Section 75-9-401(1) of  
141 former Chapter 9. The term applies only with respect to a record  
142 that covers a type of collateral as to which the filing office is  
143 designated in that section as the proper place to file.

144                   (2) "Former-Chapter-9 records" means:

145                           (A) Financing statements and other records that  
146 have been filed in a local-filing office before January 1, 2002,  
147 and that are, or upon processing and indexing will be, reflected  
148 in the index maintained, as of December 31, 2001, by the  
149 local-filing office for financing statements and other records  
150 filed in the local-filing office before January 1, 2002, and

151                           (B) The index as of December 31, 2001.

152           The term does not include records presented to a local-filing  
153 office for filing after December 31, 2001, whether or not the  
154 records relate to financing statements filed in the local-filing  
155 office before January 1, 2002.

156                   (3) "Mortgage," "as-extracted collateral," "fixture  
157 filing," "goods" and "fixtures" have the meanings set forth in  
158 Revised Article 9 for those terms.

159           (b) Except as expressly provided in Part 5 of Chapter 9 as  
160 effective on and after January 1, 2002, a local-filing office must  
161 not accept for filing a record presented after December 31, 2001,  
162 whether or not the record relates to a financing statement filed  
163 in the local-filing office before January 1, 2002, other than a  
164 termination statement filed in accordance with Section 75-9-707.



165 (c) Until January 1, 2009, each local-filing office must  
166 maintain all former-Chapter-9 records in accordance with former  
167 Chapter 9. A former-Chapter-9 record that is not reflected on the  
168 index maintained at December 31, 2001, by the local-filing office  
169 must be processed and indexed, and reflected on the index as of  
170 December 31, 2001, as soon as practicable but in any event no  
171 later than January 31, 2002.

172 (d) Until at least December 31, 2008, each local-filing  
173 office must respond to requests for information with respect to  
174 former-Chapter-9 records relating to a debtor and issue  
175 certificates in accordance with former Chapter 9.

176 (1) Upon request in writing of any person, the filing  
177 officer shall issue his certificate showing whether there is on  
178 file, on the date and hour stated therein, any presently effective  
179 financing statements naming a particular debtor thereof, and if  
180 there is, giving the date and hour of filing and file number of  
181 each such financing statement and the name and address of each  
182 secured party or his assignee therein. Each such request shall be  
183 accompanied by a search fee of Five Dollars (\$5.00) if the request  
184 is made on the standard form prescribed by the Secretary of State,  
185 and otherwise it shall be Ten Dollars (\$10.00). An additional fee  
186 of Two Dollars (\$2.00) shall be paid by the requesting party for  
187 each financing statement listed on the filing officer's  
188 certificate, the aggregate of which shall be billed to the  
189 requesting party at the time the filing officer's certificate is  
190 issued. Failure to pay the additional fee by any requesting party  
191 when due may result in denial of further service to the requesting  
192 party until the amount due has been paid.

193 (2) Upon request, the filing officer shall furnish a  
194 copy of any presently effective financing statements on file for a  
195 uniform fee of Two Dollars (\$2.00) per page naming a particular  
196 debtor when the request is made on the form and in the manner  
197 hereinbefore provided for listing the same.



198 (e) After December 31, 2008, each local-filing office may  
199 remove and destroy, in accordance with any then applicable record  
200 retention law of this state, all former-Chapter-9 records,  
201 including the related index.

202 (f) This section does not apply, with respect to financing  
203 statements and other records, to a filing office in which  
204 mortgages or records of mortgages on real property are required to  
205 be filed or recorded, if:

206 (1) The collateral is timber to be cut or as-extracted  
207 collateral, or

208 (2) The record is or relates to a financing statement  
209 filed as a fixture filing and the collateral is goods that are or  
210 are to become fixtures.

211 **SECTION 4.** Section 75-9-102, Mississippi Code of 1972, is  
212 amended as follows:

213 75-9-102. (a) In this article:

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

217 (2) "Account," except as used in "account for," means a  
218 right to payment of a monetary obligation, whether or not earned  
219 by performance, (i) for property that has been or is to be sold,  
220 leased, licensed, assigned, or otherwise disposed of, (ii) for  
221 services rendered or to be rendered, (iii) for a policy of  
222 insurance issued or to be issued, (iv) for a secondary obligation  
223 incurred or to be incurred, (v) for energy provided or to be  
224 provided, (vi) for the use or hire of a vessel under a charter or  
225 other contract, (vii) arising out of the use of a credit or charge  
226 card or information contained on or for use with the card, or  
227 (viii) as winnings in a lottery or other game of chance operated  
228 or sponsored by a state, governmental unit of a state, or person  
229 licensed or authorized to operate the game by a state or  
230 governmental unit of a state. The term includes



231 health-care-insurance receivables. The term does not include (i)  
232 rights to payment evidenced by chattel paper or an instrument,  
233 (ii) commercial tort claims, (iii) deposit accounts, (iv)  
234 investment property, (v) letter-of-credit rights or letters of  
235 credit, or (vi) rights to payment for money or funds advanced or  
236 sold, other than rights arising out of the use of a credit or  
237 charge card or information contained on or for use with the card.

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

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

244 (A) Authenticated by a secured party;

245 (B) Indicating the aggregate unpaid secured  
246 obligations as of a date not more than thirty-five (35) days  
247 earlier or thirty-five (35) days later than the date of the  
248 record; and

249 (C) Identifying the components of the obligations  
250 in reasonable detail.

251 (5) "Agricultural lien" means an interest \* \* \* in farm  
252 products:

253 (A) Which secures payment or performance of an  
254 obligation for:

255 (i) Goods or services furnished in connection  
256 with a debtor's farming operation; or

257 (ii) Rent on real property leased by a debtor  
258 in connection with its farming operation;

259 (B) Which is created by statute in favor of a  
260 person that:

261 (i) In the ordinary course of its business  
262 furnished goods or services to a debtor in connection with a  
263 debtor's farming operation; or





264 (ii) Leased real property to a debtor in  
265 connection with the debtor's farming operation; and  
266 (C) Whose effectiveness does not depend on the  
267 person's possession of the personal property.  
268 (6) "As-extracted collateral" means:  
269 (A) Oil, gas, or other minerals that are subject  
270 to a security interest that:  
271 (i) Is created by a debtor having an interest  
272 in the minerals before extraction; and  
273 (ii) Attaches to the minerals as extracted;  
274 or  
275 (B) Accounts arising out of the sale at the  
276 wellhead or minehead of oil, gas, or other minerals in which the  
277 debtor had an interest before extraction.  
278 (7) "Authenticate" means:  
279 (A) To sign; or  
280 (B) To execute or otherwise adopt a symbol, or  
281 encrypt or similarly process a record in whole or in part, with  
282 the present intent of the authenticating person to identify the  
283 person and adopt or accept a record.  
284 (8) "Bank" means an organization that is engaged in the  
285 business of banking. The term includes savings banks, savings and  
286 loan associations, credit unions, and trust companies.  
287 (9) "Cash proceeds" means proceeds that are money,  
288 checks, deposit accounts, or the like.  
289 (10) "Certificate of title" means a certificate of  
290 title with respect to which a statute provides for the security  
291 interest in question to be indicated on the certificate as a  
292 condition or result of the security interest's obtaining priority  
293 over the rights of a lien creditor with respect to the collateral.  
294 (11) "Chattel paper" means a record or records that  
295 evidence both a monetary obligation and a security interest in  
296 specific goods, a security interest in specific goods and software



297 used in the goods, a security interest in specific goods and  
298 license of software used in the goods, a lease of specific goods,  
299 or a lease of specific goods and license of software used in the  
300 goods. In this paragraph, "monetary obligation" means a monetary  
301 obligation secured by the goods or owed under a lease of the goods  
302 and includes a monetary obligation with respect to software used  
303 in the goods. The term does not include (i) charters or other  
304 contracts involving the use or hire of a vessel or (ii) records  
305 that evidence a right to payment arising out of the use of a  
306 credit or charge card or information contained on or for use with  
307 the card. If a transaction is evidenced by records that include  
308 an instrument or series of instruments, the group of records taken  
309 together constitutes chattel paper.

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

312 (A) Proceeds to which a security interest  
313 attaches;

314 (B) Accounts, chattel paper, payment intangibles,  
315 and promissory notes that have been sold; and

316 (C) Goods that are the subject of a consignment.

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

319 (A) The claimant is an organization; or

320 (B) The claimant is an individual and the claim:

321 (i) Arose in the course of the claimant's  
322 business or profession; and

323 (ii) Does not include damages arising out of  
324 personal injury to or the death of an individual.

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



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

331           (A) Traded on or subject to the rules of a board  
332 of trade that has been designated as a contract market for such a  
333 contract pursuant to federal commodities laws; or

334           (B) Traded on a foreign commodity board of trade,  
335 exchange, or market, and is carried on the books of a commodity  
336 intermediary for a commodity customer.

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

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

340           (A) Is registered as a futures commission merchant  
341 under federal commodities law; or

342           (B) In the ordinary course of its business  
343 provides clearance or settlement services for a board of trade  
344 that has been designated as a contract market pursuant to federal  
345 commodities law.

346           (18) "Communicate" means:

347           (A) To send a written or other tangible record;

348           (B) To transmit a record by any means agreed upon  
349 by the persons sending and receiving the record; or

350           (C) In the case of transmission of a record to or  
351 by a filing office, to transmit a record by any means prescribed  
352 by filing-office rule.

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

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

358           (A) The merchant:

359           (i) Deals in goods of that kind under a name  
360 other than the name of the person making delivery;



361 (ii) Is not an auctioneer; and  
362 (iii) Is not generally known by its creditors  
363 to be substantially engaged in selling the goods of others;  
364 (B) With respect to each delivery, the aggregate  
365 value of the goods is One Thousand Dollars (\$1,000.00) or more at  
366 the time of delivery;  
367 (C) The goods are not consumer goods immediately  
368 before delivery; and  
369 (D) The transaction does not create a security  
370 interest that secures an obligation.  
371 (21) "Consignor" means a person that delivers goods to  
372 a consignee in a consignment.  
373 (22) "Consumer debtor" means a debtor in a consumer  
374 transaction.  
375 (23) "Consumer goods" means goods that are used or  
376 bought for use primarily for personal, family, or household  
377 purposes.  
378 (24) "Consumer-goods transaction" means a consumer  
379 transaction in which:  
380 (A) An individual incurs an obligation primarily  
381 for personal, family, or household purposes; and  
382 (B) A security interest in consumer goods secures  
383 the obligation.  
384 (25) "Consumer obligor" means an obligor who is an  
385 individual and who incurred the obligation as part of a  
386 transaction entered into primarily for personal, family, or  
387 household purposes.  
388 (26) "Consumer transaction" means a transaction in  
389 which (i) an individual incurs an obligation primarily for  
390 personal, family, or household purposes, (ii) a security interest  
391 secures the obligation, and (iii) the collateral is held or  
392 acquired primarily for personal, family, or household purposes.  
393 The term includes consumer-goods transactions.



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

396 (A) Identifies, by its file number, the initial  
397 financing statement to which it relates; and

398 (B) Indicates that it is a continuation statement  
399 for, or that it is filed to continue the effectiveness of, the  
400 identified financing statement.

401 (28) "Debtor" means:

402 (A) A person having an interest, other than a  
403 security interest or other lien, in the collateral, whether or not  
404 the person is an obligor;

405 (B) A seller of accounts, chattel paper, payment  
406 intangibles, or promissory notes; or

407 (C) A consignee.

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

412 (30) "Document" means a document of title or a receipt  
413 of the type described in Section 75-7-201(2).

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

417 (32) "Encumbrance" means a right, other than an  
418 ownership interest, in real property. The term includes mortgages  
419 and other liens on real property.

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

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

425 (A) Crops grown, growing, or to be grown,  
426 including:



427 (i) Crops produced on trees, vines, and  
428 bushes; and  
429 (ii) Aquatic goods produced in aquacultural  
430 operations;  
431 (B) Livestock, born or unborn, including aquatic  
432 goods produced in aquacultural operations;  
433 (C) Supplies used or produced in a farming  
434 operation; or  
435 (D) Products of crops or livestock in their  
436 unmanufactured states.

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

440 (36) "File number" means the number assigned to an  
441 initial financing statement pursuant to Section 9-519(a).

442 (37) "Filing office" means an office designated in  
443 Section 75-9-501 as the place to file a financing statement.

444 (38) "Filing-office rule" means a rule adopted pursuant  
445 to Section 75-9-526.

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

449 (40) "Fixture filing" means the filing of a financing  
450 statement covering goods that are or are to become fixtures and  
451 satisfying Section 75-9-502(a) and (b). The term includes the  
452 filing of a financing statement covering goods of a transmitting  
453 utility which are or are to become fixtures.

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

457 (42) "General intangible" means any personal property,  
458 including things in action, other than accounts, chattel paper,  
459 commercial tort claims, deposit accounts, documents, goods,



460 instruments, investment property, letter-of-credit rights, letters  
461 of credit, money, and oil, gas, or other minerals before  
462 extraction. The term includes payment intangibles and software.

463 (43) "Good faith" means honesty in fact and the  
464 observance of reasonable commercial standards of fair dealing.

465 (44) "Goods" means all things that are movable when a  
466 security interest attaches. The term includes (i) fixtures, (ii)  
467 standing timber that is to be cut and removed under a conveyance  
468 or contract for sale, (iii) the unborn young of animals, (iv)  
469 crops grown, growing, or to be grown, even if the crops are  
470 produced on trees, vines, or bushes, (v) farm-raised fish produced  
471 in fresh water according to the usual and customary techniques of  
472 commercial agriculture, (vi) manufactured homes and (vii) marine  
473 vessels (herein defined as every type of watercraft used, or  
474 capable of being used, as a means of transportation on water)  
475 including both marine vessels under construction, including  
476 engines and all items of equipment installed or to be installed  
477 therein, whether such vessels are being constructed by the  
478 shipbuilder for his own use or for sale (said vessels under  
479 construction being classified as inventory within the meaning of  
480 Section 75-9-102(48)), and marine vessels after completion of  
481 construction so long as such vessels have not become "vessels of  
482 the United States" within the meaning of the Ship Mortgage Act of  
483 1920, 46 USCS, Section 911(4), as same is now written or may  
484 hereafter be amended (said completed vessels being classified as  
485 equipment within the meaning of Section 75-9-102(33)). The term  
486 also includes a computer program embedded in goods and any  
487 supporting information provided in connection with a transaction  
488 relating to the program if (i) the program is associated with the  
489 goods in such a manner that it customarily is considered part of  
490 the goods, or (ii) by becoming the owner of the goods, a person  
491 acquires a right to use the program in connection with the goods.  
492 The term does not include a computer program embedded in goods



493 that consist solely of the medium in which the program is  
494 embedded. The term also does not include accounts, chattel paper,  
495 commercial tort claims, deposit accounts, documents, general  
496 intangibles, instruments, investment property, letter-of-credit  
497 rights, letters of credit, money, or oil, gas, or other minerals  
498 before extraction.

499 (45) "Governmental unit" means a subdivision, agency,  
500 department, county, parish, municipality or other unit of the  
501 government of the United States, a state, or a foreign country.  
502 The term includes an organization having a separate corporate  
503 existence if the organization is eligible to issue debt on which  
504 interest is exempt from income taxation under the laws of the  
505 United States.

506 (46) "Health-care-insurance receivable" means an  
507 interest in or claim under a policy of insurance which is a right  
508 to payment of a monetary obligation for health-care goods or  
509 services provided or to be provided.

510 (47) "Instrument" means a negotiable instrument or any  
511 other writing that evidences a right to the payment of a monetary  
512 obligation, is not itself a security agreement or lease, and is of  
513 a type that in ordinary course of business is transferred by  
514 delivery with any necessary endorsement or assignment. The term  
515 does not include (i) investment property, (ii) letters of credit,  
516 or (iii) writings that evidence a right to payment arising out of  
517 the use of a credit or charge card or information contained on or  
518 for use with the card.

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

521 (A) Are leased by a person as lessor;

522 (B) Are held by a person for sale or lease or to  
523 be furnished under a contract of service;

524 (C) Are furnished by a person under a contract of  
525 service; or





526 (D) Consist of raw materials, work in process or  
527 materials used or consumed in a business.

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

531 (50) "Jurisdiction of organization," with respect to a  
532 registered organization, means the jurisdiction under whose law  
533 the organization is organized.

534 (51) "Letter-of-credit right" means a right to payment  
535 or performance under a letter of credit, whether or not the  
536 beneficiary has demanded or is at the time entitled to demand  
537 payment or performance. The term does not include the right of a  
538 beneficiary to demand payment or performance under a letter of  
539 credit.

540 (52) "Lien creditor" means:

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

543 (B) An assignee for benefit of creditors from the  
544 time of assignment;

545 (C) A trustee in bankruptcy from the date of the  
546 filing of the petition; or

547 (D) A receiver in equity from the time of  
548 appointment.

549 (53) "Manufactured home" means a structure,  
550 transportable in one or more sections, which, in the traveling  
551 mode, is eight (8) body feet or more in width or forty (40) body  
552 feet or more in length, or, when erected on site, is three hundred  
553 twenty (320) or more square feet, and which is built on a  
554 permanent chassis and designed to be used as a dwelling with or  
555 without a permanent foundation when connected to the required  
556 utilities, and includes the plumbing, heating, air-conditioning,  
557 and electrical systems contained therein. The term includes any  
558 structure that meets all of the requirements of this paragraph



559 except the size requirements and with respect to which the  
560 manufacturer voluntarily files a certification required by the  
561 United States Secretary of Housing and Urban Development and  
562 complies with the standards established under Title 42 of the  
563 United States Code.

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

566 (A) That creates a purchase-money security  
567 interest in a manufactured home, other than a manufactured home  
568 held as inventory; or

569 (B) In which a manufactured home, other than a  
570 manufactured home held as inventory, is the primary collateral.

571 (55) "Mortgage" means a consensual interest in real  
572 property, including fixtures, which secures payment or performance  
573 of an obligation. "Mortgage" shall mean and include a deed of  
574 trust.

575 (56) "New debtor" means a person that becomes bound as  
576 debtor under Section 75-9-203(d) by a security agreement  
577 previously entered into by another person.

578 (57) "New value" means (i) money, (ii) money's worth in  
579 property, services, or new credit, or (iii) release by a  
580 transferee of an interest in property previously transferred to  
581 the transferee. The term does not include an obligation  
582 substituted for another obligation.

583 (58) "Noncash proceeds" means proceeds other than cash  
584 proceeds.

585 (59) "Obligor" means a person that, with respect to an  
586 obligation secured by a security interest in or an agricultural  
587 lien on the collateral, (i) owes payment or other performance of  
588 the obligation, (ii) has provided property other than the  
589 collateral to secure payment or other performance of the  
590 obligation, or (iii) is otherwise accountable in whole or in part



591 for payment or other performance of the obligation. The term does  
592 not include issuers or nominated persons under a letter of credit.

593 (60) "Original debtor," except as used in Section  
594 75-9-310(c), means a person that, as debtor, entered into a  
595 security agreement to which a new debtor has become bound under  
596 Section 75-9-203(d).

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

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

602 (A) The spouse of the individual;

603 (B) A brother, brother-in-law, sister, or  
604 sister-in-law of the individual;

605 (C) An ancestor or lineal descendant of the  
606 individual or the individual's spouse; or

607 (D) Any other relative, by blood or marriage, of  
608 the individual or the individual's spouse who shares the same home  
609 with the individual.

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

612 (A) A person directly or indirectly controlling,  
613 controlled by, or under common control with the organization;

614 (B) An officer or director of, or a person  
615 performing similar functions with respect to, the organization;

616 (C) An officer or director of, or a person  
617 performing similar functions with respect to, a person described  
618 in subparagraph (A);

619 (D) The spouse of an individual described in  
620 subparagraph (A), (B), or (C); or

621 (E) An individual who is related by blood or  
622 marriage to an individual described in subparagraph (A), (B), (C),  
623 or (D) and shares the same home with the individual.



624                   (64) "Proceeds," except as used in Section 75-9-609(b),  
625 means the following property:

626                   (A) Whatever is acquired upon the sale, lease,  
627 license, exchange or other disposition of collateral;

628                   (B) Whatever is collected on, or distributed on  
629 account of, collateral;

630                   (C) Rights arising out of collateral;

631                   (D) To the extent of the value of collateral,  
632 claims arising out of the loss, nonconformity, or interference  
633 with the use of, defects or infringement of rights in, or damage  
634 to, the collateral; or

635                   (E) To the extent of the value of collateral and  
636 to the extent payable to the debtor or the secured party,  
637 insurance payable by reason of the loss or nonconformity of,  
638 defects or infringement of rights in, or damage to, the  
639 collateral.

640                   (64A) "Production-money crops" means crops that secure  
641 a production-money obligation incurred with respect to the  
642 production of those crops.

643                   (64B) "Production-money obligation" means an obligation  
644 of an obligor incurred for new value given to enable the debtor to  
645 produce crops if the value is in fact used for the production of  
646 the crops.

647                   (64C) "Production of crops" includes tilling and  
648 otherwise preparing land for growing, planting, cultivating,  
649 fertilizing, irrigating, harvesting and gathering crops, and  
650 protecting them from damage or disease.

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



656           (66) "Proposal" means a record authenticated by a  
657 secured party which includes the terms on which the secured party  
658 is willing to accept collateral in full or partial satisfaction of  
659 the obligation it secures pursuant to Sections 75-9-620, 75-9-621,  
660 and 75-9-622.

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

663                   (A) Debt securities are issued;

664                   (B) All or a portion of the securities issued have  
665 an initial stated maturity of at least twenty (20) years; and

666                   (C) The debtor, obligor, secured party, account  
667 debtor or other person obligated on collateral, assignor or  
668 assignee of a secured obligation, or assignor or assignee of a  
669 security interest is a state or a governmental unit of a state.

670           (68) "Pursuant to commitment," with respect to an  
671 advance made or other value given by a secured party, means  
672 pursuant to the secured party's obligation, whether or not a  
673 subsequent event of default or other event not within the secured  
674 party's control has relieved or may relieve the secured party from  
675 its obligation.

676           (69) "Record," except as used in "for record," "of  
677 record," "record or legal title," and "record owner," means  
678 information that is inscribed on a tangible medium or which is  
679 stored in an electronic or other medium and is retrievable in  
680 perceivable form.

681           (70) "Registered organization" means an organization  
682 organized solely under the law of a single state or the United  
683 States and as to which the state or the United States must  
684 maintain a public record showing the organization to have been  
685 organized.

686           (71) "Secondary obligor" means an obligor to the extent  
687 that:

688                   (A) The obligor's obligation is secondary; or



689 (B) The obligor has a right of recourse with  
690 respect to an obligation secured by collateral against the debtor,  
691 another obligor, or property of either.

692 (72) "Secured party" means:

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

696 (B) A person that holds an agricultural lien;

697 (C) A consignor;

698 (D) A person to which accounts, chattel paper,  
699 payment intangibles, or promissory notes have been sold;

700 (E) A trustee, indenture trustee, agent,  
701 collateral agent, or other representative in whose favor a  
702 security interest or agricultural lien is created or provided for;  
703 or

704 (F) A person that holds a security interest  
705 arising under Section 75-2-401, 75-2-505, 75-2-711(3),  
706 75-2A-508(5), 75-4-210, or 75-5-118.

707 (73) "Security agreement" means an agreement that  
708 creates or provides for a security interest.

709 (74) "Send," in connection with a record or  
710 notification, means:

711 (A) To deposit in the mail, deliver for  
712 transmission, or transmit by any other usual means of  
713 communication, with postage or cost of transmission provided for,  
714 addressed to any address reasonable under the circumstances; or

715 (B) To cause the record or notification to be  
716 received within the time that it would have been received if  
717 properly sent under subparagraph (A).

718 (75) "Software" means a computer program and any  
719 supporting information provided in connection with a transaction  
720 relating to the program. The term does not include a computer  
721 program that is included in the definition of goods.



722 (76) "State" means a state of the United States, the  
723 District of Columbia, Puerto Rico, the United States Virgin  
724 Islands, or any territory or insular possession subject to the  
725 jurisdiction of the United States.

726 (77) "Supporting obligation" means a letter-of-credit  
727 right or secondary obligation that supports the payment or  
728 performance of an account, chattel paper, a document, a general  
729 intangible, an instrument, or investment property.

730 (78) "Tangible chattel paper" means chattel paper  
731 evidenced by a record or records consisting of information that is  
732 inscribed on a tangible medium.

733 (79) "Termination statement" means an amendment of a  
734 financing statement which:

735 (A) Identifies, by its file number, the initial  
736 financing statement to which it relates; and

737 (B) Indicates either that it is a termination  
738 statement or that the identified financing statement is no longer  
739 effective.

740 (80) "Transmitting utility" means a person primarily  
741 engaged in the business of:

742 (A) Operating a railroad, subway, street railway,  
743 or trolley bus;

744 (B) Transmitting communications electrically,  
745 electromagnetically, or by light;

746 (C) Transmitting goods by pipeline or sewer; or

747 (D) Transmitting or producing and transmitting  
748 electricity, steam, gas, or water.

749 (b) The following definitions in other articles apply to  
750 this article:

751 "Applicant" Section 75-5-102.

752 "Beneficiary" Section 75-5-102.

753 "Broker" Section 75-8-102.

754 "Certificated security" Section 75-8-102.



755	"Check"	Section 75-3-104.
756	"Clearing corporation"	Section 75-8-102.
757	"Contract for sale"	Section 75-2-106.
758	"Customer"	Section 75-4-104.
759	"Entitlement holder"	Section 75-8-102.
760	"Financial asset"	Section 75-8-102.
761	"Holder in due course"	Section 75-3-302.
762	"Issuer" (with respect to	
763	a letter of credit or	
764	letter-of-credit right)	Section 75-5-102.
765	"Issuer" (with respect to a	
766	security	Section 75-8-201.
767	"Lease"	Section 75-2A-103.
768	"Lease agreement"	Section 75-2A-103.
769	"Lease contract"	Section 75-2A-103.
770	"Leasehold interest"	Section 75-2A-103.
771	"Lessee"	Section 75-2A-103.
772	"Lessee in ordinary course	
773	of business"	Section 75-2A-103.
774	"Lessor"	Section 75-2A-103.
775	"Lessor's residual interest"	Section 75-2A-103.
776	"Letter of credit"	Section 75-5-102.
777	"Merchant"	Section 75-2-104.
778	"Negotiable instrument"	Section 75-3-104.
779	"Nominated person"	Section 75-5-102.
780	"Note"	Section 75-3-104.
781	"Proceeds of a letter of	
782	credit"	Section 75-5-114.
783	"Prove"	Section 75-3-103.
784	"Sale"	Section 75-2-106.
785	"Securities account"	Section 75-8-501.
786	"Securities intermediary"	Section 75-8-102.
787	"Security"	Section 75-8-102.





788 "Security certificate" Section 75-8-102.

789 "Security entitlement" Section 75-8-102.

790 "Uncertificated security" Section 75-8-102.

791 (c) Article 1 contains general definitions and principles of  
792 construction and interpretation applicable throughout this  
793 article.

794 **SECTION 5.** Section 75-9-109, Mississippi Code of 1972, is  
795 amended as follows:

796 75-9-109. (a) Except as otherwise provided in subsections  
797 (c) and (d), this article applies to:

798 (1) A transaction, regardless of its form, that creates  
799 a security interest in personal property or fixtures by contract;

800 (2) An agricultural lien;

801 (3) A sale of accounts, chattel paper, payment  
802 intangibles, or promissory notes;

803 (4) A consignment;

804 (5) A security interest arising under Section 75-2-401,  
805 75-2-505, 75-2-711(3), or 75-2A-508(5), as provided in Section  
806 75-9-110; and

807 (6) A security interest arising under Section 75-4-210  
808 or 75-5-118.

809 (b) The application of this article to a security interest  
810 in a secured obligation is not affected by the fact that the  
811 obligation is itself secured by a transaction or interest to which  
812 this article does not apply.

813 (c) This article does not apply to the extent that:

814 (1) A statute, regulation, or treaty of the United  
815 States preempts this article;

816 \* \* \*

817 (2) A statute of another state, a foreign country, or a  
818 governmental unit of another state or a foreign country, other  
819 than a statute generally applicable to security interests,  
820 expressly governs creation, perfection, priority, or enforcement



821 of a security interest created by the state, country, or  
822 governmental unit; or

823           (3) The rights of a transferee beneficiary or nominated  
824 person under a letter of credit are independent and superior under  
825 Section 75-5-114.

826           (d) This article does not apply to:

827                 (1) A landlord's lien, other than an agricultural lien;

828                 (2) A lien, other than an agricultural lien, given by  
829 statute or other rule of law for services or materials, but  
830 Section 75-9-333 applies with respect to priority of the lien;

831                 (3) An assignment of a claim for wages, salary, or  
832 other compensation of an employee;

833                 (4) A sale of accounts, chattel paper, payment  
834 intangibles, or promissory notes as part of a sale of the business  
835 out of which they arose;

836                 (5) An assignment of accounts, chattel paper, payment  
837 intangibles, or promissory notes which is for the purpose of  
838 collection only;

839                 (6) An assignment of a right to payment under a  
840 contract to an assignee that is also obligated to perform under  
841 the contract;

842                 (7) An assignment of a single account, payment  
843 intangible, or promissory note to an assignee in full or partial  
844 satisfaction of a preexisting indebtedness;

845                 (8) A transfer of an interest in or an assignment of a  
846 claim under a policy of insurance, other than an assignment by or  
847 to a health-care provider of a health-care-insurance receivable  
848 and any subsequent assignment of the right to payment, but  
849 Sections 75-9-315 and 75-9-322 apply with respect to proceeds and  
850 priorities in proceeds;

851                 (9) An assignment of a right represented by a judgment,  
852 other than a judgment taken on a right to payment that was  
853 collateral;



854 (10) A right of recoupment or set-off, but:  
855 (A) Section 75-9-340 applies with respect to the  
856 effectiveness of rights of recoupment or set-off against deposit  
857 accounts; and  
858 (B) Section 75-9-404 applies with respect to  
859 defenses or claims of an account debtor;  
860 (11) The creation or transfer of an interest in or lien  
861 on real property, including a lease or rents thereunder, except to  
862 the extent that provision is made for:  
863 (A) Liens on real property in Sections 75-9-203  
864 and 75-9-308;  
865 (B) Fixtures in Section 75-9-334;  
866 (C) Fixture filings in Sections 75-9-501,  
867 75-9-502, 75-9-512, 75-9-516, and 75-9-519; and  
868 (D) Security agreements covering personal and real  
869 property in Section 75-9-604;  
870 (12) An assignment of a claim arising in tort, other  
871 than a commercial tort claim, but Sections 75-9-315 and 75-9-322  
872 apply with respect to proceeds and priorities in proceeds; or  
873 (13) To a transfer by this state or a governmental unit  
874 of this state.

875 **SECTION 6.** Section 75-9-304, Mississippi Code of 1972, is  
876 amended as follows:

877 75-9-304. (a) The local law of a bank's jurisdiction  
878 governs perfection, the effect of perfection or nonperfection, and  
879 the priority of a security interest in a deposit account  
880 maintained with that bank.

881 (b) The following rules determine a bank's jurisdiction for  
882 purposes of this part:

883 (1) If an agreement between the bank and its customer  
884 governing the deposit account expressly provides that a particular  
885 jurisdiction is the bank's jurisdiction for purposes of this part,



886 this article, or the Uniform Commercial Code, that jurisdiction is  
887 the bank's jurisdiction.

888 (2) If paragraph (1) does not apply and an agreement  
889 between the bank and its customer governing the deposit account  
890 expressly provides that the agreement is governed by the law of a  
891 particular jurisdiction, that jurisdiction is the bank's  
892 jurisdiction.

893 (3) If neither paragraph (1) nor paragraph (2) applies  
894 and an agreement between the bank and its customer governing the  
895 deposit account expressly provides that the deposit account is  
896 maintained at an office in a particular jurisdiction, that  
897 jurisdiction is the bank's jurisdiction.

898 (4) If none of the preceding paragraphs applies, the  
899 bank's jurisdiction is the jurisdiction in which the office  
900 identified in an account statement as the office serving the  
901 customer's account is located.

902 (5) If none of the preceding paragraphs applies, the  
903 bank's jurisdiction is the jurisdiction in which the chief  
904 executive office of the bank is located.

905 **SECTION 7.** Section 75-9-309, Mississippi Code of 1972, is  
906 amended as follows:

907 75-9-309. The following security interests are perfected  
908 when they attach:

909 (1) A purchase-money security interest in consumer  
910 goods, except as otherwise provided in Section 75-9-311(b) with  
911 respect to consumer goods that are subject to a statute or treaty  
912 described in Section 75-9-311(a);

913 (2) An assignment of accounts or payment intangibles  
914 which does not by itself or in conjunction with other assignments  
915 to the same assignee transfer a significant part of the assignor's  
916 outstanding accounts or payment intangibles;

917 (3) A sale of a payment intangible;

918 (4) A sale of a promissory note;



919           (5) A security interest created by the assignment of a  
920 health-care-insurance receivable to the provider of the  
921 health-care goods or services;

922           (6) A security interest arising under Section 75-2-401,  
923 75-2-505, 75-2-711(3), or 75-2A-508(5), until the debtor obtains  
924 possession of the collateral;

925           (7) A security interest of a collecting bank arising  
926 under Section 75-4-210;

927           (8) A security interest of an issuer or nominated  
928 person arising under Section 75-5-118;

929           (9) A security interest arising in the delivery of a  
930 financial asset under Section 75-9-206(c);

931           (10) A security interest in investment property created  
932 by a broker or securities intermediary;

933           (11) A security interest in a commodity contract or a  
934 commodity account created by a commodity intermediary;

935           (12) An assignment for the benefit of all creditors of  
936 the transferor and subsequent transfers by the assignee  
937 thereunder; and

938           (13) A security interest created by an assignment of a  
939 beneficial interest in a decedent's estate.

940           (14) A sale by an individual of an account that is a  
941 right to payment of winnings in a lottery or other game of chance.

942           **SECTION 8.** Sections 1, 2 and 3 of this act shall take effect  
943 and be in force from and after January 1, 2002; the remainder of  
944 this act shall take effect and be in force from and after its  
945 passage.

