

By: Senator(s) Ross

To: Judiciary, Division A

SENATE BILL NO. 2830

1 AN ACT TO AMEND SECTIONS 75-7-102, 75-7-103, 75-7-104,
2 75-7-105, 75-7-201, 75-7-202, 75-7-203, 75-7-204, 75-7-205,
3 75-7-206, 75-7-207, 75-7-208, 75-7-209, 75-7-210, 75-7-301,
4 75-7-302, 75-7-303, 75-7-304, 75-7-305, 75-7-307, 75-7-308,
5 75-7-309, 75-7-401, 75-7-402, 75-7-403, 75-7-404, 75-7-501,
6 75-7-502, 75-7-503, 75-7-504, 75-7-505, 75-7-506, 75-7-507,
7 75-7-508, 75-7-509, 75-7-601, 75-7-602 AND 75-7-603, MISSISSIPPI
8 CODE OF 1972, TO REVISE ARTICLE 7 OF THE UNIFORM COMMERCIAL CODE
9 RELATIVE TO THE ELECTRONIC TRANSFER OF DOCUMENTS OF TITLE; TO
10 CODIFY SECTION 75-7-106, MISSISSIPPI CODE OF 1972, TO PROVIDE
11 CONTROL OF ELECTRONIC DOCUMENTS OF TITLE; TO AMEND SECTIONS
12 75-1-201, 75-2-103, 75-2-104, 75-2-310, 75-2-323, 75-2-401,
13 75-2-503, 75-2-505, 75-2-506, 75-2-509, 75-2-605, 75-2-705,
14 75-2A-103, 75-2A-514, 75-2A-526, 75-4-104, 75-4-210, 75-8-103,
15 75-9-102, 75-9-203, 75-9-207, 75-9-208, 75-9-301, 75-9-310,
16 75-9-312, 75-9-313, 75-9-314, 75-9-317, 75-9-338 AND 75-9-601,
17 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE REVISIONS TO
18 ARTICLE 7 OF THE UNIFORM COMMERCIAL CODE; AND FOR RELATED
19 PURPOSES.

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

21 **SECTION 1.** Section 75-7-102, Mississippi Code of 1972, is
22 amended as follows:

23 75-7-102. (1) In this chapter, unless the context otherwise
24 requires:

25 (a) "Bailee" means the person who by a warehouse
26 receipt, bill of lading or other document of title acknowledges
27 possession of goods and contracts to deliver them.

28 (b) "Carrier" means a person that issues a bill of
29 lading.

30 (c) "Consignee" means the person named in a bill to
31 whom or to whose order the bill promises delivery.

32 (d) "Consignor" means the person named in a bill as the
33 person from whom the goods have been received for shipment.

34 (e) "Delivery order" means a record that contains an
35 order to deliver goods directed to a warehouse, carrier or other

36 person who in the ordinary course of business issues warehouse
37 receipts or bill of lading.

38 (f) "Good faith" means honesty in fact and the
39 observance of reasonable commercial standards of fair dealing.

40 * * *

41 (g) "Goods" means all things which are treated as
42 movable for the purposes of a contract of storage or
43 transportation.

44 (h) "Issuer" means a bailee who issues a document of
45 title or, in the case of an unaccepted delivery order, the person
46 who orders the possessor of goods to deliver. The term includes a
47 person for whom an agent or employee purports to act in issuing a
48 document if the agent or employee has real or apparent authority
49 to issue documents, even if the issuer did not receive any goods,
50 the goods were misdescribed or * * * in any other respect the
51 agent or employee violated the issuer's instructions.

52 (i) "Person entitled under the document" means the
53 holder, in the case of a negotiable document of title, or the
54 person to which delivery of the goods is to be made by the terms
55 of, or pursuant to instructions in a record under, a nonnegotiable
56 document of title.

57 (j) "Record" means information that is inscribed on a
58 tangible medium or that is stored in an electronic or other medium
59 and is retrievable in perceivable form.

60 (k) "Sign" means, with present intent to authenticate
61 or adopt a record:

62 (i) To execute or adopt a tangible symbol; or

63 (ii) To attach to or logically associate with the
64 record an electronic sound, symbol or process.

65 (l) "Shipper" means a person that enters into a
66 contract of transportation with a carrier.

67 (m) "Warehouse" means a person engaged in the business
68 of storing goods for hire.

69 (2) Definitions in other chapters applying to this chapter
70 and the sections in which they appear are:

71 "Contract for sale," Section 2-106 [§75-2-106].

72 "Lessee in the ordinary course of business," Section 2A-103
73 [§75-2A-103].

74 "Receipt" of goods, Section 2-103 [§75-2-103].

75 (3) In addition, Chapter 1 contains general definitions and
76 principles of construction and interpretation applicable
77 throughout this chapter.

78 **SECTION 2.** Section 75-7-103, Mississippi Code of 1972, is
79 amended as follows:

80 75-7-103. (1) This chapter is subject to any treaty or
81 statute of the United States or regulatory statute of this state
82 to the extent the treaty, statute or regulatory statute is
83 applicable.

84 (2) This chapter does not modify or repeal any law
85 prescribing the form or content of a document of title or the
86 services or facilities to be afforded by a bailee, or otherwise
87 regulating a bailee's business in respects not specifically
88 treated in this article. However, violation of such a law does
89 not affect the status of a document of title that otherwise is
90 within the definition of a document of title.

91 (3) This chapter modifies, limits and supersedes the federal
92 Electronic Signatures in Global and National Commerce Act (15 USCS
93 Section 7001 et seq.) but does not modify, limit or supersede
94 Section 101(c) of that act (15 USCS Section 7001(c)) or authorize
95 electronic delivery of any of the notices described in Section
96 103(b) of that act (15 USCS Section 7003(b)).

97 (4) To the extent that is a conflict between the Uniform
98 Electronic Transactions Act and this article, this article
99 governs.

100 **SECTION 3.** Section 75-7-104, Mississippi Code of 1972, is
101 amended as follows:

102 75-7-104. (1) Except as otherwise provided in subsection
103 (3), a document of title is negotiable * * * if by its terms the
104 goods are to be delivered to bearer or to the order of a named
105 person.

106 * * *

107 (2) A document of title other than one (1) described in
108 subsection (a) is nonnegotiable. A bill of lading in which it is
109 stated that the goods are consigned to a named person is not made
110 negotiable by a provision that the goods are to be delivered only
111 against a written order signed by the same or another named
112 person.

113 (3) A document of title is nonnegotiable if, at the time it
114 is issued, the document has a conspicuous legend, however
115 expressed, that it is nonnegotiable.

116 **SECTION 4.** Section 75-7-105, Mississippi Code of 1972, is
117 amended as follows:

118 75-7-105. (1) Upon request of a person entitled under an
119 electronic document of title, the issuer of the electronic
120 document may issue a tangible document of title as a substitute
121 for the electronic document if:

122 (a) The person entitled under the electronic document
123 surrenders control of the document to the issuer; and

124 (b) The tangible document when issued contains a
125 statement that it is issued in substitution for the electronic
126 document.

127 (2) Upon issuance of a tangible document of title in
128 substitution for an electronic document of title in accordance
129 with subsection (1):

130 (a) The electronic document ceases to have any effect
131 or validity; and

132 (b) The person that procured issuance of the tangible
133 document warrants to all subsequent persons entitled under the
134 tangible document that the warrantor was a person entitled under

135 the electronic document when the warrantor surrendered control of
136 the electronic document to the issuer.

137 (3) Upon request of a person entitled under a tangible
138 document of title, the issuer of the tangible document may issue
139 an electronic document of title as a substitute for the tangible
140 document if:

141 (a) The person entitled under the tangible document
142 surrenders possession of the document to the issuer; and

143 (b) The electronic document when issued contains a
144 statement that it is issued in substitution for the tangible
145 document.

146 (4) Upon issuance of an electronic document of title in
147 substitution for a tangible document of title in accordance with
148 subsection (3):

149 (a) The tangible document ceases to have any effect or
150 validity; and

151 (b) The person that procured issuance of the electronic
152 document warrants to all subsequent persons entitled under the
153 electronic document that the warrantor was a person entitled under
154 the tangible document when the warrantor surrendered possession of
155 the tangible document to the issuer.

156 **SECTION 5.** The following shall be codified as Section
157 75-7-106, Mississippi Code of 1972:

158 75-7-106. (1) A person has control of an electronic
159 document of title if a system employed for evidencing the transfer
160 of interests in the electronic document reliably establishes that
161 person as the person to which the electronic document was issued
162 or transferred.

163 (2) A system satisfies subsection (1) and a person is deemed
164 to have control of an electronic document of title, if the
165 document is created, stored and assigned in such a manner that:

166 (a) A single authoritative copy of the document exists
167 which is unique, identifiable and, except as otherwise provided in
168 paragraphs (d), (e) and (f), unalterable;

169 (b) The authoritative copy identifies the person
170 asserting control as:

171 (i) The person to which the document was issued;

172 or

173 (ii) If the authoritative copy indicates that the
174 document has been transferred, the person to which the document
175 was most recently transferred;

176 (c) The authoritative copy is communicated to and
177 maintained by the person asserting control or is designated
178 custodian;

179 (d) Copies or amendments that add or change an
180 identified assignee of the authoritative copy can be made only
181 with the consent of the person asserting control;

182 (e) Each copy of the authoritative copy and any copy of
183 a copy is readily identifiable as a copy that is not the
184 authoritative copy; and

185 (f) Any amendment of the authoritative copy is readily
186 identifiable as authorized or unauthorized.

187 **SECTION 6.** Section 75-7-201, Mississippi Code of 1972, is
188 amended as follows:

189 75-7-201. (1) A warehouse receipt may be issued by any
190 warehouse.

191 (2) If goods, including distilled spirits and agricultural
192 commodities, are stored under a statute requiring a bond against
193 withdrawal or a license for the issuance of receipts in the nature
194 of warehouse receipts, a receipt issued for the goods is deemed to
195 be as a warehouse receipt even if issued by a person who is the
196 owner of the goods and is not a warehouse.

197 **SECTION 7.** Section 75-7-202, Mississippi Code of 1972, is
198 amended as follows:

199 75-7-202. (1) A warehouse receipt need not be in any
200 particular form.

201 (2) Unless a warehouse receipt provides for each of the
202 following, the warehouse is liable for damages caused * * * to a
203 person injured by its omission:

204 (a) A statement of the location of the warehouse
205 facility where the goods are stored;

206 (b) The date of issue of the receipt;

207 (c) The unique identification code of the receipt;

208 (d) A statement whether the goods received will be
209 delivered to a named person, or to a named person or its order;

210 (e) The rate of storage and handling charges, unless
211 goods are stored under a field warehousing arrangement, in which a
212 statement of that fact is sufficient on a nonnegotiable receipt;

213 (f) A description of the goods or of the packages
214 containing them;

215 (g) The signature of the warehouse or its agent;

216 (h) If the receipt is issued for goods of which the
217 warehouse owns, either solely, jointly or in common with others, a
218 statement of the fact of that ownership; and

219 (i) A statement of the amount of advances made and of
220 liabilities incurred for which the warehouse claims a lien or
221 security interest unless the precise amount of * * * advances made
222 or of such liabilities incurred * * *, at the time of the issue of
223 the receipt, is unknown to the warehouse or to its agent that
224 issued the receipt in which case a statement of the fact that
225 advances have been made or liabilities incurred and the purpose of
226 the advances or liabilities is sufficient.

227 (3) A warehouse may insert in its receipt any other terms
228 which are not contrary to the provisions of this code and do not
229 impair its obligation of delivery (Section 7-403) [§75-7-403] or
230 its duty of care (Section 7-204) [§75-7-204]. Any contrary
231 provisions shall be ineffective.

232 **SECTION 8.** Section 75-7-203, Mississippi Code of 1972, is
233 amended as follows:

234 75-7-203. A party to or purchaser for value in good faith of
235 a document of title other than a bill of lading relies upon the
236 description * * * of the goods in the document may recover from
237 the issuer damages caused by the nonreceipt or misdescription of
238 the goods, except to the extent that: (a) the document
239 conspicuously indicates that the issuer does not know
240 whether * * * all or part of the goods in fact were received or
241 conform to the description, such as a case in which the
242 description is in terms of marks or labels or kind, quantity or
243 condition, or the receipt or description is qualified by
244 "contents, condition and quality unknown," "said to contain" or
245 words of similar import, if such indication is true; or (b) the
246 party or purchaser otherwise has notice of the nonreceipt or
247 misdescription.

248 **SECTION 9.** Section 75-7-204, Mississippi Code of 1972, is
249 amended as follows:

250 75-7-204. (1) A warehouse is liable for damages for loss of
251 or injury to the goods caused by its failure to exercise * * *
252 care with regard to the goods as a reasonably careful person would
253 exercise under like circumstances. Unless otherwise agreed, the
254 warehouse is not liable for damages that could not have been
255 avoided by the exercise of that care.

256 (2) Damages may be limited by a term in the warehouse
257 receipt or storage agreement limiting the amount of liability in
258 case of loss or damage beyond which the warehouse is not liable.
259 Such a limitation is not effective with respect to the warehouse's
260 liability for conversion to its own use. On * * * request of the
261 bailor in a record at the time of signing the storage agreement or
262 within a reasonable time after receipt of the warehouse receipt,
263 the warehouse's liability may be increased on part or all of the
264 goods covered by the storage agreement or the warehouse receipt.

265 In this event increased rates may be charged based on an increased
266 valuation of the goods.

267 (3) Reasonable provisions as to the time and manner of
268 presenting claims and commencing actions based on the bailment may
269 be included in the warehouse receipt or storage agreement.

270 **SECTION 10.** Section 75-7-205, Mississippi Code of 1972, is
271 amended as follows:

272 75-7-205. A buyer in the ordinary course of business of
273 fungible goods sold and delivered by a warehouse that is also in
274 the business of buying and selling the goods takes free of any
275 claim under a warehouse receipt even if the receipt is negotiable
276 and has been duly negotiated.

277 **SECTION 11.** Section 75-7-206, Mississippi Code of 1972, is
278 amended as follows:

279 75-7-206. (1) A warehouse, by giving notice to the person
280 on whose account the goods are held and any other person known to
281 claim an interest in the goods, may require payment of any charges
282 and removal of the goods from the warehouse at the termination of
283 the period of storage fixed by the document of title, or, if a
284 period is not fixed, within a stated period not less than thirty
285 (30) days after the warehouse gives notice. If the goods are not
286 removed before the date specified in the notice, the warehouse may
287 sell them pursuant to Section 75-7-210.

288 (2) If a warehouse in good faith believes that the goods are
289 about to deteriorate or decline in value to less than the amount
290 of his lien within the time provided in subsection (1) and Section
291 75-7-210, the warehouse may specify in the notice given under
292 subsection (1) any reasonable shorter time for removal of the
293 goods and, if the goods are not removed, may sell them at public
294 sale held not less than one (1) week after a single advertisement
295 or posting.

296 (3) If, as a result of a quality or condition of the goods
297 of which the warehouse did not have notice at the time of deposit

298 the goods are a hazard to other property, the warehouse facility
299 or other persons, the warehouse may sell the goods at public or
300 private sale without advertisement or posting on reasonable
301 notification to all persons known to claim an interest in the
302 goods. If the warehouse, after a reasonable effort, is unable to
303 sell the goods, it may dispose of them in any lawful manner and
304 does not incur * * * liability by reason of that disposition.

305 (4) A warehouse shall deliver the goods to any person
306 entitled to them under this chapter upon due demand made at any
307 time before sale or other disposition under this section.

308 (5) A warehouse may satisfy its lien from the proceeds of
309 any sale or disposition under this section but shall hold the
310 balance for delivery on the demand of any person to which the
311 warehouse would have been bound to deliver the goods.

312 **SECTION 12.** Section 75-7-207, Mississippi Code of 1972, is
313 amended as follows:

314 75-7-207. (1) Unless the warehouse receipt otherwise
315 provides, a warehouse shall keep separate the goods covered by
316 each receipt so as to permit at all times identification and
317 delivery of those goods. However, different lots of fungible
318 goods may be commingled.

319 (2) If different lots of fungible goods are commingled, the
320 goods are owned in common by the persons entitled thereto and the
321 warehouse is severally liable to each owner for that owner's
322 share. If, because of overissue, a mass of fungible goods is
323 insufficient to meet all the receipts * * * the warehouse has
324 issued against it, the persons entitled include all holders to
325 whom overissued receipts have been duly negotiated.

326 **SECTION 13.** Section 75-7-208, Mississippi Code of 1972, is
327 amended as follows:

328 75-7-208. If a blank in a negotiable tangible warehouse
329 receipt has been filled in without authority, a good-faith
330 purchaser for value and without notice of the lack of authority

331 may treat the insertion as authorized. Any other unauthorized
332 alteration leaves any tangible or electronic receipt enforceable
333 against the issuer according to its original tenor.

334 **SECTION 14.** Section 75-7-209, Mississippi Code of 1972, is
335 amended as follows:

336 75-7-209. (1) A warehouse has a lien against the bailor on
337 the goods covered by a warehouse receipt or storage agreement or
338 on the proceeds thereof in his possession for charges for storage
339 or transportation, including demurrage and terminal charges,
340 insurance, labor, or other charges, present or future, in relation
341 to the goods, and for expenses necessary for preservation of the
342 goods or reasonably incurred in their sale pursuant to law. If
343 the person on whose account the goods are held is liable for
344 similar charges or expenses in relation to other goods whenever
345 deposited and it is stated in the warehouse receipt or storage
346 agreement that a lien is claimed for charges and expenses in
347 relation to other goods, the warehouse also has a lien against the
348 goods covered by the warehouse receipt or storage agreement or on
349 the proceeds thereof in its possession for such charges and
350 expenses whether or not the other goods have been delivered by the
351 warehouse. However, as against a person to which a negotiable
352 warehouse receipt is duly negotiated, a warehouseman's lien is
353 limited to charges in an amount or at a rate specified in the
354 warehouse receipt or if no charges are so specified, to a
355 reasonable charge for storage of the specific goods covered by the
356 receipt subsequent to the date of the receipt.

357 (2) A warehouse may also reserve a security interest against
358 the bailor for a maximum amount specified on the receipt for
359 charges other than those specified in subsection (1), such as for
360 money advanced and interest. The security interest is governed by
361 the chapter on Secured Transactions (Chapter 9).

362 (3) A warehouse's lien for charges and expenses under
363 subsection (1) or a security interest under subsection (2) is also

364 effective against any person that so entrusted the bailor with
365 possession of the goods that a pledge of them by the bailor to a
366 good faith purchaser for value would have been valid. However,
367 the lien or security interest is not effective against a person
368 that before issuance of a document of title had a legal interest
369 or a perfected security interest in the goods that did not:

370 (a) Deliver or entrust the goods or any document of
371 title covering the goods to the bailor or the bailor's nominee
372 with:

373 (i) Actual or apparent authority to ship, store or
374 sell;

375 (ii) Power to obtain delivery under Section
376 75-7-403; or

377 (iii) Power of disposition under Sections
378 75-2-403, 75-2A-304(2), 75-2A-305(2), 75-9-320 or 75-9-321(3) or
379 other statute or rule of law; or

380 (b) Acquiesce in the procurement by the bailor or its
381 nominee of any document.

382 (4) A warehouse's lien on household goods for charges and
383 expenses in relation to the goods under subsection (1) is also
384 effective against all persons if the depositor was the legal
385 possessor of the goods at the time of deposit. In this
386 subsection, "household goods" means furniture, furnishings or
387 personal effects used by the depositor in a dwelling.

388 (5) A warehouse loses its lien on any goods that it
389 voluntarily delivers or * * * unjustifiably refuses to deliver.

390 **SECTION 15.** Section 75-7-210, Mississippi Code of 1972, is
391 amended as follows:

392 75-7-210. (1) Except as provided in subsection (2), a
393 warehouse's lien may be enforced by public or private sale of the
394 goods, in bulk or in packages, at any time or place and on any
395 terms that are commercially reasonable, after notifying all
396 persons known to claim an interest in the goods. The notification

397 must include a statement of the amount due, the nature of the
398 proposed sale, and the time and place of any public sale. The
399 fact that a better price could have been obtained by a sale at a
400 different time or in a different method from that selected by the
401 warehouse is not of itself sufficient to establish that the sale
402 was not made in a commercially reasonable manner. * * * The
403 warehouse sells in a commercially reasonable manner if the
404 warehouse sells the goods in the usual manner in any recognized
405 market therefor, * * * sells at the price current in that market
406 at the time of the sale, or * * * otherwise sells in conformity
407 with commercially reasonable practices among dealers in the type
408 of goods sold * * *. A sale of more goods than apparently
409 necessary to be offered to insure satisfaction of the obligation
410 is not commercially reasonable except in cases covered by the
411 preceding sentence.

412 (2) A warehouse may enforce its lien on goods, other than
413 goods stored by a merchant in the course of its business, only if
414 the following requirements are satisfied:

415 (a) All persons known to claim an interest in the goods
416 must be notified.

417 * * *

418 (b) The notification must include an itemized statement
419 of the claim, a description of the goods subject to the lien, a
420 demand for payment within a specified time not less than ten (10)
421 days after receipt of the notification, and a conspicuous
422 statement that unless the claim is paid within that time the goods
423 will be advertised for sale and sold by auction at a specified
424 time and place.

425 (c) The sale must conform to the terms of the
426 notification.

427 (d) The sale must be held at the nearest suitable place
428 to that where the goods are held or stored.

429 (e) After the expiration of the time given in the
430 notification, an advertisement of the sale must be published once
431 a week for two (2) weeks consecutively in a newspaper of general
432 circulation where the sale is to be held. The advertisement must
433 include a description of the goods, the name of the person on
434 whose account they are being held, and the time and place of the
435 sale. The sale must take place at least fifteen (15) days after
436 the first publication. If there is no newspaper of general
437 circulation where the sale is to be held, the advertisement must
438 be posted at least ten (10) days before the sale in not less than
439 six (6) conspicuous places in the neighborhood of the proposed
440 sale.

441 (3) Before any sale pursuant to this section, any person
442 claiming a right in the goods may pay the amount necessary to
443 satisfy the lien and the reasonable expenses incurred in complying
444 with this section. In that event, the goods may not be sold, but
445 must be retained by the warehouse subject to the terms of the
446 receipt and this chapter.

447 * * *

448 (4) A warehouse may satisfy its lien from the proceeds of
449 any sale pursuant to this section but must hold the balance, if
450 any, for delivery on demand to any person to which the warehouse
451 would have been bound to deliver the goods.

452 (5) The rights provided by this section are in addition to
453 all other rights allowed by law to a creditor against his debtor.

454 (6) If a lien is on goods stored by a merchant in the course
455 of his business, the lien may be enforced in accordance with
456 either subsection (1) or (2).

457 (7) A warehouse is liable for damages caused by failure to
458 comply with the requirements for sale under this section and, in
459 case of willful violation, is liable for conversion.

460 **SECTION 16.** Section 75-7-301, Mississippi Code of 1972, is
461 amended as follows:

462 75-7-301. (1) A consignee of a nonnegotiable bill of lading
463 which has given value in good faith, or a holder to which a
464 negotiable bill has been duly negotiated, relying * * * upon the
465 description * * * of the goods or upon the date * * * shown in the
466 bill, may recover from the issuer damages caused by the misdating
467 of the bill or the nonreceipt or misdescription of the goods,
468 except to the extent that the bill indicates that the issuer does
469 not know whether any part or all of the goods in fact were
470 received or conform to the description, such as in a case in which
471 the description is in terms of marks or labels or kind, quantity,
472 or condition or the receipt or description is qualified by
473 "contents or condition of contents of packages unknown," "said to
474 contain," "shipper's weight, load and count" or words of similar
475 import, if such indication be true.

476 (2) If goods are loaded by an issuer of a bill of lading:
477 (a) the issuer shall count the packages of goods if shipped in
478 packages and ascertain the kind and quantity if shipped in bulk;
479 and (b) words such as "shipper's weight, load and count" or * * *
480 words of similar import indicating that the description was made
481 by the shipper are ineffective except as to goods concealed in
482 packages.

483 (3) If bulk goods are loaded by a shipper that makes
484 available to the issuer adequate facilities for weighing those
485 goods, the issuer shall ascertain the kind and quantity within a
486 reasonable time after receiving the shipper's request in a record
487 to do so. In that case "shipper's weight" or other words of
488 similar import are ineffective.

489 (4) The issuer of a bill of lading, by inserting in the bill
490 the words "shipper's weight, load and count" or other words of
491 similar import may indicate that the goods were loaded by the
492 shipper, and, if that statement is true, the issuer is not * * *
493 liable for damages caused by the improper loading. However, their

494 omission of such words does not imply liability caused by
495 improperly loading.

496 (5) A shipper guarantees to the issuer the accuracy at the
497 time of shipment of the description, marks, labels, number, kind,
498 quantity, condition and weight, as furnished by the shipper; and
499 the shipper shall indemnify the issuer against damage caused by
500 inaccuracies in those particulars. The right of * * * indemnity
501 does not limit the issuer's responsibility or liability under the
502 contract of carriage to any person other than the shipper.

503 **SECTION 17.** Section 75-7-302, Mississippi Code of 1972, is
504 amended as follows:

505 75-7-302. (1) The issuer of a through bill of lading, or
506 other document of title embodying an undertaking to be performed
507 in part by a person acting as its agents or by a performing
508 carrier, is liable to any person entitled to recover on the bill
509 or other document for any breach by the other person or the
510 performing carrier of its obligation under the bill or other
511 document. However, to the extent that the bill or other document
512 covers an undertaking to be performed overseas or in territory not
513 contiguous to the continental United States or an undertaking
514 including matters other than transportation, this liability for
515 breach by the other person or the performing carrier may be varied
516 by agreement of the parties.

517 (2) If goods covered by a through bill of lading or other
518 document of title embodying an undertaking to be performed in part
519 by a person other than the issuer are received by that person, the
520 person is subject, with respect to his own performance while the
521 goods are in his possession, to the obligation of the issuer. The
522 person's obligation is discharged by delivery of the goods to
523 another such person pursuant to the bill or other document and
524 does not include liability for breach by any other person or by
525 the issuer.

526 (3) The issuer of a through bill of lading or other document
527 of title described in subsection (1) is entitled to recover from
528 the performing carrier, or * * * other person in possession of the
529 goods when the breach of the obligation under the bill or other
530 document occurred: (a) the amount it may be required to pay to
531 any person entitled to recover on the bill or other document for
532 the breach, as may be evidenced by any receipt, judgment, or
533 transcript of judgment; and (b) the amount of any expense
534 reasonably incurred by the issuer in defending any action
535 commenced by any person entitled to recover on the bill or other
536 document for the breach.

537 **SECTION 18.** Section 75-7-303, Mississippi Code of 1972, is
538 amended as follows:

539 75-7-303. (1) Unless the bill of lading otherwise provides,
540 a carrier may deliver the goods to a person or destination other
541 than that stated in the bill or may otherwise dispose of the goods
542 without liability for misdelivery, on instructions from:

543 (a) The holder of a negotiable bill; or

544 (b) The consignor on a nonnegotiable bill, even if the
545 consignee has given contrary instruction * * *; or

546 (c) The consignee on a nonnegotiable bill in the
547 absence of contrary instructions from the consignor, if the goods
548 have arrived at the billed destination or if the consignee is in
549 possession of the tangible bill or in control of the electronic
550 bill; or

551 (d) The consignee on a nonnegotiable bill, if the
552 consignee is entitled as against the consignor to dispose of the
553 goods.

554 (2) Unless * * * instructions described in subsection (1)
555 are included on a negotiable bill of lading, a person to which the
556 bill is duly negotiated may hold the bailee according to the
557 original terms.

558 **SECTION 19.** Section 75-7-304, Mississippi Code of 1972, is
559 amended as follows:

560 75-7-304. (1) Except as customary in international
561 transportation, a tangible bill of lading must not be issued in a
562 set of parts. The issuer is liable for damages caused by
563 violation of this subsection.

564 (2) If a bill of lading is lawfully issued in a set of
565 parts, each of which contains an identification code and is
566 expressed to be valid only if the goods have not been delivered
567 against any other part, the whole of the parts constitute one (1)
568 bill.

569 (3) If a tangible negotiable bill of lading is lawfully
570 issued in a set of parts and different parts are negotiated to
571 different persons, the title of the holder to which the first due
572 negotiation is made prevails as to both the document of title and
573 the goods even if any later holder may have received the goods
574 from the carrier in good faith and discharged the carrier's
575 obligation by surrender of its part.

576 (4) A person that negotiates or transfers a single part of a
577 tangible bill of lading issued in a set is liable to holders of
578 that part as if it were the whole set.

579 (5) The bailee shall deliver in accordance with Part 4 * * *
580 against the first presented part of a tangible bill of lading
581 lawfully issued in a set. * * * Delivery in this manner
582 discharges the bailee's obligation on the whole bill.

583 **SECTION 20.** Section 75-7-305, Mississippi Code of 1972, is
584 amended as follows:

585 75-7-305. (1) Instead of issuing a bill of lading to the
586 consignor at the place of shipment, a carrier, at the request of
587 the consignor, may procure the bill to be issued at destination or
588 at any other place designated in the request.

589 (2) Upon request of any person entitled as against a carrier
590 to control the goods while in transit and on surrender of

591 possession or control of any outstanding bill of lading or other
592 receipt covering the goods, the issuer, subject to Section
593 75-7-105, may procure a substitute bill to be issued at any place
594 designated in the request.

595 **SECTION 21.** Section 75-7-307, Mississippi Code of 1972, is
596 amended as follows:

597 75-7-307. (1) A carrier has a lien on the goods covered by
598 a bill of lading or on the proceeds thereof in its possession for
599 charges after the date of the carrier's receipt of the goods for
600 storage or transportation, including demurrage and terminal
601 charges, and for expenses necessary for preservation of the goods
602 incident to their transportation or reasonably incurred in their
603 sale pursuant to law. However, against a purchaser for value of a
604 negotiable bill of lading, a carrier's lien is limited to charges
605 stated in the bill or the applicable tariffs, or if no charges are
606 stated, a reasonable charge.

607 (2) A lien for charges and expenses under subsection (1) on
608 goods that the carrier was required by law to receive for
609 transportation is effective against the consignor or any person
610 entitled to the goods unless the carrier had notice that the
611 consignor lacked authority to subject the goods to such charges
612 and expenses. Any other lien under subsection (1) is effective
613 against the consignor and any person that permitted the bailor to
614 have control or possession of the goods unless the carrier had
615 notice that the bailor lacked * * * authority.

616 (3) A carrier loses its lien on any goods which it
617 voluntarily delivers or * * * unjustifiably refuses to deliver.

618 **SECTION 22.** Section 75-7-308, Mississippi Code of 1972, is
619 amended as follows:

620 75-7-308. (1) A carrier's lien on goods may be enforced by
621 public or private sale of the goods, in bulk or in packages, at
622 any time or place and on any terms that are commercially
623 reasonable, after notifying all persons known to claim an interest

624 in the goods. The notification must include a statement of the
625 amount due, the nature of the proposed sale and the time and place
626 of any public sale. The fact that a better price could have been
627 obtained by a sale at a different time or in a different method
628 from that selected by the carrier is not of itself sufficient to
629 establish that the sale was not made in a commercially reasonable
630 manner. * * * The carrier * * * sells the goods in a commercially
631 reasonable manner * * * if the carrier sells the goods in the
632 usual manner in any recognized market therefor, sells at the price
633 current in that market at the time of the sale, or * * * otherwise
634 sells in conformity with commercially reasonable practices among
635 dealers in the type of goods sold * * *. A sale of more goods
636 than apparently necessary to be offered to ensure satisfaction of
637 the obligation is not commercially reasonable, except in cases
638 covered by the preceding sentence.

639 (2) Before any sale pursuant to this section, any person
640 claiming a right in the goods may pay the amount necessary to
641 satisfy the lien and the reasonable expenses incurred in complying
642 with this section. In that event, the goods may not be sold, but
643 must be retained by the carrier, subject to the terms of the bill
644 and this chapter.

645 (3) A carrier may buy at any public sale pursuant to this
646 section.

647 (4) A purchaser in good faith of goods sold to enforce a
648 carrier's lien takes the goods free of any rights of persons
649 against which the lien was valid, despite the carrier's on
650 compliance * * * with * * * this section.

651 (5) A carrier may satisfy its lien from the proceeds of any
652 sale pursuant to this section but shall hold the balance, if any,
653 for delivery on demand to any person to which the carrier would
654 have been bound to deliver the goods.

655 (6) The rights provided by this section are in addition to
656 all other rights allowed by law to a creditor against a debtor.

657 (7) A carrier's lien may be enforced in accordance with
658 either subsection (1) or the procedure set forth in subsection (2)
659 of Section 7-210 [§75-7-210(1) or (2)].

660 (8) A carrier is liable for damages caused by failure to
661 comply with the requirements for sale under this section and, in
662 case of willful violation, is liable for conversion.

663 **SECTION 23.** Section 75-7-309, Mississippi Code of 1972, is
664 amended as follows:

665 75-7-309. (1) A carrier that issues a bill of lading,
666 whether negotiable or nonnegotiable, shall exercise the degree of
667 care in relation to the goods which a reasonably careful person
668 would exercise under similar circumstances. This subsection does
669 not affect any statute, regulation or rule of law that imposes
670 liability upon a common carrier for damages not caused by its
671 negligence.

672 (2) Damages may be limited by a term in the bill of lading
673 or in a transportation agreement that the carrier's liability may
674 not exceed a value stated in the bill or transportation agreement
675 if the carrier's rates are dependent upon value and the
676 consignor * * * is afforded an opportunity to declare a higher
677 value and the consignor is * * * advised of the opportunity.
678 However, such a limitation is not effective with respect to the
679 carrier's liability for conversion to its own use.

680 (3) Reasonable provisions as to the time and manner of
681 presenting claims and commencing actions based on the shipment may
682 be included in a bill of lading or a transportation agreement.

683 **SECTION 24.** Section 75-7-401, Mississippi Code of 1972, is
684 amended as follows:

685 75-7-401. The obligations imposed by this chapter on an
686 issuer apply to a document of title even if:

687 (a) The document does not comply with the requirements
688 of this chapter or of any other statute, rule or regulation
689 regarding its issuance, form or content; or

690 (b) The issuer * * * violated laws regulating the
691 conduct of his business; or

692 (c) The goods covered by the document were owned by the
693 bailee when the document was issued; or

694 (d) The person issuing the document is not a warehouse
695 but the document purports to be a warehouse receipt.

696 **SECTION 25.** Section 75-7-402, Mississippi Code of 1972, is
697 amended as follows:

698 75-7-402. * * * A duplicate or any other document of title
699 purporting to cover goods already represented by an outstanding
700 document of the same issuer does not confer any right in the
701 goods, except as provided in the case of tangible bills of lading
702 in a set of parts, overissue of documents for fungible goods,
703 substitutes for lost, stolen or destroyed documents or substitute
704 documents issued pursuant to Section 75-7-105. * * * The issuer
705 is liable for damages caused by its overissue or failure to
706 identify a duplicate document * * * by a conspicuous notation on
707 its face.

708 **SECTION 26.** Section 75-7-403, Mississippi Code of 1972, is
709 amended as follows:

710 75-7-403. (1) A bailee shall deliver the goods to a person
711 entitled under the document of title if the person complies with
712 subsections (2) and (3), unless and to the extent that the bailee
713 establishes any of the following:

714 (a) Delivery of the goods to a person whose receipt was
715 rightful as against the claimant;

716 (b) Damage to or delay, loss or destruction of the
717 goods for which the bailee is not liable;

718 (c) Previous sale or other disposition of the goods in
719 lawful enforcement of a lien or on warehouse's lawful termination
720 of storage;

721 (d) The exercise by a seller of its right to stop
722 delivery pursuant to Section 75-2-705 or by a lessor of its right

723 to stop delivery pursuant to Section 75-2A-525; the provisions of
724 the chapter on Sales (Section 2-705) [§75-2-705];

725 (e) A diversion, reconsignment or other disposition
726 pursuant to Section 75-7-303;

727 (f) Release, satisfaction or any other * * * personal
728 defense against the claimant;

729 (g) Any other lawful excuse.

730 (2) A person claiming goods covered by a document of title
731 shall satisfy the bailee's lien if the bailee so requests or if
732 the bailee is prohibited by law from delivering the goods until
733 the charges are paid.

734 (3) Unless the person claiming the goods is a person against
735 which the document of title does not confer a right under Section
736 7-503(1) [§75-7-503(1)]: (a) the person claiming under a document
737 shall surrender possession or control of any outstanding
738 negotiable document covering the goods for cancellation or
739 indication of partial deliveries; and (b) the bailee shall cancel
740 the document or conspicuously indicate in the document the partial
741 delivery or the bailee is liable to any person to whom the
742 document is duly negotiated.

743 * * *

744 **SECTION 27.** Section 75-7-404, Mississippi Code of 1972, is
745 amended as follows:

746 75-7-404. A bailee that in good faith * * * has received
747 goods and delivered or otherwise disposed of the goods according
748 to the terms of the document of title or pursuant to this chapter
749 is not liable for the goods even if: (a) the person from which
750 the bailee received the goods did not have authority to procure
751 the document or to dispose of the goods; or (b) the person to
752 which the bailee delivered the goods did not have authority to
753 receive the goods.

754 **SECTION 28.** Section 75-7-501, Mississippi Code of 1972, is
755 amended as follows:

756 75-7-501. (1) The following rules apply to a negotiable
757 tangible document of title:

758 (a) If the document's original terms run to the order
759 of a named person, the document is negotiated by the named
760 person's indorsement and delivery. After the named person's
761 indorsement in blank or to bearer, any person may negotiate it by
762 delivery alone.

763 (b) If the document's original terms runs to bearer, it
764 is negotiated by delivery alone * * *.

765 (c) If the document's original terms run to the order
766 of a named person and it is delivered to the named person, the
767 effect is the same as if the document had been negotiated.

768 (d) Negotiation of the document * * * after it has been
769 indorsed to a named person requires indorsement by the named
770 person and delivery.

771 (e) A * * * document * * * duly negotiated if it is
772 negotiated in the manner stated in this subsection to a holder
773 that purchases it in good faith, without notice of any defense
774 against or claim to it on the part of any person, and for value,
775 unless it is established that the negotiation is not in the
776 regular course of business or financing or involves receiving the
777 document in settlement or payment of a money obligation.

778 (2) The following rules apply to a negotiable electronic
779 document of title:

780 (a) If the document's original terms run to the order
781 of a named person or to bearer, the document is negotiated by
782 delivery of the document to another person. Indorsement by the
783 named person is not required to negotiate the document.

784 (b) If the document's original terms run to the order
785 of a named person and the named person has control of the
786 document, the effect is the same as if the document had been
787 negotiated.

788 (c) A document is duly negotiated if it is negotiated
789 in the manner stated in this subsection to a holder that purchases
790 it in good faith, without notice of any defense against or claim
791 to it on the part of any person, and for value, unless it is
792 established that the negotiation is not in the regular course of
793 business or financing or involves taking delivery of the document
794 in settlement or payment of a monetary obligation.

795 (3) Indorsement of a nonnegotiable document of title neither
796 makes it negotiable nor adds to the transferee's rights.

797 (4) The naming in a negotiable bill of lading of a person to
798 be notified of the arrival of the goods does not limit the
799 negotiability of the bill or constitute notice to a purchaser of
800 the bill of any interest of that person in the goods.

801 **SECTION 29.** Section 75-7-502, Mississippi Code of 1972, is
802 amended as follows:

803 75-7-502. (1) Subject to Sections 75-7-205 and 75-7-503, a
804 holder to which a negotiable document of title has been duly
805 negotiated acquires thereby:

806 (a) Title to the document;

807 (b) Title to the goods;

808 (c) All rights accruing under the law of agency or
809 estoppel, including rights to goods delivered to the bailee after
810 the document was issued; and

811 (d) The direct obligation of the issuer to hold or
812 deliver the goods according to the terms of the document free of
813 any defense or claim by the issuer except those arising under the
814 terms of the document or under this chapter, but in the case of a
815 delivery order the bailee's obligation accrues only upon the
816 bailee's acceptance of the delivery order and the obligation
817 acquired by the holder is that the issuer and any indorser will
818 procure the acceptance of the bailee.

819 (2) Subject to Section 75-7-503, title and rights * * *
820 acquired by due negotiation are not defeated by any stoppage of

821 the goods represented by the document of title or by surrender
822 of * * * goods by the bailee and are not impaired even if: (a)
823 the due negotiation or any prior negotiation constituted a breach
824 of duty; or (b) any person has been deprived of possession of a
825 negotiable tangible document or control of a negotiable electronic
826 document by misrepresentation, fraud, accident, mistake, duress,
827 loss, theft or conversion; or (c) a previous sale or other
828 transfer of the goods or document has been made to a third person.

829 **SECTION 30.** Section 75-7-503, Mississippi Code of 1972, is
830 amended as follows:

831 75-7-503. (1) A document of title confers no right in goods
832 against a person that before issuance of the document had a legal
833 interest or a perfected security interest in the goods and that
834 did not:

835 (a) Deliver or entrust the goods or any document of
836 title covering the goods to the bailor or the bailor's nominee
837 with: (i) actual or apparent authority to ship, store or sell
838 (ii) power to obtain delivery under * * * Section 75-7-403 or
839 (iii) power of disposition under * * * Sections 75-2-403,
840 75-2A-304(2), 75-2A-305(2), or 75-9-321(3) and 75-9-320 or other
841 statute or rule of law; or

842 (b) Acquiesce in the procurement by the bailor or its
843 nominee of any document * * *.

844 (2) Title to goods based upon an unaccepted delivery order
845 is subject to the rights of any person to which a negotiable
846 warehouse receipt or bill of lading covering the goods has been
847 duly negotiated. That title may be defeated under Section
848 75-7-504 to the same extent as the rights of the issuer or a
849 transferee from the issuer.

850 (3) Title to goods based upon a bill of lading issued to a
851 freight forwarder is subject to the rights of any person to whom a
852 bill issued by the freight forwarder is duly negotiated. However,
853 delivery by the carrier in accordance with Part 4 * * * pursuant

854 to its own bill of lading discharges the carrier's obligation to
855 deliver.

856 **SECTION 31.** Section 75-7-504, Mississippi Code of 1972, is
857 amended as follows:

858 75-7-504. (1) A transferee of a document, whether
859 negotiable or nonnegotiable, to which the document has been
860 delivered but not duly negotiated, acquires the title and rights
861 that the transferor had or had actual authority to convey.

862 (2) In the case of nonnegotiable document of title, until
863 but not after the bailee receives notice of the transfer, the
864 rights of the transferee may be defeated:

865 (a) By those creditors of the transferor which could
866 treat the sale as void under Section 75-2-402 or 75-2A-308; or

867 (b) By a buyer from the transferor in ordinary course
868 of business if the bailee has delivered the goods to the buyer or
869 received notification of the buyer's rights; or

870 (c) By a lessee from the transferor in the ordinary
871 course of business if the bailee has delivered the goods to the
872 lessee or received notification of the lessee's rights; or

873 (d) As against the bailee, by good faith dealings of
874 the bailee with the transferor.

875 (3) A diversion or other change of shipping instructions by
876 the consignor in a nonnegotiable bill of lading which causes the
877 bailee not to deliver to the consignee defeats the consignee's
878 title to the goods if they have been delivered to a buyer in
879 ordinary course of business or a lessee in ordinary course of
880 business and, in any event, defeats the consignee's rights against
881 the bailee.

882 (4) Delivery pursuant to a nonnegotiable document of title
883 may be stopped by a seller under Section * * * 75-2-705 or a
884 lessor under Section 75-2A-526, subject to the requirements of due
885 notification in those sections. A bailee that honors the seller's

886 or lessor's instructions is entitled to be indemnified by the
887 seller or lessor against any resulting loss or expense.

888 **SECTION 32.** Section 75-7-505, Mississippi Code of 1972, is
889 amended as follows:

890 75-7-505. The indorsement of a tangible document of title
891 issued by a bailee does not make the indorser liable for any
892 default by the bailee or by previous indorsers.

893 **SECTION 33.** Section 75-7-506, Mississippi Code of 1972, is
894 amended as follows:

895 75-7-506. The transferee of a negotiable tangible document
896 of title has a specifically enforceable right to have its
897 transferor supply any necessary indorsement, but the transfer
898 becomes a negotiation only as of the time the indorsement is
899 supplied.

900 **SECTION 34.** Section 75-7-507, Mississippi Code of 1972, is
901 amended as follows:

902 75-7-507. If a person negotiates or delivers a document of
903 title for value, otherwise than as a mere intermediary under * * *
904 Section 75-7-508, unless otherwise agreed, the transferor, in
905 addition to any warranty made in selling or leasing the goods,
906 warrants to its immediate purchaser that:

- 907 (a) That the document is genuine; and
908 (b) The transferor does not have knowledge of any fact
909 that would impair the document's validity or worth; and
910 (c) The negotiation or delivery is rightful and fully
911 effective with respect to the title to the document and the goods
912 it represents.

913 **SECTION 35.** Section 75-7-508, Mississippi Code of 1972, is
914 amended as follows:

915 75-7-508. A collecting bank or other intermediary known to
916 be entrusted with documents of title on behalf of another or with
917 collection of a draft or other claim against delivery of documents
918 warrants by the delivery of the documents only its own good faith

919 and authority even if the collecting bank or other intermediary
920 has purchased or made advances against the claim or draft to be
921 collected.

922 **SECTION 36.** Section 75-7-509, Mississippi Code of 1972, is
923 amended as follows:

924 75-7-509. * * * Whether a document of title is adequate to
925 fulfill the obligations of a contract for sale, a contract for
926 lease, or the conditions of a letter of credit is determined by
927 Article 2, 2A or 5.

928 **SECTION 37.** Section 75-7-601, Mississippi Code of 1972, is
929 amended as follows:

930 75-7-601. (1) If a document of title is lost, stolen or
931 destroyed, a court may order delivery of the goods or issuance of
932 a substitute document and the bailee may without liability to any
933 person comply with the order. If the document was negotiable, a
934 court may not order delivery of the goods or issuance of a
935 substitute document without the claimant's posting unless it finds
936 that any person that may suffer loss as a result of nonsurrender
937 of possession or control of the document is adequately protected
938 against the loss. If the document was nonnegotiable, the court
939 may require security. The court may also * * * order payment of
940 the bailee's reasonable costs and attorney's fees in any action
941 under this subsection.

942 (2) A bailee that, without court order, delivers goods to a
943 person claiming under a missing negotiable document of title is
944 liable to any person injured thereby. If the delivery is not in
945 good faith, the bailee is liable for conversion. Delivery in good
946 faith is not conversion * * * if the claimant posts security with
947 the bailee in an amount at least double the value of the goods at
948 the time of posting to indemnify any person injured by the
949 delivery which files a notice of claim within one (1) year after
950 the delivery.

951 **SECTION 38.** Section 75-7-602, Mississippi Code of 1972, is
952 amended as follows:

953 75-7-602. Unless a document of title was originally issued
954 upon delivery of the goods by a person that did not have power to
955 dispose of them, a lien does not attach by virtue of any judicial
956 process to goods in the possession of a bailee for which a
957 negotiable document of title is outstanding unless possession or
958 control of the document is first surrendered to the bailee or the
959 document's negotiation is enjoined. The bailee may not be
960 compelled to deliver the goods pursuant to process until
961 possession or control of the document is surrendered to the bailee
962 or to the court. A purchaser of the document for value without
963 notice of the process or injunction takes free of the lien imposed
964 by judicial process.

965 **SECTION 39.** Section 75-7-603, Mississippi Code of 1972, is
966 amended as follows:

967 75-7-603. If more than one (1) person claims title or
968 possession of the goods, the bailee is excused from delivery until
969 the bailee has had a reasonable time to ascertain the validity of
970 the adverse claims or to commence an action for interpleader. The
971 bailee may assert an interpleader either in defending an action
972 for nondelivery of the goods or by original action * * *.

973 **SECTION 40.** Section 75-1-201, Mississippi Code of 1972, is
974 amended as follows:

975 75-1-201. Subject to additional definitions contained in the
976 subsequent chapters of this code which are applicable to specific
977 chapters or parts thereof, and unless the context otherwise
978 requires, in this code:

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

982 (2) "Aggrieved party" means a party entitled to resort
983 to a remedy.

984 (3) "Agreement" means the bargain of the parties in
985 fact as found in their language or by implication from other
986 circumstances including course of dealing or usage of trade or
987 course of performance as provided in this code (Sections 75-1-205
988 and 75-2-208). Whether an agreement has legal consequences is
989 determined by the provisions of this code, if applicable;
990 otherwise by the law of contracts (Section 75-1-103). (Compare
991 "Contract.")

992 (4) "Bank" means any person engaged in the business of
993 banking.

994 (5) "Bearer" means a person in control of a negotiable
995 electronic document of title or a person in possession of an
996 instrument, a negotiable tangible document of title, or a
997 certificated security payable to bearer or indorsed in blank.

998 (6) "Bill of lading" means a document of title
999 evidencing the receipt of goods for shipment issued by a person
1000 engaged in the business of directly or indirectly transporting or
1001 forwarding goods. The term does not include a warehouse receipt.

1002 (7) "Branch" includes a separately incorporated foreign
1003 branch of a bank.

1004 (8) "Burden of establishing" a fact means the burden of
1005 persuading the triers of fact that the existence of the fact is
1006 more probable than its nonexistence.

1007 (9) "Buyer in ordinary course of business" means a
1008 person that buys goods in good faith, without knowledge that the
1009 sale violates the rights of another person in the goods, and in
1010 the ordinary course from a person, other than a pawnbroker, in the
1011 business of selling goods of that kind. A person buys goods in
1012 the ordinary course if the sale to the person comports with the
1013 usual or customary practices in the kind of business in which the
1014 seller is engaged or with the seller's own usual or customary
1015 practices. A person that sells oil, gas, or other minerals at the
1016 wellhead or minehead is a person in the business of selling goods

1017 of that kind. A buyer in the ordinary course of business may buy
1018 for cash, by exchange of other property, or on secured or
1019 unsecured credit, and may acquire goods or documents of title
1020 under a preexisting contract for sale. Only a buyer that takes
1021 possession of the goods or has a right to recover the goods from
1022 the seller under Article 2 may be a buyer in ordinary course of
1023 business. A person that acquires goods in a transfer in bulk or
1024 as security for or in total or partial satisfaction of a money
1025 debt is not a buyer in ordinary course of business.

1026 (10) "Conspicuous," with reference to a term, means so
1027 written, displayed, or presented that a reasonable person against
1028 which it is to operate ought to have noticed it. Whether a term
1029 is "conspicuous" or not is a decision for the court. Conspicuous
1030 terms include the following:

1031 (a) A heading in capitals equal to or greater in
1032 size than the surrounding text, or in contrasting type, font, or
1033 color to the surrounding text of the same or lessor size; and

1034 (b) Language in the body of a record or display in
1035 larger type than the surrounding text, or in contrasting type,
1036 font, or color to the surrounding text of the same size, or set
1037 off from surrounding text of the same size by symbols or other
1038 marks that call attention to the language.

1039 (11) "Contract" means the total legal obligation which
1040 results from the parties' agreement as affected by this code and
1041 any other applicable rules of law. (Compare "Agreement.")

1042 (12) "Creditor" includes a general creditor, a secured
1043 creditor, a lien creditor and any representative of creditors,
1044 including an assignee for the benefit of creditors, a trustee in
1045 bankruptcy, a receiver in equity and an executor or administrator
1046 of an insolvent debtor's or assignor's estate.

1047 (13) "Defendant" includes a person in the position of
1048 defendant in a cross-action or counterclaim.

1049 (14) "Delivery" with respect to an electronic document
1050 of title means voluntary transfer of control and with respect to
1051 instruments, documents of title, chattel paper, or certificated
1052 securities means voluntary transfer of possession.

1053 (15) "Document of title" means a record (a) that in the
1054 regular course of business or financing is treated as adequately
1055 evidencing that the person in possession or control of the record
1056 it is entitled to receive, control, hold and dispose of the record
1057 and the goods the record covers and (b) that purports to be issued
1058 by or addressed to a bailee and to cover goods in the bailee's
1059 possession which are either identified or are fungible portions of
1060 an identified mass. The term includes a bill of lading, transport
1061 document, dock warrant, dock receipt, warehouse receipt and order
1062 for delivery of goods. An electronic document of title means a
1063 document of title evidenced by a record consisting of information
1064 stored in an electronic medium. A tangible document of title
1065 means a document of title evidenced by a record consisting of
1066 information that is inscribed on a tangible medium.

1067 (16) "Fault" means wrongful act, omission or breach.

1068 (17) "Fungible" with respect to goods or securities
1069 means goods or securities of which any unit is, by nature or usage
1070 of trade, the equivalent of any other like unit. Goods which are
1071 not fungible shall be deemed fungible for the purposes of this
1072 code to the extent that under a particular agreement or document
1073 unlike units are treated as equivalents.

1074 (18) "Genuine" means free of forgery or counterfeiting.

1075 (19) "Good faith" means honesty in fact in the conduct
1076 or transaction concerned.

1077 (20) "Holder" means:

1078 (a) The person in possession of a negotiable
1079 instrument that is payable either to bearer or to an identified
1080 person that is the person in possession;

1081 (b) The person in possession of a negotiable
1082 tangible document of title if the goods are deliverable either to
1083 bearer or to the order of the person in possession; or

1084 (c) The person in control of a negotiable
1085 electronic document of title.

1086 (21) To "honor" is to pay or to accept and pay, or
1087 where a credit so engages to purchase or discount a draft
1088 complying with the terms of the credit.

1089 (22) "Insolvency proceedings" includes any assignment
1090 for the benefit of creditors or other proceedings intended to
1091 liquidate or rehabilitate the estate of the person involved.

1092 (23) A person is "insolvent" who either has ceased to
1093 pay his debts in the ordinary course of business or cannot pay his
1094 debts as they become due or is insolvent within the meaning of the
1095 federal bankruptcy law.

1096 (24) "Money" means a medium of exchange authorized or
1097 adopted by a domestic or foreign government and includes a
1098 monetary unit of account established by an intergovernmental
1099 organization or by agreement between two (2) or more nations.

1100 (25) Subject to subsection (27), a person has "notice"
1101 of a fact if the person:

1102 (a) * * * Has actual knowledge of it; or

1103 (b) * * * Has received a notice or notification of
1104 it; or

1105 (c) From all the facts and circumstances known to
1106 the person at the time in question he has reason to know that it
1107 exists.

1108 A person "knows" or has "knowledge" of a fact when the person
1109 has actual knowledge of it. "Discover" or "learn" or a word or
1110 phrase of similar import refers to knowledge rather than to reason
1111 to know. The time and circumstances under which a notice or
1112 notification may cease to be effective are not determined by this
1113 code.

1114 (26) A person "notifies" or "gives" a notice or
1115 notification to another person by taking such steps as may be
1116 reasonably required to inform the other person in ordinary course
1117 whether or not the other person actually comes to know of it.
1118 Subject to subsection (27), a person "receives" a notice or
1119 notification when:

1120 (a) It comes to that person's attention; or

1121 (b) It is duly delivered in a form reasonable
1122 under the circumstances at the place of business through which the
1123 contract was made or at any other place held out by that person as
1124 the place for receipt of such communications.

1125 (27) Notice, knowledge or a notice or notification
1126 received by an organization is effective for a particular
1127 transaction from the time when it is brought to the attention of
1128 the individual conducting that transaction, and in any event from
1129 the time when it would have been brought to his attention if the
1130 organization had exercised due diligence. An organization
1131 exercises due diligence if it maintains reasonable routines for
1132 communicating significant information to the person conducting the
1133 transaction and there is reasonable compliance with the routines.
1134 Due diligence does not require an individual acting for the
1135 organization to communicate information unless such communication
1136 is part of the individual's regular duties or the individual has
1137 reason to know of the transaction and that the transaction would
1138 be materially affected by the information.

1139 (28) "Organization" includes a corporation, government
1140 or governmental subdivision or agency, business trust, estate,
1141 trust, partnership or association, two (2) or more persons having
1142 a joint or common interest, or any other legal or commercial
1143 entity.

1144 (29) "Party," as distinct from "third party," means a
1145 person who has engaged in a transaction or made an agreement
1146 within this code.

1147 (30) "Person" includes an individual or an organization
1148 (see Section 75-1-102).

1149 (31) "Presumption" or "presumed" means that the trier
1150 of fact must find the existence of the fact presumed unless and
1151 until evidence is introduced which would support a finding of its
1152 nonexistence.

1153 (32) "Purchase" includes taking by sale, discount,
1154 negotiation, mortgage, pledge, lien, security interest, issue or
1155 reissue, gift or any other voluntary transaction creating an
1156 interest in property.

1157 (33) "Purchaser" means a person who takes by purchase.

1158 (34) "Remedy" means any remedial right to which an
1159 aggrieved party is entitled with or without resort to a tribunal.

1160 (35) "Representative" includes an agent, an officer of
1161 a corporation or association, and a trustee, executor or
1162 administrator of an estate, or any other person empowered to act
1163 for another.

1164 (36) "Rights" includes remedies.

1165 (37) "Security interest" means an interest in personal
1166 property or fixtures which secures payment or performance of an
1167 obligation.

1168 (a) The term also includes any interest of a
1169 consignor and a buyer of accounts, chattel paper, a payment
1170 intangible, or a promissory note in a transaction that is subject
1171 to Article 9. The special property interest of a buyer of goods
1172 on identification of such goods to a contract for sale under
1173 Section 75-2-401 is not a "security interest," but a buyer may
1174 also acquire "security interest," by complying with Article 9.
1175 Except as otherwise provided in Section 75-2-505, the right of a
1176 seller or lessor of goods under Article 2 or 2A to retain or
1177 acquire possession of the goods is not a "security interest," but
1178 a seller or lessor may also acquire a "security interest" by
1179 complying with Article 9. The retention or reservation of title

1180 by a seller of goods notwithstanding shipment or delivery to the
1181 buyer (Section 75-2-401) is limited in effect to a reservation of
1182 a security interest.

1183 (b) Whether a transaction creates a lease or
1184 security interest is determined by the facts of each case;
1185 however, a transaction creates a security interest if the
1186 consideration the lessee is to pay the lessor for the right to
1187 possession and use of the goods is an obligation for the term of
1188 the lease not subject to termination by the lessee, and

1189 (i) The original term of the lease is equal
1190 to or greater than the remaining economic life of the goods,

1191 (ii) The lessee is bound to renew the lease
1192 for the remaining economic life of the goods or is bound to become
1193 the owner of the goods,

1194 (iii) The lessee has an option to renew the
1195 lease for the remaining economic life of the goods for no
1196 additional consideration or nominal additional consideration upon
1197 compliance with the lease agreement, or

1198 (iv) The lessee has an option to become the
1199 owner of the goods for no additional consideration or nominal
1200 additional consideration upon compliance with the lease agreement.

1201 (c) A transaction does not create a security
1202 interest merely because it provides that:

1203 (i) The present value of the consideration
1204 the lessee is obligated to pay the lessor for the right to
1205 possession and use of the goods is substantially equal to or is
1206 greater than the fair market value of the goods at the time the
1207 lease is entered into,

1208 (ii) The lessee assumes risk of loss of the
1209 goods, or agrees to pay taxes, insurance, filing, recording, or
1210 registration fees, or service or maintenance costs with respect to
1211 the goods,

1212 (iii) The lessee has an option to renew the
1213 lease or to become the owner of the goods,

1214 (iv) The lessee has an option to renew the
1215 lease for a fixed rent that is equal to or greater than the
1216 reasonably predictable fair market rent for the use of the goods
1217 for the term of the renewal at the time the option is to be
1218 performed, or

1219 (v) The lessee has an option to become the
1220 owner of the goods for a fixed price that is equal to or greater
1221 than the reasonably predictable fair market value of the goods at
1222 the time the option is to be performed.

1223 (d) For purposes of this subsection (37):

1224 (i) Additional consideration is not nominal
1225 if:

1226 1. When the option to renew the lease is
1227 granted to the lessee the rent is stated to be the fair market
1228 rent for the use of the goods for the term of the renewal
1229 determined at the time the option is to be performed, or

1230 2. When the option to become the owner
1231 of the goods is granted to the lessee the price is stated to be
1232 the fair market value of the goods determined at the time the
1233 option is to be performed. Additional consideration is nominal if
1234 it is less than the lessee's reasonably predictable cost of
1235 performing under the lease agreement if the option is not
1236 exercised;

1237 (ii) "Reasonably predictable" and "remaining
1238 economic life of the goods" are to be determined with reference to
1239 the fact and circumstances at the time the transaction is entered
1240 into; and

1241 (iii) "Present value" means the amount as of
1242 a date certain of one or more sums payable in the future,
1243 discounted to the date certain. The discount is determined by the
1244 interest rate specified by the parties if the rate is not

1245 manifestly unreasonable at the time the transaction is entered
1246 into; otherwise, the discount is determined by a commercially
1247 reasonable rate that takes into account the facts and
1248 circumstances of each case at the time the transaction was entered
1249 into.

1250 (38) "Send" in connection with any writing or notice
1251 means: (a) to deposit in the mail or deliver for transmission by
1252 any other usual means of communication with postage or cost of
1253 transmission provided for and properly addressed and in the case
1254 of an instrument to an address specified thereon or otherwise
1255 agreed, or if there be none, to an address specified thereon or
1256 otherwise agreed, or if there be none to any address reasonable
1257 under the circumstances; or (b) in any other way to cause to be
1258 received any record or notice within the time * * * it would have
1259 arrived if properly sent * * *.

1260 (39) "Signed" includes any symbol executed or adopted
1261 by a party with present intention to authenticate a writing.

1262 (40) "Surety" includes guarantor.

1263 (41) "Telegram" includes a message transmitted by
1264 radio, teletype, cable, any mechanical method of transmission, or
1265 the like.

1266 (42) "Term" means that portion of an agreement which
1267 relates to a particular matter.

1268 (43) "Unauthorized" signature means one made without
1269 actual, implied or apparent authority and includes a forgery.

1270 (44) "Value," except as otherwise provided with respect
1271 to negotiable instruments and bank collections (Sections 75-3-303,
1272 75-4-208 and 75-4-209), a person gives "value" for rights if he
1273 acquires them:

1274 (a) In return for a binding commitment to extend
1275 credit or for the extension of immediately available credit
1276 whether or not drawn upon and whether or not a charge-back is
1277 provided for in the event of difficulties in collection; or

1278 (b) As security for or in total or partial
1279 satisfaction of a preexisting claim; or

1280 (c) By accepting delivery pursuant to a
1281 preexisting contract for purchase; or

1282 (d) Generally, in return for any consideration
1283 sufficient to support a simple contract.

1284 (45) "Warehouse receipt" means a document of title
1285 issued by a person engaged in the business of storing goods for
1286 hire.

1287 (46) "Written" or "writing" includes printing,
1288 typewriting, or any other intentional reduction to tangible form.

1289 **SECTION 41.** Section 75-2-103, Mississippi Code of 1972, is
1290 amended as follows:

1291 75-2-103. (1) In this chapter unless the context otherwise
1292 requires:

1293 (a) "Buyer" means a person who buys or contracts to buy
1294 goods.

1295 (b) "Good faith" in the case of a merchant means
1296 honesty in fact and the observance of reasonable commercial
1297 standards of fair dealing in the trade.

1298 (c) "Receipt" of goods means taking physical possession
1299 of them.

1300 (d) "Seller" means a person who sells or contracts to
1301 sell goods.

1302 (2) Other definitions applying to this chapter or to
1303 specified parts thereof, and the sections in which they appear
1304 are:

1305	"Acceptance"	Section 75-2-606.
1306	"Banker's credit"	Section 75-2-325.
1307	"Between merchants"	Section 75-2-104.
1308	"Cancellation"	Section 75-2-106(4).
1309	"Commercial unit"	Section 75-2-105.
1310	"Confirmed credit"	Section 75-2-325.

1311	"Conforming to contract"	Section 75-2-106.
1312	"Contract for sale"	Section 75-2-106.
1313	"Cover"	Section 75-2-712.
1314	"Entrusting"	Section 75-2-403.
1315	"Financing agency"	Section 75-2-104.
1316	"Future goods"	Section 75-2-105.
1317	"Goods"	Section 75-2-105.
1318	"Identification"	Section 75-2-501.
1319	"Installment contract"	Section 75-2-612.
1320	"Letter of Credit"	Section 75-2-325.
1321	"Lot"	Section 75-2-105.
1322	"Merchant"	Section 75-2-104.
1323	"Overseas"	Section 75-2-323.
1324	"Person in position of seller"	Section 75-2-707.
1325	"Present sale"	Section 75-2-106.
1326	"Sale"	Section 75-2-106.
1327	"Sale on approval"	Section 75-2-326.
1328	"Sale or return"	Section 75-2-326.
1329	"Termination"	Section 75-2-106.

1330 (3) Control" as provided in Section 57-7-106 and the
1331 following definitions in other chapters apply to this chapter:

1332	"Check"	Section 75-3-104.
1333	"Consignee"	Section 75-7-102.
1334	"Consignor"	Section 75-7-102.
1335	"Consumer goods"	Section 75-9-102.
1336	"Dishonor"	Section 75-3-502.
1337	"Draft"	Section 75-3-104.

1338 (4) In addition Chapter 1 contains general definitions and
1339 principles of construction and interpretation applicable
1340 throughout this chapter.

1341 **SECTION 42.** Section 75-2-104, Mississippi Code of 1972, is
1342 amended as follows:

1343 75-2-104. (1) "Merchant" means a person who deals in goods
1344 of the kind or otherwise by his occupation holds himself out as
1345 having knowledge or skill peculiar to the practices or goods
1346 involved in the transaction or to whom such knowledge or skill may
1347 be attributed by his employment of an agent or broker or other
1348 intermediary who by his occupation holds himself out as having
1349 such knowledge or skill.

1350 (2) "Financing agency" means a bank, finance company or
1351 other person who in the ordinary course of business makes advances
1352 against goods or documents of title or who by arrangement with
1353 either the seller or the buyer intervenes in ordinary course to
1354 make or collect payment due or claimed under the contract for
1355 sale, as by purchasing or paying the seller's draft or making
1356 advances against it or by merely taking it for collection whether
1357 or not documents of title accompany or are associated with the
1358 draft. "Financing agency" includes also a bank or other person
1359 who similarly intervenes between persons who are in the position
1360 of seller and buyer in respect to the goods (Section 2-707)
1361 [Section 75-2-707].

1362 (3) "Between merchants" means in any transaction with
1363 respect to which both parties are chargeable with the knowledge or
1364 skill of merchants.

1365 **SECTION 43.** Section 75-2-310, Mississippi Code of 1972, is
1366 amended as follows:

1367 75-2-310. Unless otherwise agreed:

1368 (a) Payment is due at the time and place at which the
1369 buyer is to receive the goods even though the place of shipment is
1370 the place of delivery; and

1371 (b) If the seller is authorized to send the goods he
1372 may ship them under reservation, and may tender the documents of
1373 title, but the buyer may inspect the goods after their arrival
1374 before payment is due unless such inspection is inconsistent with
1375 the terms of the contract (Section 2-513) [Section 75-2-513]; and

1376 (c) If delivery is authorized and made by way of
1377 documents of title otherwise than by subsection (b) then payment
1378 is due regardless of where the goods are to be received (i) at the
1379 time and place at which the buyer is to receive delivery of the
1380 tangible documents or (ii) at the time the buyer is to receive
1381 delivery of the electronic documents and at a seller's place of
1382 business or if none, the sellers residence; and

1383 (d) Where the seller is required or authorized to ship
1384 the goods on credit the credit period runs from the time of
1385 shipment but postdating the invoice or delaying its dispatch will
1386 correspondingly delay the starting of the credit period.

1387 **SECTION 44.** Section 75-2-323, Mississippi Code of 1972, is
1388 amended as follows:

1389 75-2-323. (1) Where the contract contemplates overseas
1390 shipment and contains a term CIF or C&F or FOB vessel, the seller
1391 unless otherwise agreed must obtain a negotiable bill of lading
1392 stating that the goods have been loaded on board or, in the case
1393 of a term CIF or C&F, received for shipment.

1394 (2) Where in a case within subsection (1) a tangible bill of
1395 lading has been issued in a set of parts, unless otherwise agreed
1396 if the documents are not to be sent from abroad the buyer may
1397 demand tender of the full set; otherwise only one (1) part of the
1398 bill of lading need be tendered. Even if the agreement expressly
1399 requires a full set:

1400 (a) Due tender of a single part is acceptable within
1401 the provisions of this chapter on cure of improper delivery
1402 (subsection (1) of Section 2-508) [Section 75-2-508]; and

1403 (b) Even though the full set is demanded, if the
1404 documents are sent from abroad the person tendering an incomplete
1405 set may nevertheless require payment upon furnishing an indemnity
1406 which the buyer in good faith deems adequate.

1407 (3) A shipment by water or by air or a contract
1408 contemplating such shipment is "overseas" insofar as by usage of

1409 trade or agreement it is subject to the commercial, financing or
1410 shipping practices characteristic of international deep water
1411 commerce.

1412 **SECTION 45.** Section 75-2-401, Mississippi Code of 1972, is
1413 amended as follows:

1414 75-2-401. Each provision of this chapter with regard to the
1415 rights, obligations and remedies of the seller, the buyer,
1416 purchasers or other third parties applies irrespective of title to
1417 the goods except where the provision refers to such title.

1418 Insofar as situations are not covered by the other provisions of
1419 this chapter and matters concerning title become material the
1420 following rules apply:

1421 (1) Title to goods cannot pass under a contract for
1422 sale prior to their identification to the contract (Section 2-501)
1423 [Section 75-2-501], and unless otherwise explicitly agreed the
1424 buyer acquires by their identification a special property as
1425 limited by this code. Any retention or reservation by the seller
1426 of the title (property) in goods shipped or delivered to the buyer
1427 is limited in effect to a reservation of a security interest.
1428 Subject to these provisions and to the provisions of the chapter
1429 on Secured Transactions (Chapter 9), title to goods passes from
1430 the seller to the buyer in any manner and on any conditions
1431 explicitly agreed on by the parties.

1432 (2) Unless otherwise explicitly agreed title passes to
1433 the buyer at the time and place at which the seller completes his
1434 performance with reference to the physical delivery of the goods,
1435 despite any reservation of a security interest and even though a
1436 document of title is to be delivered at a different time or place;
1437 and in particular and despite any reservation of a security
1438 interest by the bill of lading:

1439 (a) If the contract requires or authorizes the
1440 seller to send the goods to the buyer but does not require him to

1441 deliver them at destination, title passes to the buyer at the time
1442 and place of shipment; but

1443 (b) If the contract requires delivery at
1444 destination, title passes on tender there.

1445 (3) Unless otherwise explicitly agreed where delivery
1446 is to be made without moving the goods:

1447 (a) If the seller is to deliver a tangible
1448 document of title, title passes at the time, when and the place
1449 where he delivers such documents and if the seller is to deliver
1450 an electronic document of title, title passes when the seller
1451 delivers the document; or

1452 (b) If the goods are at the time of contracting
1453 already identified and no documents of title are to be delivered,
1454 title passes at the time and place of contracting.

1455 (4) A rejection or other refusal by the buyer to
1456 receive or retain the goods, whether or not justified, or a
1457 justified revocation of acceptance revests title to the goods in
1458 the seller. Such reversioning occurs by operation of law and is not
1459 a "sale."

1460 **SECTION 46.** Section 75-2-503, Mississippi Code of 1972, is
1461 amended as follows:

1462 75-2-503. (1) Tender of delivery requires that the seller
1463 put and hold conforming goods at the buyer's disposition and give
1464 the buyer any notification reasonably necessary to enable him to
1465 take delivery. The manner, time and place for tender are
1466 determined by the agreement and this chapter, and in particular:

1467 (a) Tender must be at a reasonable hour, and if it is
1468 of goods they must be kept available for the period reasonably
1469 necessary to enable the buyer to take possession; but

1470 (b) Unless otherwise agreed the buyer must furnish
1471 facilities reasonably suited to the receipt of the goods.

1472 (2) Where the case is within the Section 75-2-504 respecting
1473 shipment tender requires that * * * seller comply with its
1474 provisions.

1475 (3) Where the seller is required to deliver at a particular
1476 destination tender requires that he comply with subsection (1) and
1477 also in any appropriate case tender documents as described in
1478 subsections (4) and (5) of this section.

1479 (4) Where goods are in the possession of a bailee and are to
1480 be delivered without being moved:

1481 (a) Tender requires that the seller either tender a
1482 negotiable document of title covering such goods or procure
1483 acknowledgment by the bailee of the buyer's right to possession of
1484 the goods; but

1485 (b) Tender to the buyer of a nonnegotiable document of
1486 title or of a record directing the bailee to deliver is sufficient
1487 tender unless the buyer seasonably objects, and except as
1488 otherwise provided in Article 9 receipt by the bailee of
1489 notification of the buyer's rights fixes those rights as against
1490 the bailee and all third persons; but risk of loss of the goods
1491 and of any failure by the bailee to honor the nonnegotiable
1492 document of title or to obey the direction remains on the seller
1493 until the buyer has had a reasonable time to present the document
1494 or direction, and a refusal by the bailee to honor the document or
1495 to obey the direction defeats the tender.

1496 (5) Where the contract requires the seller to deliver
1497 documents:

1498 (a) He must tender all such documents in correct form,
1499 except as provided in this chapter with respect to bills of lading
1500 in a set (subsection (2) of Section 2-323) [Section 75-2-323(2)];
1501 and

1502 (b) Tender through customary banking channels is
1503 sufficient and dishonor of a draft accompanying or associated with
1504 the documents constitutes nonacceptance or rejection.

1505 **SECTION 47.** Section 75-2-505, Mississippi Code of 1972, is
1506 amended as follows:

1507 75-2-505. (1) Where the seller has identified goods to the
1508 contract by or before shipment:

1509 (a) His procurement of a negotiable bill of lading to
1510 his own order or otherwise reserves in him a security interest in
1511 the goods. His procurement of the bill to the order of a
1512 financing agency or of the buyer indicates in addition only the
1513 seller's expectation of transferring that interest to the person
1514 named.

1515 (b) A nonnegotiable bill of lading to himself or his
1516 nominee reserves possession of the goods as security but except in
1517 a case of conditional delivery (subsection (2) of Section 2-507)
1518 [Section 75-2-507(2)] a nonnegotiable bill of lading naming the
1519 buyer as consignee reserves no security interest even though the
1520 seller retains possession or control of the bill of lading.

1521 (2) When shipment by the seller with reservation of a
1522 security interest is in violation of the contract for sale it
1523 constitutes an improper contract for transportation within Section
1524 75-2-504 but impairs neither the rights given to the buyer by
1525 shipment and identification of the goods to the contract nor the
1526 seller's powers as a holder of a negotiable document of title.

1527 **SECTION 48.** Section 75-2-506, Mississippi Code of 1972, is
1528 amended as follows:

1529 75-2-506. (1) A financing agency by paying or purchasing
1530 for value a draft which relates to a shipment of goods acquires to
1531 the extent of the payment or purchase and in addition to its own
1532 rights under the draft and any document of title securing it any
1533 rights of the shipper in the goods including the right to stop
1534 delivery and the shipper's right to have the draft honored by the
1535 buyer.

1536 (2) The right to reimbursement of a financing agency which
1537 has in good faith honored or purchased the draft under commitment

1538 to or authority from the buyer is not impaired by subsequent
1539 discovery of defects with reference to any relevant document which
1540 was apparently regular * * *.

1541 **SECTION 49.** Section 75-2-509, Mississippi Code of 1972, is
1542 amended as follows:

1543 75-2-509. (1) Where the contract requires or authorizes the
1544 seller to ship the goods by carrier:

1545 (a) If it does not require him to deliver them at a
1546 particular destination, the risk of loss passes to the buyer when
1547 the goods are duly delivered to the carrier even though the
1548 shipment is under reservation (Section 2-505) [Section 75-2-505];
1549 but

1550 (b) If it does require him to deliver them at a
1551 particular destination and the goods are there duly tendered while
1552 in the possession of the carrier, the risk of loss passes to the
1553 buyer when the goods are there duly so tendered as to enable the
1554 buyer to take delivery.

1555 (2) Where the goods are held by a bailee to be delivered
1556 without being moved, the risk of loss passes to the buyer:

1557 (a) On his receipt of possession or control of a
1558 negotiable document of title covering the goods; or

1559 (b) On acknowledgment by the bailee of the buyer's
1560 right to possession of the goods; or

1561 (c) After his receipt of possession or control of a
1562 nonnegotiable document of title or other * * * direction to
1563 deliver in a record, as provided in subsection (4)(b) of Section
1564 2-503 [Section 75-2-503(4)(b)].

1565 (3) In any case not within subsection (1) or (2), the risk
1566 of loss passes to the buyer on his receipt of the goods if the
1567 seller is a merchant; otherwise the risk passes to the buyer on
1568 tender of delivery.

1569 (4) The provisions of this section are subject to contrary
1570 agreement of the parties and to the provisions of this chapter on

1571 sale on approval (Section 2-327) [Section 75-2-327] and on effect
1572 of breach on risk of loss (Section 2-510) [Section 75-2-510].

1573 **SECTION 50.** Section 75-2-605, Mississippi Code of 1972, is
1574 amended as follows:

1575 75-2-605. (1) The buyer's failure to state in connection
1576 with rejection a particular defect which is ascertainable by
1577 reasonable inspection precludes him from relying on the unstated
1578 defect to justify rejection or to establish breach:

1579 (a) Where the seller could have cured it if stated
1580 seasonably; or

1581 (b) Between merchants when the seller has after
1582 rejection made a request in writing for a full and final written
1583 statement of all defects on which the buyer proposes to rely.

1584 (2) Payment against documents made without reservation of
1585 rights precludes recovery of the payment for defects apparent in
1586 the documents.

1587 **SECTION 51.** Section 75-2-705, Mississippi Code of 1972, is
1588 amended as follows:

1589 75-2-705. (1) The seller may stop delivery of goods in the
1590 possession of a carrier or other bailee when he discovers the
1591 buyer to be insolvent (Section 2-702) [Section 75-2-702] and may
1592 stop delivery of carload, truckload, planeload or larger shipments
1593 of express or freight when the buyer repudiates or fails to make a
1594 payment due before delivery or if for any other reason the seller
1595 has a right to withhold or reclaim the goods.

1596 (2) As against such buyer the seller may stop delivery
1597 until:

1598 (a) Receipt of the goods by the buyer; or

1599 (b) Acknowledgments to the buyer by any bailee of the
1600 goods except a carrier that the bailee holds the goods for the
1601 buyer; or

1602 (c) Such acknowledgment to the buyer by a carrier by
1603 reshipment or as a warehouse; or

1604 (d) Negotiation to the buyer of any negotiable document
1605 of title covering the goods.

1606 (3) (a) To stop delivery the seller must so notify as to
1607 enable the bailee by reasonable diligence to prevent delivery of
1608 the goods.

1609 (b) After such notification the bailee must hold and
1610 deliver the goods according to the directions of the seller but
1611 the seller is liable to the bailee for any ensuing charges or
1612 damages.

1613 (c) If a negotiable document of title has been issued
1614 for goods the bailee is not obliged to obey a notification to stop
1615 until surrender of the possession or control of the document.

1616 (d) A carrier who has issued a nonnegotiable bill of
1617 lading is not obliged to obey a notification to stop received from
1618 a person other than the consignor.

1619 **SECTION 52.** Section 75-2A-103, Mississippi Code of 1972, is
1620 amended as follows:

1621 75-2A-103. (1) In this chapter unless the context otherwise
1622 requires:

1623 (a) "Buyer in ordinary course of business" means a
1624 person who in good faith and without knowledge that the sale to
1625 him is in violation of the ownership rights or security interest
1626 or leasehold interest of a third party in the goods, buys in
1627 ordinary course from a person in the business of selling goods of
1628 that kind but does not include a pawnbroker. "Buying" may be for
1629 cash or by exchange of other property or on secured or unsecured
1630 credit and includes acquiring goods or documents of title under a
1631 preexisting contract for sale but does not include a transfer in
1632 bulk or as security for or in total or partial satisfaction of a
1633 money debt.

1634 (b) "Cancellation" occurs when either party puts an end
1635 to the lease contract for default by the other party.

1636 (c) "Commercial unit" means such a unit of goods as by
1637 commercial usage is a single whole for purposes of lease and
1638 division of which materially impairs its character or value on the
1639 market or in use. A commercial unit may be a single article, as a
1640 machine, or a set of articles, as a suite of furniture or a line
1641 of machinery, or a quantity, as a gross or carload, or any other
1642 unit treated in use or in the relevant market as a single whole.

1643 (d) "Conforming" goods or performance under a lease
1644 contract means goods or performance that are in accordance with
1645 the obligations under the lease contract.

1646 (e) "Consumer lease" means a lease that a lessor
1647 regularly engaged in the business of leasing or selling makes to a
1648 lessee who is an individual and who takes under the lease
1649 primarily for a personal, family or household purpose, if the
1650 total payments to be made under the lease contract, excluding
1651 payments for options to renew or buy, do not exceed Twenty-five
1652 Thousand Dollars (\$25,000.00).

1653 (f) "Fault" means wrongful act, omission, breach or
1654 default.

1655 (g) "Finance lease" means a lease with respect to
1656 which:

1657 (i) The lessor does not select, manufacture, or
1658 supply the goods;

1659 (ii) The lessor acquires the goods or the right to
1660 possession and use of the goods in connection with the lease; and

1661 (iii) One (1) of the following occurs:

1662 (A) The lessee receives a copy of the
1663 contract by which the lessor acquired the goods or the right to
1664 possession and use of the goods before signing the lease contract;

1665 (B) The lessee's approval of the contract by
1666 which the lessor acquired the goods or the right to possession and
1667 use of the goods is a condition to effectiveness of the lease
1668 contract;

1669 (C) The lessee, before signing the lease
1670 contract, receives an accurate and complete statement designating
1671 the promises and warranties, and any disclaimers of warranties,
1672 limitations or modifications of remedies, or liquidated damages,
1673 including those of a third party, such as the manufacturer of the
1674 goods, provided to the lessor by the person supplying the goods in
1675 connection with or as part of the contract by which the lessor
1676 acquired the goods or the right to possession and use of the
1677 goods; or

1678 (D) If the lease is not a consumer lease, the
1679 lessor, before the lessee signs the lease contract, informs the
1680 lessee in writing (a) of the identity of the person supplying the
1681 goods to the lessor, unless the lessee has selected that person
1682 and directed the lessor to acquire the goods or the right to
1683 possession and use of the goods from that person, (b) that the
1684 lessee is entitled under this chapter to the promises and
1685 warranties, including those of any third party, provided to the
1686 lessor by the person supplying the goods in connection with or as
1687 part of the contract by which the lessor acquired the goods or the
1688 right to possession and use of the goods, and (c) that the lessee
1689 may communicate with the person supplying the goods to the lessor
1690 and receive an accurate and complete statement of those promises
1691 and warranties, including any disclaimers and limitations of them
1692 or of remedies.

1693 (h) "Goods" means all things that are movable at the
1694 time of identification to the lease contract, or are fixtures
1695 (Section 75-2A-309), but the term does not include money,
1696 documents, instruments, accounts, chattel paper, general
1697 intangibles or minerals or the like, including oil and gas, before
1698 extraction. The term also includes the unborn young of animals.

1699 (i) "Installment lease contract" means a lease contract
1700 that authorizes or requires the delivery of goods in separate lots

1701 to be separately accepted, even though the lease contract contains
1702 a clause "each delivery is a separate lease" or its equivalent.

1703 (j) "Lease" means a transfer of the right to possession
1704 and use of goods for a term in return for consideration, but a
1705 sale, including a sale on approval or a sale or return, or
1706 retention or creation of a security interest is not a lease.
1707 Unless the context clearly indicates otherwise, the term includes
1708 a sublease.

1709 (k) "Lease agreement" means the bargain, with respect
1710 to the lease, of the lessor and the lessee in fact as found in
1711 their language or by implication from other circumstances
1712 including course of dealing or usage of trade or course of
1713 performance as provided in this chapter. Unless the context
1714 clearly indicates otherwise, the term includes a sublease
1715 agreement.

1716 (l) "Lease contract" means the total legal obligation
1717 that results from the lease agreement as affected by this chapter
1718 and any other applicable rules of law. Unless the context clearly
1719 indicates otherwise, the term includes a sublease contract.

1720 (m) "Leasehold interest" means the interest of the
1721 lessor or the lessee under a lease contract.

1722 (n) "Lessee" means a person who acquires the right to
1723 possession and use of goods under a lease. Unless the context
1724 clearly indicates otherwise, the term includes a sublease.

1725 (o) "Lessee in ordinary course of business" means a
1726 person who in good faith and without knowledge that the lease to
1727 him is in violation of the ownership rights or security interest
1728 or leasehold interest of a third party in the goods leases in
1729 ordinary course from a person in the business of selling or
1730 leasing goods of that kind but does not include a pawnbroker.
1731 "Leasing" may be for cash or by exchange of other property or on
1732 secured or unsecured credit and includes acquiring goods or
1733 documents of title under a preexisting lease contract but does not

1734 include a transfer in bulk or as security for or in total or
1735 partial satisfaction of a money debt.

1736 (p) "Lessor" means a person who transfers the right to
1737 possession and use of goods under a lease. Unless the context
1738 clearly indicates otherwise, the term includes a sublessor.

1739 (q) "Lessor's residual interest" means the lessor's
1740 interest in the goods after expiration, termination or
1741 cancellation of the lease contract.

1742 (r) "Lien" means a charge against or interest in goods
1743 to secure payment of a debt or performance of an obligation, but
1744 the term does not include a security interest.

1745 (s) "Lot" means a parcel or a single article that is
1746 the subject matter of a separate lease or delivery, whether or not
1747 it is sufficient to perform the lease contract.

1748 (t) "Merchant lessee" means a lessee that is a merchant
1749 with respect to goods of the kind subject to the lease.

1750 (u) "Present value" means the amount as of a date
1751 certain of one or more sums payable in the future, discounted to
1752 the date certain. The discount is determined by the interest rate
1753 specified by the parties if the rate was not manifestly
1754 unreasonable at the time the transaction was entered into;
1755 otherwise, the discount is determined by a commercially reasonable
1756 rate that takes into account the facts and circumstances of each
1757 case at the time the transaction was entered into.

1758 (v) "Purchase" includes taking by sale, lease,
1759 mortgage, security interest, pledge, gift or any other voluntary
1760 transaction creating an interest in goods.

1761 (w) "Sublease" means a lease of goods the right to
1762 possession and use of which was acquired by the lessor as a lessee
1763 under an existing lease.

1764 (x) "Supplier" means a person from whom a lessor buys
1765 or leases goods to be leased under a finance lease.

1766 (y) "Supply contract" means a contract under which a
1767 lessor buys or leases goods to be leased.

1768 (z) "Termination" occurs when either party pursuant to
1769 a power created by agreement or law puts an end to the lease
1770 contract otherwise than for default.

1771 (2) Other definitions applying to this chapter and the
1772 sections in which they appear are:

1773	"Accessions."	Section 75-2A-310(1).
1774	"Construction mortgage."	Section 75-2A-309(1)(d).
1775	"Encumbrance."	Section 75-2A-309(1)(e).
1776	"Fixtures."	Section 75-2A-309(1)(a).
1777	"Fixture filing."	Section 75-2A-309(1)(b).
1778	"Purchase money lease."	Section 75-2A-309(1)(c).

1779 (3) The following definitions in other chapters apply to
1780 this chapter:

1781	"Account"	Section 75-9-102(a)(2).
1782	"Between merchants"	Section 75-2-104(3).
1783	"Buyer"	Section 75-2-103(1)(a).
1784	"Chattel paper"	Section 75-9-102(a)(11).
1785	"Consumer goods"	Section 75-9-102(a)(23).
1786	"Document"	Section 75-9-102(a)(30).
1787	"Entrusting"	Section 75-2-403(3).
1788	"General intangible"	Section 75-9-102(a)(42).
1789	"Good faith"	Section 75-2-103(1)(b).
1790	"Instrument"	Section 75-9-102(a)(47).
1791	"Merchant"	Section 75-2-104(1).
1792	"Mortgage"	Section 75-9-102(a)(55).
1793	"Pursuant to commitment"	Section 75-9-102(a)(68).
1794	"Receipt"	Section 75-2-103(1)(c).
1795	"Sale"	Section 75-2-106(1).
1796	"Sale on approval"	Section 75-2-326.
1797	"Sale or return"	Section 75-2-326.
1798	"Seller"	Section 75-2-103(1)(d).

1799 (4) In addition, Chapter 1 contains general definitions and
1800 principles of construction and interpretation applicable
1801 throughout this chapter.

1802 **SECTION 53.** Section 75-2A-514, Mississippi Code of 1972, is
1803 amended as follows:

1804 75-2A-514. (1) In rejecting goods, a lessee's failure to
1805 state a particular defect that is ascertainable by reasonable
1806 inspection precludes the lessee from relying on the defect to
1807 justify rejection or to establish default:

1808 (a) If, stated seasonably, the lessor or the supplier
1809 could have cured it (Section 75-2A-513); or

1810 (b) Between merchants if the lessor or the supplier
1811 after rejection has made a request in writing for a full and final
1812 written statement of all defects on which the lessee proposes to
1813 rely.

1814 (2) A lessee's failure to reserve rights when paying rent or
1815 other consideration against documents precludes recovery of the
1816 payment for defects apparent in the documents.

1817 **SECTION 54.** Section 75-2A-526, Mississippi Code of 1972, is
1818 amended as follows:

1819 75-2A-526. (1) A lessor may stop delivery of goods in the
1820 possession of a carrier or other bailee if the lessor discovers
1821 the lessee to be insolvent and may stop delivery of carload,
1822 truckload, planeload, or larger shipments of express or freight if
1823 the lessee repudiates or fails to make a payment due before
1824 delivery, whether for rent, security or otherwise under the lease
1825 contract, or for any other reason the lessor has a right to
1826 withhold or take possession of the goods.

1827 (2) In pursuing its remedies under subsection (1), the
1828 lessor may stop delivery until

1829 (a) Receipt of the goods by the lessee;

1830 (b) Acknowledgment to the lessee by any bailee of the
1831 goods, except a carrier, that the bailee hold the goods for the
1832 lessee; or

1833 (c) Such an acknowledgement to the lessee by a carrier
1834 via reshipment or as a warehouse.

1835 (3) (a) To stop delivery, a lessor shall so notify as to
1836 enable the bailee by reasonable diligence to prevent delivery of
1837 the goods.

1838 (b) After notification, the bailee shall hold and
1839 deliver the goods according to the directions of the lessor, but
1840 the lessor is liable to the bailee for any ensuing charges or
1841 damages.

1842 (c) A carrier who has issued a nonnegotiable bill of
1843 lading is not obliged to obey a notification to stop received from
1844 a person other than the consignor.

1845 **SECTION 55.** Section 75-4-104, Mississippi Code of 1972, is
1846 amended as follows:

1847 75-4-104. (a) In this chapter, unless the context otherwise
1848 requires:

1849 (1) "Account" means any deposit or credit account with
1850 a bank, including a demand, time, savings, passbook, share draft,
1851 or like account, other than an account evidenced by a certificate
1852 of deposit;

1853 (2) "Afternoon" means the period of a day between noon
1854 and midnight;

1855 (3) "Banking day" means the part of a day on which a
1856 bank is open to the public for carrying on substantially all of
1857 its banking functions;

1858 (4) "Clearinghouse" means an association of banks or
1859 other payors regularly clearing items;

1860 (5) "Customer" means a person having an account with a
1861 bank or for whom a bank has agreed to collect items, including a
1862 bank that maintains an account at another bank;

1863 (6) "Documentary draft" means a draft to be presented
1864 for acceptance or payment if specified documents, certificated
1865 securities (Section 75-8-102) or instructions for uncertificated
1866 securities (Section 75-8-102), or other certificates, statements,
1867 or the like are to be received by the drawee or other payor before
1868 acceptance or payment of the draft;

1869 (7) "Draft" means a draft as defined in Section
1870 75-3-104 or an item, other than an instrument, that is an order;

1871 (8) "Drawee" means a person ordered in a draft to make
1872 payment;

1873 (9) "Item" means an instrument or a promise or order to
1874 pay money handled by a bank for collection or payment. The term
1875 does not include a payment order governed by Chapter 4A or a
1876 credit or debit card slip;

1877 (10) "Midnight deadline" with respect to a bank is
1878 midnight on its next banking day following the banking day on
1879 which it receives the relevant item or notice or from which the
1880 time for taking action commences to run, whichever is later;

1881 (11) "Settle" means to pay in cash, by clearinghouse
1882 settlement, in a charge or credit or by remittance, or otherwise
1883 as agreed. A settlement may be either provisional or final;

1884 (12) "Suspends payments" with respect to a bank means
1885 that it has been closed by order of the supervisory authorities,
1886 that a public officer has been appointed to take it over, or that
1887 it ceases or refuses to make payments in the ordinary course of
1888 business.

1889 (b) Other definitions applying to this chapter and the
1890 sections in which they appear are:

1891 "Agreement for electronic	
1892 presentment"	Section 75-4-110
1893 "Bank"	Section 75-4-105
1894 "Collecting bank"	Section 75-4-105
1895 "Depositary bank"	Section 75-4-105

1896	"Intermediary bank"	Section 75-4-105
1897	"Payor bank"	Section 75-4-105
1898	"Presenting bank"	Section 75-4-105
1899	"Presentment notice"	Section 75-4-110
1900	(c) <u>"Control" as provided in Section 75-7-106 and the</u>	
1901	following definitions in other chapters apply to this chapter:	
1902	"Acceptance"	Section 75-3-409
1903	"Alteration"	Section 75-3-407
1904	"Cashier's check"	Section 75-3-104
1905	"Certificate of deposit"	Section 75-3-104
1906	"Certified check"	Section 75-3-409
1907	"Check"	Section 75-3-104
1908	"Good faith"	Section 75-3-103
1909	"Holder in due course"	Section 75-3-302
1910	"Instrument"	Section 75-3-104
1911	"Notice of dishonor"	Section 75-3-503
1912	"Order"	Section 75-3-103
1913	"Ordinary care"	Section 75-3-103
1914	"Person entitled to enforce"	Section 75-3-301
1915	"Presentment"	Section 75-3-501
1916	"Promise"	Section 75-3-103
1917	"Prove"	Section 75-3-103
1918	"Teller's check"	Section 75-3-104
1919	"Unauthorized signature"	Section 75-3-403
1920	(d) In addition, Chapter 1 contains general definitions and	
1921	principles of construction and interpretation applicable	
1922	throughout this chapter.	
1923	SECTION 56. Section 75-4-210, Mississippi Code of 1972, is	
1924	amended as follows:	
1925	75-4-210. (a) A collecting bank has a security interest in	
1926	an item and any accompanying documents or the proceeds of either:	

1927 (1) In case of an item deposited in an account, to the
1928 extent to which credit given for the item has been withdrawn or
1929 applied;

1930 (2) In case of an item for which it has given credit
1931 available for withdrawal as of right, to the extent of the credit
1932 given, whether or not the credit is drawn upon or there is a right
1933 of charge-back; or

1934 (3) If it makes an advance on or against the item.

1935 (b) If credit given for several items received at one time
1936 or pursuant to a single agreement is withdrawn or applied in part,
1937 the security interest remains upon all the items, any accompanying
1938 documents or the proceeds of either. For the purpose of this
1939 section, credits first given are first withdrawn.

1940 (c) Receipt by a collecting bank of a final settlement for
1941 an item is a realization on its security interest in the item,
1942 accompanying documents, and proceeds. So long as the bank does
1943 not receive final settlement for the item or give up possession of
1944 the item or possession or control of the accompanying documents
1945 for purposes other than collection, the security interest
1946 continues to that extent and is subject to Chapter 9, but:

1947 (1) No security agreement is necessary to make the
1948 security interest enforceable (Section 75-9-203(b)(3)(A));

1949 (2) No filing is required to perfect the security
1950 interest; and

1951 (3) The security interest has priority over conflicting
1952 perfected security interests in the item, accompanying documents,
1953 or proceeds.

1954 **SECTION 57.** Section 75-8-103, Mississippi Code of 1972, is
1955 amended as follows:

1956 75-8-103. (a) A share or similar equity interest issued by
1957 a corporation, business trust, joint stock company, or similar
1958 entity is a security.

1959 (b) An "investment company security" is a security.
1960 "Investment company security" means a share or similar equity
1961 interest issued by an entity that is registered as an investment
1962 company under the federal investment company laws, an interest in
1963 a unit investment trust that is so registered, or a face-amount
1964 certificate issued by a face-amount certificate company that is so
1965 registered. Investment company security does not include an
1966 insurance policy or endowment policy or annuity contract issued by
1967 an insurance company.

1968 (c) An interest in a partnership or limited liability
1969 company is not a security unless it is dealt in or traded on
1970 securities exchanges or in securities markets, its terms expressly
1971 provide that it is a security governed by this chapter, or it is
1972 an investment company security. However, an interest in a
1973 partnership or limited liability company is a financial asset if
1974 it is held in a securities account.

1975 (d) A writing that is a security certificate is governed by
1976 this chapter and not by Chapter 3, even though it also meets the
1977 requirements of that chapter. However, a negotiable instrument
1978 governed by Chapter 3 is a financial asset if it is held in a
1979 securities account.

1980 (e) An option or similar obligation issued by a clearing
1981 corporation to its participants is not a security, but is a
1982 financial asset.

1983 (f) A commodity contract, as defined in Section
1984 75-9-102(a)(15), is not a security or a financial asset.

1985 (g) A document of title is not a financial asset unless
1986 Section 75-8-102(a)(9)(iii) applies.

1987 **SECTION 58.** Section 75-9-102, Mississippi Code of 1972, is
1988 amended as follows:

1989 75-9-102. (a) In this article:

1990 (1) "Accession" means goods that are physically united
1991 with other goods in such a manner that the identity of the
1992 original goods is not lost.

1993 (2) "Account," except as used in "account for," means a
1994 right to payment of a monetary obligation, whether or not earned
1995 by performance, (i) for property that has been or is to be sold,
1996 leased, licensed, assigned, or otherwise disposed of, (ii) for
1997 services rendered or to be rendered, (iii) for a policy of
1998 insurance issued or to be issued, (iv) for a secondary obligation
1999 incurred or to be incurred, (v) for energy provided or to be
2000 provided, (vi) for the use or hire of a vessel under a charter or
2001 other contract, (vii) arising out of the use of a credit or charge
2002 card or information contained on or for use with the card, or
2003 (viii) as winnings in a lottery or other game of chance operated
2004 or sponsored by a state, governmental unit of a state, or person
2005 licensed or authorized to operate the game by a state or
2006 governmental unit of a state. The term includes
2007 health-care-insurance receivables. The term does not include (i)
2008 rights to payment evidenced by chattel paper or an instrument,
2009 (ii) commercial tort claims, (iii) deposit accounts, (iv)
2010 investment property, (v) letter-of-credit rights or letters of
2011 credit, or (vi) rights to payment for money or funds advanced or
2012 sold, other than rights arising out of the use of a credit or
2013 charge card or information contained on or for use with the card.

2014 (3) "Account debtor" means a person obligated on an
2015 account, chattel paper, or general intangible. The term does not
2016 include persons obligated to pay a negotiable instrument, even if
2017 the instrument constitutes part of chattel paper.

2018 (4) "Accounting," except as used in "accounting for,"
2019 means a record:

2020 (A) Authenticated by a secured party;

2021 (B) Indicating the aggregate unpaid secured
2022 obligations as of a date not more than thirty-five (35) days

2023 earlier or thirty-five (35) days later than the date of the
2024 record; and

2025 (C) Identifying the components of the obligations
2026 in reasonable detail.

2027 (5) "Agricultural lien" means an interest in farm
2028 products:

2029 (A) Which secures payment or performance of an
2030 obligation for:

2031 (i) Goods or services furnished in connection
2032 with a debtor's farming operation; or

2033 (ii) Rent on real property leased by a debtor
2034 in connection with its farming operation;

2035 (B) Which is created by statute in favor of a
2036 person that:

2037 (i) In the ordinary course of its business
2038 furnished goods or services to a debtor in connection with a
2039 debtor's farming operation; or

2040 (ii) Leased real property to a debtor in
2041 connection with the debtor's farming operation; and

2042 (C) Whose effectiveness does not depend on the
2043 person's possession of the personal property.

2044 (6) "As-extracted collateral" means:

2045 (A) Oil, gas, or other minerals that are subject
2046 to a security interest that:

2047 (i) Is created by a debtor having an interest
2048 in the minerals before extraction; and

2049 (ii) Attaches to the minerals as extracted;

2050 or

2051 (B) Accounts arising out of the sale at the
2052 wellhead or minehead of oil, gas, or other minerals in which the
2053 debtor had an interest before extraction.

2054 (7) "Authenticate" means:

2055 (A) To sign; or

2056 (B) To execute or otherwise adopt a symbol, or
2057 encrypt or similarly process a record in whole or in part, with
2058 the present intent of the authenticating person to identify the
2059 person and adopt or accept a record.

2060 (8) "Bank" means an organization that is engaged in the
2061 business of banking. The term includes savings banks, savings and
2062 loan associations, credit unions, and trust companies.

2063 (9) "Cash proceeds" means proceeds that are money,
2064 checks, deposit accounts, or the like.

2065 (10) "Certificate of title" means a certificate of
2066 title with respect to which a statute provides for the security
2067 interest in question to be indicated on the certificate as a
2068 condition or result of the security interest's obtaining priority
2069 over the rights of a lien creditor with respect to the collateral.

2070 (11) "Chattel paper" means a record or records that
2071 evidence both a monetary obligation and a security interest in
2072 specific goods, a security interest in specific goods and software
2073 used in the goods, a security interest in specific goods and
2074 license of software used in the goods, a lease of specific goods,
2075 or a lease of specific goods and license of software used in the
2076 goods. In this paragraph, "monetary obligation" means a monetary
2077 obligation secured by the goods or owed under a lease of the goods
2078 and includes a monetary obligation with respect to software used
2079 in the goods. The term does not include (i) charters or other
2080 contracts involving the use or hire of a vessel or (ii) records
2081 that evidence a right to payment arising out of the use of a
2082 credit or charge card or information contained on or for use with
2083 the card. If a transaction is evidenced by records that include
2084 an instrument or series of instruments, the group of records taken
2085 together constitutes chattel paper.

2086 (12) "Collateral" means the property subject to a
2087 security interest or agricultural lien. The term includes:

2088 (A) Proceeds to which a security interest
2089 attaches;

2090 (B) Accounts, chattel paper, payment intangibles,
2091 and promissory notes that have been sold; and

2092 (C) Goods that are the subject of a consignment.

2093 (13) "Commercial tort claim" means a claim arising in
2094 tort with respect to which:

2095 (A) The claimant is an organization; or

2096 (B) The claimant is an individual and the claim:

2097 (i) Arose in the course of the claimant's
2098 business or profession; and

2099 (ii) Does not include damages arising out of
2100 personal injury to or the death of an individual.

2101 (14) "Commodity account" means an account maintained by
2102 a commodity intermediary in which a commodity contract is carried
2103 for a commodity customer.

2104 (15) "Commodity contract" means a commodity futures
2105 contract, an option on a commodity futures contract, a commodity
2106 option, or another contract if the contract or option is:

2107 (A) Traded on or subject to the rules of a board
2108 of trade that has been designated as a contract market for such a
2109 contract pursuant to federal commodities laws; or

2110 (B) Traded on a foreign commodity board of trade,
2111 exchange, or market, and is carried on the books of a commodity
2112 intermediary for a commodity customer.

2113 (16) "Commodity customer" means a person for which a
2114 commodity intermediary carries a commodity contract on its books.

2115 (17) "Commodity intermediary" means a person that:

2116 (A) Is registered as a futures commission merchant
2117 under federal commodities law; or

2118 (B) In the ordinary course of its business
2119 provides clearance or settlement services for a board of trade

2120 that has been designated as a contract market pursuant to federal
2121 commodities law.

2122 (18) "Communicate" means:

2123 (A) To send a written or other tangible record;

2124 (B) To transmit a record by any means agreed upon
2125 by the persons sending and receiving the record; or

2126 (C) In the case of transmission of a record to or
2127 by a filing office, to transmit a record by any means prescribed
2128 by filing-office rule.

2129 (19) "Consignee" means a merchant to which goods are
2130 delivered in a consignment.

2131 (20) "Consignment" means a transaction, regardless of
2132 its form, in which a person delivers goods to a merchant for the
2133 purpose of sale and:

2134 (A) The merchant:

2135 (i) Deals in goods of that kind under a name
2136 other than the name of the person making delivery;

2137 (ii) Is not an auctioneer; and

2138 (iii) Is not generally known by its creditors
2139 to be substantially engaged in selling the goods of others;

2140 (B) With respect to each delivery, the aggregate
2141 value of the goods is One Thousand Dollars (\$1,000.00) or more at
2142 the time of delivery;

2143 (C) The goods are not consumer goods immediately
2144 before delivery; and

2145 (D) The transaction does not create a security
2146 interest that secures an obligation.

2147 (21) "Consignor" means a person that delivers goods to
2148 a consignee in a consignment.

2149 (22) "Consumer debtor" means a debtor in a consumer
2150 transaction.

2151 (23) "Consumer goods" means goods that are used or
2152 bought for use primarily for personal, family, or household
2153 purposes.

2154 (24) "Consumer-goods transaction" means a consumer
2155 transaction in which:

2156 (A) An individual incurs an obligation primarily
2157 for personal, family, or household purposes; and

2158 (B) A security interest in consumer goods secures
2159 the obligation.

2160 (25) "Consumer obligor" means an obligor who is an
2161 individual and who incurred the obligation as part of a
2162 transaction entered into primarily for personal, family, or
2163 household purposes.

2164 (26) "Consumer transaction" means a transaction in
2165 which (i) an individual incurs an obligation primarily for
2166 personal, family, or household purposes, (ii) a security interest
2167 secures the obligation, and (iii) the collateral is held or
2168 acquired primarily for personal, family, or household purposes.
2169 The term includes consumer-goods transactions.

2170 (27) "Continuation statement" means an amendment of a
2171 financing statement which:

2172 (A) Identifies, by its file number, the initial
2173 financing statement to which it relates; and

2174 (B) Indicates that it is a continuation statement
2175 for, or that it is filed to continue the effectiveness of, the
2176 identified financing statement.

2177 (28) "Debtor" means:

2178 (A) A person having an interest, other than a
2179 security interest or other lien, in the collateral, whether or not
2180 the person is an obligor;

2181 (B) A seller of accounts, chattel paper, payment
2182 intangibles, or promissory notes; or

2183 (C) A consignee.

2184 (29) "Deposit account" means a demand, time, savings,
2185 passbook, or similar account maintained with a bank. The term
2186 does not include investment property or accounts evidenced by an
2187 instrument.

2188 (30) "Document" means a document of title or a receipt
2189 of the type described in Section 75-7-201(2).

2190 (31) "Electronic chattel paper" means chattel paper
2191 evidenced by a record or records consisting of information stored
2192 in an electronic medium.

2193 (32) "Encumbrance" means a right, other than an
2194 ownership interest, in real property. The term includes mortgages
2195 and other liens on real property.

2196 (33) "Equipment" means goods other than inventory, farm
2197 products, or consumer goods.

2198 (34) "Farm products" means goods, other than standing
2199 timber, with respect to which the debtor is engaged in a farming
2200 operation and which are:

2201 (A) Crops grown, growing, or to be grown,
2202 including:

2203 (i) Crops produced on trees, vines, and
2204 bushes; and

2205 (ii) Aquatic goods produced in aquacultural
2206 operations;

2207 (B) Livestock, born or unborn, including aquatic
2208 goods produced in aquacultural operations;

2209 (C) Supplies used or produced in a farming
2210 operation; or

2211 (D) Products of crops or livestock in their
2212 unmanufactured states.

2213 (35) "Farming operation" means raising, cultivating,
2214 propagating, fattening, grazing, or any other farming, livestock
2215 or aquacultural operation.

2216 (36) "File number" means the number assigned to an
2217 initial financing statement pursuant to Section 75-9-519(a).

2218 (37) "Filing office" means an office designated in
2219 Section 75-9-501 as the place to file a financing statement.

2220 (38) "Filing-office rule" means a rule adopted pursuant
2221 to Section 75-9-526.

2222 (39) "Financing statement" means a record or records
2223 composed of an initial financing statement and any filed record
2224 relating to the initial financing statement.

2225 (40) "Fixture filing" means the filing of a financing
2226 statement covering goods that are or are to become fixtures and
2227 satisfying Section 75-9-502(a) and (b). The term includes the
2228 filing of a financing statement covering goods of a transmitting
2229 utility which are or are to become fixtures.

2230 (41) "Fixtures" means goods that have become so related
2231 to particular real property that an interest in them arises under
2232 real property law.

2233 (42) "General intangible" means any personal property,
2234 including things in action, other than accounts, chattel paper,
2235 commercial tort claims, deposit accounts, documents, goods,
2236 instruments, investment property, letter-of-credit rights, letters
2237 of credit, money, and oil, gas, or other minerals before
2238 extraction. The term includes payment intangibles and software.

2239 (43) "Good faith" means honesty in fact and the
2240 observance of reasonable commercial standards of fair dealing.

2241 (44) "Goods" means all things that are movable when a
2242 security interest attaches. The term includes (i) fixtures, (ii)
2243 standing timber that is to be cut and removed under a conveyance
2244 or contract for sale, (iii) the unborn young of animals, (iv)
2245 crops grown, growing, or to be grown, even if the crops are
2246 produced on trees, vines, or bushes, (v) farm-raised fish produced
2247 in fresh water according to the usual and customary techniques of
2248 commercial agriculture, (vi) manufactured homes and (vii) marine

2249 vessels (herein defined as every type of watercraft used, or
2250 capable of being used, as a means of transportation on water)
2251 including both marine vessels under construction, including
2252 engines and all items of equipment installed or to be installed
2253 therein, whether such vessels are being constructed by the
2254 shipbuilder for his own use or for sale (said vessels under
2255 construction being classified as inventory within the meaning of
2256 Section 75-9-102(48)), and marine vessels after completion of
2257 construction so long as such vessels have not become "vessels of
2258 the United States" within the meaning of the Ship Mortgage Act of
2259 1920, 46 USCS, Section 911(4), as same is now written or may
2260 hereafter be amended (said completed vessels being classified as
2261 equipment within the meaning of Section 75-9-102(33)). The term
2262 also includes a computer program embedded in goods and any
2263 supporting information provided in connection with a transaction
2264 relating to the program if (i) the program is associated with the
2265 goods in such a manner that it customarily is considered part of
2266 the goods, or (ii) by becoming the owner of the goods, a person
2267 acquires a right to use the program in connection with the goods.
2268 The term does not include a computer program embedded in goods
2269 that consist solely of the medium in which the program is
2270 embedded. The term also does not include accounts, chattel paper,
2271 commercial tort claims, deposit accounts, documents, general
2272 intangibles, instruments, investment property, letter-of-credit
2273 rights, letters of credit, money, or oil, gas, or other minerals
2274 before extraction.

2275 (45) "Governmental unit" means a subdivision, agency,
2276 department, county, parish, municipality or other unit of the
2277 government of the United States, a state, or a foreign country.
2278 The term includes an organization having a separate corporate
2279 existence if the organization is eligible to issue debt on which
2280 interest is exempt from income taxation under the laws of the
2281 United States.

2282 (46) "Health-care-insurance receivable" means an
2283 interest in or claim under a policy of insurance which is a right
2284 to payment of a monetary obligation for health-care goods or
2285 services provided or to be provided.

2286 (47) "Instrument" means a negotiable instrument or any
2287 other writing that evidences a right to the payment of a monetary
2288 obligation, is not itself a security agreement or lease, and is of
2289 a type that in ordinary course of business is transferred by
2290 delivery with any necessary endorsement or assignment. The term
2291 does not include (i) investment property, (ii) letters of credit,
2292 or (iii) writings that evidence a right to payment arising out of
2293 the use of a credit or charge card or information contained on or
2294 for use with the card.

2295 (48) "Inventory" means goods, other than farm products,
2296 which:

2297 (A) Are leased by a person as lessor;

2298 (B) Are held by a person for sale or lease or to
2299 be furnished under a contract of service;

2300 (C) Are furnished by a person under a contract of
2301 service; or

2302 (D) Consist of raw materials, work in process or
2303 materials used or consumed in a business.

2304 (49) "Investment property" means a security, whether
2305 certificated or uncertificated, security entitlement, securities
2306 account, commodity contract or commodity account.

2307 (50) "Jurisdiction of organization," with respect to a
2308 registered organization, means the jurisdiction under whose law
2309 the organization is organized.

2310 (51) "Letter-of-credit right" means a right to payment
2311 or performance under a letter of credit, whether or not the
2312 beneficiary has demanded or is at the time entitled to demand
2313 payment or performance. The term does not include the right of a

2314 beneficiary to demand payment or performance under a letter of
2315 credit.

2316 (52) "Lien creditor" means:

2317 (A) A creditor that has acquired a lien on the
2318 property involved by attachment, levy, or the like;

2319 (B) An assignee for benefit of creditors from the
2320 time of assignment;

2321 (C) A trustee in bankruptcy from the date of the
2322 filing of the petition; or

2323 (D) A receiver in equity from the time of
2324 appointment.

2325 (53) "Manufactured home" means a structure,
2326 transportable in one or more sections, which, in the traveling
2327 mode, is eight (8) body feet or more in width or forty (40) body
2328 feet or more in length, or, when erected on site, is three hundred
2329 twenty (320) or more square feet, and which is built on a
2330 permanent chassis and designed to be used as a dwelling with or
2331 without a permanent foundation when connected to the required
2332 utilities, and includes the plumbing, heating, air-conditioning,
2333 and electrical systems contained therein. The term includes any
2334 structure that meets all of the requirements of this paragraph
2335 except the size requirements and with respect to which the
2336 manufacturer voluntarily files a certification required by the
2337 United States Secretary of Housing and Urban Development and
2338 complies with the standards established under Title 42 of the
2339 United States Code.

2340 (54) "Manufactured-home transaction" means a secured
2341 transaction:

2342 (A) That creates a purchase-money security
2343 interest in a manufactured home, other than a manufactured home
2344 held as inventory; or

2345 (B) In which a manufactured home, other than a
2346 manufactured home held as inventory, is the primary collateral.

2347 (55) "Mortgage" means a consensual interest in real
2348 property, including fixtures, which secures payment or performance
2349 of an obligation. "Mortgage" shall mean and include a deed of
2350 trust.

2351 (56) "New debtor" means a person that becomes bound as
2352 debtor under Section 75-9-203(d) by a security agreement
2353 previously entered into by another person.

2354 (57) "New value" means (i) money, (ii) money's worth in
2355 property, services, or new credit, or (iii) release by a
2356 transferee of an interest in property previously transferred to
2357 the transferee. The term does not include an obligation
2358 substituted for another obligation.

2359 (58) "Noncash proceeds" means proceeds other than cash
2360 proceeds.

2361 (59) "Obligor" means a person that, with respect to an
2362 obligation secured by a security interest in or an agricultural
2363 lien on the collateral, (i) owes payment or other performance of
2364 the obligation, (ii) has provided property other than the
2365 collateral to secure payment or other performance of the
2366 obligation, or (iii) is otherwise accountable in whole or in part
2367 for payment or other performance of the obligation. The term does
2368 not include issuers or nominated persons under a letter of credit.

2369 (60) "Original debtor," except as used in Section
2370 75-9-310(c), means a person that, as debtor, entered into a
2371 security agreement to which a new debtor has become bound under
2372 Section 75-9-203(d).

2373 (61) "Payment intangible" means a general intangible
2374 under which the account debtor's principal obligation is a
2375 monetary obligation.

2376 (62) "Person related to," with respect to an
2377 individual, means:

2378 (A) The spouse of the individual;

2379 (B) A brother, brother-in-law, sister, or
2380 sister-in-law of the individual;
2381 (C) An ancestor or lineal descendant of the
2382 individual or the individual's spouse; or
2383 (D) Any other relative, by blood or marriage, of
2384 the individual or the individual's spouse who shares the same home
2385 with the individual.

2386 (63) "Person related to," with respect to an
2387 organization, means:

2388 (A) A person directly or indirectly controlling,
2389 controlled by, or under common control with the organization;

2390 (B) An officer or director of, or a person
2391 performing similar functions with respect to, the organization;

2392 (C) An officer or director of, or a person
2393 performing similar functions with respect to, a person described
2394 in subparagraph (A);

2395 (D) The spouse of an individual described in
2396 subparagraph (A), (B), or (C); or

2397 (E) An individual who is related by blood or
2398 marriage to an individual described in subparagraph (A), (B), (C),
2399 or (D) and shares the same home with the individual.

2400 (64) "Proceeds," except as used in Section 75-9-609(b),
2401 means the following property:

2402 (A) Whatever is acquired upon the sale, lease,
2403 license, exchange or other disposition of collateral;

2404 (B) Whatever is collected on, or distributed on
2405 account of, collateral;

2406 (C) Rights arising out of collateral;

2407 (D) To the extent of the value of collateral,
2408 claims arising out of the loss, nonconformity, or interference
2409 with the use of, defects or infringement of rights in, or damage
2410 to, the collateral; or

2411 (E) To the extent of the value of collateral and
2412 to the extent payable to the debtor or the secured party,
2413 insurance payable by reason of the loss or nonconformity of,
2414 defects or infringement of rights in, or damage to, the
2415 collateral.

2416 (64A) "Production-money crops" means crops that secure
2417 a production-money obligation incurred with respect to the
2418 production of those crops.

2419 (64B) "Production-money obligation" means an obligation
2420 of an obligor incurred for new value given to enable the debtor to
2421 produce crops if the value is in fact used for the production of
2422 the crops.

2423 (64C) "Production of crops" includes tilling and
2424 otherwise preparing land for growing, planting, cultivating,
2425 fertilizing, irrigating, harvesting and gathering crops, and
2426 protecting them from damage or disease.

2427 (65) "Promissory note" means an instrument that
2428 evidences a promise to pay a monetary obligation, does not
2429 evidence an order to pay, and does not contain an acknowledgment
2430 by a bank that the bank has received for deposit a sum of money or
2431 funds.

2432 (66) "Proposal" means a record authenticated by a
2433 secured party which includes the terms on which the secured party
2434 is willing to accept collateral in full or partial satisfaction of
2435 the obligation it secures pursuant to Sections 75-9-620, 75-9-621,
2436 and 75-9-622.

2437 (67) "Public-finance transaction" means a secured
2438 transaction in connection with which:

2439 (A) Debt securities are issued;

2440 (B) All or a portion of the securities issued have
2441 an initial stated maturity of at least twenty (20) years; and

2442 (C) The debtor, obligor, secured party, account
2443 debtor or other person obligated on collateral, assignor or

2444 assignee of a secured obligation, or assignor or assignee of a
2445 security interest is a state or a governmental unit of a state.

2446 (68) "Pursuant to commitment," with respect to an
2447 advance made or other value given by a secured party, means
2448 pursuant to the secured party's obligation, whether or not a
2449 subsequent event of default or other event not within the secured
2450 party's control has relieved or may relieve the secured party from
2451 its obligation.

2452 (69) "Record," except as used in "for record," "of
2453 record," "record or legal title," and "record owner," means
2454 information that is inscribed on a tangible medium or which is
2455 stored in an electronic or other medium and is retrievable in
2456 perceivable form.

2457 (70) "Registered organization" means an organization
2458 organized solely under the law of a single state or the United
2459 States and as to which the state or the United States must
2460 maintain a public record showing the organization to have been
2461 organized.

2462 (71) "Secondary obligor" means an obligor to the extent
2463 that:

2464 (A) The obligor's obligation is secondary; or

2465 (B) The obligor has a right of recourse with
2466 respect to an obligation secured by collateral against the debtor,
2467 another obligor, or property of either.

2468 (72) "Secured party" means:

2469 (A) A person in whose favor a security interest is
2470 created or provided for under a security agreement, whether or not
2471 any obligation to be secured is outstanding;

2472 (B) A person that holds an agricultural lien;

2473 (C) A consignor;

2474 (D) A person to which accounts, chattel paper,
2475 payment intangibles, or promissory notes have been sold;

2476 (E) A trustee, indenture trustee, agent,
2477 collateral agent, or other representative in whose favor a
2478 security interest or agricultural lien is created or provided for;
2479 or

2480 (F) A person that holds a security interest
2481 arising under Section 75-2-401, 75-2-505, 75-2-711(3),
2482 75-2A-508(5), 75-4-210, or 75-5-118.

2483 (73) "Security agreement" means an agreement that
2484 creates or provides for a security interest.

2485 (74) "Send," in connection with a record or
2486 notification, means:

2487 (A) To deposit in the mail, deliver for
2488 transmission, or transmit by any other usual means of
2489 communication, with postage or cost of transmission provided for,
2490 addressed to any address reasonable under the circumstances; or

2491 (B) To cause the record or notification to be
2492 received within the time that it would have been received if
2493 properly sent under subparagraph (A).

2494 (75) "Software" means a computer program and any
2495 supporting information provided in connection with a transaction
2496 relating to the program. The term does not include a computer
2497 program that is included in the definition of goods.

2498 (76) "State" means a state of the United States, the
2499 District of Columbia, Puerto Rico, the United States Virgin
2500 Islands, or any territory or insular possession subject to the
2501 jurisdiction of the United States.

2502 (77) "Supporting obligation" means a letter-of-credit
2503 right or secondary obligation that supports the payment or
2504 performance of an account, chattel paper, a document, a general
2505 intangible, an instrument, or investment property.

2506 (78) "Tangible chattel paper" means chattel paper
2507 evidenced by a record or records consisting of information that is
2508 inscribed on a tangible medium.

2542	security)	Section 75-8-201.
2543	<u>"Issuer" (with respect to</u>	
2544	<u>documents of title)</u>	<u>Section 75-7-102</u>
2545	"Lease"	Section 75-2A-103.
2546	"Lease agreement"	Section 75-2A-103.
2547	"Lease contract"	Section 75-2A-103.
2548	"Leasehold interest"	Section 75-2A-103.
2549	"Lessee"	Section 75-2A-103.
2550	"Lessee in ordinary course	
2551	of business"	Section 75-2A-103.
2552	"Lessor"	Section 75-2A-103.
2553	"Lessor's residual interest"	Section 75-2A-103.
2554	"Letter of credit"	Section 75-5-102.
2555	"Merchant"	Section 75-2-104.
2556	"Negotiable instrument"	Section 75-3-104.
2557	"Nominated person"	Section 75-5-102.
2558	"Note"	Section 75-3-104.
2559	"Proceeds of a letter of	
2560	credit"	Section 75-5-114.
2561	"Prove"	Section 75-3-103.
2562	"Sale"	Section 75-2-106.
2563	"Securities account"	Section 75-8-501.
2564	"Securities intermediary"	Section 75-8-102.
2565	"Security"	Section 75-8-102.
2566	"Security certificate"	Section 75-8-102.
2567	"Security entitlement"	Section 75-8-102.
2568	"Uncertificated security"	Section 75-8-102.
2569	(c) Article 1 contains general definitions and principles of	
2570	construction and interpretation applicable throughout this	
2571	article.	
2572	SECTION 59. Section 75-9-203, Mississippi Code of 1972, is	
2573	amended as follows:	

2574 75-9-203. (a) A security interest attaches to collateral
2575 when it becomes enforceable against the debtor with respect to the
2576 collateral, unless an agreement expressly postpones the time of
2577 attachment.

2578 (b) Except as otherwise provided in subsections (c) through
2579 (i), a security interest is enforceable against the debtor and
2580 third parties with respect to the collateral only if:

2581 (1) Value has been given;

2582 (2) The debtor has rights in the collateral or the
2583 power to transfer rights in the collateral to a secured party; and

2584 (3) One (1) of the following conditions is met:

2585 (A) The debtor has authenticated a security
2586 agreement that provides a description of the collateral and, if
2587 the security interest covers timber to be cut, a description of
2588 the land concerned;

2589 (B) The collateral is not a certificated security
2590 and is in the possession of the secured party under Section
2591 75-9-313 pursuant to the debtor's security agreement;

2592 (C) The collateral is a certificated security in
2593 registered form and the security certificate has been delivered to
2594 the secured party under Section 75-8-301 pursuant to the debtor's
2595 security agreement; or

2596 (D) The collateral is deposit accounts, electronic
2597 chattel paper, investment property, or letter-of-credit rights, or
2598 electronic documents, and the secured party has control under
2599 Section 75-7-106, 75-9-104, 75-9-105, 75-9-106, or 75-9-107
2600 pursuant to the debtor's security agreement.

2601 (c) Subsection (b) is subject to Section 75-4-210 on the
2602 security interest of a collecting bank, Section 75-5-118 on the
2603 security interest of a letter-of-credit issuer or nominated
2604 person, Section 75-9-110 on a security interest arising under
2605 Article 2 or 2A of Title 75, and Section 75-9-206 on security
2606 interests in investment property.

2607 (d) A person becomes bound as debtor by a security agreement
2608 entered into by another person if, by operation of law other than
2609 this article or by contract:

2610 (1) The security agreement becomes effective to create
2611 a security interest in the person's property; or

2612 (2) The person becomes generally obligated for the
2613 obligations of the other person, including the obligation secured
2614 under the security agreement, and acquires or succeeds to all or
2615 substantially all of the assets of the other person.

2616 (e) If a new debtor becomes bound as debtor by a security
2617 agreement entered into by another person:

2618 (1) The agreement satisfies subsection (b)(3) with
2619 respect to existing or after-acquired property of the new debtor
2620 to the extent the property is described in the agreement; and

2621 (2) Another agreement is not necessary to make a
2622 security interest in the property enforceable.

2623 (f) The attachment of a security interest in collateral
2624 gives the secured party the rights to proceeds provided by Section
2625 75-9-315 and is also attachment of a security interest in a
2626 supporting obligation for the collateral.

2627 (g) The attachment of a security interest in a right to
2628 payment or performance secured by a security interest or other
2629 lien on personal or real property is also attachment of a security
2630 interest in the security interest, mortgage, or other lien.

2631 (h) The attachment of a security interest in a securities
2632 account is also attachment of a security interest in the security
2633 entitlements carried in the securities account.

2634 (i) The attachment of a security interest in a commodity
2635 account is also attachment of a security interest in the commodity
2636 contracts carried in the commodity account.

2637 **SECTION 60.** Section 75-9-207, Mississippi Code of 1972, is
2638 amended as follows:

2639 75-9-207. (a) Except as otherwise provided in subsection
2640 (d), a secured party shall use reasonable care in the custody and
2641 preservation of collateral in the secured party's possession. In
2642 the case of chattel paper or an instrument, reasonable care
2643 includes taking necessary steps to preserve rights against prior
2644 parties unless otherwise agreed.

2645 (b) Except as otherwise provided in subsection (d), if a
2646 secured party has possession of collateral:

2647 (1) Reasonable expenses, including the cost of
2648 insurance and payment of taxes or other charges, incurred in the
2649 custody, preservation, use, or operation of the collateral are
2650 chargeable to the debtor and are secured by the collateral;

2651 (2) The risk of accidental loss or damage is on the
2652 debtor to the extent of a deficiency in any effective insurance
2653 coverage;

2654 (3) The secured party shall keep the collateral
2655 identifiable, but fungible collateral may be commingled; and

2656 (4) The secured party may use or operate the
2657 collateral:

2658 (A) For the purpose of preserving the collateral
2659 or its value;

2660 (B) As permitted by an order of a court having
2661 competent jurisdiction; or

2662 (C) Except in the case of consumer goods, in the
2663 manner and to the extent agreed by the debtor.

2664 (c) Except as otherwise provided in subsection (d), a
2665 secured party having possession of collateral or control of
2666 collateral under Section 75-7-106, 75-9-104, 75-9-105, 75-9-106 or
2667 75-9-107:

2668 (1) May hold as additional security any proceeds,
2669 except money or funds, received from the collateral;

2670 (2) Shall apply money or funds received from the
2671 collateral to reduce the secured obligation, unless remitted to
2672 the debtor; and

2673 (3) May create a security interest in the collateral.

2674 (d) If the secured party is a buyer of accounts, chattel
2675 paper, payment intangibles, or promissory notes or a consignor:

2676 (1) Subsection (a) does not apply unless the secured
2677 party is entitled under an agreement:

2678 (A) To charge back uncollected collateral; or

2679 (B) Otherwise to full or limited recourse against
2680 the debtor or a secondary obligor based on the nonpayment or other
2681 default of an account debtor or other obligor on the collateral;
2682 and

2683 (2) Subsections (b) and (c) do not apply.

2684 **SECTION 61.** Section 75-9-208, Mississippi Code of 1972, is
2685 amended as follows:

2686 75-9-208. (a) This section applies to cases in which there
2687 is no outstanding secured obligation and the secured party is not
2688 committed to make advances, incur obligations, or otherwise give
2689 value.

2690 (b) Within ten (10) days after receiving an authenticated
2691 demand by the debtor:

2692 (1) A secured party having control of a deposit account
2693 under Section 75-9-104(a)(2) shall send to the bank with which the
2694 deposit account is maintained an authenticated statement that
2695 releases the bank from any further obligation to comply with
2696 instructions originated by the secured party;

2697 (2) A secured party having control of a deposit account
2698 under Section 75-9-104(a)(3) shall:

2699 (A) Pay the debtor the balance on deposit in the
2700 deposit account; or

2701 (B) Transfer the balance on deposit into a deposit
2702 account in the debtor's name;

2703 (3) A secured party, other than a buyer, having control
2704 of electronic chattel paper under Section 75-9-105 shall:

2705 (A) Communicate the authoritative copy of the
2706 electronic chattel paper to the debtor or its designated
2707 custodian;

2708 (B) If the debtor designates a custodian that is
2709 the designated custodian with which the authoritative copy of the
2710 electronic chattel paper is maintained for the secured party,
2711 communicate to the custodian an authenticated record releasing the
2712 designated custodian from any further obligation to comply with
2713 instructions originated by the secured party and instructing the
2714 custodian to comply with instructions originated by the debtor;
2715 and

2716 (C) Take appropriate action to enable the debtor
2717 or its designated custodian to make copies of or revisions to the
2718 authoritative copy which add or change an identified assignee of
2719 the authoritative copy without the consent of the secured party;

2720 (4) A secured party having control of investment
2721 property under Section 75-8-106(d)(2) or 75-9-106(b) shall send to
2722 the securities intermediary or commodity intermediary with which
2723 the security entitlement or commodity contract is maintained an
2724 authenticated record that releases the securities intermediary or
2725 commodity intermediary from any further obligation to comply with
2726 entitlement orders or directions originated by the secured
2727 party; * * *

2728 (5) A secured party having control of a
2729 letter-of-credit right under Section 75-9-107 shall send to each
2730 person having an unfulfilled obligation to pay or deliver proceeds
2731 of the letter of credit to the secured party an authenticated
2732 release from any further obligation to pay or deliver proceeds of
2733 the letter of credit to the secured party; and

2734 (6) A secured party having control of an electronic
2735 document shall:

2736 (A) Give control of the electronic document to the
2737 debtor or its designated custodian.

2738 (B) If the debtor designates a custodian that is
2739 the designated custodian with which the authoritative copy of the
2740 electronic document is maintained for the secured party,
2741 communicate to the custodian an authenticated record releasing the
2742 designated custodian from any further obligation to comply with
2743 instructions originated by the secured party and instructing the
2744 custodian to comply with instructions originated by the debtor;
2745 and

2746 (C) Take appropriate action to enable the debtor
2747 or its designated custodian to make copies of or revisions to the
2748 authoritative copy which add or change an identified assignee of
2749 the authoritative copy without the consent of the secured party.

2750 **SECTION 62.** Section 75-9-301, Mississippi Code of 1972, is
2751 amended as follows:

2752 75-9-301. Except as otherwise provided in Sections 75-9-303
2753 through 75-9-306, the following rules determine the law governing
2754 perfection, the effect of perfection or nonperfection, and the
2755 priority of a security interest in collateral:

2756 (1) Except as otherwise provided in this section, while
2757 a debtor is located in a jurisdiction, the local law of that
2758 jurisdiction governs perfection, the effect of perfection or
2759 nonperfection, and the priority of a security interest in
2760 collateral.

2761 (2) While collateral is located in a jurisdiction, the
2762 local law of that jurisdiction governs perfection, the effect of
2763 perfection or nonperfection, and the priority of a possessory
2764 security interest in that collateral.

2765 (3) Except as otherwise provided in paragraph (4),
2766 while tangible negotiable documents, goods, instruments, money or
2767 tangible chattel paper is located in a jurisdiction, the local law
2768 of that jurisdiction governs:

2769 (A) Perfection of a security interest in the goods
2770 by filing a fixture filing;

2771 (B) Perfection of a security interest in timber to
2772 be cut; and

2773 (C) The effect of perfection or nonperfection and
2774 the priority of a nonpossessory security interest in the
2775 collateral.

2776 (4) The local law of the jurisdiction in which the
2777 wellhead or minehead is located governs perfection, the effect of
2778 perfection or nonperfection, and the priority of a security
2779 interest in as-extracted collateral.

2780 **SECTION 63.** Section 75-9-310, Mississippi Code of 1972, is
2781 amended as follows:

2782 75-9-310. (a) Except as otherwise provided in subsection
2783 (b) and Section 75-9-312(b), a financing statement must be filed
2784 to perfect all security interests and agricultural liens.

2785 (b) The filing of a financing statement is not necessary to
2786 perfect a security interest:

2787 (1) That is perfected under Section 75-9-308(d), (e),
2788 (f), or (g);

2789 (2) That is perfected under Section 75-9-309 when it
2790 attaches;

2791 (3) In property subject to a statute, regulation, or
2792 treaty described in Section 75-9-311(a);

2793 (4) In goods in possession of a bailee which is
2794 perfected under Section 75-9-312(d)(1) or (2);

2795 (5) In certificated securities, documents, goods or
2796 instruments which is perfected without filing, control or
2797 possession under Section 75-9-312(e), (f), or (g);

2798 (6) In collateral in the secured party's possession
2799 under Section 75-9-313;

2800 (7) In a certificated security which is perfected by
2801 delivery of the security certificate to the secured party under
2802 Section 75-9-313;

2803 (8) In deposit accounts, electronic chattel paper,
2804 investment property, or letter-of-credit rights which is perfected
2805 by control under Section 75-9-314;

2806 (9) In proceeds which is perfected under Section
2807 75-9-315; or

2808 (10) That is perfected under Section 75-9-316.

2809 (c) If a secured party assigns a perfected security interest
2810 or agricultural lien, a filing under this article is not required
2811 to continue the perfected status of the security interest against
2812 creditors of and transferees from the original debtor.

2813 **SECTION 64.** Section 75-9-312, Mississippi Code of 1972, is
2814 amended as follows:

2815 75-9-312. (a) A security interest in chattel paper,
2816 negotiable documents, instruments, or investment property may be
2817 perfected by filing.

2818 (b) Except as otherwise provided in Section 75-9-315(c) and
2819 (d) for proceeds:

2820 (1) A security interest in a deposit account may be
2821 perfected only by control under Section 75-9-314;

2822 (2) And except as otherwise provided in Section
2823 75-9-308(d), a security interest in a letter-of-credit right may
2824 be perfected only by control under Section 75-9-314; and

2825 (3) A security interest in money may be perfected only
2826 by the secured party's taking possession under Section 75-9-313.

2827 (c) While goods are in the possession of a bailee that has
2828 issued a negotiable document covering the goods:

2829 (1) A security interest in the goods may be perfected
2830 by perfecting a security interest in the document; and

2831 (2) A security interest perfected in the document has
2832 priority over any security interest that becomes perfected in the
2833 goods by another method during that time.

2834 (d) While goods are in the possession of a bailee that has
2835 issued a nonnegotiable document covering the goods, a security
2836 interest in the goods may be perfected by:

2837 (1) Issuance of a document in the name of the secured
2838 party;

2839 (2) The bailee's receipt of notification of the secured
2840 party's interest; or

2841 (3) Filing as to the goods.

2842 (e) A security interest in certificated securities,
2843 negotiable documents, or instruments is perfected without filing
2844 or the taking of possession or control for a period of twenty (20)
2845 days from the time it attaches to the extent that it arises for
2846 new value given under an authenticated security agreement.

2847 (f) A perfected security interest in a negotiable document
2848 or goods in possession of a bailee, other than one that has issued
2849 a negotiable document for the goods, remains perfected for twenty
2850 (20) days without filing if the secured party makes available to
2851 the debtor the goods or documents representing the goods for the
2852 purpose of:

2853 (1) Ultimate sale or exchange; or

2854 (2) Loading, unloading, storing, shipping,
2855 transshipping, manufacturing, processing, or otherwise dealing
2856 with them in a manner preliminary to their sale or exchange.

2857 (g) A perfected security interest in a certificated security
2858 or instrument remains perfected for twenty (20) days without
2859 filing if the secured party delivers the security certificate or
2860 instrument to the debtor for the purpose of:

2861 (1) Ultimate sale or exchange; or

2862 (2) Presentation, collection, enforcement, renewal or
2863 registration of transfer.

2864 (h) After the twenty-day period specified in subsection (e),
2865 (f), or (g) expires, perfection depends upon compliance with this
2866 article.

2867 **SECTION 65.** Section 75-9-313, Mississippi Code of 1972, is
2868 amended as follows:

2869 75-9-313. (a) Except as otherwise provided in subsection
2870 (b), a secured party may perfect a security interest in tangible
2871 negotiable documents, goods, instruments, money, or tangible
2872 chattel paper by taking possession of the collateral. A secured
2873 party may perfect a security interest in certificated securities
2874 by taking delivery of the certificated securities under Section
2875 75-8-301.

2876 (b) With respect to goods covered by a certificate of title
2877 issued by this state, a secured party may perfect a security
2878 interest in the goods by taking possession of the goods only in
2879 the circumstances described in Section 75-9-316(d).

2880 (c) With respect to collateral other than certificated
2881 securities and goods covered by a document, a secured party takes
2882 possession of collateral in the possession of a person other than
2883 the debtor, the secured party, or a lessee of the collateral from
2884 the debtor in the ordinary course of the debtor's business, when:

2885 (1) The person in possession authenticates a record
2886 acknowledging that it holds possession of the collateral for the
2887 secured party's benefit; or

2888 (2) The person takes possession of the collateral after
2889 having authenticated a record acknowledging that it will hold
2890 possession of collateral for the secured party's benefit.

2891 (d) If perfection of a security interest depends upon
2892 possession of the collateral by a secured party, perfection occurs
2893 no earlier than the time the secured party takes possession and
2894 continues only while the secured party retains possession.

2895 (e) A security interest in a certificated security in
2896 registered form is perfected by delivery when delivery of the

2897 certificated security occurs under Section 75-8-301 and remains
2898 perfected by delivery until the debtor obtains possession of the
2899 security certificate.

2900 (f) A person in possession of collateral is not required to
2901 acknowledge that it holds possession for a secured party's
2902 benefit.

2903 (g) If a person acknowledges that it holds possession for
2904 the secured party's benefit:

2905 (1) The acknowledgment is effective under subsection
2906 (c) or Section 75-8-301(a), even if the acknowledgment violates
2907 the rights of a debtor; and

2908 (2) Unless the person otherwise agrees or law other
2909 than this article otherwise provides, the person does not owe any
2910 duty to the secured party and is not required to confirm the
2911 acknowledgment to another person.

2912 (h) A secured party having possession of collateral does not
2913 relinquish possession by delivering the collateral to a person
2914 other than the debtor or a lessee of the collateral from the
2915 debtor in the ordinary course of the debtor's business if the
2916 person was instructed before the delivery or is instructed
2917 contemporaneously with the delivery:

2918 (1) To hold possession of the collateral for the
2919 secured party's benefit; or

2920 (2) A secured party does not relinquish possession,
2921 even if a delivery under subsection (h) violates the rights of a
2922 debtor. A person to which collateral is delivered under
2923 subsection (h) does not owe any duty to the secured party and is
2924 not required to confirm the delivery to another person unless the
2925 person otherwise agrees or law other than this article otherwise
2926 provides.

2927 **SECTION 66.** Section 75-9-314, Mississippi Code of 1972, is
2928 amended as follows:

2929 75-9-314. (a) A security interest in investment property,
2930 deposit accounts, letter-of-credit rights, or electronic chattel
2931 paper or electronic documents may be perfected by control of the
2932 collateral under Section 75-7-106, 75-9-104, 75-9-105, 75-9-106 or
2933 75-9-107.

2934 (b) A security interest in deposit accounts, electronic
2935 chattel paper, or letter-of-credit rights or electronic documents
2936 is perfected by control under Section 75-7-106, 75-9-104, 75-9-105
2937 or 75-9-107 when the secured party obtains control and remains
2938 perfected by control only while the secured party retains control.

2939 (c) A security interest in investment property is perfected
2940 by control under Section 75-9-106 from the time the secured party
2941 obtains control and remains perfected by control until:

2942 (1) The secured party does not have control; and

2943 (2) One (1) of the following occurs:

2944 (A) If the collateral is a certificated security,
2945 the debtor has or acquires possession of the security certificate;

2946 (B) If the collateral is an uncertificated
2947 security, the issuer has registered or registers the debtor as the
2948 registered owner; or

2949 (C) If the collateral is a security entitlement,
2950 the debtor is or becomes the entitlement holder.

2951 **SECTION 67.** Section 75-9-317, Mississippi Code of 1972, is
2952 amended as follows:

2953 75-9-317. (a) A security interest or agricultural lien is
2954 subordinate to the rights of:

2955 (1) A person entitled to priority under Section
2956 75-9-322; and

2957 (2) Except as otherwise provided in subsection (e), a
2958 person that becomes a lien creditor before the earlier of the
2959 time:

2960 (A) The security interest or agricultural lien is
2961 perfected; or

2962 (B) One (1) of the conditions specified in Section
2963 75-9-203(b)(3) is met and a financing statement covering the
2964 collateral is filed.

2965 (b) Except as otherwise provided in subsection (e), a buyer,
2966 other than a secured party, of tangible chattel paper, documents,
2967 goods, instruments, or a security certificate takes free of a
2968 security interest or agricultural lien if the buyer gives value
2969 and receives delivery of the collateral without knowledge of the
2970 security interest or agricultural lien and before it is perfected.

2971 (c) Except as otherwise provided in subsection (e), a lessee
2972 of goods takes free of a security interest or agricultural lien if
2973 the lessee gives value and receives delivery of the collateral
2974 without knowledge of the security interest or agricultural lien
2975 and before it is perfected.

2976 (d) A licensee of a general intangible or a buyer, other
2977 than a secured party, of accounts, electronic chattel paper,
2978 electronic documents, general intangibles, or investment property
2979 other than a certificated security takes free of a security
2980 interest if the licensee or buyer gives value without knowledge of
2981 the security interest and before it is perfected.

2982 (e) Except as otherwise provided in Sections 75-9-320 and
2983 75-9-321, if a person files a financing statement with respect to
2984 a purchase-money security interest before or within twenty (20)
2985 days after the debtor receives delivery of the collateral, the
2986 security interest takes priority over the rights of a buyer,
2987 lessee, or lien creditor which arise between the time the security
2988 interest attaches and the time of filing.

2989 **SECTION 68.** Section 75-9-338, Mississippi Code of 1972, is
2990 amended as follows:

2991 75-9-338. If a security interest or agricultural lien is
2992 perfected by a filed financing statement providing information
2993 described in Section 75-9-516(b)(5) which is incorrect at the time
2994 the financing statement is filed:

2995 (1) The security interest or agricultural lien is
2996 subordinate to a conflicting perfected security interest in the
2997 collateral to the extent that the holder of the conflicting
2998 security interest gives value in reasonable reliance upon the
2999 incorrect information; and

3000 (2) A purchaser, other than a secured party, of the
3001 collateral takes free of the security interest or agricultural
3002 lien to the extent that, in reasonable reliance upon the incorrect
3003 information, the purchaser gives value and, in the case of
3004 tangible chattel paper, tangible documents, goods, instruments, or
3005 a security certificate, receives delivery of the collateral.

3006 **SECTION 69.** Section 75-9-601, Mississippi Code of 1972, is
3007 amended as follows:

3008 75-9-601. (a) After default, a secured party has the rights
3009 provided in this part and, except as otherwise provided in Section
3010 75-9-602, those provided by agreement of the parties. A secured
3011 party:

3012 (1) May reduce a claim to judgment, foreclose, or
3013 otherwise enforce the claim, security interest, or agricultural
3014 lien by any available judicial procedure; and

3015 (2) If the collateral is documents, may proceed either
3016 as to the documents or as to the goods they cover.

3017 (b) A secured party in possession of collateral or control
3018 of collateral under Section 75-7-106, 75-9-104, 75-9-105, 75-9-106
3019 or 75-9-107 has the rights and duties provided in Section
3020 75-9-207.

3021 (c) The rights under subsections (a) and (b) are cumulative
3022 and may be exercised simultaneously.

3023 (d) Except as otherwise provided in subsection (g) and
3024 Section 75-9-605, after default, a debtor and an obligor have the
3025 rights provided in this part and by agreement of the parties.

3026 (e) If a secured party has reduced its claim to judgment,
3027 the lien of any levy that may be made upon the collateral by

3028 virtue of an execution based upon the judgment relates back to the
3029 earliest of:

3030 (1) The date of perfection of the security interest or
3031 agricultural lien in the collateral;

3032 (2) The date of filing a financing statement covering
3033 the collateral; or

3034 (3) Any date specified in a statute under which the
3035 agricultural lien was created.

3036 (f) A sale pursuant to an execution is a foreclosure of the
3037 security interest or agricultural lien by judicial procedure
3038 within the meaning of this section. A secured party may purchase
3039 at the sale and thereafter hold the collateral free of any other
3040 requirements of this article.

3041 (g) Except as otherwise provided in Section 75-9-607(c),
3042 this part imposes no duties upon a secured party that is a
3043 consignor or is a buyer of accounts, chattel paper, payment
3044 intangibles, or promissory notes.

3045 **SECTION 70.** This act shall take effect and be in force from
3046 and after July 1, 2005.