

By: Representative Simpson

To: Judiciary A

## HOUSE BILL NO. 1101

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 CREATE SECTION  
 12 75-7-701, MISSISSIPPI CODE OF 1972, TO CODIFY TRANSITIONAL  
 13 PROVISIONS FOR DOCUMENTS IF TITLE AND BILLS OF LADING ISSUED  
 14 BEFORE THE EFFECTIVE DATE OF THIS ACT; TO AMEND SECTIONS 75-1-201,  
 15 75-2-103, 75-2-104, 75-2-310, 75-2-323, 75-2-401, 75-2-503,  
 16 75-2-505, 75-2-506, 75-2-509, 75-2-605, 75-2-705, 75-2A-103,  
 17 75-2A-514, 75-2A-526, 75-4-104, 75-4-210, 75-8-103, 75-9-102,  
 18 75-9-203, 75-9-207, 75-9-208, 75-9-301, 75-9-310, 75-9-312,  
 19 75-9-313, 75-9-314, 75-9-317, 75-9-338 AND 75-9-601, MISSISSIPPI  
 20 CODE OF 1972, IN CONFORMITY TO THE REVISIONS TO ARTICLE 7 OF THE  
 21 UNIFORM COMMERCIAL CODE; TO REPEAL SECTION 75-10-104, MISSISSIPPI  
 22 CODE OF 1972, BECAUSE IT HAS BEEN INCORPORATED INTO ARTICLE 7; AND  
 23 FOR RELATED PURPOSES.

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

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

27 75-7-102. (1) In this chapter, unless the context otherwise  
 28 requires:

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

32 (b) "Carrier" means a person that issues a bill of  
 33 lading.

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

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

38           (e) "Delivery order" means a record that contains an  
39 order to deliver goods directed to a warehouse, carrier or other  
40 person who in the ordinary course of business issues warehouse  
41 receipts or bill of lading.

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

44       \* \* \*

45           (g) "Goods" means all things which are treated as  
46 movable for the purposes of a contract of storage or  
47 transportation.

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

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

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

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

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

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

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

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

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

75           "Contract for sale," Section 75-2-106.

76           "Lessee in the ordinary course of business," Section  
77 75-2A-103.

78           "Receipt" of goods, Section 75-2-103.

79           (3) In addition, Chapter 1 contains general definitions and  
80 principles of construction and interpretation applicable  
81 throughout this chapter.

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

84           75-7-103. (1) This chapter is subject to any treaty or  
85 statute of the United States or regulatory statute of this state  
86 to the extent the treaty, statute or regulatory statute is  
87 applicable.

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

95           (3) This chapter modifies, limits and supersedes the federal  
96 Electronic Signatures in Global and National Commerce Act (15 USCS  
97 Section 7001 et seq.) but does not modify, limit or supersede  
98 Section 101(c) of that act (15 USCS Section 7001(c)) or authorize  
99 electronic delivery of any of the notices described in Section  
100 103(b) of that act (15 USCS Section 7003(b)).

101           (4) To the extent that is a conflict between the Uniform  
102 Electronic Transactions Act and this chapter, this chapter  
103 governs.

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

106           75-7-104. (1) Except as otherwise provided in subsection  
107 (3), a document of title is negotiable \* \* \* if by its terms the  
108 goods are to be delivered to bearer or to the order of a named  
109 person.

110           \* \* \*

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

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

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

122           75-7-105. (1) Upon request of a person entitled under an  
123 electronic document of title, the issuer of the electronic  
124 document may issue a tangible document of title as a substitute  
125 for the electronic document if:

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

128           (b) The tangible document when issued contains a  
129 statement that it is issued in substitution for the electronic  
130 document.

131           (2) Upon issuance of a tangible document of title in  
132 substitution for an electronic document of title in accordance  
133 with subsection (1):

134           (a) The electronic document ceases to have any effect  
135 or validity; and

136           (b) The person that procured issuance of the tangible  
137 document warrants to all subsequent persons entitled under the  
138 tangible document that the warrantor was a person entitled under  
139 the electronic document when the warrantor surrendered control of  
140 the electronic document to the issuer.

141           (3) Upon request of a person entitled under a tangible  
142 document of title, the issuer of the tangible document may issue  
143 an electronic document of title as a substitute for the tangible  
144 document if:

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

147           (b) The electronic document when issued contains a  
148 statement that it is issued in substitution for the tangible  
149 document.

150           (4) Upon issuance of an electronic document of title in  
151 substitution for a tangible document of title in accordance with  
152 subsection (3):

153           (a) The tangible document ceases to have any effect or  
154 validity; and

155           (b) The person that procured issuance of the electronic  
156 document warrants to all subsequent persons entitled under the  
157 electronic document that the warrantor was a person entitled under  
158 the tangible document when the warrantor surrendered possession of  
159 the tangible document to the issuer.

160           **SECTION 5.** The following shall be codified as Section  
161 75-7-106, Mississippi Code of 1972:

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

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

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

173 (b) The authoritative copy identifies the person  
174 asserting control as:

175 (i) The person to which the document was issued;  
176 or

177 (ii) If the authoritative copy indicates that the  
178 document has been transferred, the person to which the document  
179 was most recently transferred;

180 (c) The authoritative copy is communicated to and  
181 maintained by the person asserting control or is designated  
182 custodian;

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

186 (e) Each copy of the authoritative copy and any copy of  
187 a copy is readily identifiable as a copy that is not the  
188 authoritative copy; and

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

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

193 75-7-201. (1) A warehouse receipt may be issued by any  
194 warehouse.

195 (2) If goods, including distilled spirits and agricultural  
196 commodities, are stored under a statute requiring a bond against  
197 withdrawal or a license for the issuance of receipts in the nature  
198 of warehouse receipts, a receipt issued for the goods is deemed to

199 be as a warehouse receipt even if issued by a person who is the  
200 owner of the goods and is not a warehouse.

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

203 75-7-202. (1) A warehouse receipt need not be in any  
204 particular form.

205 (2) Unless a warehouse receipt provides for each of the  
206 following, the warehouse is liable for damages caused \* \* \* to a  
207 person injured by its omission:

208 (a) A statement of the location of the warehouse  
209 facility where the goods are stored;

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

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

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

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

217 (f) A description of the goods or of the packages  
218 containing them;

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

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

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

231 (3) A warehouse may insert in its receipt any other terms  
232 which are not contrary to the provisions of this code and do not  
233 impair its obligation of delivery (Section 75-7-403) or its duty  
234 of care (Section 75-7-204). Any contrary provisions shall be  
235 ineffective.

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

238 75-7-203. A party to or purchaser for value in good faith of  
239 a document of title other than a bill of lading relies upon the  
240 description \* \* \* of the goods in the document may recover from  
241 the issuer damages caused by the nonreceipt or misdescription of  
242 the goods, except to the extent that:

243 (a) The document conspicuously indicates that the  
244 issuer does not know whether \* \* \* all or part of the goods in  
245 fact were received or conform to the description, such as a case  
246 in which the description is in terms of marks or labels or kind,  
247 quantity or condition, or the receipt or description is qualified  
248 by "contents, condition and quality unknown," "said to contain" or  
249 words of similar import, if such indication is true; or

250 (b) The party or purchaser otherwise has notice of the  
251 nonreceipt or misdescription.

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

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

260 (2) Damages may be limited by a term in the warehouse  
261 receipt or storage agreement limiting the amount of liability in  
262 case of loss or damage beyond which the warehouse is not liable.  
263 Such a limitation is not effective with respect to the warehouse's

264 liability for conversion to its own use. On \* \* \* request of the  
265 bailor in a record at the time of signing the storage agreement or  
266 within a reasonable time after receipt of the warehouse receipt,  
267 the warehouse's liability may be increased on part or all of the  
268 goods covered by the storage agreement or the warehouse receipt.  
269 In this event increased rates may be charged based on an increased  
270 valuation of the goods.

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

274 (4) This section does not impair or repeal Title 75, Chapter  
275 43, or Title 75, Chapter 44.

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

278 75-7-205. A buyer in the ordinary course of business of  
279 fungible goods sold and delivered by a warehouse that is also in  
280 the business of buying and selling the goods takes free of any  
281 claim under a warehouse receipt even if the receipt is negotiable  
282 and has been duly negotiated.

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

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

294 (2) If a warehouse in good faith believes that the goods are  
295 about to deteriorate or decline in value to less than the amount  
296 of his lien within the time provided in subsection (1) and Section

297 75-7-210, the warehouse may specify in the notice given under  
298 subsection (1) any reasonable shorter time for removal of the  
299 goods and, if the goods are not removed, may sell them at public  
300 sale held not less than one (1) week after a single advertisement  
301 or posting.

302 (3) If, as a result of a quality or condition of the goods  
303 of which the warehouse did not have notice at the time of deposit  
304 the goods are a hazard to other property, the warehouse facility  
305 or other persons, the warehouse may sell the goods at public or  
306 private sale without advertisement or posting on reasonable  
307 notification to all persons known to claim an interest in the  
308 goods. If the warehouse, after a reasonable effort, is unable to  
309 sell the goods, it may dispose of them in any lawful manner and  
310 does not incur \* \* \* liability by reason of that disposition.

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

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

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

320 75-7-207. (1) Unless the warehouse receipt otherwise  
321 provides, a warehouse shall keep separate the goods covered by  
322 each receipt so as to permit at all times identification and  
323 delivery of those goods. However, different lots of fungible  
324 goods may be commingled.

325 (2) If different lots of fungible goods are commingled, the  
326 goods are owned in common by the persons entitled thereto and the  
327 warehouse is severally liable to each owner for that owner's  
328 share. If, because of overissue, a mass of fungible goods is  
329 insufficient to meet all the receipts \* \* \* the warehouse has

330 issued against it, the persons entitled include all holders to  
331 whom overissued receipts have been duly negotiated.

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

334 75-7-208. If a blank in a negotiable tangible warehouse  
335 receipt has been filled in without authority, a good-faith  
336 purchaser for value and without notice of the lack of authority  
337 may treat the insertion as authorized. Any other unauthorized  
338 alteration leaves any tangible or electronic receipt enforceable  
339 against the issuer according to its original tenor.

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

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

363           (2) A warehouse may also reserve a security interest under  
364 Title 75, Chapter 9, against the bailor for the maximum amount  
365 specified on the receipt for charges other than those specified in  
366 subsection (1), such as for money advanced and interest. \* \* \* A  
367 security interest is governed by the chapter on Secured  
368 Transactions (Title 75, Chapter 9).

369           (3) A warehouse's lien for charges and expenses under  
370 subsection (1) or a security interest under subsection (2) is also  
371 effective against any person that so entrusted the bailor with  
372 possession of the goods that a pledge of them by the bailor to a  
373 good faith purchaser for value would have been valid. However,  
374 the lien or security interest is not effective against a person  
375 that before issuance of a document of title had a legal interest  
376 or a perfected security interest in the goods that did not:

377           (a) Deliver or entrust the goods or any document of  
378 title covering the goods to the bailor or the bailor's nominee  
379 with:

380                   (i) Actual or apparent authority to ship, store or  
381 sell;

382                   (ii) Power to obtain delivery under Section  
383 75-7-403; or

384                   (iii) Power of disposition under Sections  
385 75-2-403, 75-2A-304(2), 75-2A-305(2) or 75-9-320 or other statute  
386 or rule of law; or

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

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

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

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

399       75-7-210. (1) Except as provided in subsection (2), a  
400 warehouse's lien may be enforced by public or private sale of the  
401 goods, in bulk or in packages, at any time or place and on any  
402 terms that are commercially reasonable, after notifying all  
403 persons known to claim an interest in the goods. The notification  
404 must include a statement of the amount due, the nature of the  
405 proposed sale, and the time and place of any public sale. The  
406 fact that a better price could have been obtained by a sale at a  
407 different time or in a different method from that selected by the  
408 warehouse is not of itself sufficient to establish that the sale  
409 was not made in a commercially reasonable manner. \* \* \* The  
410 warehouse sells in a commercially reasonable manner if the  
411 warehouse sells the goods in the usual manner in any recognized  
412 market therefor, \* \* \* sells at the price current in that market  
413 at the time of the sale, or \* \* \* otherwise sells in conformity  
414 with commercially reasonable practices among dealers in the type  
415 of goods sold \* \* \*. A sale of more goods than apparently  
416 necessary to be offered to insure satisfaction of the obligation  
417 is not commercially reasonable except in cases covered by the  
418 preceding sentence.

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

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

424       \* \* \*

425           (b) The notification must include an itemized statement  
426 of the claim, a description of the goods subject to the lien, a  
427 demand for payment within a specified time not less than ten (10)

428 days after receipt of the notification, and a conspicuous  
429 statement that unless the claim is paid within that time the goods  
430 will be advertised for sale and sold by auction at a specified  
431 time and place.

432           (c) The sale must conform to the terms of the  
433 notification.

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

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

448           (3) Before any sale pursuant to this section, any person  
449 claiming a right in the goods may pay the amount necessary to  
450 satisfy the lien and the reasonable expenses incurred in complying  
451 with this section. In that event, the goods may not be sold, but  
452 must be retained by the warehouse subject to the terms of the  
453 receipt and this chapter.

454       \* \* \*

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

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

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

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

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

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

483       (2) If goods are loaded by an issuer of a bill of lading:  
484 (a) the issuer shall count the packages of goods if shipped in  
485 packages and ascertain the kind and quantity if shipped in bulk;  
486 and (b) words such as "shipper's weight, load and count" or \* \* \*  
487 words of similar import indicating that the description was made  
488 by the shipper are ineffective except as to goods concealed by  
489 packages.

490       (3) If bulk goods are loaded by a shipper that makes  
491 available to the issuer adequate facilities for weighing those  
492 goods, the issuer shall ascertain the kind and quantity within a  
493 reasonable time after receiving the shipper's request in a record

494 to do so. In that case "shipper's weight" or other words of  
495 similar import are ineffective.

496 (4) The issuer of a bill of lading, by inserting in the bill  
497 the words "shipper's weight, load and count" or other words of  
498 similar import may indicate that the goods were loaded by the  
499 shipper, and, if that statement is true, the issuer is not \* \* \*  
500 liable for damages caused by the improper loading. However, their  
501 omission of such words does not imply liability caused by  
502 improperly loading.

503 (5) A shipper guarantees to the issuer the accuracy at the  
504 time of shipment of the description, marks, labels, number, kind,  
505 quantity, condition and weight, as furnished by the shipper; and  
506 the shipper shall indemnify the issuer against damage caused by  
507 inaccuracies in those particulars. The right of \* \* \* indemnity  
508 does not limit the issuer's responsibility or liability under the  
509 contract of carriage to any person other than the shipper.

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

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

524 (2) If goods covered by a through bill of lading or other  
525 document of title embodying an undertaking to be performed in part  
526 by a person other than the issuer are received by that person, the

527 person is subject, with respect to his own performance while the  
528 goods are in his possession, to the obligation of the issuer. The  
529 person's obligation is discharged by delivery of the goods to  
530 another such person pursuant to the bill or other document and  
531 does not include liability for breach by any other person or by  
532 the issuer.

533 (3) The issuer of a through bill of lading or other document  
534 of title described in subsection (1) is entitled to recover from  
535 the performing carrier, or \* \* \* other person in possession of the  
536 goods when the breach of the obligation under the bill or other  
537 document occurred:

538 (a) The amount it may be required to pay to any person  
539 entitled to recover on the bill or other document for the breach,  
540 as may be evidenced by any receipt, judgment, or transcript of  
541 judgment; and

542 (b) The amount of any expense reasonably incurred by  
543 the issuer in defending any action commenced by any person  
544 entitled to recover on the bill or other document for the breach.

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

547 75-7-303. (1) Unless the bill of lading otherwise provides,  
548 a carrier may deliver the goods to a person or destination other  
549 than that stated in the bill or may otherwise dispose of the goods  
550 without liability for misdelivery, on instructions from:

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

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

554 (c) The consignee on a nonnegotiable bill in the  
555 absence of contrary instructions from the consignor, if the goods  
556 have arrived at the billed destination or if the consignee is in  
557 possession of the tangible bill or in control of the electronic  
558 bill; or

559           (d) The consignee on a nonnegotiable bill, if the  
560 consignee is entitled as against the consignor to dispose of the  
561 goods.

562           (2) Unless \* \* \* instructions described in subsection (1)  
563 are included on a negotiable bill of lading, a person to which the  
564 bill is duly negotiated may hold the bailee according to the  
565 original terms.

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

568           75-7-304. (1) Except as customary in international  
569 transportation, a tangible bill of lading must not be issued in a  
570 set of parts. The issuer is liable for damages caused by  
571 violation of this subsection.

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

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

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

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

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

593           75-7-305. (1) Instead of issuing a bill of lading to the  
594 consignor at the place of shipment, a carrier, at the request of  
595 the consignor, may procure the bill to be issued at destination or  
596 at any other place designated in the request.

597           (2) Upon request of any person entitled as against a carrier  
598 to control the goods while in transit and on surrender of  
599 possession or control of any outstanding bill of lading or other  
600 receipt covering the goods, the issuer, subject to Section  
601 75-7-105, may procure a substitute bill to be issued at any place  
602 designated in the request.

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

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

615           (2) A lien for charges and expenses under subsection (1) on  
616 goods that the carrier was required by law to receive for  
617 transportation is effective against the consignor or any person  
618 entitled to the goods unless the carrier had notice that the  
619 consignor lacked authority to subject the goods to such charges  
620 and expenses. Any other lien under subsection (1) is effective  
621 against the consignor and any person that permitted the bailor to  
622 have control or possession of the goods unless the carrier had  
623 notice that the bailor lacked \* \* \* authority.

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

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

628 75-7-308. (1) A carrier's lien on goods may be enforced by  
629 public or private sale of the goods, in bulk or in packages, at  
630 any time or place and on any terms that are commercially  
631 reasonable, after notifying all persons known to claim an interest  
632 in the goods. The notification must include a statement of the  
633 amount due, the nature of the proposed sale and the time and place  
634 of any public sale. The fact that a better price could have been  
635 obtained by a sale at a different time or in a different method  
636 from that selected by the carrier is not of itself sufficient to  
637 establish that the sale was not made in a commercially reasonable  
638 manner. \* \* \* The carrier \* \* \* sells the goods in a commercially  
639 reasonable manner \* \* \* if the carrier sells the goods in the  
640 usual manner in any recognized market therefor, sells at the price  
641 current in that market at the time of the sale, or \* \* \* otherwise  
642 sells in conformity with commercially reasonable practices among  
643 dealers in the type of goods sold \* \* \*. A sale of more goods  
644 than apparently necessary to be offered to ensure satisfaction of  
645 the obligation is not commercially reasonable, except in cases  
646 covered by the preceding sentence.

647 (2) Before any sale pursuant to this section, any person  
648 claiming a right in the goods may pay the amount necessary to  
649 satisfy the lien and the reasonable expenses incurred in complying  
650 with this section. In that event, the goods may not be sold, but  
651 must be retained by the carrier, subject to the terms of the bill  
652 and this chapter.

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

655 (4) A purchaser in good faith of goods sold to enforce a  
656 carrier's lien takes the goods free of any rights of persons

657 against which the lien was valid, despite the carrier's on  
658 compliance \* \* \* with \* \* \* this section.

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

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

665 (7) A carrier's lien may be enforced in accordance with  
666 either subsection (1) or the procedure set forth in Section  
667 75-7-210(2).

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

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

673 75-7-309. (1) A carrier that issues a bill of lading,  
674 whether negotiable or nonnegotiable, shall exercise the degree of  
675 care in relation to the goods which a reasonably careful person  
676 would exercise under similar circumstances. This subsection does  
677 not affect any statute, regulation or rule of law that imposes  
678 liability upon a common carrier for damages not caused by its  
679 negligence.

680 (2) Damages may be limited by a term in the bill of lading  
681 or in a transportation agreement that the carrier's liability may  
682 not exceed a value stated in the bill or transportation agreement  
683 if the carrier's rates are dependent upon value and the  
684 consignor \* \* \* is afforded an opportunity to declare a higher  
685 value and the consignor is \* \* \* advised of the opportunity.  
686 However, such a limitation is not effective with respect to the  
687 carrier's liability for conversion to its own use.

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

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

693 75-7-401. The obligations imposed by this chapter on an  
694 issuer apply to a document of title even if:

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

698 (b) The issuer \* \* \* violated laws regulating the  
699 conduct of his business; or

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

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

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

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

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

718 75-7-403. (1) A bailee shall deliver the goods to a person  
719 entitled under the document of title if the person complies with

720 subsections (2) and (3), unless and to the extent that the bailee  
721 establishes any of the following:

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

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

726 (c) Previous sale or other disposition of the goods in  
727 lawful enforcement of a lien or on warehouse's lawful termination  
728 of storage;

729 (d) The exercise by a seller of its right to stop  
730 delivery pursuant to Section 75-2-705 or by a lessor of its right  
731 to stop delivery pursuant to Section 75-2A-526; the provisions of  
732 the chapter on Sales (Section 75-2-705);

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

735 (f) Release, satisfaction or any other \* \* \* personal  
736 defense against the claimant; or

737 (g) Any other lawful excuse.

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

742 (3) Unless the person claiming the goods is a person against  
743 which the document of title does not confer a right under Section  
744 75-7-503(1): (a) the person claiming under a document shall  
745 surrender possession or control of any outstanding negotiable  
746 document covering the goods for cancellation or indication of  
747 partial deliveries; and (b) the bailee shall cancel the document  
748 or conspicuously indicate in the document the partial delivery or  
749 the bailee is liable to any person to whom the document is duly  
750 negotiated.

751 \* \* \*

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

754           75-7-404. A bailee that in good faith \* \* \* has received  
755 goods and delivered or otherwise disposed of the goods according  
756 to the terms of the document of title or pursuant to this chapter  
757 is not liable for the goods even if:

758           (a) The person from which the bailee received the goods  
759 did not have authority to procure the document or to dispose of  
760 the goods; or

761           (b) The person to which the bailee delivered the goods  
762 did not have authority to receive the goods.

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

765           75-7-501. (1) The following rules apply to a negotiable  
766 tangible document of title:

767           (a) If the document's original terms run to the order  
768 of a named person, the document is negotiated by the named  
769 person's indorsement and delivery. After the named person's  
770 indorsement in blank or to bearer, any person may negotiate it by  
771 delivery alone.

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

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

777           (d) Negotiation of the document \* \* \* after it has been  
778 indorsed to a named person requires indorsement by the named  
779 person and delivery.

780           (e) A \* \* \* document \* \* \* duly negotiated if it is  
781 negotiated in the manner stated in this subsection to a holder  
782 that purchases it in good faith, without notice of any defense  
783 against or claim to it on the part of any person, and for value,  
784 unless it is established that the negotiation is not in the

785 regular course of business or financing or involves receiving the  
786 document in settlement or payment of a money obligation.

787 (2) The following rules apply to a negotiable electronic  
788 document of title:

789 (a) If the document's original terms run to the order  
790 of a named person or to bearer, the document is negotiated by  
791 delivery of the document to another person. Indorsement by the  
792 named person is not required to negotiate the document.

793 (b) If the document's original terms run to the order  
794 of a named person and the named person has control of the  
795 document, the effect is the same as if the document had been  
796 negotiated.

797 (c) A document is duly negotiated if it is negotiated  
798 in the manner stated in this subsection to a holder that purchases  
799 it in good faith, without notice of any defense against or claim  
800 to it on the part of any person, and for value, unless it is  
801 established that the negotiation is not in the regular course of  
802 business or financing or involves taking delivery of the document  
803 in settlement or payment of a monetary obligation.

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

806 (4) The naming in a negotiable bill of lading of a person to  
807 be notified of the arrival of the goods does not limit the  
808 negotiability of the bill or constitute notice to a purchaser of  
809 the bill of any interest of that person in the goods.

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

812 75-7-502. (1) Subject to Sections 75-7-205 and 75-7-503, a  
813 holder to which a negotiable document of title has been duly  
814 negotiated acquires thereby:

815 (a) Title to the document;

816 (b) Title to the goods;

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

820 (d) The direct obligation of the issuer to hold or  
821 deliver the goods according to the terms of the document free of  
822 any defense or claim by the issuer except those arising under the  
823 terms of the document or under this chapter, but in the case of a  
824 delivery order the bailee's obligation accrues only upon the  
825 bailee's acceptance of the delivery order and the obligation  
826 acquired by the holder is that the issuer and any indorser will  
827 procure the acceptance of the bailee.

828 (2) Subject to Section 75-7-503, title and rights \* \* \*  
829 acquired by due negotiation are not defeated by any stoppage of  
830 the goods represented by the document of title or by surrender  
831 of \* \* \* goods by the bailee and are not impaired even if:

832 (a) The due negotiation or any prior negotiation  
833 constituted a breach of duty; or

834 (b) Any person has been deprived of possession of a  
835 negotiable tangible document or control of a negotiable electronic  
836 document by misrepresentation, fraud, accident, mistake, duress,  
837 loss, theft or conversion; or

838 (c) A previous sale or other transfer of the goods or  
839 document has been made to a third person.

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

842 75-7-503. (1) A document of title confers no right in goods  
843 against a person that before issuance of the document had a legal  
844 interest or a perfected security interest in the goods and that  
845 did not:

846 (a) Deliver or entrust the goods or any document of  
847 title covering the goods to the bailor or the bailor's nominee  
848 with: (i) actual or apparent authority to ship, store or sell  
849 (ii) power to obtain delivery under \* \* \* Section 75-7-403 or

850 (iii) power of disposition under \* \* \* Sections 75-2-403,  
851 75-2A-304(2), 75-2A-305(2), or 75-9-321(3) and 75-9-320 or other  
852 statute or rule of law; or

853 (b) Acquiesce in the procurement by the bailor or its  
854 nominee of any document \* \* \*.

855 (2) Title to goods based upon an unaccepted delivery order  
856 is subject to the rights of any person to which a negotiable  
857 warehouse receipt or bill of lading covering the goods has been  
858 duly negotiated. That title may be defeated under Section  
859 75-7-504 to the same extent as the rights of the issuer or a  
860 transferee from the issuer.

861 (3) Title to goods based upon a bill of lading issued to a  
862 freight forwarder is subject to the rights of any person to whom a  
863 bill issued by the freight forwarder is duly negotiated. However,  
864 delivery by the carrier in accordance with Part 4 \* \* \* pursuant  
865 to its own bill of lading discharges the carrier's obligation to  
866 deliver.

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

869 75-7-504. (1) A transferee of a document, whether  
870 negotiable or nonnegotiable, to which the document has been  
871 delivered but not duly negotiated, acquires the title and rights  
872 that the transferor had or had actual authority to convey.

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

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

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

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

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

886           (3) A diversion or other change of shipping instructions by  
887 the consignor in a nonnegotiable bill of lading which causes the  
888 bailee not to deliver to the consignee defeats the consignee's  
889 title to the goods if they have been delivered to a buyer in  
890 ordinary course of business or a lessee in ordinary course of  
891 business and, in any event, defeats the consignee's rights against  
892 the bailee.

893           (4) Delivery pursuant to a nonnegotiable document of title  
894 may be stopped by a seller under Section \* \* \* 75-2-705 or a  
895 lessor under Section 75-2A-526, subject to the requirements of due  
896 notification in those sections. A bailee that honors the seller's  
897 or lessor's instructions is entitled to be indemnified by the  
898 seller or lessor against any resulting loss or expense.

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

901           75-7-505. The indorsement of a tangible document of title  
902 issued by a bailee does not make the indorser liable for any  
903 default by the bailee or by previous indorsers.

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

906           75-7-506. The transferee of a negotiable tangible document  
907 of title has a specifically enforceable right to have its  
908 transferor supply any necessary indorsement, but the transfer  
909 becomes a negotiation only as of the time the indorsement is  
910 supplied.

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

913           75-7-507. If a person negotiates or delivers a document of  
914 title for value, otherwise than as a mere intermediary under \* \* \*  
915 Section 75-7-508, unless otherwise agreed, the transferor, in  
916 addition to any warranty made in selling or leasing the goods,  
917 warrants to its immediate purchaser that:

918           (a) \* \* \* The document is genuine; and

919           (b) The transferor does not have knowledge of any fact  
920 that would impair the document's validity or worth; and

921           (c) The negotiation or delivery is rightful and fully  
922 effective with respect to the title to the document and the goods  
923 it represents.

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

926           75-7-508. A collecting bank or other intermediary known to  
927 be entrusted with documents of title on behalf of another or with  
928 collection of a draft or other claim against delivery of documents  
929 warrants by the delivery of the documents only its own good faith  
930 and authority even if the collecting bank or other intermediary  
931 has purchased or made advances against the claim or draft to be  
932 collected.

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

935           75-7-509. \* \* \* Whether a document of title is adequate to  
936 fulfill the obligations of a contract for sale, a contract for  
937 lease, or the conditions of a letter of credit is determined by  
938 Article 2, 2A or 5.

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

941           75-7-601. (1) If a document of title is lost, stolen or  
942 destroyed, a court may order delivery of the goods or issuance of  
943 a substitute document and the bailee may without liability to any  
944 person comply with the order. If the document was negotiable, a  
945 court may not order delivery of the goods or issuance of a

946 substitute document without the claimant's posting unless it finds  
947 that any person that may suffer loss as a result of nonsurrender  
948 of possession or control of the document is adequately protected  
949 against the loss. If the document was nonnegotiable, the court  
950 may require security. The court may also \* \* \* order payment of  
951 the bailee's reasonable costs and attorney's fees in any action  
952 under this subsection.

953 (2) A bailee that, without court order, delivers goods to a  
954 person claiming under a missing negotiable document of title is  
955 liable to any person injured thereby. If the delivery is not in  
956 good faith, the bailee is liable for conversion. Delivery in good  
957 faith is not conversion \* \* \* if the claimant posts security with  
958 the bailee in an amount at least double the value of the goods at  
959 the time of posting to indemnify any person injured by the  
960 delivery which files a notice of claim within one (1) year after  
961 the delivery.

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

964 75-7-602. Unless a document of title was originally issued  
965 upon delivery of the goods by a person that did not have power to  
966 dispose of them, a lien does not attach by virtue of any judicial  
967 process to goods in the possession of a bailee for which a  
968 negotiable document of title is outstanding unless possession or  
969 control of the document is first surrendered to the bailee or the  
970 document's negotiation is enjoined. The bailee may not be  
971 compelled to deliver the goods pursuant to process until  
972 possession or control of the document is surrendered to the bailee  
973 or to the court. A purchaser of the document for value without  
974 notice of the process or injunction takes free of the lien imposed  
975 by judicial process.

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

978           75-7-603. If more than one (1) person claims title or  
979 possession of the goods, the bailee is excused from delivery until  
980 the bailee has had a reasonable time to ascertain the validity of  
981 the adverse claims or to commence an action for interpleader. The  
982 bailee may assert an interpleader either in defending an action  
983 for nondelivery of the goods or by original action \* \* \*.

984           **SECTION 40.** The following shall be codified as Section  
985 75-7-701, Mississippi Code of 1972:

986           75-7-701. (1) The amendments to this chapter contained in  
987 House Bill No. \_\_\_\_\_, 2006 Regular Session, apply to a document of  
988 title that is issued or a bailment that arises on or after July 1,  
989 2006, but do not apply to: (a) a document of title that is issued  
990 or a bailment that arises before July 1, 2006, even if the  
991 document of title or bailment would be so subject if the document  
992 of title had been issued or bailment had arisen after July 1,  
993 2006, or (b) a right of action that has accrued before July 1,  
994 2006.

995           (2) A document of title issued or a bailment that arises  
996 before July 1, 2006, and the rights, obligations and interests  
997 flowing from that document or bailment are governed by any statute  
998 amended or repealed by House Bill No. \_\_\_\_\_, 2006 Regular Session,  
999 as if amendment or repeal had not occurred and may be terminated,  
1000 completed, consummated or enforced under that statute as it  
1001 existed on June 30, 2006.

1002           **SECTION 41.** Section 75-1-201, Mississippi Code of 1972, is  
1003 amended as follows:

1004           75-1-201. Subject to additional definitions contained in the  
1005 subsequent chapters of this code which are applicable to specific  
1006 chapters or parts thereof, and unless the context otherwise  
1007 requires, in this code:

1008           (1) "Action" in the sense of a judicial proceeding  
1009 includes recoupment, counterclaim, set-off, suit in equity and any  
1010 other proceedings in which rights are determined.

1011           (2) "Aggrieved party" means a party entitled to resort  
1012 to a remedy.

1013           (3) "Agreement" means the bargain of the parties in  
1014 fact as found in their language or by implication from other  
1015 circumstances including course of dealing or usage of trade or  
1016 course of performance as provided in this code (Sections 75-1-205  
1017 and 75-2-208). Whether an agreement has legal consequences is  
1018 determined by the provisions of this code, if applicable;  
1019 otherwise by the law of contracts (Section 75-1-103). (Compare  
1020 "Contract.")

1021           (4) "Bank" means any person engaged in the business of  
1022 banking.

1023           (5) "Bearer" means a person in control of a negotiable  
1024 electronic document of title or a person in possession of an  
1025 instrument, a negotiable tangible document of title, or a  
1026 certificated security payable to bearer or indorsed in blank.

1027           (6) "Bill of lading" means a document of title  
1028 evidencing the receipt of goods for shipment issued by a person  
1029 engaged in the business of directly or indirectly transporting or  
1030 forwarding goods. The term does not include a warehouse receipt.

1031           (7) "Branch" includes a separately incorporated foreign  
1032 branch of a bank.

1033           (8) "Burden of establishing" a fact means the burden of  
1034 persuading the triers of fact that the existence of the fact is  
1035 more probable than its nonexistence.

1036           (9) "Buyer in ordinary course of business" means a  
1037 person that buys goods in good faith, without knowledge that the  
1038 sale violates the rights of another person in the goods, and in  
1039 the ordinary course from a person, other than a pawnbroker, in the  
1040 business of selling goods of that kind. A person buys goods in  
1041 the ordinary course if the sale to the person comports with the  
1042 usual or customary practices in the kind of business in which the  
1043 seller is engaged or with the seller's own usual or customary

1044 practices. A person that sells oil, gas, or other minerals at the  
1045 wellhead or minehead is a person in the business of selling goods  
1046 of that kind. A buyer in the ordinary course of business may buy  
1047 for cash, by exchange of other property, or on secured or  
1048 unsecured credit, and may acquire goods or documents of title  
1049 under a preexisting contract for sale. Only a buyer that takes  
1050 possession of the goods or has a right to recover the goods from  
1051 the seller under Article 2 may be a buyer in ordinary course of  
1052 business. A person that acquires goods in a transfer in bulk or  
1053 as security for or in total or partial satisfaction of a money  
1054 debt is not a buyer in ordinary course of business.

1055 (10) "Conspicuous," with reference to a term, means so  
1056 written, displayed, or presented that a reasonable person against  
1057 which it is to operate ought to have noticed it. Whether a term  
1058 is "conspicuous" or not is a decision for the court. Conspicuous  
1059 terms include the following:

1060 (a) A heading in capitals equal to or greater in  
1061 size than the surrounding text, or in contrasting type, font, or  
1062 color to the surrounding text of the same or lessor size; and

1063 (b) Language in the body of a record or display in  
1064 larger type than the surrounding text, or in contrasting type,  
1065 font, or color to the surrounding text of the same size, or set  
1066 off from surrounding text of the same size by symbols or other  
1067 marks that call attention to the language.

1068 (11) "Contract" means the total legal obligation which  
1069 results from the parties' agreement as affected by this code and  
1070 any other applicable rules of law. (Compare "Agreement.")

1071 (12) "Creditor" includes a general creditor, a secured  
1072 creditor, a lien creditor and any representative of creditors,  
1073 including an assignee for the benefit of creditors, a trustee in  
1074 bankruptcy, a receiver in equity and an executor or administrator  
1075 of an insolvent debtor's or assignor's estate.

1076           (13) "Defendant" includes a person in the position of  
1077 defendant in a cross-action or counterclaim.

1078           (14) "Delivery" with respect to an electronic document  
1079 of title means voluntary transfer of control and with respect to  
1080 instruments, documents of title, chattel paper, or certificated  
1081 securities means voluntary transfer of possession.

1082           (15) "Document of title" means a record (a) that in the  
1083 regular course of business or financing is treated as adequately  
1084 evidencing that the person in possession or control of the record  
1085 it is entitled to receive, control, hold and dispose of the record  
1086 and the goods the record covers and (b) that purports to be issued  
1087 by or addressed to a bailee and to cover goods in the bailee's  
1088 possession which are either identified or are fungible portions of  
1089 an identified mass. The term includes a bill of lading, transport  
1090 document, dock warrant, dock receipt, warehouse receipt and order  
1091 for delivery of goods. An electronic document of title means a  
1092 document of title evidenced by a record consisting of information  
1093 stored in an electronic medium. A tangible document of title  
1094 means a document of title evidenced by a record consisting of  
1095 information that is inscribed on a tangible medium.

1096           (16) "Fault" means wrongful act, omission or breach.

1097           (17) "Fungible" with respect to goods or securities  
1098 means goods or securities of which any unit is, by nature or usage  
1099 of trade, the equivalent of any other like unit. Goods which are  
1100 not fungible shall be deemed fungible for the purposes of this  
1101 code to the extent that under a particular agreement or document  
1102 unlike units are treated as equivalents.

1103           (18) "Genuine" means free of forgery or counterfeiting.

1104           (19) "Good faith" means honesty in fact in the conduct  
1105 or transaction concerned.

1106           (20) "Holder" means:

1107                   (a) The person in possession of a negotiable  
1108 instrument that is payable either to bearer or to an identified  
1109 person that is the person in possession;

1110                   (b) The person in possession of a negotiable  
1111 tangible document of title if the goods are deliverable either to  
1112 bearer or to the order of the person in possession; or

1113                   (c) The person in control of a negotiable  
1114 electronic document of title.

1115                   (21) To "honor" is to pay or to accept and pay, or  
1116 where a credit so engages to purchase or discount a draft  
1117 complying with the terms of the credit.

1118                   (22) "Insolvency proceedings" includes any assignment  
1119 for the benefit of creditors or other proceedings intended to  
1120 liquidate or rehabilitate the estate of the person involved.

1121                   (23) A person is "insolvent" who either has ceased to  
1122 pay his debts in the ordinary course of business or cannot pay his  
1123 debts as they become due or is insolvent within the meaning of the  
1124 federal bankruptcy law.

1125                   (24) "Money" means a medium of exchange authorized or  
1126 adopted by a domestic or foreign government and includes a  
1127 monetary unit of account established by an intergovernmental  
1128 organization or by agreement between two (2) or more nations.

1129                   (25) Subject to subsection (27), a person has "notice"  
1130 of a fact if the person:

1131                   (a) \* \* \* Has actual knowledge of it; or

1132                   (b) \* \* \* Has received a notice or notification of  
1133 it; or

1134                   (c) From all the facts and circumstances known to  
1135 the person at the time in question, \* \* \* has reason to know that  
1136 it exists.

1137                   A person "knows" or has "knowledge" of a fact when the person  
1138 has actual knowledge of it. "Discover" or "learn" or a word or  
1139 phrase of similar import refers to knowledge rather than to reason

1140 to know. The time and circumstances under which a notice or  
1141 notification may cease to be effective are not determined by this  
1142 code.

1143 (26) A person "notifies" or "gives" a notice or  
1144 notification to another person by taking such steps as may be  
1145 reasonably required to inform the other person in ordinary course  
1146 whether or not the other person actually comes to know of it.  
1147 Subject to subsection (27), a person "receives" a notice or  
1148 notification when:

1149 (a) It comes to that person's attention; or

1150 (b) It is duly delivered in a form reasonable  
1151 under the circumstances at the place of business through which the  
1152 contract was made or at any other place held out by that person as  
1153 the place for receipt of such communications.

1154 (27) Notice, knowledge or a notice or notification  
1155 received by an organization is effective for a particular  
1156 transaction from the time when it is brought to the attention of  
1157 the individual conducting that transaction, and in any event from  
1158 the time when it would have been brought to his attention if the  
1159 organization had exercised due diligence. An organization  
1160 exercises due diligence if it maintains reasonable routines for  
1161 communicating significant information to the person conducting the  
1162 transaction and there is reasonable compliance with the routines.  
1163 Due diligence does not require an individual acting for the  
1164 organization to communicate information unless such communication  
1165 is part of the individual's regular duties or the individual has  
1166 reason to know of the transaction and that the transaction would  
1167 be materially affected by the information.

1168 (28) "Organization" includes a corporation, government  
1169 or governmental subdivision or agency, business trust, estate,  
1170 trust, partnership or association, two (2) or more persons having  
1171 a joint or common interest, or any other legal or commercial  
1172 entity.

1173           (29) "Party," as distinct from "third party," means a  
1174 person who has engaged in a transaction or made an agreement  
1175 within this code.

1176           (30) "Person" includes an individual or an organization  
1177 (see Section 75-1-102).

1178           (31) "Presumption" or "presumed" means that the trier  
1179 of fact must find the existence of the fact presumed unless and  
1180 until evidence is introduced which would support a finding of its  
1181 nonexistence.

1182           (32) "Purchase" includes taking by sale, discount,  
1183 negotiation, mortgage, pledge, lien, security interest, issue or  
1184 reissue, gift or any other voluntary transaction creating an  
1185 interest in property.

1186           (33) "Purchaser" means a person who takes by purchase.

1187           (34) "Remedy" means any remedial right to which an  
1188 aggrieved party is entitled with or without resort to a tribunal.

1189           (35) "Representative" includes an agent, an officer of  
1190 a corporation or association, and a trustee, executor or  
1191 administrator of an estate, or any other person empowered to act  
1192 for another.

1193           (36) "Rights" includes remedies.

1194           (37) "Security interest" means an interest in personal  
1195 property or fixtures which secures payment or performance of an  
1196 obligation.

1197           (a) The term also includes any interest of a  
1198 consignor and a buyer of accounts, chattel paper, a payment  
1199 intangible, or a promissory note in a transaction that is subject  
1200 to Article 9. The special property interest of a buyer of goods  
1201 on identification of such goods to a contract for sale under  
1202 Section 75-2-401 is not a "security interest," but a buyer may  
1203 also acquire "security interest," by complying with Article 9.  
1204 Except as otherwise provided in Section 75-2-505, the right of a  
1205 seller or lessor of goods under Article 2 or 2A to retain or

1206 acquire possession of the goods is not a "security interest," but  
1207 a seller or lessor may also acquire a "security interest" by  
1208 complying with Article 9. The retention or reservation of title  
1209 by a seller of goods notwithstanding shipment or delivery to the  
1210 buyer (Section 75-2-401) is limited in effect to a reservation of  
1211 a security interest.

1212 (b) Whether a transaction creates a lease or  
1213 security interest is determined by the facts of each case;  
1214 however, a transaction creates a security interest if the  
1215 consideration the lessee is to pay the lessor for the right to  
1216 possession and use of the goods is an obligation for the term of  
1217 the lease not subject to termination by the lessee, and

1218 (i) The original term of the lease is equal  
1219 to or greater than the remaining economic life of the goods,

1220 (ii) The lessee is bound to renew the lease  
1221 for the remaining economic life of the goods or is bound to become  
1222 the owner of the goods,

1223 (iii) The lessee has an option to renew the  
1224 lease for the remaining economic life of the goods for no  
1225 additional consideration or nominal additional consideration upon  
1226 compliance with the lease agreement, or

1227 (iv) The lessee has an option to become the  
1228 owner of the goods for no additional consideration or nominal  
1229 additional consideration upon compliance with the lease agreement.

1230 (c) A transaction does not create a security  
1231 interest merely because it provides that:

1232 (i) The present value of the consideration  
1233 the lessee is obligated to pay the lessor for the right to  
1234 possession and use of the goods is substantially equal to or is  
1235 greater than the fair market value of the goods at the time the  
1236 lease is entered into,

1237 (ii) The lessee assumes risk of loss of the  
1238 goods, or agrees to pay taxes, insurance, filing, recording, or

1239 registration fees, or service or maintenance costs with respect to  
1240 the goods,

1241 (iii) The lessee has an option to renew the  
1242 lease or to become the owner of the goods,

1243 (iv) The lessee has an option to renew the  
1244 lease for a fixed rent that is equal to or greater than the  
1245 reasonably predictable fair market rent for the use of the goods  
1246 for the term of the renewal at the time the option is to be  
1247 performed, or

1248 (v) The lessee has an option to become the  
1249 owner of the goods for a fixed price that is equal to or greater  
1250 than the reasonably predictable fair market value of the goods at  
1251 the time the option is to be performed.

1252 (d) For purposes of this subsection (37):

1253 (i) Additional consideration is not nominal  
1254 if:

1255 1. When the option to renew the lease is  
1256 granted to the lessee the rent is stated to be the fair market  
1257 rent for the use of the goods for the term of the renewal  
1258 determined at the time the option is to be performed, or

1259 2. When the option to become the owner  
1260 of the goods is granted to the lessee the price is stated to be  
1261 the fair market value of the goods determined at the time the  
1262 option is to be performed. Additional consideration is nominal if  
1263 it is less than the lessee's reasonably predictable cost of  
1264 performing under the lease agreement if the option is not  
1265 exercised;

1266 (ii) "Reasonably predictable" and "remaining  
1267 economic life of the goods" are to be determined with reference to  
1268 the fact and circumstances at the time the transaction is entered  
1269 into; and

1270 (iii) "Present value" means the amount as of  
1271 a date certain of one or more sums payable in the future,

1272 discounted to the date certain. The discount is determined by the  
1273 interest rate specified by the parties if the rate is not  
1274 manifestly unreasonable at the time the transaction is entered  
1275 into; otherwise, the discount is determined by a commercially  
1276 reasonable rate that takes into account the facts and  
1277 circumstances of each case at the time the transaction was entered  
1278 into.

1279 (38) "Send" in connection with any writing or notice  
1280 means:

1281 (a) To deposit in the mail or deliver for transmission  
1282 by any other usual means of communication with postage or cost of  
1283 transmission provided for and properly addressed and in the case  
1284 of an instrument to an address specified thereon or otherwise  
1285 agreed, or if there be none, to an address specified thereon or  
1286 otherwise agreed, or if there is none to any address reasonable  
1287 under the circumstances; or

1288 (b) In any other way to cause to be received any record  
1289 or notice within the time \* \* \* it would have arrived if properly  
1290 sent \* \* \*.

1291 (39) "Signed" includes any symbol executed or adopted  
1292 by a party with present intention to authenticate a writing.

1293 (40) "Surety" includes guarantor.

1294 (41) "Telegram" includes a message transmitted by  
1295 radio, teletype, cable, any mechanical method of transmission, or  
1296 the like.

1297 (42) "Term" means that portion of an agreement which  
1298 relates to a particular matter.

1299 (43) "Unauthorized" signature means one made without  
1300 actual, implied or apparent authority and includes a forgery.

1301 (44) "Value," except as otherwise provided with respect  
1302 to negotiable instruments and bank collections (Sections 75-3-303,  
1303 75-4-208 and 75-4-209), a person gives "value" for rights if he  
1304 acquires them:



1338	"Between merchants"	Section 75-2-104.
1339	"Cancellation"	Section 75-2-106(4).
1340	"Commercial unit"	Section 75-2-105.
1341	"Confirmed credit"	Section 75-2-325.
1342	"Conforming to contract"	Section 75-2-106.
1343	"Contract for sale"	Section 75-2-106.
1344	"Cover"	Section 75-2-712.
1345	"Entrusting"	Section 75-2-403.
1346	"Financing agency"	Section 75-2-104.
1347	"Future goods"	Section 75-2-105.
1348	"Goods"	Section 75-2-105.
1349	"Identification"	Section 75-2-501.
1350	"Installment contract"	Section 75-2-612.
1351	"Letter of Credit"	Section 75-2-325.
1352	"Lot"	Section 75-2-105.
1353	"Merchant"	Section 75-2-104.
1354	"Overseas"	Section 75-2-323.
1355	"Person in position of seller"	Section 75-2-707.
1356	"Present sale"	Section 75-2-106.
1357	"Sale"	Section 75-2-106.
1358	"Sale on approval"	Section 75-2-326.
1359	"Sale or return"	Section 75-2-326.
1360	"Termination"	Section 75-2-106.
1361	(3) <u>Control</u> " as provided in Section 57-7-106 and the	
1362	following definitions in other chapters apply to this chapter:	
1363	"Check"	Section 75-3-104.
1364	"Consignee"	Section 75-7-102.
1365	"Consignor"	Section 75-7-102.
1366	"Consumer goods"	Section 75-9-102.
1367	"Dishonor"	Section 75-3-502.
1368	"Draft"	Section 75-3-104.

1369 (4) In addition Chapter 1 contains general definitions and  
1370 principles of construction and interpretation applicable  
1371 throughout this chapter.

1372 **SECTION 43.** Section 75-2-104, Mississippi Code of 1972, is  
1373 amended as follows:

1374 75-2-104. (1) "Merchant" means a person who deals in goods  
1375 of the kind or otherwise by his occupation holds himself out as  
1376 having knowledge or skill peculiar to the practices or goods  
1377 involved in the transaction or to whom such knowledge or skill may  
1378 be attributed by his employment of an agent or broker or other  
1379 intermediary who by his occupation holds himself out as having  
1380 such knowledge or skill.

1381 (2) "Financing agency" means a bank, finance company or  
1382 other person who in the ordinary course of business makes advances  
1383 against goods or documents of title or who by arrangement with  
1384 either the seller or the buyer intervenes in ordinary course to  
1385 make or collect payment due or claimed under the contract for  
1386 sale, as by purchasing or paying the seller's draft or making  
1387 advances against it or by merely taking it for collection whether  
1388 or not documents of title accompany or are associated with the  
1389 draft. "Financing agency" includes also a bank or other person  
1390 who similarly intervenes between persons who are in the position  
1391 of seller and buyer in respect to the goods (Section 75-2-707).

1392 (3) "Between merchants" means in any transaction with  
1393 respect to which both parties are chargeable with the knowledge or  
1394 skill of merchants.

1395 **SECTION 44.** Section 75-2-310, Mississippi Code of 1972, is  
1396 amended as follows:

1397 75-2-310. Unless otherwise agreed:

1398 (a) Payment is due at the time and place at which the  
1399 buyer is to receive the goods even though the place of shipment is  
1400 the place of delivery; and

1401 (b) If the seller is authorized to send the goods he  
1402 may ship them under reservation, and may tender the documents of  
1403 title, but the buyer may inspect the goods after their arrival  
1404 before payment is due unless such inspection is inconsistent with  
1405 the terms of the contract (Section 75-2-513); and

1406 (c) If delivery is authorized and made by way of  
1407 documents of title otherwise than by subsection (b) then payment  
1408 is due regardless of where the goods are to be received (i) at the  
1409 time and place at which the buyer is to receive delivery of the  
1410 tangible documents or (ii) at the time the buyer is to receive  
1411 delivery of the electronic documents and at a seller's place of  
1412 business or if none, the sellers residence; and

1413 (d) Where the seller is required or authorized to ship  
1414 the goods on credit the credit period runs from the time of  
1415 shipment but postdating the invoice or delaying its dispatch will  
1416 correspondingly delay the starting of the credit period.

1417 **SECTION 45.** Section 75-2-323, Mississippi Code of 1972, is  
1418 amended as follows:

1419 75-2-323. (1) Where the contract contemplates overseas  
1420 shipment and contains a term CIF or C&F or FOB vessel, the seller  
1421 unless otherwise agreed must obtain a negotiable bill of lading  
1422 stating that the goods have been loaded on board or, in the case  
1423 of a term CIF or C&F, received for shipment.

1424 (2) Where in a case within subsection (1) a tangible bill of  
1425 lading has been issued in a set of parts, unless otherwise agreed  
1426 if the documents are not to be sent from abroad the buyer may  
1427 demand tender of the full set; otherwise only one (1) part of the  
1428 bill of lading need be tendered. Even if the agreement expressly  
1429 requires a full set:

1430 (a) Due tender of a single part is acceptable within  
1431 the provisions of this chapter on cure of improper delivery  
1432 (subsection (1) of (Section 75-2-508)); and

1433           (b) Even though the full set is demanded, if the  
1434 documents are sent from abroad the person tendering an incomplete  
1435 set may nevertheless require payment upon furnishing an indemnity  
1436 which the buyer in good faith deems adequate.

1437           (3) A shipment by water or by air or a contract  
1438 contemplating such shipment is "overseas" insofar as by usage of  
1439 trade or agreement it is subject to the commercial, financing or  
1440 shipping practices characteristic of international deep water  
1441 commerce.

1442           **SECTION 46.** Section 75-2-401, Mississippi Code of 1972, is  
1443 amended as follows:

1444           75-2-401. Each provision of this chapter with regard to the  
1445 rights, obligations and remedies of the seller, the buyer,  
1446 purchasers or other third parties applies irrespective of title to  
1447 the goods except where the provision refers to such title.  
1448 Insofar as situations are not covered by the other provisions of  
1449 this chapter and matters concerning title become material the  
1450 following rules apply:

1451           (1) Title to goods cannot pass under a contract for  
1452 sale prior to their identification to the contract (Section  
1453 75-2-501), and unless otherwise explicitly agreed the buyer  
1454 acquires by their identification a special property as limited by  
1455 this code. Any retention or reservation by the seller of the  
1456 title (property) in goods shipped or delivered to the buyer is  
1457 limited in effect to a reservation of a security interest.  
1458 Subject to these provisions and to the provisions of the chapter  
1459 on Secured Transactions (Chapter 9), title to goods passes from  
1460 the seller to the buyer in any manner and on any conditions  
1461 explicitly agreed on by the parties.

1462           (2) Unless otherwise explicitly agreed title passes to  
1463 the buyer at the time and place at which the seller completes his  
1464 performance with reference to the physical delivery of the goods,  
1465 despite any reservation of a security interest and even though a

1466 document of title is to be delivered at a different time or place;  
1467 and in particular and despite any reservation of a security  
1468 interest by the bill of lading:

1469           (a) If the contract requires or authorizes the  
1470 seller to send the goods to the buyer but does not require him to  
1471 deliver them at destination, title passes to the buyer at the time  
1472 and place of shipment; but

1473           (b) If the contract requires delivery at  
1474 destination, title passes on tender there.

1475           (3) Unless otherwise explicitly agreed where delivery  
1476 is to be made without moving the goods:

1477           (a) If the seller is to deliver a tangible  
1478 document of title, title passes at the time, when and the place  
1479 where he delivers such documents and if the seller is to deliver  
1480 an electronic document of title, title passes when the seller  
1481 delivers the document; or

1482           (b) If the goods are at the time of contracting  
1483 already identified and no documents of title are to be delivered,  
1484 title passes at the time and place of contracting.

1485           (4) A rejection or other refusal by the buyer to  
1486 receive or retain the goods, whether or not justified, or a  
1487 justified revocation of acceptance revests title to the goods in  
1488 the seller. Such reversion occurs by operation of law and is not  
1489 a "sale."

1490           **SECTION 47.** Section 75-2-503, Mississippi Code of 1972, is  
1491 amended as follows:

1492           75-2-503. (1) Tender of delivery requires that the seller  
1493 put and hold conforming goods at the buyer's disposition and give  
1494 the buyer any notification reasonably necessary to enable him to  
1495 take delivery. The manner, time and place for tender are  
1496 determined by the agreement and this chapter, and in particular:

1497           (a) Tender must be at a reasonable hour, and if it is  
1498 of goods they must be kept available for the period reasonably  
1499 necessary to enable the buyer to take possession; but

1500           (b) Unless otherwise agreed the buyer must furnish  
1501 facilities reasonably suited to the receipt of the goods.

1502           (2) Where the case is within the Section 75-2-504 respecting  
1503 shipment tender requires that \* \* \* seller comply with its  
1504 provisions.

1505           (3) Where the seller is required to deliver at a particular  
1506 destination tender requires that he comply with subsection (1) and  
1507 also in any appropriate case tender documents as described in  
1508 subsections (4) and (5) of this section.

1509           (4) Where goods are in the possession of a bailee and are to  
1510 be delivered without being moved:

1511           (a) Tender requires that the seller either tender a  
1512 negotiable document of title covering such goods or procure  
1513 acknowledgment by the bailee of the buyer's right to possession of  
1514 the goods; but

1515           (b) Tender to the buyer of a nonnegotiable document of  
1516 title or of a record directing the bailee to deliver is sufficient  
1517 tender unless the buyer seasonably objects, and except as  
1518 otherwise provided in Article 9 receipt by the bailee of  
1519 notification of the buyer's rights fixes those rights as against  
1520 the bailee and all third persons; but risk of loss of the goods  
1521 and of any failure by the bailee to honor the nonnegotiable  
1522 document of title or to obey the direction remains on the seller  
1523 until the buyer has had a reasonable time to present the document  
1524 or direction, and a refusal by the bailee to honor the document or  
1525 to obey the direction defeats the tender.

1526           (5) Where the contract requires the seller to deliver  
1527 documents:

1528           (a) He must tender all such documents in correct form,  
1529 except as provided in this chapter with respect to bills of lading  
1530 in a set Section 75-2-323(2); and

1531           (b) Tender through customary banking channels is  
1532 sufficient and dishonor of a draft accompanying or associated with  
1533 the documents constitutes nonacceptance or rejection.

1534           **SECTION 48.** Section 75-2-505, Mississippi Code of 1972, is  
1535 amended as follows:

1536           75-2-505. (1) Where the seller has identified goods to the  
1537 contract by or before shipment:

1538           (a) His procurement of a negotiable bill of lading to  
1539 his own order or otherwise reserves in him a security interest in  
1540 the goods. His procurement of the bill to the order of a  
1541 financing agency or of the buyer indicates in addition only the  
1542 seller's expectation of transferring that interest to the person  
1543 named.

1544           (b) A nonnegotiable bill of lading to himself or his  
1545 nominee reserves possession of the goods as security but except in  
1546 a case of conditional delivery (Section 75-2-507(2)) a  
1547 nonnegotiable bill of lading naming the buyer as consignee  
1548 reserves no security interest even though the seller retains  
1549 possession or control of the bill of lading.

1550           (2) When shipment by the seller with reservation of a  
1551 security interest is in violation of the contract for sale it  
1552 constitutes an improper contract for transportation within Section  
1553 75-2-504 but impairs neither the rights given to the buyer by  
1554 shipment and identification of the goods to the contract nor the  
1555 seller's powers as a holder of a negotiable document of title.

1556           **SECTION 49.** Section 75-2-506, Mississippi Code of 1972, is  
1557 amended as follows:

1558           75-2-506. (1) A financing agency by paying or purchasing  
1559 for value a draft which relates to a shipment of goods acquires to  
1560 the extent of the payment or purchase and in addition to its own

1561 rights under the draft and any document of title securing it any  
1562 rights of the shipper in the goods including the right to stop  
1563 delivery and the shipper's right to have the draft honored by the  
1564 buyer.

1565 (2) The right to reimbursement of a financing agency which  
1566 has in good faith honored or purchased the draft under commitment  
1567 to or authority from the buyer is not impaired by subsequent  
1568 discovery of defects with reference to any relevant document which  
1569 was apparently regular \* \* \*.

1570 **SECTION 50.** Section 75-2-509, Mississippi Code of 1972, is  
1571 amended as follows:

1572 75-2-509. (1) Where the contract requires or authorizes the  
1573 seller to ship the goods by carrier:

1574 (a) If it does not require him to deliver them at a  
1575 particular destination, the risk of loss passes to the buyer when  
1576 the goods are duly delivered to the carrier even though the  
1577 shipment is under reservation (Section 75-2-505); but

1578 (b) If it does require him to deliver them at a  
1579 particular destination and the goods are there duly tendered while  
1580 in the possession of the carrier, the risk of loss passes to the  
1581 buyer when the goods are there duly so tendered as to enable the  
1582 buyer to take delivery.

1583 (2) Where the goods are held by a bailee to be delivered  
1584 without being moved, the risk of loss passes to the buyer:

1585 (a) On his receipt of possession or control of a  
1586 negotiable document of title covering the goods; or

1587 (b) On acknowledgment by the bailee of the buyer's  
1588 right to possession of the goods; or

1589 (c) After his receipt of possession or control of a  
1590 nonnegotiable document of title or other \* \* \* direction to  
1591 deliver in a record, as provided in (Section 75-2-503(4)(b)).

1592 (3) In any case not within subsection (1) or (2), the risk  
1593 of loss passes to the buyer on his receipt of the goods if the

1594 seller is a merchant; otherwise the risk passes to the buyer on  
1595 tender of delivery.

1596 (4) The provisions of this section are subject to contrary  
1597 agreement of the parties and to the provisions of this chapter on  
1598 sale on approval (Section 75-2-327) and on effect of breach on  
1599 risk of loss (Section 75-2-510).

1600 **SECTION 51.** Section 75-2-605, Mississippi Code of 1972, is  
1601 amended as follows:

1602 75-2-605. (1) The buyer's failure to state in connection  
1603 with rejection a particular defect which is ascertainable by  
1604 reasonable inspection precludes him from relying on the unstated  
1605 defect to justify rejection or to establish breach:

1606 (a) Where the seller could have cured it if stated  
1607 seasonably; or

1608 (b) Between merchants when the seller has after  
1609 rejection made a request in writing for a full and final written  
1610 statement of all defects on which the buyer proposes to rely.

1611 (2) Payment against documents made without reservation of  
1612 rights precludes recovery of the payment for defects apparent in  
1613 the documents.

1614 **SECTION 52.** Section 75-2-705, Mississippi Code of 1972, is  
1615 amended as follows:

1616 75-2-705. (1) The seller may stop delivery of goods in the  
1617 possession of a carrier or other bailee when he discovers the  
1618 buyer to be insolvent (Section 75-2-702) and may stop delivery of  
1619 carload, truckload, planeload or larger shipments of express or  
1620 freight when the buyer repudiates or fails to make a payment due  
1621 before delivery or if for any other reason the seller has a right  
1622 to withhold or reclaim the goods.

1623 (2) As against such buyer the seller may stop delivery  
1624 until:

1625 (a) Receipt of the goods by the buyer; or

1626           (b) Acknowledgments to the buyer by any bailee of the  
1627 goods except a carrier that the bailee holds the goods for the  
1628 buyer; or

1629           (c) Such acknowledgment to the buyer by a carrier by  
1630 reshipment or as a warehouse; or

1631           (d) Negotiation to the buyer of any negotiable document  
1632 of title covering the goods.

1633           (3) (a) To stop delivery the seller must so notify as to  
1634 enable the bailee by reasonable diligence to prevent delivery of  
1635 the goods.

1636           (b) After such notification the bailee must hold and  
1637 deliver the goods according to the directions of the seller but  
1638 the seller is liable to the bailee for any ensuing charges or  
1639 damages.

1640           (c) If a negotiable document of title has been issued  
1641 for goods the bailee is not obliged to obey a notification to stop  
1642 until surrender of the possession or control of the document.

1643           (d) A carrier who has issued a nonnegotiable bill of  
1644 lading is not obliged to obey a notification to stop received from  
1645 a person other than the consignor.

1646           **SECTION 53.** Section 75-2A-103, Mississippi Code of 1972, is  
1647 amended as follows:

1648           75-2A-103. (1) In this chapter unless the context otherwise  
1649 requires:

1650           (a) "Buyer in ordinary course of business" means a  
1651 person who in good faith and without knowledge that the sale to  
1652 him is in violation of the ownership rights or security interest  
1653 or leasehold interest of a third party in the goods, buys in  
1654 ordinary course from a person in the business of selling goods of  
1655 that kind but does not include a pawnbroker. "Buying" may be for  
1656 cash or by exchange of other property or on secured or unsecured  
1657 credit and includes acquiring goods or documents of title under a  
1658 preexisting contract for sale but does not include a transfer in

1659 bulk or as security for or in total or partial satisfaction of a  
1660 money debt.

1661 (b) "Cancellation" occurs when either party puts an end  
1662 to the lease contract for default by the other party.

1663 (c) "Commercial unit" means such a unit of goods as by  
1664 commercial usage is a single whole for purposes of lease and  
1665 division of which materially impairs its character or value on the  
1666 market or in use. A commercial unit may be a single article, as a  
1667 machine, or a set of articles, as a suite of furniture or a line  
1668 of machinery, or a quantity, as a gross or carload, or any other  
1669 unit treated in use or in the relevant market as a single whole.

1670 (d) "Conforming" goods or performance under a lease  
1671 contract means goods or performance that are in accordance with  
1672 the obligations under the lease contract.

1673 (e) "Consumer lease" means a lease that a lessor  
1674 regularly engaged in the business of leasing or selling makes to a  
1675 lessee who is an individual and who takes under the lease  
1676 primarily for a personal, family or household purpose, if the  
1677 total payments to be made under the lease contract, excluding  
1678 payments for options to renew or buy, do not exceed Twenty-five  
1679 Thousand Dollars (\$25,000.00).

1680 (f) "Fault" means wrongful act, omission, breach or  
1681 default.

1682 (g) "Finance lease" means a lease with respect to  
1683 which:

1684 (i) The lessor does not select, manufacture, or  
1685 supply the goods;

1686 (ii) The lessor acquires the goods or the right to  
1687 possession and use of the goods in connection with the lease; and

1688 (iii) One (1) of the following occurs:

1689 (A) The lessee receives a copy of the  
1690 contract by which the lessor acquired the goods or the right to  
1691 possession and use of the goods before signing the lease contract;

1692                   (B) The lessee's approval of the contract by  
1693 which the lessor acquired the goods or the right to possession and  
1694 use of the goods is a condition to effectiveness of the lease  
1695 contract;

1696                   (C) The lessee, before signing the lease  
1697 contract, receives an accurate and complete statement designating  
1698 the promises and warranties, and any disclaimers of warranties,  
1699 limitations or modifications of remedies, or liquidated damages,  
1700 including those of a third party, such as the manufacturer of the  
1701 goods, provided to the lessor by the person supplying the goods in  
1702 connection with or as part of the contract by which the lessor  
1703 acquired the goods or the right to possession and use of the  
1704 goods; or

1705                   (D) If the lease is not a consumer lease, the  
1706 lessor, before the lessee signs the lease contract, informs the  
1707 lessee in writing (a) of the identity of the person supplying the  
1708 goods to the lessor, unless the lessee has selected that person  
1709 and directed the lessor to acquire the goods or the right to  
1710 possession and use of the goods from that person, (b) that the  
1711 lessee is entitled under this chapter to the promises and  
1712 warranties, including those of any third party, provided to the  
1713 lessor by the person supplying the goods in connection with or as  
1714 part of the contract by which the lessor acquired the goods or the  
1715 right to possession and use of the goods, and (c) that the lessee  
1716 may communicate with the person supplying the goods to the lessor  
1717 and receive an accurate and complete statement of those promises  
1718 and warranties, including any disclaimers and limitations of them  
1719 or of remedies.

1720                   (h) "Goods" means all things that are movable at the  
1721 time of identification to the lease contract, or are fixtures  
1722 (Section 75-2A-309), but the term does not include money,  
1723 documents, instruments, accounts, chattel paper, general

1724 intangibles or minerals or the like, including oil and gas, before  
1725 extraction. The term also includes the unborn young of animals.

1726 (i) "Installment lease contract" means a lease contract  
1727 that authorizes or requires the delivery of goods in separate lots  
1728 to be separately accepted, even though the lease contract contains  
1729 a clause "each delivery is a separate lease" or its equivalent.

1730 (j) "Lease" means a transfer of the right to possession  
1731 and use of goods for a term in return for consideration, but a  
1732 sale, including a sale on approval or a sale or return, or  
1733 retention or creation of a security interest is not a lease.  
1734 Unless the context clearly indicates otherwise, the term includes  
1735 a sublease.

1736 (k) "Lease agreement" means the bargain, with respect  
1737 to the lease, of the lessor and the lessee in fact as found in  
1738 their language or by implication from other circumstances  
1739 including course of dealing or usage of trade or course of  
1740 performance as provided in this chapter. Unless the context  
1741 clearly indicates otherwise, the term includes a sublease  
1742 agreement.

1743 (l) "Lease contract" means the total legal obligation  
1744 that results from the lease agreement as affected by this chapter  
1745 and any other applicable rules of law. Unless the context clearly  
1746 indicates otherwise, the term includes a sublease contract.

1747 (m) "Leasehold interest" means the interest of the  
1748 lessor or the lessee under a lease contract.

1749 (n) "Lessee" means a person who acquires the right to  
1750 possession and use of goods under a lease. Unless the context  
1751 clearly indicates otherwise, the term includes a sublease.

1752 (o) "Lessee in ordinary course of business" means a  
1753 person who in good faith and without knowledge that the lease to  
1754 him is in violation of the ownership rights or security interest  
1755 or leasehold interest of a third party in the goods leases in  
1756 ordinary course from a person in the business of selling or

1757 leasing goods of that kind but does not include a pawnbroker.  
1758 "Leasing" may be for cash or by exchange of other property or on  
1759 secured or unsecured credit and includes acquiring goods or  
1760 documents of title under a preexisting lease contract but does not  
1761 include a transfer in bulk or as security for or in total or  
1762 partial satisfaction of a money debt.

1763 (p) "Lessor" means a person who transfers the right to  
1764 possession and use of goods under a lease. Unless the context  
1765 clearly indicates otherwise, the term includes a sublessor.

1766 (q) "Lessor's residual interest" means the lessor's  
1767 interest in the goods after expiration, termination or  
1768 cancellation of the lease contract.

1769 (r) "Lien" means a charge against or interest in goods  
1770 to secure payment of a debt or performance of an obligation, but  
1771 the term does not include a security interest.

1772 (s) "Lot" means a parcel or a single article that is  
1773 the subject matter of a separate lease or delivery, whether or not  
1774 it is sufficient to perform the lease contract.

1775 (t) "Merchant lessee" means a lessee that is a merchant  
1776 with respect to goods of the kind subject to the lease.

1777 (u) "Present value" means the amount as of a date  
1778 certain of one or more sums payable in the future, discounted to  
1779 the date certain. The discount is determined by the interest rate  
1780 specified by the parties if the rate was not manifestly  
1781 unreasonable at the time the transaction was entered into;  
1782 otherwise, the discount is determined by a commercially reasonable  
1783 rate that takes into account the facts and circumstances of each  
1784 case at the time the transaction was entered into.

1785 (v) "Purchase" includes taking by sale, lease,  
1786 mortgage, security interest, pledge, gift or any other voluntary  
1787 transaction creating an interest in goods.

1788           (w) "Sublease" means a lease of goods the right to  
1789 possession and use of which was acquired by the lessor as a lessee  
1790 under an existing lease.

1791           (x) "Supplier" means a person from whom a lessor buys  
1792 or leases goods to be leased under a finance lease.

1793           (y) "Supply contract" means a contract under which a  
1794 lessor buys or leases goods to be leased.

1795           (z) "Termination" occurs when either party pursuant to  
1796 a power created by agreement or law puts an end to the lease  
1797 contract otherwise than for default.

1798           (2) Other definitions applying to this chapter and the  
1799 sections in which they appear are:

1800	"Accessions."	Section 75-2A-310(1).
1801	"Construction mortgage."	Section 75-2A-309(1)(d).
1802	"Encumbrance."	Section 75-2A-309(1)(e).
1803	"Fixtures."	Section 75-2A-309(1)(a).
1804	"Fixture filing."	Section 75-2A-309(1)(b).
1805	"Purchase money lease."	Section 75-2A-309(1)(c).

1806           (3) The following definitions in other chapters apply to  
1807 this chapter:

1808	"Account"	Section 75-9-102(a)(2).
1809	"Between merchants"	Section 75-2-104(3).
1810	"Buyer"	Section 75-2-103(1)(a).
1811	"Chattel paper"	Section 75-9-102(a)(11).
1812	"Consumer goods"	Section 75-9-102(a)(23).
1813	"Document"	Section 75-9-102(a)(30).
1814	"Entrusting"	Section 75-2-403(3).
1815	"General intangible"	Section 75-9-102(a)(42).
1816	"Good faith"	Section 75-2-103(1)(b).
1817	"Instrument"	Section 75-9-102(a)(47).
1818	"Merchant"	Section 75-2-104(1).
1819	"Mortgage"	Section 75-9-102(a)(55).
1820	"Pursuant to commitment"	Section 75-9-102(a)(68).

1821 "Receipt" Section 75-2-103(1)(c).  
1822 "Sale" Section 75-2-106(1).  
1823 "Sale on approval" Section 75-2-326.  
1824 "Sale or return" Section 75-2-326.  
1825 "Seller" Section 75-2-103(1)(d).

1826 (4) In addition, Chapter 1 contains general definitions and  
1827 principles of construction and interpretation applicable  
1828 throughout this chapter.

1829 **SECTION 54.** Section 75-2A-514, Mississippi Code of 1972, is  
1830 amended as follows:

1831 75-2A-514. (1) In rejecting goods, a lessee's failure to  
1832 state a particular defect that is ascertainable by reasonable  
1833 inspection precludes the lessee from relying on the defect to  
1834 justify rejection or to establish default:

1835 (a) If, stated seasonably, the lessor or the supplier  
1836 could have cured it (Section 75-2A-513); or

1837 (b) Between merchants if the lessor or the supplier  
1838 after rejection has made a request in writing for a full and final  
1839 written statement of all defects on which the lessee proposes to  
1840 rely.

1841 (2) A lessee's failure to reserve rights when paying rent or  
1842 other consideration against documents precludes recovery of the  
1843 payment for defects apparent in the documents.

1844 **SECTION 55.** Section 75-2A-526, Mississippi Code of 1972, is  
1845 amended as follows:

1846 75-2A-526. (1) A lessor may stop delivery of goods in the  
1847 possession of a carrier or other bailee if the lessor discovers  
1848 the lessee to be insolvent and may stop delivery of carload,  
1849 truckload, planeload, or larger shipments of express or freight if  
1850 the lessee repudiates or fails to make a payment due before  
1851 delivery, whether for rent, security or otherwise under the lease  
1852 contract, or for any other reason the lessor has a right to  
1853 withhold or take possession of the goods.

1854 (2) In pursuing its remedies under subsection (1), the  
1855 lessor may stop delivery until

1856 (a) Receipt of the goods by the lessee;

1857 (b) Acknowledgment to the lessee by any bailee of the  
1858 goods, except a carrier, that the bailee hold the goods for the  
1859 lessee; or

1860 (c) Such an acknowledgement to the lessee by a carrier  
1861 via reshipment or as a warehouse.

1862 (3) (a) To stop delivery, a lessor shall so notify as to  
1863 enable the bailee by reasonable diligence to prevent delivery of  
1864 the goods.

1865 (b) After notification, the bailee shall hold and  
1866 deliver the goods according to the directions of the lessor, but  
1867 the lessor is liable to the bailee for any ensuing charges or  
1868 damages.

1869 (c) A carrier who has issued a nonnegotiable bill of  
1870 lading is not obliged to obey a notification to stop received from  
1871 a person other than the consignor.

1872 **SECTION 56.** Section 75-4-104, Mississippi Code of 1972, is  
1873 amended as follows:

1874 75-4-104. (a) In this chapter, unless the context otherwise  
1875 requires:

1876 (1) "Account" means any deposit or credit account with  
1877 a bank, including a demand, time, savings, passbook, share draft,  
1878 or like account, other than an account evidenced by a certificate  
1879 of deposit;

1880 (2) "Afternoon" means the period of a day between noon  
1881 and midnight;

1882 (3) "Banking day" means the part of a day on which a  
1883 bank is open to the public for carrying on substantially all of  
1884 its banking functions;

1885 (4) "Clearinghouse" means an association of banks or  
1886 other payors regularly clearing items;

1887           (5) "Customer" means a person having an account with a  
1888 bank or for whom a bank has agreed to collect items, including a  
1889 bank that maintains an account at another bank;

1890           (6) "Documentary draft" means a draft to be presented  
1891 for acceptance or payment if specified documents, certificated  
1892 securities (Section 75-8-102) or instructions for uncertificated  
1893 securities (Section 75-8-102), or other certificates, statements,  
1894 or the like are to be received by the drawee or other payor before  
1895 acceptance or payment of the draft;

1896           (7) "Draft" means a draft as defined in Section  
1897 75-3-104 or an item, other than an instrument, that is an order;

1898           (8) "Drawee" means a person ordered in a draft to make  
1899 payment;

1900           (9) "Item" means an instrument or a promise or order to  
1901 pay money handled by a bank for collection or payment. The term  
1902 does not include a payment order governed by Chapter 4A or a  
1903 credit or debit card slip;

1904           (10) "Midnight deadline" with respect to a bank is  
1905 midnight on its next banking day following the banking day on  
1906 which it receives the relevant item or notice or from which the  
1907 time for taking action commences to run, whichever is later;

1908           (11) "Settle" means to pay in cash, by clearinghouse  
1909 settlement, in a charge or credit or by remittance, or otherwise  
1910 as agreed. A settlement may be either provisional or final;

1911           (12) "Suspends payments" with respect to a bank means  
1912 that it has been closed by order of the supervisory authorities,  
1913 that a public officer has been appointed to take it over, or that  
1914 it ceases or refuses to make payments in the ordinary course of  
1915 business.

1916           (b) Other definitions applying to this chapter and the  
1917 sections in which they appear are:

1918           "Agreement for electronic

1919           presentment"

Section 75-4-110

1920	"Bank"	Section 75-4-105
1921	"Collecting bank"	Section 75-4-105
1922	"Depository bank"	Section 75-4-105
1923	"Intermediary bank"	Section 75-4-105
1924	"Payor bank"	Section 75-4-105
1925	"Presenting bank"	Section 75-4-105
1926	"Presentment notice"	Section 75-4-110
1927	(c) <u>"Control" as provided in Section 75-7-106 and the</u>	
1928	following definitions in other chapters apply to this	
1929	chapter:	
1930	"Acceptance"	Section 75-3-409
1931	"Alteration"	Section 75-3-407
1932	"Cashier's check"	Section 75-3-104
1933	"Certificate of deposit"	Section 75-3-104
1934	"Certified check"	Section 75-3-409
1935	"Check"	Section 75-3-104
1936	"Good faith"	Section 75-3-103
1937	"Holder in due course"	Section 75-3-302
1938	"Instrument"	Section 75-3-104
1939	"Notice of dishonor"	Section 75-3-503
1940	"Order"	Section 75-3-103
1941	"Ordinary care"	Section 75-3-103
1942	"Person entitled to enforce"	Section 75-3-301
1943	"Presentment"	Section 75-3-501
1944	"Promise"	Section 75-3-103
1945	"Prove"	Section 75-3-103
1946	"Teller's check"	Section 75-3-104
1947	"Unauthorized signature"	Section 75-3-403
1948	(d) In addition, Chapter 1 contains general definitions and	
1949	principles of construction and interpretation applicable	
1950	throughout this chapter.	
1951	<b>SECTION 57.</b> Section 75-4-210, Mississippi Code of 1972, is	
1952	amended as follows:	

1953           75-4-210. (a) A collecting bank has a security interest in  
1954 an item and any accompanying documents or the proceeds of either:

1955                   (1) In case of an item deposited in an account, to the  
1956 extent to which credit given for the item has been withdrawn or  
1957 applied;

1958                   (2) In case of an item for which it has given credit  
1959 available for withdrawal as of right, to the extent of the credit  
1960 given, whether or not the credit is drawn upon or there is a right  
1961 of charge-back; or

1962                   (3) If it makes an advance on or against the item.

1963           (b) If credit given for several items received at one time  
1964 or pursuant to a single agreement is withdrawn or applied in part,  
1965 the security interest remains upon all the items, any accompanying  
1966 documents or the proceeds of either. For the purpose of this  
1967 section, credits first given are first withdrawn.

1968           (c) Receipt by a collecting bank of a final settlement for  
1969 an item is a realization on its security interest in the item,  
1970 accompanying documents, and proceeds. So long as the bank does  
1971 not receive final settlement for the item or give up possession of  
1972 the item or possession or control of the accompanying documents  
1973 for purposes other than collection, the security interest  
1974 continues to that extent and is subject to Chapter 9, but:

1975                   (1) No security agreement is necessary to make the  
1976 security interest enforceable (Section 75-9-203(b)(3)(A));

1977                   (2) No filing is required to perfect the security  
1978 interest; and

1979                   (3) The security interest has priority over conflicting  
1980 perfected security interests in the item, accompanying documents,  
1981 or proceeds.

1982           **SECTION 58.** Section 75-8-103, Mississippi Code of 1972, is  
1983 amended as follows:

1984           75-8-103. (a) A share or similar equity interest issued by  
1985 a corporation, business trust, joint stock company, or similar  
1986 entity is a security.

1987           (b) An "investment company security" is a security.  
1988 "Investment company security" means a share or similar equity  
1989 interest issued by an entity that is registered as an investment  
1990 company under the federal investment company laws, an interest in  
1991 a unit investment trust that is so registered, or a face-amount  
1992 certificate issued by a face-amount certificate company that is so  
1993 registered. Investment company security does not include an  
1994 insurance policy or endowment policy or annuity contract issued by  
1995 an insurance company.

1996           (c) An interest in a partnership or limited liability  
1997 company is not a security unless it is dealt in or traded on  
1998 securities exchanges or in securities markets, its terms expressly  
1999 provide that it is a security governed by this chapter, or it is  
2000 an investment company security. However, an interest in a  
2001 partnership or limited liability company is a financial asset if  
2002 it is held in a securities account.

2003           (d) A writing that is a security certificate is governed by  
2004 this chapter and not by Chapter 3, even though it also meets the  
2005 requirements of that chapter. However, a negotiable instrument  
2006 governed by Chapter 3 is a financial asset if it is held in a  
2007 securities account.

2008           (e) An option or similar obligation issued by a clearing  
2009 corporation to its participants is not a security, but is a  
2010 financial asset.

2011           (f) A commodity contract, as defined in Section  
2012 75-9-102(a)(15), is not a security or a financial asset.

2013           (g) A document of title is not a financial asset unless  
2014 Section 75-8-102(a)(9)(iii) applies.

2015           **SECTION 59.** Section 75-9-102, Mississippi Code of 1972, is  
2016 amended as follows:

2017 75-9-102. (a) In this article:

2018 (1) "Accession" means goods that are physically united  
2019 with other goods in such a manner that the identity of the  
2020 original goods is not lost.

2021 (2) "Account," except as used in "account for," means a  
2022 right to payment of a monetary obligation, whether or not earned  
2023 by performance, (i) for property that has been or is to be sold,  
2024 leased, licensed, assigned, or otherwise disposed of, (ii) for  
2025 services rendered or to be rendered, (iii) for a policy of  
2026 insurance issued or to be issued, (iv) for a secondary obligation  
2027 incurred or to be incurred, (v) for energy provided or to be  
2028 provided, (vi) for the use or hire of a vessel under a charter or  
2029 other contract, (vii) arising out of the use of a credit or charge  
2030 card or information contained on or for use with the card, or  
2031 (viii) as winnings in a lottery or other game of chance operated  
2032 or sponsored by a state, governmental unit of a state, or person  
2033 licensed or authorized to operate the game by a state or  
2034 governmental unit of a state. The term includes  
2035 health-care-insurance receivables. The term does not include (i)  
2036 rights to payment evidenced by chattel paper or an instrument,  
2037 (ii) commercial tort claims, (iii) deposit accounts, (iv)  
2038 investment property, (v) letter-of-credit rights or letters of  
2039 credit, or (vi) rights to payment for money or funds advanced or  
2040 sold, other than rights arising out of the use of a credit or  
2041 charge card or information contained on or for use with the card.

2042 (3) "Account debtor" means a person obligated on an  
2043 account, chattel paper, or general intangible. The term does not  
2044 include persons obligated to pay a negotiable instrument, even if  
2045 the instrument constitutes part of chattel paper.

2046 (4) "Accounting," except as used in "accounting for,"  
2047 means a record:

2048 (A) Authenticated by a secured party;

2049 (B) Indicating the aggregate unpaid secured  
2050 obligations as of a date not more than thirty-five (35) days  
2051 earlier or thirty-five (35) days later than the date of the  
2052 record; and

2053 (C) Identifying the components of the obligations  
2054 in reasonable detail.

2055 (5) "Agricultural lien" means an interest in farm  
2056 products:

2057 (A) Which secures payment or performance of an  
2058 obligation for:

2059 (i) Goods or services furnished in connection  
2060 with a debtor's farming operation; or

2061 (ii) Rent on real property leased by a debtor  
2062 in connection with its farming operation;

2063 (B) Which is created by statute in favor of a  
2064 person that:

2065 (i) In the ordinary course of its business  
2066 furnished goods or services to a debtor in connection with a  
2067 debtor's farming operation; or

2068 (ii) Leased real property to a debtor in  
2069 connection with the debtor's farming operation; and

2070 (C) Whose effectiveness does not depend on the  
2071 person's possession of the personal property.

2072 (6) "As-extracted collateral" means:

2073 (A) Oil, gas, or other minerals that are subject  
2074 to a security interest that:

2075 (i) Is created by a debtor having an interest  
2076 in the minerals before extraction; and

2077 (ii) Attaches to the minerals as extracted;

2078 or

2079 (B) Accounts arising out of the sale at the  
2080 wellhead or minehead of oil, gas, or other minerals in which the  
2081 debtor had an interest before extraction.

2082 (7) "Authenticate" means:

2083 (A) To sign; or

2084 (B) To execute or otherwise adopt a symbol, or  
2085 encrypt or similarly process a record in whole or in part, with  
2086 the present intent of the authenticating person to identify the  
2087 person and adopt or accept a record.

2088 (8) "Bank" means an organization that is engaged in the  
2089 business of banking. The term includes savings banks, savings and  
2090 loan associations, credit unions, and trust companies.

2091 (9) "Cash proceeds" means proceeds that are money,  
2092 checks, deposit accounts, or the like.

2093 (10) "Certificate of title" means a certificate of  
2094 title with respect to which a statute provides for the security  
2095 interest in question to be indicated on the certificate as a  
2096 condition or result of the security interest's obtaining priority  
2097 over the rights of a lien creditor with respect to the collateral.

2098 (11) "Chattel paper" means a record or records that  
2099 evidence both a monetary obligation and a security interest in  
2100 specific goods, a security interest in specific goods and software  
2101 used in the goods, a security interest in specific goods and  
2102 license of software used in the goods, a lease of specific goods,  
2103 or a lease of specific goods and license of software used in the  
2104 goods. In this paragraph, "monetary obligation" means a monetary  
2105 obligation secured by the goods or owed under a lease of the goods  
2106 and includes a monetary obligation with respect to software used  
2107 in the goods. The term does not include (i) charters or other  
2108 contracts involving the use or hire of a vessel or (ii) records  
2109 that evidence a right to payment arising out of the use of a  
2110 credit or charge card or information contained on or for use with  
2111 the card. If a transaction is evidenced by records that include  
2112 an instrument or series of instruments, the group of records taken  
2113 together constitutes chattel paper.

2114 (12) "Collateral" means the property subject to a  
2115 security interest or agricultural lien. The term includes:

2116 (A) Proceeds to which a security interest  
2117 attaches;

2118 (B) Accounts, chattel paper, payment intangibles,  
2119 and promissory notes that have been sold; and

2120 (C) Goods that are the subject of a consignment.

2121 (13) "Commercial tort claim" means a claim arising in  
2122 tort with respect to which:

2123 (A) The claimant is an organization; or

2124 (B) The claimant is an individual and the claim:

2125 (i) Arose in the course of the claimant's  
2126 business or profession; and

2127 (ii) Does not include damages arising out of  
2128 personal injury to or the death of an individual.

2129 (14) "Commodity account" means an account maintained by  
2130 a commodity intermediary in which a commodity contract is carried  
2131 for a commodity customer.

2132 (15) "Commodity contract" means a commodity futures  
2133 contract, an option on a commodity futures contract, a commodity  
2134 option, or another contract if the contract or option is:

2135 (A) Traded on or subject to the rules of a board  
2136 of trade that has been designated as a contract market for such a  
2137 contract pursuant to federal commodities laws; or

2138 (B) Traded on a foreign commodity board of trade,  
2139 exchange, or market, and is carried on the books of a commodity  
2140 intermediary for a commodity customer.

2141 (16) "Commodity customer" means a person for which a  
2142 commodity intermediary carries a commodity contract on its books.

2143 (17) "Commodity intermediary" means a person that:

2144 (A) Is registered as a futures commission merchant  
2145 under federal commodities law; or

2146 (B) In the ordinary course of its business  
2147 provides clearance or settlement services for a board of trade  
2148 that has been designated as a contract market pursuant to federal  
2149 commodities law.

2150 (18) "Communicate" means:

2151 (A) To send a written or other tangible record;

2152 (B) To transmit a record by any means agreed upon  
2153 by the persons sending and receiving the record; or

2154 (C) In the case of transmission of a record to or  
2155 by a filing office, to transmit a record by any means prescribed  
2156 by filing-office rule.

2157 (19) "Consignee" means a merchant to which goods are  
2158 delivered in a consignment.

2159 (20) "Consignment" means a transaction, regardless of  
2160 its form, in which a person delivers goods to a merchant for the  
2161 purpose of sale and:

2162 (A) The merchant:

2163 (i) Deals in goods of that kind under a name  
2164 other than the name of the person making delivery;

2165 (ii) Is not an auctioneer; and

2166 (iii) Is not generally known by its creditors  
2167 to be substantially engaged in selling the goods of others;

2168 (B) With respect to each delivery, the aggregate  
2169 value of the goods is One Thousand Dollars (\$1,000.00) or more at  
2170 the time of delivery;

2171 (C) The goods are not consumer goods immediately  
2172 before delivery; and

2173 (D) The transaction does not create a security  
2174 interest that secures an obligation.

2175 (21) "Consignor" means a person that delivers goods to  
2176 a consignee in a consignment.

2177 (22) "Consumer debtor" means a debtor in a consumer  
2178 transaction.

2179                   (23) "Consumer goods" means goods that are used or  
2180 bought for use primarily for personal, family, or household  
2181 purposes.

2182                   (24) "Consumer-goods transaction" means a consumer  
2183 transaction in which:

2184                   (A) An individual incurs an obligation primarily  
2185 for personal, family, or household purposes; and

2186                   (B) A security interest in consumer goods secures  
2187 the obligation.

2188                   (25) "Consumer obligor" means an obligor who is an  
2189 individual and who incurred the obligation as part of a  
2190 transaction entered into primarily for personal, family, or  
2191 household purposes.

2192                   (26) "Consumer transaction" means a transaction in  
2193 which (i) an individual incurs an obligation primarily for  
2194 personal, family, or household purposes, (ii) a security interest  
2195 secures the obligation, and (iii) the collateral is held or  
2196 acquired primarily for personal, family, or household purposes.  
2197 The term includes consumer-goods transactions.

2198                   (27) "Continuation statement" means an amendment of a  
2199 financing statement which:

2200                   (A) Identifies, by its file number, the initial  
2201 financing statement to which it relates; and

2202                   (B) Indicates that it is a continuation statement  
2203 for, or that it is filed to continue the effectiveness of, the  
2204 identified financing statement.

2205                   (28) "Debtor" means:

2206                   (A) A person having an interest, other than a  
2207 security interest or other lien, in the collateral, whether or not  
2208 the person is an obligor;

2209                   (B) A seller of accounts, chattel paper, payment  
2210 intangibles, or promissory notes; or

2211                   (C) A consignee.

2212                   (29) "Deposit account" means a demand, time, savings,  
2213 passbook, or similar account maintained with a bank. The term  
2214 does not include investment property or accounts evidenced by an  
2215 instrument.

2216                   (30) "Document" means a document of title or a receipt  
2217 of the type described in Section 75-7-201(2).

2218                   (31) "Electronic chattel paper" means chattel paper  
2219 evidenced by a record or records consisting of information stored  
2220 in an electronic medium.

2221                   (32) "Encumbrance" means a right, other than an  
2222 ownership interest, in real property. The term includes mortgages  
2223 and other liens on real property.

2224                   (33) "Equipment" means goods other than inventory, farm  
2225 products, or consumer goods.

2226                   (34) "Farm products" means goods, other than standing  
2227 timber, with respect to which the debtor is engaged in a farming  
2228 operation and which are:

2229                   (A) Crops grown, growing, or to be grown,  
2230 including:

2231                                 (i) Crops produced on trees, vines, and  
2232 bushes; and

2233                                 (ii) Aquatic goods produced in aquacultural  
2234 operations;

2235                   (B) Livestock, born or unborn, including aquatic  
2236 goods produced in aquacultural operations;

2237                   (C) Supplies used or produced in a farming  
2238 operation; or

2239                   (D) Products of crops or livestock in their  
2240 unmanufactured states.

2241                   (35) "Farming operation" means raising, cultivating,  
2242 propagating, fattening, grazing, or any other farming, livestock  
2243 or aquacultural operation.

2244           (36) "File number" means the number assigned to an  
2245 initial financing statement pursuant to Section 75-9-519(a).

2246           (37) "Filing office" means an office designated in  
2247 Section 75-9-501 as the place to file a financing statement.

2248           (38) "Filing-office rule" means a rule adopted pursuant  
2249 to Section 75-9-526.

2250           (39) "Financing statement" means a record or records  
2251 composed of an initial financing statement and any filed record  
2252 relating to the initial financing statement.

2253           (40) "Fixture filing" means the filing of a financing  
2254 statement covering goods that are or are to become fixtures and  
2255 satisfying Section 75-9-502(a) and (b). The term includes the  
2256 filing of a financing statement covering goods of a transmitting  
2257 utility which are or are to become fixtures.

2258           (41) "Fixtures" means goods that have become so related  
2259 to particular real property that an interest in them arises under  
2260 real property law.

2261           (42) "General intangible" means any personal property,  
2262 including things in action, other than accounts, chattel paper,  
2263 commercial tort claims, deposit accounts, documents, goods,  
2264 instruments, investment property, letter-of-credit rights, letters  
2265 of credit, money, and oil, gas, or other minerals before  
2266 extraction. The term includes payment intangibles and software.

2267           (43) "Good faith" means honesty in fact and the  
2268 observance of reasonable commercial standards of fair dealing.

2269           (44) "Goods" means all things that are movable when a  
2270 security interest attaches. The term includes (i) fixtures, (ii)  
2271 standing timber that is to be cut and removed under a conveyance  
2272 or contract for sale, (iii) the unborn young of animals, (iv)  
2273 crops grown, growing, or to be grown, even if the crops are  
2274 produced on trees, vines, or bushes, (v) farm-raised fish produced  
2275 in fresh water according to the usual and customary techniques of  
2276 commercial agriculture, (vi) manufactured homes and (vii) marine

2277 vessels (herein defined as every type of watercraft used, or  
2278 capable of being used, as a means of transportation on water)  
2279 including both marine vessels under construction, including  
2280 engines and all items of equipment installed or to be installed  
2281 therein, whether such vessels are being constructed by the  
2282 shipbuilder for his own use or for sale (said vessels under  
2283 construction being classified as inventory within the meaning of  
2284 Section 75-9-102(48)), and marine vessels after completion of  
2285 construction so long as such vessels have not become "vessels of  
2286 the United States" within the meaning of the Ship Mortgage Act of  
2287 1920, 46 USCS, Section 911(4), as same is now written or may  
2288 hereafter be amended (said completed vessels being classified as  
2289 equipment within the meaning of Section 75-9-102(33)). The term  
2290 also includes a computer program embedded in goods and any  
2291 supporting information provided in connection with a transaction  
2292 relating to the program if (i) the program is associated with the  
2293 goods in such a manner that it customarily is considered part of  
2294 the goods, or (ii) by becoming the owner of the goods, a person  
2295 acquires a right to use the program in connection with the goods.  
2296 The term does not include a computer program embedded in goods  
2297 that consist solely of the medium in which the program is  
2298 embedded. The term also does not include accounts, chattel paper,  
2299 commercial tort claims, deposit accounts, documents, general  
2300 intangibles, instruments, investment property, letter-of-credit  
2301 rights, letters of credit, money, or oil, gas, or other minerals  
2302 before extraction.

2303           (45) "Governmental unit" means a subdivision, agency,  
2304 department, county, parish, municipality or other unit of the  
2305 government of the United States, a state, or a foreign country.  
2306 The term includes an organization having a separate corporate  
2307 existence if the organization is eligible to issue debt on which  
2308 interest is exempt from income taxation under the laws of the  
2309 United States.

2310           (46) "Health-care-insurance receivable" means an  
2311 interest in or claim under a policy of insurance which is a right  
2312 to payment of a monetary obligation for health-care goods or  
2313 services provided or to be provided.

2314           (47) "Instrument" means a negotiable instrument or any  
2315 other writing that evidences a right to the payment of a monetary  
2316 obligation, is not itself a security agreement or lease, and is of  
2317 a type that in ordinary course of business is transferred by  
2318 delivery with any necessary endorsement or assignment. The term  
2319 does not include (i) investment property, (ii) letters of credit,  
2320 or (iii) writings that evidence a right to payment arising out of  
2321 the use of a credit or charge card or information contained on or  
2322 for use with the card.

2323           (48) "Inventory" means goods, other than farm products,  
2324 which:

2325                   (A) Are leased by a person as lessor;

2326                   (B) Are held by a person for sale or lease or to  
2327 be furnished under a contract of service;

2328                   (C) Are furnished by a person under a contract of  
2329 service; or

2330                   (D) Consist of raw materials, work in process or  
2331 materials used or consumed in a business.

2332           (49) "Investment property" means a security, whether  
2333 certificated or uncertificated, security entitlement, securities  
2334 account, commodity contract or commodity account.

2335           (50) "Jurisdiction of organization," with respect to a  
2336 registered organization, means the jurisdiction under whose law  
2337 the organization is organized.

2338           (51) "Letter-of-credit right" means a right to payment  
2339 or performance under a letter of credit, whether or not the  
2340 beneficiary has demanded or is at the time entitled to demand  
2341 payment or performance. The term does not include the right of a

2342 beneficiary to demand payment or performance under a letter of  
2343 credit.

2344 (52) "Lien creditor" means:

2345 (A) A creditor that has acquired a lien on the  
2346 property involved by attachment, levy, or the like;

2347 (B) An assignee for benefit of creditors from the  
2348 time of assignment;

2349 (C) A trustee in bankruptcy from the date of the  
2350 filing of the petition; or

2351 (D) A receiver in equity from the time of  
2352 appointment.

2353 (53) "Manufactured home" means a structure,  
2354 transportable in one or more sections, which, in the traveling  
2355 mode, is eight (8) body feet or more in width or forty (40) body  
2356 feet or more in length, or, when erected on site, is three hundred  
2357 twenty (320) or more square feet, and which is built on a  
2358 permanent chassis and designed to be used as a dwelling with or  
2359 without a permanent foundation when connected to the required  
2360 utilities, and includes the plumbing, heating, air-conditioning,  
2361 and electrical systems contained therein. The term includes any  
2362 structure that meets all of the requirements of this paragraph  
2363 except the size requirements and with respect to which the  
2364 manufacturer voluntarily files a certification required by the  
2365 United States Secretary of Housing and Urban Development and  
2366 complies with the standards established under Title 42 of the  
2367 United States Code.

2368 (54) "Manufactured-home transaction" means a secured  
2369 transaction:

2370 (A) That creates a purchase-money security  
2371 interest in a manufactured home, other than a manufactured home  
2372 held as inventory; or

2373 (B) In which a manufactured home, other than a  
2374 manufactured home held as inventory, is the primary collateral.

2375           (55) "Mortgage" means a consensual interest in real  
2376 property, including fixtures, which secures payment or performance  
2377 of an obligation. "Mortgage" shall mean and include a deed of  
2378 trust.

2379           (56) "New debtor" means a person that becomes bound as  
2380 debtor under Section 75-9-203(d) by a security agreement  
2381 previously entered into by another person.

2382           (57) "New value" means (i) money, (ii) money's worth in  
2383 property, services, or new credit, or (iii) release by a  
2384 transferee of an interest in property previously transferred to  
2385 the transferee. The term does not include an obligation  
2386 substituted for another obligation.

2387           (58) "Noncash proceeds" means proceeds other than cash  
2388 proceeds.

2389           (59) "Obligor" means a person that, with respect to an  
2390 obligation secured by a security interest in or an agricultural  
2391 lien on the collateral, (i) owes payment or other performance of  
2392 the obligation, (ii) has provided property other than the  
2393 collateral to secure payment or other performance of the  
2394 obligation, or (iii) is otherwise accountable in whole or in part  
2395 for payment or other performance of the obligation. The term does  
2396 not include issuers or nominated persons under a letter of credit.

2397           (60) "Original debtor," except as used in Section  
2398 75-9-310(c), means a person that, as debtor, entered into a  
2399 security agreement to which a new debtor has become bound under  
2400 Section 75-9-203(d).

2401           (61) "Payment intangible" means a general intangible  
2402 under which the account debtor's principal obligation is a  
2403 monetary obligation.

2404           (62) "Person related to," with respect to an  
2405 individual, means:

2406                   (A) The spouse of the individual;

2407                   (B) A brother, brother-in-law, sister, or  
2408 sister-in-law of the individual;  
2409                   (C) An ancestor or lineal descendant of the  
2410 individual or the individual's spouse; or  
2411                   (D) Any other relative, by blood or marriage, of  
2412 the individual or the individual's spouse who shares the same home  
2413 with the individual.

2414                   (63) "Person related to," with respect to an  
2415 organization, means:

2416                   (A) A person directly or indirectly controlling,  
2417 controlled by, or under common control with the organization;

2418                   (B) An officer or director of, or a person  
2419 performing similar functions with respect to, the organization;

2420                   (C) An officer or director of, or a person  
2421 performing similar functions with respect to, a person described  
2422 in subparagraph (A);

2423                   (D) The spouse of an individual described in  
2424 subparagraph (A), (B), or (C); or

2425                   (E) An individual who is related by blood or  
2426 marriage to an individual described in subparagraph (A), (B), (C),  
2427 or (D) and shares the same home with the individual.

2428                   (64) "Proceeds," except as used in Section 75-9-609(b),  
2429 means the following property:

2430                   (A) Whatever is acquired upon the sale, lease,  
2431 license, exchange or other disposition of collateral;

2432                   (B) Whatever is collected on, or distributed on  
2433 account of, collateral;

2434                   (C) Rights arising out of collateral;

2435                   (D) To the extent of the value of collateral,  
2436 claims arising out of the loss, nonconformity, or interference  
2437 with the use of, defects or infringement of rights in, or damage  
2438 to, the collateral; or

2439                   (E) To the extent of the value of collateral and  
2440 to the extent payable to the debtor or the secured party,  
2441 insurance payable by reason of the loss or nonconformity of,  
2442 defects or infringement of rights in, or damage to, the  
2443 collateral.

2444                   (64A) "Production-money crops" means crops that secure  
2445 a production-money obligation incurred with respect to the  
2446 production of those crops.

2447                   (64B) "Production-money obligation" means an obligation  
2448 of an obligor incurred for new value given to enable the debtor to  
2449 produce crops if the value is in fact used for the production of  
2450 the crops.

2451                   (64C) "Production of crops" includes tilling and  
2452 otherwise preparing land for growing, planting, cultivating,  
2453 fertilizing, irrigating, harvesting and gathering crops, and  
2454 protecting them from damage or disease.

2455                   (65) "Promissory note" means an instrument that  
2456 evidences a promise to pay a monetary obligation, does not  
2457 evidence an order to pay, and does not contain an acknowledgment  
2458 by a bank that the bank has received for deposit a sum of money or  
2459 funds.

2460                   (66) "Proposal" means a record authenticated by a  
2461 secured party which includes the terms on which the secured party  
2462 is willing to accept collateral in full or partial satisfaction of  
2463 the obligation it secures pursuant to Sections 75-9-620, 75-9-621,  
2464 and 75-9-622.

2465                   (67) "Public-finance transaction" means a secured  
2466 transaction in connection with which:

2467                               (A) Debt securities are issued;

2468                               (B) All or a portion of the securities issued have  
2469 an initial stated maturity of at least twenty (20) years; and

2470                               (C) The debtor, obligor, secured party, account  
2471 debtor or other person obligated on collateral, assignor or

2472 assignee of a secured obligation, or assignor or assignee of a  
2473 security interest is a state or a governmental unit of a state.

2474 (68) "Pursuant to commitment," with respect to an  
2475 advance made or other value given by a secured party, means  
2476 pursuant to the secured party's obligation, whether or not a  
2477 subsequent event of default or other event not within the secured  
2478 party's control has relieved or may relieve the secured party from  
2479 its obligation.

2480 (69) "Record," except as used in "for record," "of  
2481 record," "record or legal title," and "record owner," means  
2482 information that is inscribed on a tangible medium or which is  
2483 stored in an electronic or other medium and is retrievable in  
2484 perceivable form.

2485 (70) "Registered organization" means an organization  
2486 organized solely under the law of a single state or the United  
2487 States and as to which the state or the United States must  
2488 maintain a public record showing the organization to have been  
2489 organized.

2490 (71) "Secondary obligor" means an obligor to the extent  
2491 that:

2492 (A) The obligor's obligation is secondary; or

2493 (B) The obligor has a right of recourse with  
2494 respect to an obligation secured by collateral against the debtor,  
2495 another obligor, or property of either.

2496 (72) "Secured party" means:

2497 (A) A person in whose favor a security interest is  
2498 created or provided for under a security agreement, whether or not  
2499 any obligation to be secured is outstanding;

2500 (B) A person that holds an agricultural lien;

2501 (C) A consignor;

2502 (D) A person to which accounts, chattel paper,  
2503 payment intangibles, or promissory notes have been sold;

2504 (E) A trustee, indenture trustee, agent,  
2505 collateral agent, or other representative in whose favor a  
2506 security interest or agricultural lien is created or provided for;  
2507 or

2508 (F) A person that holds a security interest  
2509 arising under Section 75-2-401, 75-2-505, 75-2-711(3),  
2510 75-2A-508(5), 75-4-210, or 75-5-118.

2511 (73) "Security agreement" means an agreement that  
2512 creates or provides for a security interest.

2513 (74) "Send," in connection with a record or  
2514 notification, means:

2515 (A) To deposit in the mail, deliver for  
2516 transmission, or transmit by any other usual means of  
2517 communication, with postage or cost of transmission provided for,  
2518 addressed to any address reasonable under the circumstances; or

2519 (B) To cause the record or notification to be  
2520 received within the time that it would have been received if  
2521 properly sent under subparagraph (A).

2522 (75) "Software" means a computer program and any  
2523 supporting information provided in connection with a transaction  
2524 relating to the program. The term does not include a computer  
2525 program that is included in the definition of goods.

2526 (76) "State" means a state of the United States, the  
2527 District of Columbia, Puerto Rico, the United States Virgin  
2528 Islands, or any territory or insular possession subject to the  
2529 jurisdiction of the United States.

2530 (77) "Supporting obligation" means a letter-of-credit  
2531 right or secondary obligation that supports the payment or  
2532 performance of an account, chattel paper, a document, a general  
2533 intangible, an instrument, or investment property.

2534 (78) "Tangible chattel paper" means chattel paper  
2535 evidenced by a record or records consisting of information that is  
2536 inscribed on a tangible medium.

2537 (79) "Termination statement" means an amendment of a  
2538 financing statement which:

2539 (A) Identifies, by its file number, the initial  
2540 financing statement to which it relates; and

2541 (B) Indicates either that it is a termination  
2542 statement or that the identified financing statement is no longer  
2543 effective.

2544 (80) "Transmitting utility" means a person primarily  
2545 engaged in the business of:

2546 (A) Operating a railroad, subway, street railway,  
2547 or trolley bus;

2548 (B) Transmitting communications electrically,  
2549 electromagnetically, or by light;

2550 (C) Transmitting goods by pipeline or sewer; or

2551 (D) Transmitting or producing and transmitting  
2552 electricity, steam, gas, or water.

2553 (b) "Control" as provided in Section 75-7-106 and the  
2554 following definitions in other articles apply to this article:

2555 "Applicant" Section 75-5-102.

2556 "Beneficiary" Section 75-5-102.

2557 "Broker" Section 75-8-102.

2558 "Certificated security" Section 75-8-102.

2559 "Check" Section 75-3-104.

2560 "Clearing corporation" Section 75-8-102.

2561 "Contract for sale" Section 75-2-106.

2562 "Customer" Section 75-4-104.

2563 "Entitlement holder" Section 75-8-102.

2564 "Financial asset" Section 75-8-102.

2565 "Holder in due course" Section 75-3-302.

2566 "Issuer" (with respect to  
2567 a letter of credit or  
2568 letter-of-credit right) Section 75-5-102.

2569 "Issuer" (with respect to a

2570	security)	Section 75-8-201.
2571	<u>"Issuer" (with respect to</u>	
2572	<u>documents of title)</u>	<u>Section 75-7-102</u>
2573	"Lease"	Section 75-2A-103.
2574	"Lease agreement"	Section 75-2A-103.
2575	"Lease contract"	Section 75-2A-103.
2576	"Leasehold interest"	Section 75-2A-103.
2577	"Lessee"	Section 75-2A-103.
2578	"Lessee in ordinary course	
2579	of business"	Section 75-2A-103.
2580	"Lessor"	Section 75-2A-103.
2581	"Lessor's residual interest"	Section 75-2A-103.
2582	"Letter of credit"	Section 75-5-102.
2583	"Merchant"	Section 75-2-104.
2584	"Negotiable instrument"	Section 75-3-104.
2585	"Nominated person"	Section 75-5-102.
2586	"Note"	Section 75-3-104.
2587	"Proceeds of a letter of	
2588	credit"	Section 75-5-114.
2589	"Prove"	Section 75-3-103.
2590	"Sale"	Section 75-2-106.
2591	"Securities account"	Section 75-8-501.
2592	"Securities intermediary"	Section 75-8-102.
2593	"Security"	Section 75-8-102.
2594	"Security certificate"	Section 75-8-102.
2595	"Security entitlement"	Section 75-8-102.
2596	"Uncertificated security"	Section 75-8-102.
2597	(c) Article 1 contains general definitions and principles of	
2598	construction and interpretation applicable throughout this	
2599	article.	
2600	<b>SECTION 60.</b> Section 75-9-203, Mississippi Code of 1972, is	
2601	amended as follows:	

2602           75-9-203. (a) A security interest attaches to collateral  
2603 when it becomes enforceable against the debtor with respect to the  
2604 collateral, unless an agreement expressly postpones the time of  
2605 attachment.

2606           (b) Except as otherwise provided in subsections (c) through  
2607 (i), a security interest is enforceable against the debtor and  
2608 third parties with respect to the collateral only if:

2609                   (1) Value has been given;

2610                   (2) The debtor has rights in the collateral or the  
2611 power to transfer rights in the collateral to a secured party; and

2612                   (3) One (1) of the following conditions is met:

2613                           (A) The debtor has authenticated a security  
2614 agreement that provides a description of the collateral and, if  
2615 the security interest covers timber to be cut, a description of  
2616 the land concerned;

2617                           (B) The collateral is not a certificated security  
2618 and is in the possession of the secured party under Section  
2619 75-9-313 pursuant to the debtor's security agreement;

2620                           (C) The collateral is a certificated security in  
2621 registered form and the security certificate has been delivered to  
2622 the secured party under Section 75-8-301 pursuant to the debtor's  
2623 security agreement; or

2624                           (D) The collateral is deposit accounts, electronic  
2625 chattel paper, investment property, or letter-of-credit rights, or  
2626 electronic documents, and the secured party has control under  
2627 Section 75-7-106, 75-9-104, 75-9-105, 75-9-106, or 75-9-107  
2628 pursuant to the debtor's security agreement.

2629           (c) Subsection (b) is subject to Section 75-4-210 on the  
2630 security interest of a collecting bank, Section 75-5-118 on the  
2631 security interest of a letter-of-credit issuer or nominated  
2632 person, Section 75-9-110 on a security interest arising under  
2633 Article 2 or 2A of Title 75, and Section 75-9-206 on security  
2634 interests in investment property.

2635 (d) A person becomes bound as debtor by a security agreement  
2636 entered into by another person if, by operation of law other than  
2637 this article or by contract:

2638 (1) The security agreement becomes effective to create  
2639 a security interest in the person's property; or

2640 (2) The person becomes generally obligated for the  
2641 obligations of the other person, including the obligation secured  
2642 under the security agreement, and acquires or succeeds to all or  
2643 substantially all of the assets of the other person.

2644 (e) If a new debtor becomes bound as debtor by a security  
2645 agreement entered into by another person:

2646 (1) The agreement satisfies subsection (b)(3) with  
2647 respect to existing or after-acquired property of the new debtor  
2648 to the extent the property is described in the agreement; and

2649 (2) Another agreement is not necessary to make a  
2650 security interest in the property enforceable.

2651 (f) The attachment of a security interest in collateral  
2652 gives the secured party the rights to proceeds provided by Section  
2653 75-9-315 and is also attachment of a security interest in a  
2654 supporting obligation for the collateral.

2655 (g) The attachment of a security interest in a right to  
2656 payment or performance secured by a security interest or other  
2657 lien on personal or real property is also attachment of a security  
2658 interest in the security interest, mortgage, or other lien.

2659 (h) The attachment of a security interest in a securities  
2660 account is also attachment of a security interest in the security  
2661 entitlements carried in the securities account.

2662 (i) The attachment of a security interest in a commodity  
2663 account is also attachment of a security interest in the commodity  
2664 contracts carried in the commodity account.

2665 **SECTION 61.** Section 75-9-207, Mississippi Code of 1972, is  
2666 amended as follows:

2667           75-9-207. (a) Except as otherwise provided in subsection  
2668 (d), a secured party shall use reasonable care in the custody and  
2669 preservation of collateral in the secured party's possession. In  
2670 the case of chattel paper or an instrument, reasonable care  
2671 includes taking necessary steps to preserve rights against prior  
2672 parties unless otherwise agreed.

2673           (b) Except as otherwise provided in subsection (d), if a  
2674 secured party has possession of collateral:

2675                   (1) Reasonable expenses, including the cost of  
2676 insurance and payment of taxes or other charges, incurred in the  
2677 custody, preservation, use, or operation of the collateral are  
2678 chargeable to the debtor and are secured by the collateral;

2679                   (2) The risk of accidental loss or damage is on the  
2680 debtor to the extent of a deficiency in any effective insurance  
2681 coverage;

2682                   (3) The secured party shall keep the collateral  
2683 identifiable, but fungible collateral may be commingled; and

2684                   (4) The secured party may use or operate the  
2685 collateral:

2686                           (A) For the purpose of preserving the collateral  
2687 or its value;

2688                           (B) As permitted by an order of a court having  
2689 competent jurisdiction; or

2690                           (C) Except in the case of consumer goods, in the  
2691 manner and to the extent agreed by the debtor.

2692           (c) Except as otherwise provided in subsection (d), a  
2693 secured party having possession of collateral or control of  
2694 collateral under Section 75-7-106, 75-9-104, 75-9-105, 75-9-106 or  
2695 75-9-107:

2696                   (1) May hold as additional security any proceeds,  
2697 except money or funds, received from the collateral;

2698           (2) Shall apply money or funds received from the  
2699 collateral to reduce the secured obligation, unless remitted to  
2700 the debtor; and

2701           (3) May create a security interest in the collateral.

2702           (d) If the secured party is a buyer of accounts, chattel  
2703 paper, payment intangibles, or promissory notes or a consignor:

2704           (1) Subsection (a) does not apply unless the secured  
2705 party is entitled under an agreement:

2706                   (A) To charge back uncollected collateral; or

2707                   (B) Otherwise to full or limited recourse against  
2708 the debtor or a secondary obligor based on the nonpayment or other  
2709 default of an account debtor or other obligor on the collateral;  
2710 and

2711           (2) Subsections (b) and (c) do not apply.

2712           **SECTION 62.** Section 75-9-208, Mississippi Code of 1972, is  
2713 amended as follows:

2714           75-9-208. (a) This section applies to cases in which there  
2715 is no outstanding secured obligation and the secured party is not  
2716 committed to make advances, incur obligations, or otherwise give  
2717 value.

2718           (b) Within ten (10) days after receiving an authenticated  
2719 demand by the debtor:

2720           (1) A secured party having control of a deposit account  
2721 under Section 75-9-104(a)(2) shall send to the bank with which the  
2722 deposit account is maintained an authenticated statement that  
2723 releases the bank from any further obligation to comply with  
2724 instructions originated by the secured party;

2725           (2) A secured party having control of a deposit account  
2726 under Section 75-9-104(a)(3) shall:

2727                   (A) Pay the debtor the balance on deposit in the  
2728 deposit account; or

2729                   (B) Transfer the balance on deposit into a deposit  
2730 account in the debtor's name;

2731 (3) A secured party, other than a buyer, having control  
2732 of electronic chattel paper under Section 75-9-105 shall:

2733 (A) Communicate the authoritative copy of the  
2734 electronic chattel paper to the debtor or its designated  
2735 custodian;

2736 (B) If the debtor designates a custodian that is  
2737 the designated custodian with which the authoritative copy of the  
2738 electronic chattel paper is maintained for the secured party,  
2739 communicate to the custodian an authenticated record releasing the  
2740 designated custodian from any further obligation to comply with  
2741 instructions originated by the secured party and instructing the  
2742 custodian to comply with instructions originated by the debtor;  
2743 and

2744 (C) Take appropriate action to enable the debtor  
2745 or its designated custodian to make copies of or revisions to the  
2746 authoritative copy which add or change an identified assignee of  
2747 the authoritative copy without the consent of the secured party;

2748 (4) A secured party having control of investment  
2749 property under Section 75-8-106(d)(2) or 75-9-106(b) shall send to  
2750 the securities intermediary or commodity intermediary with which  
2751 the security entitlement or commodity contract is maintained an  
2752 authenticated record that releases the securities intermediary or  
2753 commodity intermediary from any further obligation to comply with  
2754 entitlement orders or directions originated by the secured  
2755 party; \* \* \*

2756 (5) A secured party having control of a  
2757 letter-of-credit right under Section 75-9-107 shall send to each  
2758 person having an unfulfilled obligation to pay or deliver proceeds  
2759 of the letter of credit to the secured party an authenticated  
2760 release from any further obligation to pay or deliver proceeds of  
2761 the letter of credit to the secured party; and

2762 (6) A secured party having control of an electronic  
2763 document shall:

2764                   (A) Give control of the electronic document to the  
2765 debtor or its designated custodian.

2766                   (B) If the debtor designates a custodian that is  
2767 the designated custodian with which the authoritative copy of the  
2768 electronic document is maintained for the secured party,  
2769 communicate to the custodian an authenticated record releasing the  
2770 designated custodian from any further obligation to comply with  
2771 instructions originated by the secured party and instructing the  
2772 custodian to comply with instructions originated by the debtor;  
2773 and

2774                   (C) Take appropriate action to enable the debtor  
2775 or its designated custodian to make copies of or revisions to the  
2776 authoritative copy which add or change an identified assignee of  
2777 the authoritative copy without the consent of the secured party.

2778           **SECTION 63.** Section 75-9-301, Mississippi Code of 1972, is  
2779 amended as follows:

2780           75-9-301. Except as otherwise provided in Sections 75-9-303  
2781 through 75-9-306, the following rules determine the law governing  
2782 perfection, the effect of perfection or nonperfection, and the  
2783 priority of a security interest in collateral:

2784           (1) Except as otherwise provided in this section, while  
2785 a debtor is located in a jurisdiction, the local law of that  
2786 jurisdiction governs perfection, the effect of perfection or  
2787 nonperfection, and the priority of a security interest in  
2788 collateral.

2789           (2) While collateral is located in a jurisdiction, the  
2790 local law of that jurisdiction governs perfection, the effect of  
2791 perfection or nonperfection, and the priority of a possessory  
2792 security interest in that collateral.

2793           (3) Except as otherwise provided in paragraph (4),  
2794 while tangible negotiable documents, goods, instruments, money or  
2795 tangible chattel paper is located in a jurisdiction, the local law  
2796 of that jurisdiction governs:

2797 (A) Perfection of a security interest in the goods  
2798 by filing a fixture filing;

2799 (B) Perfection of a security interest in timber to  
2800 be cut; and

2801 (C) The effect of perfection or nonperfection and  
2802 the priority of a nonpossessory security interest in the  
2803 collateral.

2804 (4) The local law of the jurisdiction in which the  
2805 wellhead or minehead is located governs perfection, the effect of  
2806 perfection or nonperfection, and the priority of a security  
2807 interest in as-extracted collateral.

2808 **SECTION 64.** Section 75-9-310, Mississippi Code of 1972, is  
2809 amended as follows:

2810 75-9-310. (a) Except as otherwise provided in subsection  
2811 (b) and Section 75-9-312(b), a financing statement must be filed  
2812 to perfect all security interests and agricultural liens.

2813 (b) The filing of a financing statement is not necessary to  
2814 perfect a security interest:

2815 (1) That is perfected under Section 75-9-308(d), (e),  
2816 (f), or (g);

2817 (2) That is perfected under Section 75-9-309 when it  
2818 attaches;

2819 (3) In property subject to a statute, regulation, or  
2820 treaty described in Section 75-9-311(a);

2821 (4) In goods in possession of a bailee which is  
2822 perfected under Section 75-9-312(d)(1) or (2);

2823 (5) In certificated securities, documents, goods or  
2824 instruments which is perfected without filing, control or  
2825 possession under Section 75-9-312(e), (f), or (g);

2826 (6) In collateral in the secured party's possession  
2827 under Section 75-9-313;

2828           (7) In a certificated security which is perfected by  
2829 delivery of the security certificate to the secured party under  
2830 Section 75-9-313;

2831           (8) In deposit accounts, electronic chattel paper,  
2832 investment property, or letter-of-credit rights which is perfected  
2833 by control under Section 75-9-314;

2834           (9) In proceeds which is perfected under Section  
2835 75-9-315; or

2836           (10) That is perfected under Section 75-9-316.

2837           (c) If a secured party assigns a perfected security interest  
2838 or agricultural lien, a filing under this article is not required  
2839 to continue the perfected status of the security interest against  
2840 creditors of and transferees from the original debtor.

2841           **SECTION 65.** Section 75-9-312, Mississippi Code of 1972, is  
2842 amended as follows:

2843           75-9-312. (a) A security interest in chattel paper,  
2844 negotiable documents, instruments, or investment property may be  
2845 perfected by filing.

2846           (b) Except as otherwise provided in Section 75-9-315(c) and  
2847 (d) for proceeds:

2848           (1) A security interest in a deposit account may be  
2849 perfected only by control under Section 75-9-314;

2850           (2) And except as otherwise provided in Section  
2851 75-9-308(d), a security interest in a letter-of-credit right may  
2852 be perfected only by control under Section 75-9-314; and

2853           (3) A security interest in money may be perfected only  
2854 by the secured party's taking possession under Section 75-9-313.

2855           (c) While goods are in the possession of a bailee that has  
2856 issued a negotiable document covering the goods:

2857           (1) A security interest in the goods may be perfected  
2858 by perfecting a security interest in the document; and

2859           (2) A security interest perfected in the document has  
2860 priority over any security interest that becomes perfected in the  
2861 goods by another method during that time.

2862           (d) While goods are in the possession of a bailee that has  
2863 issued a nonnegotiable document covering the goods, a security  
2864 interest in the goods may be perfected by:

2865                 (1) Issuance of a document in the name of the secured  
2866 party;

2867                 (2) The bailee's receipt of notification of the secured  
2868 party's interest; or

2869                 (3) Filing as to the goods.

2870           (e) A security interest in certificated securities,  
2871 negotiable documents, or instruments is perfected without filing  
2872 or the taking of possession or control for a period of twenty (20)  
2873 days from the time it attaches to the extent that it arises for  
2874 new value given under an authenticated security agreement.

2875           (f) A perfected security interest in a negotiable document  
2876 or goods in possession of a bailee, other than one that has issued  
2877 a negotiable document for the goods, remains perfected for twenty  
2878 (20) days without filing if the secured party makes available to  
2879 the debtor the goods or documents representing the goods for the  
2880 purpose of:

2881                 (1) Ultimate sale or exchange; or

2882                 (2) Loading, unloading, storing, shipping,  
2883 transshipping, manufacturing, processing, or otherwise dealing  
2884 with them in a manner preliminary to their sale or exchange.

2885           (g) A perfected security interest in a certificated security  
2886 or instrument remains perfected for twenty (20) days without  
2887 filing if the secured party delivers the security certificate or  
2888 instrument to the debtor for the purpose of:

2889                 (1) Ultimate sale or exchange; or

2890                 (2) Presentation, collection, enforcement, renewal or  
2891 registration of transfer.

2892 (h) After the twenty-day period specified in subsection (e),  
2893 (f), or (g) expires, perfection depends upon compliance with this  
2894 article.

2895 **SECTION 66.** Section 75-9-313, Mississippi Code of 1972, is  
2896 amended as follows:

2897 75-9-313. (a) Except as otherwise provided in subsection  
2898 (b), a secured party may perfect a security interest in tangible  
2899 negotiable documents, goods, instruments, money, or tangible  
2900 chattel paper by taking possession of the collateral. A secured  
2901 party may perfect a security interest in certificated securities  
2902 by taking delivery of the certificated securities under Section  
2903 75-8-301.

2904 (b) With respect to goods covered by a certificate of title  
2905 issued by this state, a secured party may perfect a security  
2906 interest in the goods by taking possession of the goods only in  
2907 the circumstances described in Section 75-9-316(d).

2908 (c) With respect to collateral other than certificated  
2909 securities and goods covered by a document, a secured party takes  
2910 possession of collateral in the possession of a person other than  
2911 the debtor, the secured party, or a lessee of the collateral from  
2912 the debtor in the ordinary course of the debtor's business, when:

2913 (1) The person in possession authenticates a record  
2914 acknowledging that it holds possession of the collateral for the  
2915 secured party's benefit; or

2916 (2) The person takes possession of the collateral after  
2917 having authenticated a record acknowledging that it will hold  
2918 possession of collateral for the secured party's benefit.

2919 (d) If perfection of a security interest depends upon  
2920 possession of the collateral by a secured party, perfection occurs  
2921 no earlier than the time the secured party takes possession and  
2922 continues only while the secured party retains possession.

2923 (e) A security interest in a certificated security in  
2924 registered form is perfected by delivery when delivery of the

2925 certificated security occurs under Section 75-8-301 and remains  
2926 perfected by delivery until the debtor obtains possession of the  
2927 security certificate.

2928 (f) A person in possession of collateral is not required to  
2929 acknowledge that it holds possession for a secured party's  
2930 benefit.

2931 (g) If a person acknowledges that it holds possession for  
2932 the secured party's benefit:

2933 (1) The acknowledgment is effective under subsection  
2934 (c) or Section 75-8-301(a), even if the acknowledgment violates  
2935 the rights of a debtor; and

2936 (2) Unless the person otherwise agrees or law other  
2937 than this article otherwise provides, the person does not owe any  
2938 duty to the secured party and is not required to confirm the  
2939 acknowledgment to another person.

2940 (h) A secured party having possession of collateral does not  
2941 relinquish possession by delivering the collateral to a person  
2942 other than the debtor or a lessee of the collateral from the  
2943 debtor in the ordinary course of the debtor's business if the  
2944 person was instructed before the delivery or is instructed  
2945 contemporaneously with the delivery:

2946 (1) To hold possession of the collateral for the  
2947 secured party's benefit; or

2948 (2) A secured party does not relinquish possession,  
2949 even if a delivery under subsection (h) violates the rights of a  
2950 debtor. A person to which collateral is delivered under  
2951 subsection (h) does not owe any duty to the secured party and is  
2952 not required to confirm the delivery to another person unless the  
2953 person otherwise agrees or law other than this article otherwise  
2954 provides.

2955 **SECTION 67.** Section 75-9-314, Mississippi Code of 1972, is  
2956 amended as follows:

2957           75-9-314. (a) A security interest in investment property,  
2958 deposit accounts, letter-of-credit rights, or electronic chattel  
2959 paper or electronic documents may be perfected by control of the  
2960 collateral under Section 75-7-106, 75-9-104, 75-9-105, 75-9-106 or  
2961 75-9-107.

2962           (b) A security interest in deposit accounts, electronic  
2963 chattel paper, or letter-of-credit rights or electronic documents  
2964 is perfected by control under Section 75-7-106, 75-9-104, 75-9-105  
2965 or 75-9-107 when the secured party obtains control and remains  
2966 perfected by control only while the secured party retains control.

2967           (c) A security interest in investment property is perfected  
2968 by control under Section 75-9-106 from the time the secured party  
2969 obtains control and remains perfected by control until:

2970                 (1) The secured party does not have control; and

2971                 (2) One (1) of the following occurs:

2972                         (A) If the collateral is a certificated security,  
2973 the debtor has or acquires possession of the security certificate;

2974                         (B) If the collateral is an uncertificated  
2975 security, the issuer has registered or registers the debtor as the  
2976 registered owner; or

2977                         (C) If the collateral is a security entitlement,  
2978 the debtor is or becomes the entitlement holder.

2979           **SECTION 68.** Section 75-9-317, Mississippi Code of 1972, is  
2980 amended as follows:

2981           75-9-317. (a) A security interest or agricultural lien is  
2982 subordinate to the rights of:

2983                 (1) A person entitled to priority under Section  
2984 75-9-322; and

2985                 (2) Except as otherwise provided in subsection (e), a  
2986 person that becomes a lien creditor before the earlier of the  
2987 time:

2988                         (A) The security interest or agricultural lien is  
2989 perfected; or

2990                   (B) One (1) of the conditions specified in Section  
2991 75-9-203(b)(3) is met and a financing statement covering the  
2992 collateral is filed.

2993           (b) Except as otherwise provided in subsection (e), a buyer,  
2994 other than a secured party, of tangible chattel paper, documents,  
2995 goods, instruments, or a security certificate takes free of a  
2996 security interest or agricultural lien if the buyer gives value  
2997 and receives delivery of the collateral without knowledge of the  
2998 security interest or agricultural lien and before it is perfected.

2999           (c) Except as otherwise provided in subsection (e), a lessee  
3000 of goods takes free of a security interest or agricultural lien if  
3001 the lessee gives value and receives delivery of the collateral  
3002 without knowledge of the security interest or agricultural lien  
3003 and before it is perfected.

3004           (d) A licensee of a general intangible or a buyer, other  
3005 than a secured party, of accounts, electronic chattel paper,  
3006 electronic documents, general intangibles, or investment property  
3007 other than a certificated security takes free of a security  
3008 interest if the licensee or buyer gives value without knowledge of  
3009 the security interest and before it is perfected.

3010           (e) Except as otherwise provided in Sections 75-9-320 and  
3011 75-9-321, if a person files a financing statement with respect to  
3012 a purchase-money security interest before or within twenty (20)  
3013 days after the debtor receives delivery of the collateral, the  
3014 security interest takes priority over the rights of a buyer,  
3015 lessee, or lien creditor which arise between the time the security  
3016 interest attaches and the time of filing.

3017           **SECTION 69.** Section 75-9-338, Mississippi Code of 1972, is  
3018 amended as follows:

3019           75-9-338. If a security interest or agricultural lien is  
3020 perfected by a filed financing statement providing information  
3021 described in Section 75-9-516(b)(5) which is incorrect at the time  
3022 the financing statement is filed:

3023           (1) The security interest or agricultural lien is  
3024 subordinate to a conflicting perfected security interest in the  
3025 collateral to the extent that the holder of the conflicting  
3026 security interest gives value in reasonable reliance upon the  
3027 incorrect information; and

3028           (2) A purchaser, other than a secured party, of the  
3029 collateral takes free of the security interest or agricultural  
3030 lien to the extent that, in reasonable reliance upon the incorrect  
3031 information, the purchaser gives value and, in the case of  
3032 tangible chattel paper, tangible documents, goods, instruments, or  
3033 a security certificate, receives delivery of the collateral.

3034           **SECTION 70.** Section 75-9-601, Mississippi Code of 1972, is  
3035 amended as follows:

3036           75-9-601. (a) After default, a secured party has the rights  
3037 provided in this part and, except as otherwise provided in Section  
3038 75-9-602, those provided by agreement of the parties. A secured  
3039 party:

3040           (1) May reduce a claim to judgment, foreclose, or  
3041 otherwise enforce the claim, security interest, or agricultural  
3042 lien by any available judicial procedure; and

3043           (2) If the collateral is documents, may proceed either  
3044 as to the documents or as to the goods they cover.

3045           (b) A secured party in possession of collateral or control  
3046 of collateral under Section 75-7-106, 75-9-104, 75-9-105, 75-9-106  
3047 or 75-9-107 has the rights and duties provided in Section  
3048 75-9-207.

3049           (c) The rights under subsections (a) and (b) are cumulative  
3050 and may be exercised simultaneously.

3051           (d) Except as otherwise provided in subsection (g) and  
3052 Section 75-9-605, after default, a debtor and an obligor have the  
3053 rights provided in this part and by agreement of the parties.

3054           (e) If a secured party has reduced its claim to judgment,  
3055 the lien of any levy that may be made upon the collateral by

3056 virtue of an execution based upon the judgment relates back to the  
3057 earliest of:

3058 (1) The date of perfection of the security interest or  
3059 agricultural lien in the collateral;

3060 (2) The date of filing a financing statement covering  
3061 the collateral; or

3062 (3) Any date specified in a statute under which the  
3063 agricultural lien was created.

3064 (f) A sale pursuant to an execution is a foreclosure of the  
3065 security interest or agricultural lien by judicial procedure  
3066 within the meaning of this section. A secured party may purchase  
3067 at the sale and thereafter hold the collateral free of any other  
3068 requirements of this article.

3069 (g) Except as otherwise provided in Section 75-9-607(c),  
3070 this part imposes no duties upon a secured party that is a  
3071 consignor or is a buyer of accounts, chattel paper, payment  
3072 intangibles, or promissory notes.

3073 **SECTION 71.** Section 75-10-104, Mississippi Code of 1972,  
3074 which provides that Title 75, Chapter 7, on documents of title  
3075 does not repeal or modify other laws concerning titles and  
3076 bailment, is repealed because the substance thereof has been  
3077 incorporated in Section 75-7-103(2).

3078 **SECTION 72.** This act shall take effect and be in force from  
3079 and after July 1, 2006.