

By: Senator(s) Ross

To: Judiciary, Division A

SENATE BILL NO. 2825

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 which 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 that in the ordinary course of business issues warehouse
41 receipts or bill of lading.

42 * * *

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

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

48 (h) "Issuer" means a bailee that issues a document of
49 title or, in the case of an unaccepted delivery order, the person
50 that orders the possessor of goods to deliver. The term includes
51 a person for which an agent or employee purports to act in issuing
52 a 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 there 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 that 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 that are not contrary to the provisions of the Uniform Commercial
233 Code and do not impair its obligation of delivery (Section
234 75-7-403) or its duty of care (Section 75-7-204). Any contrary
235 provisions shall be 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 that relies upon
240 the description * * * of the goods in the document may recover
241 from the issuer damages caused by the nonreceipt or misdescription
242 of 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 the 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
270 increased 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 its 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 which 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 its 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 those 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 warehouse'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 Section 75-2-403,
385 75-2A-304(2), 75-2A-305(2) or 75-9-320 or other statute or rule of
386 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 a 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 improper
502 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 or
516 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 its own performance while the
528 goods are in its 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
658 noncompliance * * * 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 which 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; * * *

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 that 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 Title 75, Chapter 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 Senate Bill No. 2825, 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 Senate Bill No. 2825, 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 the Uniform Commercial Code which are
1006 applicable to specific chapters or Parts thereof, and unless the
1007 context otherwise requires, in the Uniform Commercial 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 Title 75, Chapter 2, may be a buyer in ordinary
1052 course of business. A person that acquires goods in a transfer in
1053 bulk or as security for or in total or partial satisfaction of a
1054 money 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
1058 term * * * is "conspicuous" or not is a decision for the court.
1059 Conspicuous 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 the
1142 Uniform Commercial 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) The following definitions in other chapters apply to	
1362	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	<u>"Control"</u>	<u>Section 75-7-106.</u>
1368	"Dishonor"	Section 75-3-502.
1369	"Draft"	Section 75-3-104.

1370 (4) In addition Chapter 1 contains general definitions and
1371 principles of construction and interpretation applicable
1372 throughout this chapter.

1373 **SECTION 43.** Section 75-2-104, Mississippi Code of 1972, is
1374 amended as follows:

1375 75-2-104. (1) "Merchant" means a person who deals in goods
1376 of the kind or otherwise by his occupation holds himself out as
1377 having knowledge or skill peculiar to the practices or goods
1378 involved in the transaction or to whom such knowledge or skill may
1379 be attributed by his employment of an agent or broker or other
1380 intermediary who by his occupation holds himself out as having
1381 such knowledge or skill.

1382 (2) "Financing agency" means a bank, finance company or
1383 other person who in the ordinary course of business makes advances
1384 against goods or documents of title or who by arrangement with
1385 either the seller or the buyer intervenes in ordinary course to
1386 make or collect payment due or claimed under the contract for
1387 sale, as by purchasing or paying the seller's draft or making
1388 advances against it or by merely taking it for collection whether
1389 or not documents of title accompany or are associated with the
1390 draft. "Financing agency" includes also a bank or other person
1391 who similarly intervenes between persons that are in the position
1392 of seller and buyer in respect to the goods (Section 75-2-707).

1393 (3) "Between merchants" means in any transaction with
1394 respect to which both parties are chargeable with the knowledge or
1395 skill of merchants.

1396 **SECTION 44.** Section 75-2-310, Mississippi Code of 1972, is
1397 amended as follows:

1398 75-2-310. Unless otherwise agreed:

1399 (a) Payment is due at the time and place at which the
1400 buyer is to receive the goods even though the place of shipment is
1401 the place of delivery; and

1402 (b) If the seller is authorized to send the goods he
1403 may ship them under reservation, and may tender the documents of
1404 title, but the buyer may inspect the goods after their arrival
1405 before payment is due unless such inspection is inconsistent with
1406 the terms of the contract (Section 75-2-513); and

1407 (c) If delivery is authorized and made by way of
1408 documents of title otherwise than by subsection (b) then payment
1409 is due regardless of where the goods are to be received (i) at the
1410 time and place at which the buyer is to receive delivery of the
1411 tangible documents or (ii) at the time the buyer is to receive
1412 delivery of the electronic documents and at the seller's place of
1413 business or if none, the seller's residence; and

1414 (d) Where the seller is required or authorized to ship
1415 the goods on credit the credit period runs from the time of
1416 shipment but postdating the invoice or delaying its dispatch will
1417 correspondingly delay the starting of the credit period.

1418 **SECTION 45.** Section 75-2-323, Mississippi Code of 1972, is
1419 amended as follows:

1420 75-2-323. (1) Where the contract contemplates overseas
1421 shipment and contains a term CIF or C&F or FOB vessel, the seller
1422 unless otherwise agreed must obtain a negotiable bill of lading
1423 stating that the goods have been loaded on board or, in the case
1424 of a term CIF or C&F, received for shipment.

1425 (2) Where in a case within subsection (1) a tangible bill of
1426 lading has been issued in a set of parts, unless otherwise agreed
1427 if the documents are not to be sent from abroad the buyer may
1428 demand tender of the full set; otherwise only one (1) part of the
1429 bill of lading need be tendered. Even if the agreement expressly
1430 requires a full set:

1431 (a) Due tender of a single part is acceptable within
1432 the provisions of this chapter on cure of improper delivery
1433 (subsection (1) of Section 75-2-508); and

1434 (b) Even though the full set is demanded, if the
1435 documents are sent from abroad the person tendering an incomplete
1436 set may nevertheless require payment upon furnishing an indemnity
1437 which the buyer in good faith deems adequate.

1438 (3) A shipment by water or by air or a contract
1439 contemplating such shipment is "overseas" insofar as by usage of
1440 trade or agreement it is subject to the commercial, financing or
1441 shipping practices characteristic of international deep water
1442 commerce.

1443 **SECTION 46.** Section 75-2-401, Mississippi Code of 1972, is
1444 amended as follows:

1445 75-2-401. Each provision of this chapter with regard to the
1446 rights, obligations and remedies of the seller, the buyer,
1447 purchasers or other third parties applies irrespective of title to
1448 the goods except where the provision refers to such title.
1449 Insofar as situations are not covered by the other provisions of
1450 this chapter and matters concerning title become material the
1451 following rules apply:

1452 (1) Title to goods cannot pass under a contract for
1453 sale prior to their identification to the contract (Section
1454 75-2-501), and unless otherwise explicitly agreed the buyer
1455 acquires by their identification a special property as limited by
1456 the Uniform Commercial Code. Any retention or reservation by the
1457 seller of the title (property) in goods shipped or delivered to
1458 the buyer is limited in effect to a reservation of a security
1459 interest. Subject to these provisions and to the provisions of
1460 the chapter on Secured Transactions (Chapter 9), title to goods
1461 passes from the seller to the buyer in any manner and on any
1462 conditions explicitly agreed on by the parties.

1463 (2) Unless otherwise explicitly agreed title passes to
1464 the buyer at the time and place at which the seller completes his
1465 performance with reference to the physical delivery of the goods,
1466 despite any reservation of a security interest and even though a

1467 document of title is to be delivered at a different time or place;
1468 and in particular and despite any reservation of a security
1469 interest by the bill of lading:

1470 (a) If the contract requires or authorizes the
1471 seller to send the goods to the buyer but does not require him to
1472 deliver them at destination, title passes to the buyer at the time
1473 and place of shipment; but

1474 (b) If the contract requires delivery at
1475 destination, title passes on tender there.

1476 (3) Unless otherwise explicitly agreed where delivery
1477 is to be made without moving the goods:

1478 (a) If the seller is to deliver a tangible
1479 document of title, title passes at the time, when and the place
1480 where he delivers such documents and if the seller is to deliver
1481 an electronic document of title, title passes when the seller
1482 delivers the document; or

1483 (b) If the goods are at the time of contracting
1484 already identified and no documents of title are to be delivered,
1485 title passes at the time and place of contracting.

1486 (4) A rejection or other refusal by the buyer to
1487 receive or retain the goods, whether or not justified, or a
1488 justified revocation of acceptance revests title to the goods in
1489 the seller. Such reversion occurs by operation of law and is not
1490 a "sale."

1491 **SECTION 47.** Section 75-2-503, Mississippi Code of 1972, is
1492 amended as follows:

1493 75-2-503. (1) Tender of delivery requires that the seller
1494 put and hold conforming goods at the buyer's disposition and give
1495 the buyer any notification reasonably necessary to enable him to
1496 take delivery. The manner, time and place for tender are
1497 determined by the agreement and this chapter, and in particular:

1498 (a) Tender must be at a reasonable hour, and if it is
1499 of goods they must be kept available for the period reasonably
1500 necessary to enable the buyer to take possession; but

1501 (b) Unless otherwise agreed the buyer must furnish
1502 facilities reasonably suited to the receipt of the goods.

1503 (2) Where the case is within the Section 75-2-504 respecting
1504 shipment tender requires that * * * seller comply with its
1505 provisions.

1506 (3) Where the seller is required to deliver at a particular
1507 destination tender requires that he comply with subsection (1) and
1508 also in any appropriate case tender documents as described in
1509 subsections (4) and (5) of this section.

1510 (4) Where goods are in the possession of a bailee and are to
1511 be delivered without being moved:

1512 (a) Tender requires that the seller either tender a
1513 negotiable document of title covering such goods or procure
1514 acknowledgment by the bailee of the buyer's right to possession of
1515 the goods; but

1516 (b) Tender to the buyer of a nonnegotiable document of
1517 title or of a record directing the bailee to deliver is sufficient
1518 tender unless the buyer seasonably objects, and except as
1519 otherwise provided in Article 9 receipt by the bailee of
1520 notification of the buyer's rights fixes those rights as against
1521 the bailee and all third persons; but risk of loss of the goods
1522 and of any failure by the bailee to honor the nonnegotiable
1523 document of title or to obey the direction remains on the seller
1524 until the buyer has had a reasonable time to present the document
1525 or direction, and a refusal by the bailee to honor the document or
1526 to obey the direction defeats the tender.

1527 (5) Where the contract requires the seller to deliver
1528 documents:

1529 (a) He must tender all such documents in correct form,
1530 except as provided in this chapter with respect to bills of lading
1531 in a set (Section 75-2-323(2)); and

1532 (b) Tender through customary banking channels is
1533 sufficient and dishonor of a draft accompanying or associated with
1534 the documents constitutes nonacceptance or rejection.

1535 **SECTION 48.** Section 75-2-505, Mississippi Code of 1972, is
1536 amended as follows:

1537 75-2-505. (1) Where the seller has identified goods to the
1538 contract by or before shipment:

1539 (a) His procurement of a negotiable bill of lading to
1540 his own order or otherwise reserves in him a security interest in
1541 the goods. His procurement of the bill to the order of a
1542 financing agency or of the buyer indicates in addition only the
1543 seller's expectation of transferring that interest to the person
1544 named.

1545 (b) A nonnegotiable bill of lading to himself or his
1546 nominee reserves possession of the goods as security but except in
1547 a case of conditional delivery (Section 75-2-507(2)) a
1548 nonnegotiable bill of lading naming the buyer as consignee
1549 reserves no security interest even though the seller retains
1550 possession or control of the bill of lading.

1551 (2) When shipment by the seller with reservation of a
1552 security interest is in violation of the contract for sale it
1553 constitutes an improper contract for transportation within Section
1554 75-2-504 but impairs neither the rights given to the buyer by
1555 shipment and identification of the goods to the contract nor the
1556 seller's powers as a holder of a negotiable document of title.

1557 **SECTION 49.** Section 75-2-506, Mississippi Code of 1972, is
1558 amended as follows:

1559 75-2-506. (1) A financing agency by paying or purchasing
1560 for value a draft which relates to a shipment of goods acquires to
1561 the extent of the payment or purchase and in addition to its own

1562 rights under the draft and any document of title securing it any
1563 rights of the shipper in the goods including the right to stop
1564 delivery and the shipper's right to have the draft honored by the
1565 buyer.

1566 (2) The right to reimbursement of a financing agency which
1567 has in good faith honored or purchased the draft under commitment
1568 to or authority from the buyer is not impaired by subsequent
1569 discovery of defects with reference to any relevant document which
1570 was apparently regular * * *.

1571 **SECTION 50.** Section 75-2-509, Mississippi Code of 1972, is
1572 amended as follows:

1573 75-2-509. (1) Where the contract requires or authorizes the
1574 seller to ship the goods by carrier:

1575 (a) If it does not require him to deliver them at a
1576 particular destination, the risk of loss passes to the buyer when
1577 the goods are duly delivered to the carrier even though the
1578 shipment is under reservation (Section 75-2-505); but

1579 (b) If it does require him to deliver them at a
1580 particular destination and the goods are there duly tendered while
1581 in the possession of the carrier, the risk of loss passes to the
1582 buyer when the goods are there duly so tendered as to enable the
1583 buyer to take delivery.

1584 (2) Where the goods are held by a bailee to be delivered
1585 without being moved, the risk of loss passes to the buyer:

1586 (a) On his receipt of possession or control of a
1587 negotiable document of title covering the goods; or

1588 (b) On acknowledgment by the bailee of the buyer's
1589 right to possession of the goods; or

1590 (c) After his receipt of possession or control of a
1591 nonnegotiable document of title or other * * * direction to
1592 deliver in a record, as provided in Section 75-2-503(4)(b).

1593 (3) In any case not within subsection (1) or (2), the risk
1594 of loss passes to the buyer on his receipt of the goods if the

1595 seller is a merchant; otherwise the risk passes to the buyer on
1596 tender of delivery.

1597 (4) The provisions of this section are subject to contrary
1598 agreement of the parties and to the provisions of this chapter on
1599 sale on approval (Section 75-2-327) and on effect of breach on
1600 risk of loss (Section 75-2-510).

1601 **SECTION 51.** Section 75-2-605, Mississippi Code of 1972, is
1602 amended as follows:

1603 75-2-605. (1) The buyer's failure to state in connection
1604 with rejection a particular defect which is ascertainable by
1605 reasonable inspection precludes him from relying on the unstated
1606 defect to justify rejection or to establish breach:

1607 (a) Where the seller could have cured it if stated
1608 seasonably; or

1609 (b) Between merchants when the seller has after
1610 rejection made a request in writing for a full and final written
1611 statement of all defects on which the buyer proposes to rely.

1612 (2) Payment against documents made without reservation of
1613 rights precludes recovery of the payment for defects apparent in
1614 the documents.

1615 **SECTION 52.** Section 75-2-705, Mississippi Code of 1972, is
1616 amended as follows:

1617 75-2-705. (1) The seller may stop delivery of goods in the
1618 possession of a carrier or other bailee when he discovers the
1619 buyer to be insolvent (Section 75-2-702) and may stop delivery of
1620 carload, truckload, planeload or larger shipments of express or
1621 freight when the buyer repudiates or fails to make a payment due
1622 before delivery or if for any other reason the seller has a right
1623 to withhold or reclaim the goods.

1624 (2) As against such buyer the seller may stop delivery
1625 until:

1626 (a) Receipt of the goods by the buyer; or

1627 (b) Acknowledgment to the buyer by any bailee of the
1628 goods except a carrier that the bailee holds the goods for the
1629 buyer; or

1630 (c) Such acknowledgment to the buyer by a carrier by
1631 reshipment or as a warehouse; or

1632 (d) Negotiation to the buyer of any negotiable document
1633 of title covering the goods.

1634 (3) (a) To stop delivery the seller must so notify as to
1635 enable the bailee by reasonable diligence to prevent delivery of
1636 the goods.

1637 (b) After such notification the bailee must hold and
1638 deliver the goods according to the directions of the seller but
1639 the seller is liable to the bailee for any ensuing charges or
1640 damages.

1641 (c) If a negotiable document of title has been issued
1642 for goods the bailee is not obliged to obey a notification to stop
1643 until surrender of the possession or control of the document.

1644 (d) A carrier who has issued a nonnegotiable bill of
1645 lading is not obliged to obey a notification to stop received from
1646 a person other than the consignor.

1647 **SECTION 53.** Section 75-2A-103, Mississippi Code of 1972, is
1648 amended as follows:

1649 75-2A-103. (1) In this chapter unless the context otherwise
1650 requires:

1651 (a) "Buyer in ordinary course of business" means a
1652 person who in good faith and without knowledge that the sale to
1653 him is in violation of the ownership rights or security interest
1654 or leasehold interest of a third party in the goods, buys in
1655 ordinary course from a person in the business of selling goods of
1656 that kind but does not include a pawnbroker. "Buying" may be for
1657 cash or by exchange of other property or on secured or unsecured
1658 credit and includes acquiring goods or documents of title under a
1659 preexisting contract for sale but does not include a transfer in

1660 bulk or as security for or in total or partial satisfaction of a
1661 money debt.

1662 (b) "Cancellation" occurs when either party puts an end
1663 to the lease contract for default by the other party.

1664 (c) "Commercial unit" means such a unit of goods as by
1665 commercial usage is a single whole for purposes of lease and
1666 division of which materially impairs its character or value on the
1667 market or in use. A commercial unit may be a single article, as a
1668 machine, or a set of articles, as a suite of furniture or a line
1669 of machinery, or a quantity, as a gross or carload, or any other
1670 unit treated in use or in the relevant market as a single whole.

1671 (d) "Conforming" goods or performance under a lease
1672 contract means goods or performance that are in accordance with
1673 the obligations under the lease contract.

1674 (e) "Consumer lease" means a lease that a lessor
1675 regularly engaged in the business of leasing or selling makes to a
1676 lessee who is an individual and who takes under the lease
1677 primarily for a personal, family or household purpose, if the
1678 total payments to be made under the lease contract, excluding
1679 payments for options to renew or buy, do not exceed Twenty-five
1680 Thousand Dollars (\$25,000.00).

1681 (f) "Fault" means wrongful act, omission, breach or
1682 default.

1683 (g) "Finance lease" means a lease with respect to
1684 which:

1685 (i) The lessor does not select, manufacture, or
1686 supply the goods;

1687 (ii) The lessor acquires the goods or the right to
1688 possession and use of the goods in connection with the lease; and

1689 (iii) One (1) of the following occurs:

1690 (A) The lessee receives a copy of the
1691 contract by which the lessor acquired the goods or the right to
1692 possession and use of the goods before signing the lease contract;

1693 (B) The lessee's approval of the contract by
1694 which the lessor acquired the goods or the right to possession and
1695 use of the goods is a condition to effectiveness of the lease
1696 contract;

1697 (C) The lessee, before signing the lease
1698 contract, receives an accurate and complete statement designating
1699 the promises and warranties, and any disclaimers of warranties,
1700 limitations or modifications of remedies, or liquidated damages,
1701 including those of a third party, such as the manufacturer of the
1702 goods, provided to the lessor by the person supplying the goods in
1703 connection with or as part of the contract by which the lessor
1704 acquired the goods or the right to possession and use of the
1705 goods; or

1706 (D) If the lease is not a consumer lease, the
1707 lessor, before the lessee signs the lease contract, informs the
1708 lessee in writing (a) of the identity of the person supplying the
1709 goods to the lessor, unless the lessee has selected that person
1710 and directed the lessor to acquire the goods or the right to
1711 possession and use of the goods from that person, (b) that the
1712 lessee is entitled under this chapter to the promises and
1713 warranties, including those of any third party, provided to the
1714 lessor by the person supplying the goods in connection with or as
1715 part of the contract by which the lessor acquired the goods or the
1716 right to possession and use of the goods, and (c) that the lessee
1717 may communicate with the person supplying the goods to the lessor
1718 and receive an accurate and complete statement of those promises
1719 and warranties, including any disclaimers and limitations of them
1720 or of remedies.

1721 (h) "Goods" means all things that are movable at the
1722 time of identification to the lease contract, or are fixtures
1723 (Section 75-2A-309), but the term does not include money,
1724 documents, instruments, accounts, chattel paper, general

1725 intangibles or minerals or the like, including oil and gas, before
1726 extraction. The term also includes the unborn young of animals.

1727 (i) "Installment lease contract" means a lease contract
1728 that authorizes or requires the delivery of goods in separate lots
1729 to be separately accepted, even though the lease contract contains
1730 a clause "each delivery is a separate lease" or its equivalent.

1731 (j) "Lease" means a transfer of the right to possession
1732 and use of goods for a term in return for consideration, but a
1733 sale, including a sale on approval or a sale or return, or
1734 retention or creation of a security interest is not a lease.
1735 Unless the context clearly indicates otherwise, the term includes
1736 a sublease.

1737 (k) "Lease agreement" means the bargain, with respect
1738 to the lease, of the lessor and the lessee in fact as found in
1739 their language or by implication from other circumstances
1740 including course of dealing or usage of trade or course of
1741 performance as provided in this chapter. Unless the context
1742 clearly indicates otherwise, the term includes a sublease
1743 agreement.

1744 (l) "Lease contract" means the total legal obligation
1745 that results from the lease agreement as affected by this chapter
1746 and any other applicable rules of law. Unless the context clearly
1747 indicates otherwise, the term includes a sublease contract.

1748 (m) "Leasehold interest" means the interest of the
1749 lessor or the lessee under a lease contract.

1750 (n) "Lessee" means a person who acquires the right to
1751 possession and use of goods under a lease. Unless the context
1752 clearly indicates otherwise, the term includes a sublease.

1753 (o) "Lessee in ordinary course of business" means a
1754 person who in good faith and without knowledge that the lease to
1755 him is in violation of the ownership rights or security interest
1756 or leasehold interest of a third party in the goods leases in
1757 ordinary course from a person in the business of selling or

1758 leasing goods of that kind but does not include a pawnbroker.
1759 "Leasing" may be for cash or by exchange of other property or on
1760 secured or unsecured credit and includes acquiring goods or
1761 documents of title under a preexisting lease contract but does not
1762 include a transfer in bulk or as security for or in total or
1763 partial satisfaction of a money debt.

1764 (p) "Lessor" means a person who transfers the right to
1765 possession and use of goods under a lease. Unless the context
1766 clearly indicates otherwise, the term includes a sublessor.

1767 (q) "Lessor's residual interest" means the lessor's
1768 interest in the goods after expiration, termination or
1769 cancellation of the lease contract.

1770 (r) "Lien" means a charge against or interest in goods
1771 to secure payment of a debt or performance of an obligation, but
1772 the term does not include a security interest.

1773 (s) "Lot" means a parcel or a single article that is
1774 the subject matter of a separate lease or delivery, whether or not
1775 it is sufficient to perform the lease contract.

1776 (t) "Merchant lessee" means a lessee that is a merchant
1777 with respect to goods of the kind subject to the lease.

1778 (u) "Present value" means the amount as of a date
1779 certain of one or more sums payable in the future, discounted to
1780 the date certain. The discount is determined by the interest rate
1781 specified by the parties if the rate was not manifestly
1782 unreasonable at the time the transaction was entered into;
1783 otherwise, the discount is determined by a commercially reasonable
1784 rate that takes into account the facts and circumstances of each
1785 case at the time the transaction was entered into.

1786 (v) "Purchase" includes taking by sale, lease,
1787 mortgage, security interest, pledge, gift or any other voluntary
1788 transaction creating an interest in goods.

1789 (w) "Sublease" means a lease of goods the right to
1790 possession and use of which was acquired by the lessor as a lessee
1791 under an existing lease.

1792 (x) "Supplier" means a person from whom a lessor buys
1793 or leases goods to be leased under a finance lease.

1794 (y) "Supply contract" means a contract under which a
1795 lessor buys or leases goods to be leased.

1796 (z) "Termination" occurs when either party pursuant to
1797 a power created by agreement or law puts an end to the lease
1798 contract otherwise than for default.

1799 (2) Other definitions applying to this chapter and the
1800 sections in which they appear are:

1801	"Accessions."	Section 75-2A-310(1).
1802	"Construction mortgage."	Section 75-2A-309(1)(d).
1803	"Encumbrance."	Section 75-2A-309(1)(e).
1804	"Fixtures."	Section 75-2A-309(1)(a).
1805	"Fixture filing."	Section 75-2A-309(1)(b).
1806	"Purchase money lease."	Section 75-2A-309(1)(c).

1807 (3) The following definitions in other chapters apply to
1808 this chapter:

1809	"Account"	Section 75-9-102(a)(2).
1810	"Between merchants"	Section 75-2-104(3).
1811	"Buyer"	Section 75-2-103(1)(a).
1812	"Chattel paper"	Section 75-9-102(a)(11).
1813	"Consumer goods"	Section 75-9-102(a)(23).
1814	"Document"	Section 75-9-102(a)(30).
1815	"Entrusting"	Section 75-2-403(3).
1816	"General intangible"	Section 75-9-102(a)(42).
1817	"Good faith"	Section 75-2-103(1)(b).
1818	"Instrument"	Section 75-9-102(a)(47).
1819	"Merchant"	Section 75-2-104(1).
1820	"Mortgage"	Section 75-9-102(a)(55).
1821	"Pursuant to commitment"	Section 75-9-102(a)(68).

1822 "Receipt" Section 75-2-103(1)(c).
1823 "Sale" Section 75-2-106(1).
1824 "Sale on approval" Section 75-2-326.
1825 "Sale or return" Section 75-2-326.
1826 "Seller" Section 75-2-103(1)(d).

1827 (4) In addition, Chapter 1 contains general definitions and
1828 principles of construction and interpretation applicable
1829 throughout this chapter.

1830 **SECTION 54.** Section 75-2A-514, Mississippi Code of 1972, is
1831 amended as follows:

1832 75-2A-514. (1) In rejecting goods, a lessee's failure to
1833 state a particular defect that is ascertainable by reasonable
1834 inspection precludes the lessee from relying on the defect to
1835 justify rejection or to establish default:

1836 (a) If, stated seasonably, the lessor or the supplier
1837 could have cured it (Section 75-2A-513); or

1838 (b) Between merchants if the lessor or the supplier
1839 after rejection has made a request in writing for a full and final
1840 written statement of all defects on which the lessee proposes to
1841 rely.

1842 (2) A lessee's failure to reserve rights when paying rent or
1843 other consideration against documents precludes recovery of the
1844 payment for defects apparent in the documents.

1845 **SECTION 55.** Section 75-2A-526, Mississippi Code of 1972, is
1846 amended as follows:

1847 75-2A-526. (1) A lessor may stop delivery of goods in the
1848 possession of a carrier or other bailee if the lessor discovers
1849 the lessee to be insolvent and may stop delivery of carload,
1850 truckload, planeload, or larger shipments of express or freight if
1851 the lessee repudiates or fails to make a payment due before
1852 delivery, whether for rent, security or otherwise under the lease
1853 contract, or for any other reason the lessor has a right to
1854 withhold or take possession of the goods.

1855 (2) In pursuing its remedies under subsection (1), the
1856 lessor may stop delivery until

1857 (a) Receipt of the goods by the lessee;

1858 (b) Acknowledgment to the lessee by any bailee of the
1859 goods, except a carrier, that the bailee hold the goods for the
1860 lessee; or

1861 (c) Such an acknowledgement to the lessee by a carrier
1862 via reshipment or as a warehouse.

1863 (3) (a) To stop delivery, a lessor shall so notify as to
1864 enable the bailee by reasonable diligence to prevent delivery of
1865 the goods.

1866 (b) After notification, the bailee shall hold and
1867 deliver the goods according to the directions of the lessor, but
1868 the lessor is liable to the bailee for any ensuing charges or
1869 damages.

1870 (c) A carrier who has issued a nonnegotiable bill of
1871 lading is not obliged to obey a notification to stop received from
1872 a person other than the consignor.

1873 **SECTION 56.** Section 75-4-104, Mississippi Code of 1972, is
1874 amended as follows:

1875 75-4-104. (a) In this chapter, unless the context otherwise
1876 requires:

1877 (1) "Account" means any deposit or credit account with
1878 a bank, including a demand, time, savings, passbook, share draft,
1879 or like account, other than an account evidenced by a certificate
1880 of deposit;

1881 (2) "Afternoon" means the period of a day between noon
1882 and midnight;

1883 (3) "Banking day" means the part of a day on which a
1884 bank is open to the public for carrying on substantially all of
1885 its banking functions;

1886 (4) "Clearinghouse" means an association of banks or
1887 other payors regularly clearing items;

1888 (5) "Customer" means a person having an account with a
1889 bank or for whom a bank has agreed to collect items, including a
1890 bank that maintains an account at another bank;

1891 (6) "Documentary draft" means a draft to be presented
1892 for acceptance or payment if specified documents, certificated
1893 securities (Section 75-8-102) or instructions for uncertificated
1894 securities (Section 75-8-102), or other certificates, statements,
1895 or the like are to be received by the drawee or other payor before
1896 acceptance or payment of the draft;

1897 (7) "Draft" means a draft as defined in Section
1898 75-3-104 or an item, other than an instrument, that is an order;

1899 (8) "Drawee" means a person ordered in a draft to make
1900 payment;

1901 (9) "Item" means an instrument or a promise or order to
1902 pay money handled by a bank for collection or payment. The term
1903 does not include a payment order governed by Chapter 4A or a
1904 credit or debit card slip;

1905 (10) "Midnight deadline" with respect to a bank is
1906 midnight on its next banking day following the banking day on
1907 which it receives the relevant item or notice or from which the
1908 time for taking action commences to run, whichever is later;

1909 (11) "Settle" means to pay in cash, by clearinghouse
1910 settlement, in a charge or credit or by remittance, or otherwise
1911 as agreed. A settlement may be either provisional or final;

1912 (12) "Suspends payments" with respect to a bank means
1913 that it has been closed by order of the supervisory authorities,
1914 that a public officer has been appointed to take it over, or that
1915 it ceases or refuses to make payments in the ordinary course of
1916 business.

1917 (b) Other definitions applying to this chapter and the
1918 sections in which they appear are:

1919 "Agreement for electronic

1920 presentment"

Section 75-4-110

1921	"Bank"	Section 75-4-105
1922	"Collecting bank"	Section 75-4-105
1923	"Depository bank"	Section 75-4-105
1924	"Intermediary bank"	Section 75-4-105
1925	"Payor bank"	Section 75-4-105
1926	"Presenting bank"	Section 75-4-105
1927	"Presentment notice"	Section 75-4-110
1928	(c) The following definitions in other chapters apply to	
1929	this 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	<u>"Control"</u>	<u>Section 75-7-106</u>
1937	"Good faith"	Section 75-3-103
1938	"Holder in due course"	Section 75-3-302
1939	"Instrument"	Section 75-3-104
1940	"Notice of dishonor"	Section 75-3-503
1941	"Order"	Section 75-3-103
1942	"Ordinary care"	Section 75-3-103
1943	"Person entitled to enforce"	Section 75-3-301
1944	"Presentment"	Section 75-3-501
1945	"Promise"	Section 75-3-103
1946	"Prove"	Section 75-3-103
1947	"Teller's check"	Section 75-3-104
1948	"Unauthorized signature"	Section 75-3-403
1949	(d) In addition, Chapter 1 contains general definitions and	
1950	principles of construction and interpretation applicable	
1951	throughout this chapter.	
1952	SECTION 57. Section 75-4-210, Mississippi Code of 1972, is	
1953	amended as follows:	

1954 75-4-210. (a) A collecting bank has a security interest in
1955 an item and any accompanying documents or the proceeds of either:

1956 (1) In case of an item deposited in an account, to the
1957 extent to which credit given for the item has been withdrawn or
1958 applied;

1959 (2) In case of an item for which it has given credit
1960 available for withdrawal as of right, to the extent of the credit
1961 given, whether or not the credit is drawn upon or there is a right
1962 of charge-back; or

1963 (3) If it makes an advance on or against the item.

1964 (b) If credit given for several items received at one time
1965 or pursuant to a single agreement is withdrawn or applied in part,
1966 the security interest remains upon all the items, any accompanying
1967 documents or the proceeds of either. For the purpose of this
1968 section, credits first given are first withdrawn.

1969 (c) Receipt by a collecting bank of a final settlement for
1970 an item is a realization on its security interest in the item,
1971 accompanying documents, and proceeds. So long as the bank does
1972 not receive final settlement for the item or give up possession of
1973 the item or possession or control of the accompanying documents
1974 for purposes other than collection, the security interest
1975 continues to that extent and is subject to Title 75, Chapter 9,
1976 but:

1977 (1) No security agreement is necessary to make the
1978 security interest enforceable (Section 75-9-203(b)(3)(A));

1979 (2) No filing is required to perfect the security
1980 interest; and

1981 (3) The security interest has priority over conflicting
1982 perfected security interests in the item, accompanying documents,
1983 or proceeds.

1984 **SECTION 58.** Section 75-8-103, Mississippi Code of 1972, is
1985 amended as follows:

1986 75-8-103. (a) A share or similar equity interest issued by
1987 a corporation, business trust, joint stock company, or similar
1988 entity is a security.

1989 (b) An "investment company security" is a security.
1990 "Investment company security" means a share or similar equity
1991 interest issued by an entity that is registered as an investment
1992 company under the federal investment company laws, an interest in
1993 a unit investment trust that is so registered, or a face-amount
1994 certificate issued by a face-amount certificate company that is so
1995 registered. Investment company security does not include an
1996 insurance policy or endowment policy or annuity contract issued by
1997 an insurance company.

1998 (c) An interest in a partnership or limited liability
1999 company is not a security unless it is dealt in or traded on
2000 securities exchanges or in securities markets, its terms expressly
2001 provide that it is a security governed by this chapter, or it is
2002 an investment company security. However, an interest in a
2003 partnership or limited liability company is a financial asset if
2004 it is held in a securities account.

2005 (d) A writing that is a security certificate is governed by
2006 this chapter and not by Chapter 3, even though it also meets the
2007 requirements of that chapter. However, a negotiable instrument
2008 governed by Chapter 3 is a financial asset if it is held in a
2009 securities account.

2010 (e) An option or similar obligation issued by a clearing
2011 corporation to its participants is not a security, but is a
2012 financial asset.

2013 (f) A commodity contract, as defined in Section
2014 75-9-102(a)(15), is not a security or a financial asset.

2015 (g) A document of title is not a financial asset unless
2016 Section 75-8-102(a)(9)(iii) applies.

2017 **SECTION 59.** Section 75-9-102, Mississippi Code of 1972, is
2018 amended as follows:

2019 75-9-102. (a) In this article:

2020 (1) "Accession" means goods that are physically united
2021 with other goods in such a manner that the identity of the
2022 original goods is not lost.

2023 (2) "Account," except as used in "account for," means a
2024 right to payment of a monetary obligation, whether or not earned
2025 by performance, (i) for property that has been or is to be sold,
2026 leased, licensed, assigned, or otherwise disposed of, (ii) for
2027 services rendered or to be rendered, (iii) for a policy of
2028 insurance issued or to be issued, (iv) for a secondary obligation
2029 incurred or to be incurred, (v) for energy provided or to be
2030 provided, (vi) for the use or hire of a vessel under a charter or
2031 other contract, (vii) arising out of the use of a credit or charge
2032 card or information contained on or for use with the card, or
2033 (viii) as winnings in a lottery or other game of chance operated
2034 or sponsored by a state, governmental unit of a state, or person
2035 licensed or authorized to operate the game by a state or
2036 governmental unit of a state. The term includes
2037 health-care-insurance receivables. The term does not include (i)
2038 rights to payment evidenced by chattel paper or an instrument,
2039 (ii) commercial tort claims, (iii) deposit accounts, (iv)
2040 investment property, (v) letter-of-credit rights or letters of
2041 credit, or (vi) rights to payment for money or funds advanced or
2042 sold, other than rights arising out of the use of a credit or
2043 charge card or information contained on or for use with the card.

2044 (3) "Account debtor" means a person obligated on an
2045 account, chattel paper, or general intangible. The term does not
2046 include persons obligated to pay a negotiable instrument, even if
2047 the instrument constitutes part of chattel paper.

2048 (4) "Accounting," except as used in "accounting for,"
2049 means a record:

2050 (A) Authenticated by a secured party;

2051 (B) Indicating the aggregate unpaid secured
2052 obligations as of a date not more than thirty-five (35) days
2053 earlier or thirty-five (35) days later than the date of the
2054 record; and

2055 (C) Identifying the components of the obligations
2056 in reasonable detail.

2057 (5) "Agricultural lien" means an interest in farm
2058 products:

2059 (A) Which secures payment or performance of an
2060 obligation for:

2061 (i) Goods or services furnished in connection
2062 with a debtor's farming operation; or

2063 (ii) Rent on real property leased by a debtor
2064 in connection with its farming operation;

2065 (B) Which is created by statute in favor of a
2066 person that:

2067 (i) In the ordinary course of its business
2068 furnished goods or services to a debtor in connection with a
2069 debtor's farming operation; or

2070 (ii) Leased real property to a debtor in
2071 connection with the debtor's farming operation; and

2072 (C) Whose effectiveness does not depend on the
2073 person's possession of the personal property.

2074 (6) "As-extracted collateral" means:

2075 (A) Oil, gas, or other minerals that are subject
2076 to a security interest that:

2077 (i) Is created by a debtor having an interest
2078 in the minerals before extraction; and

2079 (ii) Attaches to the minerals as extracted;
2080 or

2081 (B) Accounts arising out of the sale at the
2082 wellhead or minehead of oil, gas, or other minerals in which the
2083 debtor had an interest before extraction.

2084 (7) "Authenticate" means:

2085 (A) To sign; or

2086 (B) To execute or otherwise adopt a symbol, or
2087 encrypt or similarly process a record in whole or in part, with
2088 the present intent of the authenticating person to identify the
2089 person and adopt or accept a record.

2090 (8) "Bank" means an organization that is engaged in the
2091 business of banking. The term includes savings banks, savings and
2092 loan associations, credit unions, and trust companies.

2093 (9) "Cash proceeds" means proceeds that are money,
2094 checks, deposit accounts, or the like.

2095 (10) "Certificate of title" means a certificate of
2096 title with respect to which a statute provides for the security
2097 interest in question to be indicated on the certificate as a
2098 condition or result of the security interest's obtaining priority
2099 over the rights of a lien creditor with respect to the collateral.

2100 (11) "Chattel paper" means a record or records that
2101 evidence both a monetary obligation and a security interest in
2102 specific goods, a security interest in specific goods and software
2103 used in the goods, a security interest in specific goods and
2104 license of software used in the goods, a lease of specific goods,
2105 or a lease of specific goods and license of software used in the
2106 goods. In this paragraph, "monetary obligation" means a monetary
2107 obligation secured by the goods or owed under a lease of the goods
2108 and includes a monetary obligation with respect to software used
2109 in the goods. The term does not include (i) charters or other
2110 contracts involving the use or hire of a vessel or (ii) records
2111 that evidence a right to payment arising out of the use of a
2112 credit or charge card or information contained on or for use with
2113 the card. If a transaction is evidenced by records that include
2114 an instrument or series of instruments, the group of records taken
2115 together constitutes chattel paper.

2116 (12) "Collateral" means the property subject to a
2117 security interest or agricultural lien. The term includes:

2118 (A) Proceeds to which a security interest
2119 attaches;

2120 (B) Accounts, chattel paper, payment intangibles,
2121 and promissory notes that have been sold; and

2122 (C) Goods that are the subject of a consignment.

2123 (13) "Commercial tort claim" means a claim arising in
2124 tort with respect to which:

2125 (A) The claimant is an organization; or

2126 (B) The claimant is an individual and the claim:

2127 (i) Arose in the course of the claimant's
2128 business or profession; and

2129 (ii) Does not include damages arising out of
2130 personal injury to or the death of an individual.

2131 (14) "Commodity account" means an account maintained by
2132 a commodity intermediary in which a commodity contract is carried
2133 for a commodity customer.

2134 (15) "Commodity contract" means a commodity futures
2135 contract, an option on a commodity futures contract, a commodity
2136 option, or another contract if the contract or option is:

2137 (A) Traded on or subject to the rules of a board
2138 of trade that has been designated as a contract market for such a
2139 contract pursuant to federal commodities laws; or

2140 (B) Traded on a foreign commodity board of trade,
2141 exchange, or market, and is carried on the books of a commodity
2142 intermediary for a commodity customer.

2143 (16) "Commodity customer" means a person for which a
2144 commodity intermediary carries a commodity contract on its books.

2145 (17) "Commodity intermediary" means a person that:

2146 (A) Is registered as a futures commission merchant
2147 under federal commodities law; or

2148 (B) In the ordinary course of its business
2149 provides clearance or settlement services for a board of trade
2150 that has been designated as a contract market pursuant to federal
2151 commodities law.

2152 (18) "Communicate" means:

2153 (A) To send a written or other tangible record;

2154 (B) To transmit a record by any means agreed upon
2155 by the persons sending and receiving the record; or

2156 (C) In the case of transmission of a record to or
2157 by a filing office, to transmit a record by any means prescribed
2158 by filing-office rule.

2159 (19) "Consignee" means a merchant to which goods are
2160 delivered in a consignment.

2161 (20) "Consignment" means a transaction, regardless of
2162 its form, in which a person delivers goods to a merchant for the
2163 purpose of sale and:

2164 (A) The merchant:

2165 (i) Deals in goods of that kind under a name
2166 other than the name of the person making delivery;

2167 (ii) Is not an auctioneer; and

2168 (iii) Is not generally known by its creditors
2169 to be substantially engaged in selling the goods of others;

2170 (B) With respect to each delivery, the aggregate
2171 value of the goods is One Thousand Dollars (\$1,000.00) or more at
2172 the time of delivery;

2173 (C) The goods are not consumer goods immediately
2174 before delivery; and

2175 (D) The transaction does not create a security
2176 interest that secures an obligation.

2177 (21) "Consignor" means a person that delivers goods to
2178 a consignee in a consignment.

2179 (22) "Consumer debtor" means a debtor in a consumer
2180 transaction.

2181 (23) "Consumer goods" means goods that are used or
2182 bought for use primarily for personal, family, or household
2183 purposes.

2184 (24) "Consumer-goods transaction" means a consumer
2185 transaction in which:

2186 (A) An individual incurs an obligation primarily
2187 for personal, family, or household purposes; and

2188 (B) A security interest in consumer goods secures
2189 the obligation.

2190 (25) "Consumer obligor" means an obligor who is an
2191 individual and who incurred the obligation as part of a
2192 transaction entered into primarily for personal, family, or
2193 household purposes.

2194 (26) "Consumer transaction" means a transaction in
2195 which (i) an individual incurs an obligation primarily for
2196 personal, family, or household purposes, (ii) a security interest
2197 secures the obligation, and (iii) the collateral is held or
2198 acquired primarily for personal, family, or household purposes.
2199 The term includes consumer-goods transactions.

2200 (27) "Continuation statement" means an amendment of a
2201 financing statement which:

2202 (A) Identifies, by its file number, the initial
2203 financing statement to which it relates; and

2204 (B) Indicates that it is a continuation statement
2205 for, or that it is filed to continue the effectiveness of, the
2206 identified financing statement.

2207 (28) "Debtor" means:

2208 (A) A person having an interest, other than a
2209 security interest or other lien, in the collateral, whether or not
2210 the person is an obligor;

2211 (B) A seller of accounts, chattel paper, payment
2212 intangibles, or promissory notes; or

2213 (C) A consignee.

2214 (29) "Deposit account" means a demand, time, savings,
2215 passbook, or similar account maintained with a bank. The term
2216 does not include investment property or accounts evidenced by an
2217 instrument.

2218 (30) "Document" means a document of title or a receipt
2219 of the type described in Section 75-7-201(2).

2220 (31) "Electronic chattel paper" means chattel paper
2221 evidenced by a record or records consisting of information stored
2222 in an electronic medium.

2223 (32) "Encumbrance" means a right, other than an
2224 ownership interest, in real property. The term includes mortgages
2225 and other liens on real property.

2226 (33) "Equipment" means goods other than inventory, farm
2227 products, or consumer goods.

2228 (34) "Farm products" means goods, other than standing
2229 timber, with respect to which the debtor is engaged in a farming
2230 operation and which are:

2231 (A) Crops grown, growing, or to be grown,
2232 including:

2233 (i) Crops produced on trees, vines, and
2234 bushes; and

2235 (ii) Aquatic goods produced in aquacultural
2236 operations;

2237 (B) Livestock, born or unborn, including aquatic
2238 goods produced in aquacultural operations;

2239 (C) Supplies used or produced in a farming
2240 operation; or

2241 (D) Products of crops or livestock in their
2242 unmanufactured states.

2243 (35) "Farming operation" means raising, cultivating,
2244 propagating, fattening, grazing, or any other farming, livestock
2245 or aquacultural operation.

2246 (36) "File number" means the number assigned to an
2247 initial financing statement pursuant to Section 75-9-519(a).

2248 (37) "Filing office" means an office designated in
2249 Section 75-9-501 as the place to file a financing statement.

2250 (38) "Filing-office rule" means a rule adopted pursuant
2251 to Section 75-9-526.

2252 (39) "Financing statement" means a record or records
2253 composed of an initial financing statement and any filed record
2254 relating to the initial financing statement.

2255 (40) "Fixture filing" means the filing of a financing
2256 statement covering goods that are or are to become fixtures and
2257 satisfying Section 75-9-502(a) and (b). The term includes the
2258 filing of a financing statement covering goods of a transmitting
2259 utility which are or are to become fixtures.

2260 (41) "Fixtures" means goods that have become so related
2261 to particular real property that an interest in them arises under
2262 real property law.

2263 (42) "General intangible" means any personal property,
2264 including things in action, other than accounts, chattel paper,
2265 commercial tort claims, deposit accounts, documents, goods,
2266 instruments, investment property, letter-of-credit rights, letters
2267 of credit, money, and oil, gas, or other minerals before
2268 extraction. The term includes payment intangibles and software.

2269 (43) "Good faith" means honesty in fact and the
2270 observance of reasonable commercial standards of fair dealing.

2271 (44) "Goods" means all things that are movable when a
2272 security interest attaches. The term includes (i) fixtures, (ii)
2273 standing timber that is to be cut and removed under a conveyance
2274 or contract for sale, (iii) the unborn young of animals, (iv)
2275 crops grown, growing, or to be grown, even if the crops are
2276 produced on trees, vines, or bushes, (v) farm-raised fish produced
2277 in fresh water according to the usual and customary techniques of
2278 commercial agriculture, (vi) manufactured homes and (vii) marine

2279 vessels (herein defined as every type of watercraft used, or
2280 capable of being used, as a means of transportation on water)
2281 including both marine vessels under construction, including
2282 engines and all items of equipment installed or to be installed
2283 therein, whether such vessels are being constructed by the
2284 shipbuilder for his own use or for sale (said vessels under
2285 construction being classified as inventory within the meaning of
2286 Section 75-9-102(48)), and marine vessels after completion of
2287 construction so long as such vessels have not become "vessels of
2288 the United States" within the meaning of the Ship Mortgage Act of
2289 1920, 46 USCS, Section 911(4), as same is now written or may
2290 hereafter be amended (said completed vessels being classified as
2291 equipment within the meaning of Section 75-9-102(33)). The term
2292 also includes a computer program embedded in goods and any
2293 supporting information provided in connection with a transaction
2294 relating to the program if (i) the program is associated with the
2295 goods in such a manner that it customarily is considered part of
2296 the goods, or (ii) by becoming the owner of the goods, a person
2297 acquires a right to use the program in connection with the goods.
2298 The term does not include a computer program embedded in goods
2299 that consist solely of the medium in which the program is
2300 embedded. The term also does not include accounts, chattel paper,
2301 commercial tort claims, deposit accounts, documents, general
2302 intangibles, instruments, investment property, letter-of-credit
2303 rights, letters of credit, money, or oil, gas, or other minerals
2304 before extraction.

2305 (45) "Governmental unit" means a subdivision, agency,
2306 department, county, parish, municipality or other unit of the
2307 government of the United States, a state, or a foreign country.
2308 The term includes an organization having a separate corporate
2309 existence if the organization is eligible to issue debt on which
2310 interest is exempt from income taxation under the laws of the
2311 United States.

2312 (46) "Health-care-insurance receivable" means an
2313 interest in or claim under a policy of insurance which is a right
2314 to payment of a monetary obligation for health-care goods or
2315 services provided or to be provided.

2316 (47) "Instrument" means a negotiable instrument or any
2317 other writing that evidences a right to the payment of a monetary
2318 obligation, is not itself a security agreement or lease, and is of
2319 a type that in ordinary course of business is transferred by
2320 delivery with any necessary endorsement or assignment. The term
2321 does not include (i) investment property, (ii) letters of credit,
2322 or (iii) writings that evidence a right to payment arising out of
2323 the use of a credit or charge card or information contained on or
2324 for use with the card.

2325 (48) "Inventory" means goods, other than farm products,
2326 which:

2327 (A) Are leased by a person as lessor;

2328 (B) Are held by a person for sale or lease or to
2329 be furnished under a contract of service;

2330 (C) Are furnished by a person under a contract of
2331 service; or

2332 (D) Consist of raw materials, work in process or
2333 materials used or consumed in a business.

2334 (49) "Investment property" means a security, whether
2335 certificated or uncertificated, security entitlement, securities
2336 account, commodity contract or commodity account.

2337 (50) "Jurisdiction of organization," with respect to a
2338 registered organization, means the jurisdiction under whose law
2339 the organization is organized.

2340 (51) "Letter-of-credit right" means a right to payment
2341 or performance under a letter of credit, whether or not the
2342 beneficiary has demanded or is at the time entitled to demand
2343 payment or performance. The term does not include the right of a

2344 beneficiary to demand payment or performance under a letter of
2345 credit.

2346 (52) "Lien creditor" means:

2347 (A) A creditor that has acquired a lien on the
2348 property involved by attachment, levy, or the like;

2349 (B) An assignee for benefit of creditors from the
2350 time of assignment;

2351 (C) A trustee in bankruptcy from the date of the
2352 filing of the petition; or

2353 (D) A receiver in equity from the time of
2354 appointment.

2355 (53) "Manufactured home" means a structure,
2356 transportable in one or more sections, which, in the traveling
2357 mode, is eight (8) body feet or more in width or forty (40) body
2358 feet or more in length, or, when erected on site, is three hundred
2359 twenty (320) or more square feet, and which is built on a
2360 permanent chassis and designed to be used as a dwelling with or
2361 without a permanent foundation when connected to the required
2362 utilities, and includes the plumbing, heating, air-conditioning,
2363 and electrical systems contained therein. The term includes any
2364 structure that meets all of the requirements of this paragraph
2365 except the size requirements and with respect to which the
2366 manufacturer voluntarily files a certification required by the
2367 United States Secretary of Housing and Urban Development and
2368 complies with the standards established under Title 42 of the
2369 United States Code.

2370 (54) "Manufactured-home transaction" means a secured
2371 transaction:

2372 (A) That creates a purchase-money security
2373 interest in a manufactured home, other than a manufactured home
2374 held as inventory; or

2375 (B) In which a manufactured home, other than a
2376 manufactured home held as inventory, is the primary collateral.

2377 (55) "Mortgage" means a consensual interest in real
2378 property, including fixtures, which secures payment or performance
2379 of an obligation. "Mortgage" shall mean and include a deed of
2380 trust.

2381 (56) "New debtor" means a person that becomes bound as
2382 debtor under Section 75-9-203(d) by a security agreement
2383 previously entered into by another person.

2384 (57) "New value" means (i) money, (ii) money's worth in
2385 property, services, or new credit, or (iii) release by a
2386 transferee of an interest in property previously transferred to
2387 the transferee. The term does not include an obligation
2388 substituted for another obligation.

2389 (58) "Noncash proceeds" means proceeds other than cash
2390 proceeds.

2391 (59) "Obligor" means a person that, with respect to an
2392 obligation secured by a security interest in or an agricultural
2393 lien on the collateral, (i) owes payment or other performance of
2394 the obligation, (ii) has provided property other than the
2395 collateral to secure payment or other performance of the
2396 obligation, or (iii) is otherwise accountable in whole or in part
2397 for payment or other performance of the obligation. The term does
2398 not include issuers or nominated persons under a letter of credit.

2399 (60) "Original debtor," except as used in Section
2400 75-9-310(c), means a person that, as debtor, entered into a
2401 security agreement to which a new debtor has become bound under
2402 Section 75-9-203(d).

2403 (61) "Payment intangible" means a general intangible
2404 under which the account debtor's principal obligation is a
2405 monetary obligation.

2406 (62) "Person related to," with respect to an
2407 individual, means:

2408 (A) The spouse of the individual;

2409 (B) A brother, brother-in-law, sister, or
2410 sister-in-law of the individual;
2411 (C) An ancestor or lineal descendant of the
2412 individual or the individual's spouse; or
2413 (D) Any other relative, by blood or marriage, of
2414 the individual or the individual's spouse who shares the same home
2415 with the individual.

2416 (63) "Person related to," with respect to an
2417 organization, means:

2418 (A) A person directly or indirectly controlling,
2419 controlled by, or under common control with the organization;

2420 (B) An officer or director of, or a person
2421 performing similar functions with respect to, the organization;

2422 (C) An officer or director of, or a person
2423 performing similar functions with respect to, a person described
2424 in subparagraph (A);

2425 (D) The spouse of an individual described in
2426 subparagraph (A), (B), or (C); or

2427 (E) An individual who is related by blood or
2428 marriage to an individual described in subparagraph (A), (B), (C),
2429 or (D) and shares the same home with the individual.

2430 (64) "Proceeds," except as used in Section 75-9-609(b),
2431 means the following property:

2432 (A) Whatever is acquired upon the sale, lease,
2433 license, exchange or other disposition of collateral;

2434 (B) Whatever is collected on, or distributed on
2435 account of, collateral;

2436 (C) Rights arising out of collateral;

2437 (D) To the extent of the value of collateral,
2438 claims arising out of the loss, nonconformity, or interference
2439 with the use of, defects or infringement of rights in, or damage
2440 to, the collateral; or

2441 (E) To the extent of the value of collateral and
2442 to the extent payable to the debtor or the secured party,
2443 insurance payable by reason of the loss or nonconformity of,
2444 defects or infringement of rights in, or damage to, the
2445 collateral.

2446 (64A) "Production-money crops" means crops that secure
2447 a production-money obligation incurred with respect to the
2448 production of those crops.

2449 (64B) "Production-money obligation" means an obligation
2450 of an obligor incurred for new value given to enable the debtor to
2451 produce crops if the value is in fact used for the production of
2452 the crops.

2453 (64C) "Production of crops" includes tilling and
2454 otherwise preparing land for growing, planting, cultivating,
2455 fertilizing, irrigating, harvesting and gathering crops, and
2456 protecting them from damage or disease.

2457 (65) "Promissory note" means an instrument that
2458 evidences a promise to pay a monetary obligation, does not
2459 evidence an order to pay, and does not contain an acknowledgment
2460 by a bank that the bank has received for deposit a sum of money or
2461 funds.

2462 (66) "Proposal" means a record authenticated by a
2463 secured party which includes the terms on which the secured party
2464 is willing to accept collateral in full or partial satisfaction of
2465 the obligation it secures pursuant to Sections 75-9-620, 75-9-621,
2466 and 75-9-622.

2467 (67) "Public-finance transaction" means a secured
2468 transaction in connection with which:

2469 (A) Debt securities are issued;

2470 (B) All or a portion of the securities issued have
2471 an initial stated maturity of at least twenty (20) years; and

2472 (C) The debtor, obligor, secured party, account
2473 debtor or other person obligated on collateral, assignor or

2474 assignee of a secured obligation, or assignor or assignee of a
2475 security interest is a state or a governmental unit of a state.

2476 (68) "Pursuant to commitment," with respect to an
2477 advance made or other value given by a secured party, means
2478 pursuant to the secured party's obligation, whether or not a
2479 subsequent event of default or other event not within the secured
2480 party's control has relieved or may relieve the secured party from
2481 its obligation.

2482 (69) "Record," except as used in "for record," "of
2483 record," "record or legal title," and "record owner," means
2484 information that is inscribed on a tangible medium or which is
2485 stored in an electronic or other medium and is retrievable in
2486 perceivable form.

2487 (70) "Registered organization" means an organization
2488 organized solely under the law of a single state or the United
2489 States and as to which the state or the United States must
2490 maintain a public record showing the organization to have been
2491 organized.

2492 (71) "Secondary obligor" means an obligor to the extent
2493 that:

2494 (A) The obligor's obligation is secondary; or

2495 (B) The obligor has a right of recourse with
2496 respect to an obligation secured by collateral against the debtor,
2497 another obligor, or property of either.

2498 (72) "Secured party" means:

2499 (A) A person in whose favor a security interest is
2500 created or provided for under a security agreement, whether or not
2501 any obligation to be secured is outstanding;

2502 (B) A person that holds an agricultural lien;

2503 (C) A consignor;

2504 (D) A person to which accounts, chattel paper,
2505 payment intangibles, or promissory notes have been sold;

2506 (E) A trustee, indenture trustee, agent,
2507 collateral agent, or other representative in whose favor a
2508 security interest or agricultural lien is created or provided for;
2509 or

2510 (F) A person that holds a security interest
2511 arising under Section 75-2-401, 75-2-505, 75-2-711(3),
2512 75-2A-508(5), 75-4-210, or 75-5-118.

2513 (73) "Security agreement" means an agreement that
2514 creates or provides for a security interest.

2515 (74) "Send," in connection with a record or
2516 notification, means:

2517 (A) To deposit in the mail, deliver for
2518 transmission, or transmit by any other usual means of
2519 communication, with postage or cost of transmission provided for,
2520 addressed to any address reasonable under the circumstances; or

2521 (B) To cause the record or notification to be
2522 received within the time that it would have been received if
2523 properly sent under subparagraph (A).

2524 (75) "Software" means a computer program and any
2525 supporting information provided in connection with a transaction
2526 relating to the program. The term does not include a computer
2527 program that is included in the definition of goods.

2528 (76) "State" means a state of the United States, the
2529 District of Columbia, Puerto Rico, the United States Virgin
2530 Islands, or any territory or insular possession subject to the
2531 jurisdiction of the United States.

2532 (77) "Supporting obligation" means a letter-of-credit
2533 right or secondary obligation that supports the payment or
2534 performance of an account, chattel paper, a document, a general
2535 intangible, an instrument, or investment property.

2536 (78) "Tangible chattel paper" means chattel paper
2537 evidenced by a record or records consisting of information that is
2538 inscribed on a tangible medium.

2572	"Issuer" (with respect to a	
2573	security)	Section 75-8-201.
2574	<u>"Issuer" (with respect to</u>	
2575	<u>documents of title)</u>	<u>Section 75-7-102</u>
2576	"Lease"	Section 75-2A-103.
2577	"Lease agreement"	Section 75-2A-103.
2578	"Lease contract"	Section 75-2A-103.
2579	"Leasehold interest"	Section 75-2A-103.
2580	"Lessee"	Section 75-2A-103.
2581	"Lessee in ordinary course	
2582	of business"	Section 75-2A-103.
2583	"Lessor"	Section 75-2A-103.
2584	"Lessor's residual interest"	Section 75-2A-103.
2585	"Letter of credit"	Section 75-5-102.
2586	"Merchant"	Section 75-2-104.
2587	"Negotiable instrument"	Section 75-3-104.
2588	"Nominated person"	Section 75-5-102.
2589	"Note"	Section 75-3-104.
2590	"Proceeds of a letter of	
2591	credit"	Section 75-5-114.
2592	"Prove"	Section 75-3-103.
2593	"Sale"	Section 75-2-106.
2594	"Securities account"	Section 75-8-501.
2595	"Securities intermediary"	Section 75-8-102.
2596	"Security"	Section 75-8-102.
2597	"Security certificate"	Section 75-8-102.
2598	"Security entitlement"	Section 75-8-102.
2599	"Uncertificated security"	Section 75-8-102.
2600	(c) Article 1 contains general definitions and principles of	
2601	construction and interpretation applicable throughout this	
2602	article.	

2603 **SECTION 60.** Section 75-9-203, Mississippi Code of 1972, is
2604 amended as follows:

2605 75-9-203. (a) A security interest attaches to collateral
2606 when it becomes enforceable against the debtor with respect to the
2607 collateral, unless an agreement expressly postpones the time of
2608 attachment.

2609 (b) Except as otherwise provided in subsections (c) through
2610 (i), a security interest is enforceable against the debtor and
2611 third parties with respect to the collateral only if:

2612 (1) Value has been given;

2613 (2) The debtor has rights in the collateral or the
2614 power to transfer rights in the collateral to a secured party; and

2615 (3) One (1) of the following conditions is met:

2616 (A) The debtor has authenticated a security
2617 agreement that provides a description of the collateral and, if
2618 the security interest covers timber to be cut, a description of
2619 the land concerned;

2620 (B) The collateral is not a certificated security
2621 and is in the possession of the secured party under Section
2622 75-9-313 pursuant to the debtor's security agreement;

2623 (C) The collateral is a certificated security in
2624 registered form and the security certificate has been delivered to
2625 the secured party under Section 75-8-301 pursuant to the debtor's
2626 security agreement; or

2627 (D) The collateral is deposit accounts, electronic
2628 chattel paper, investment property, * * * letter-of-credit rights,
2629 or electronic documents, and the secured party has control under
2630 Section 75-7-106, 75-9-104, 75-9-105, 75-9-106, or 75-9-107
2631 pursuant to the debtor's security agreement.

2632 (c) Subsection (b) is subject to Section 75-4-210 on the
2633 security interest of a collecting bank, Section 75-5-118 on the
2634 security interest of a letter-of-credit issuer or nominated
2635 person, Section 75-9-110 on a security interest arising under
2636 Article 2 or 2A of Title 75, and Section 75-9-206 on security
2637 interests in investment property.

2638 (d) A person becomes bound as debtor by a security agreement
2639 entered into by another person if, by operation of law other than
2640 this article or by contract:

2641 (1) The security agreement becomes effective to create
2642 a security interest in the person's property; or

2643 (2) The person becomes generally obligated for the
2644 obligations of the other person, including the obligation secured
2645 under the security agreement, and acquires or succeeds to all or
2646 substantially all of the assets of the other person.

2647 (e) If a new debtor becomes bound as debtor by a security
2648 agreement entered into by another person:

2649 (1) The agreement satisfies subsection (b)(3) with
2650 respect to existing or after-acquired property of the new debtor
2651 to the extent the property is described in the agreement; and

2652 (2) Another agreement is not necessary to make a
2653 security interest in the property enforceable.

2654 (f) The attachment of a security interest in collateral
2655 gives the secured party the rights to proceeds provided by Section
2656 75-9-315 and is also attachment of a security interest in a
2657 supporting obligation for the collateral.

2658 (g) The attachment of a security interest in a right to
2659 payment or performance secured by a security interest or other
2660 lien on personal or real property is also attachment of a security
2661 interest in the security interest, mortgage, or other lien.

2662 (h) The attachment of a security interest in a securities
2663 account is also attachment of a security interest in the security
2664 entitlements carried in the securities account.

2665 (i) The attachment of a security interest in a commodity
2666 account is also attachment of a security interest in the commodity
2667 contracts carried in the commodity account.

2668 **SECTION 61.** Section 75-9-207, Mississippi Code of 1972, is
2669 amended as follows:

2670 75-9-207. (a) Except as otherwise provided in subsection
2671 (d), a secured party shall use reasonable care in the custody and
2672 preservation of collateral in the secured party's possession. In
2673 the case of chattel paper or an instrument, reasonable care
2674 includes taking necessary steps to preserve rights against prior
2675 parties unless otherwise agreed.

2676 (b) Except as otherwise provided in subsection (d), if a
2677 secured party has possession of collateral:

2678 (1) Reasonable expenses, including the cost of
2679 insurance and payment of taxes or other charges, incurred in the
2680 custody, preservation, use, or operation of the collateral are
2681 chargeable to the debtor and are secured by the collateral;

2682 (2) The risk of accidental loss or damage is on the
2683 debtor to the extent of a deficiency in any effective insurance
2684 coverage;

2685 (3) The secured party shall keep the collateral
2686 identifiable, but fungible collateral may be commingled; and

2687 (4) The secured party may use or operate the
2688 collateral:

2689 (A) For the purpose of preserving the collateral
2690 or its value;

2691 (B) As permitted by an order of a court having
2692 competent jurisdiction; or

2693 (C) Except in the case of consumer goods, in the
2694 manner and to the extent agreed by the debtor.

2695 (c) Except as otherwise provided in subsection (d), a
2696 secured party having possession of collateral or control of
2697 collateral under Section 75-7-106, 75-9-104, 75-9-105, 75-9-106 or
2698 75-9-107:

2699 (1) May hold as additional security any proceeds,
2700 except money or funds, received from the collateral;

2701 (2) Shall apply money or funds received from the
2702 collateral to reduce the secured obligation, unless remitted to
2703 the debtor; and

2704 (3) May create a security interest in the collateral.

2705 (d) If the secured party is a buyer of accounts, chattel
2706 paper, payment intangibles, or promissory notes or a consignor:

2707 (1) Subsection (a) does not apply unless the secured
2708 party is entitled under an agreement:

2709 (A) To charge back uncollected collateral; or

2710 (B) Otherwise to full or limited recourse against
2711 the debtor or a secondary obligor based on the nonpayment or other
2712 default of an account debtor or other obligor on the collateral;
2713 and

2714 (2) Subsections (b) and (c) do not apply.

2715 **SECTION 62.** Section 75-9-208, Mississippi Code of 1972, is
2716 amended as follows:

2717 75-9-208. (a) This section applies to cases in which there
2718 is no outstanding secured obligation and the secured party is not
2719 committed to make advances, incur obligations, or otherwise give
2720 value.

2721 (b) Within ten (10) days after receiving an authenticated
2722 demand by the debtor:

2723 (1) A secured party having control of a deposit account
2724 under Section 75-9-104(a)(2) shall send to the bank with which the
2725 deposit account is maintained an authenticated statement that
2726 releases the bank from any further obligation to comply with
2727 instructions originated by the secured party;

2728 (2) A secured party having control of a deposit account
2729 under Section 75-9-104(a)(3) shall:

2730 (A) Pay the debtor the balance on deposit in the
2731 deposit account; or

2732 (B) Transfer the balance on deposit into a deposit
2733 account in the debtor's name;

2734 (3) A secured party, other than a buyer, having control
2735 of electronic chattel paper under Section 75-9-105 shall:

2736 (A) Communicate the authoritative copy of the
2737 electronic chattel paper to the debtor or its designated
2738 custodian;

2739 (B) If the debtor designates a custodian that is
2740 the designated custodian with which the authoritative copy of the
2741 electronic chattel paper is maintained for the secured party,
2742 communicate to the custodian an authenticated record releasing the
2743 designated custodian from any further obligation to comply with
2744 instructions originated by the secured party and instructing the
2745 custodian to comply with instructions originated by the debtor;
2746 and

2747 (C) Take appropriate action to enable the debtor
2748 or its designated custodian to make copies of or revisions to the
2749 authoritative copy which add or change an identified assignee of
2750 the authoritative copy without the consent of the secured party;

2751 (4) A secured party having control of investment
2752 property under Section 75-8-106(d)(2) or 75-9-106(b) shall send to
2753 the securities intermediary or commodity intermediary with which
2754 the security entitlement or commodity contract is maintained an
2755 authenticated record that releases the securities intermediary or
2756 commodity intermediary from any further obligation to comply with
2757 entitlement orders or directions originated by the secured
2758 party; * * *

2759 (5) A secured party having control of a
2760 letter-of-credit right under Section 75-9-107 shall send to each
2761 person having an unfulfilled obligation to pay or deliver proceeds
2762 of the letter of credit to the secured party an authenticated
2763 release from any further obligation to pay or deliver proceeds of
2764 the letter of credit to the secured party; and

2765 (6) A secured party having control of an electronic
2766 document shall:

2767 (A) Give control of the electronic document to the
2768 debtor or its designated custodian;

2769 (B) If the debtor designates a custodian that is
2770 the designated custodian with which the authoritative copy of the
2771 electronic document is maintained for the secured party,
2772 communicate to the custodian an authenticated record releasing the
2773 designated custodian from any further obligation to comply with
2774 instructions originated by the secured party and instructing the
2775 custodian to comply with instructions originated by the debtor;
2776 and

2777 (C) Take appropriate action to enable the debtor
2778 or its designated custodian to make copies of or revisions to the
2779 authoritative copy which add or change an identified assignee of
2780 the authoritative copy without the consent of the secured party.

2781 **SECTION 63.** Section 75-9-301, Mississippi Code of 1972, is
2782 amended as follows:

2783 75-9-301. Except as otherwise provided in Sections 75-9-303
2784 through 75-9-306, the following rules determine the law governing
2785 perfection, the effect of perfection or nonperfection, and the
2786 priority of a security interest in collateral:

2787 (1) Except as otherwise provided in this section, while
2788 a debtor is located in a jurisdiction, the local law of that
2789 jurisdiction governs perfection, the effect of perfection or
2790 nonperfection, and the priority of a security interest in
2791 collateral.

2792 (2) While collateral is located in a jurisdiction, the
2793 local law of that jurisdiction governs perfection, the effect of
2794 perfection or nonperfection, and the priority of a possessory
2795 security interest in that collateral.

2796 (3) Except as otherwise provided in paragraph (4),
2797 while tangible negotiable documents, goods, instruments, money or
2798 tangible chattel paper is located in a jurisdiction, the local law
2799 of that jurisdiction governs:

2800 (A) Perfection of a security interest in the goods
2801 by filing a fixture filing;

2802 (B) Perfection of a security interest in timber to
2803 be cut; and

2804 (C) The effect of perfection or nonperfection and
2805 the priority of a nonpossessory security interest in the
2806 collateral.

2807 (4) The local law of the jurisdiction in which the
2808 wellhead or minehead is located governs perfection, the effect of
2809 perfection or nonperfection, and the priority of a security
2810 interest in as-extracted collateral.

2811 **SECTION 64.** Section 75-9-310, Mississippi Code of 1972, is
2812 amended as follows:

2813 75-9-310. (a) Except as otherwise provided in subsection
2814 (b) and Section 75-9-312(b), a financing statement must be filed
2815 to perfect all security interests and agricultural liens.

2816 (b) The filing of a financing statement is not necessary to
2817 perfect a security interest:

2818 (1) That is perfected under Section 75-9-308(d), (e),
2819 (f), or (g);

2820 (2) That is perfected under Section 75-9-309 when it
2821 attaches;

2822 (3) In property subject to a statute, regulation, or
2823 treaty described in Section 75-9-311(a);

2824 (4) In goods in possession of a bailee which is
2825 perfected under Section 75-9-312(d)(1) or (2);

2826 (5) In certificated securities, documents, goods or
2827 instruments which is perfected without filing, control or
2828 possession under Section 75-9-312(e), (f), or (g);

2829 (6) In collateral in the secured party's possession
2830 under Section 75-9-313;

2831 (7) In a certificated security which is perfected by
2832 delivery of the security certificate to the secured party under
2833 Section 75-9-313;

2834 (8) In deposit accounts, electronic chattel paper,
2835 investment property, or letter-of-credit rights which is perfected
2836 by control under Section 75-9-314;

2837 (9) In proceeds which is perfected under Section
2838 75-9-315; or

2839 (10) That is perfected under Section 75-9-316.

2840 (c) If a secured party assigns a perfected security interest
2841 or agricultural lien, a filing under this article is not required
2842 to continue the perfected status of the security interest against
2843 creditors of and transferees from the original debtor.

2844 **SECTION 65.** Section 75-9-312, Mississippi Code of 1972, is
2845 amended as follows:

2846 75-9-312. (a) A security interest in chattel paper,
2847 negotiable documents, instruments, or investment property may be
2848 perfected by filing.

2849 (b) Except as otherwise provided in Section 75-9-315(c) and
2850 (d) for proceeds:

2851 (1) A security interest in a deposit account may be
2852 perfected only by control under Section 75-9-314;

2853 (2) And except as otherwise provided in Section
2854 75-9-308(d), a security interest in a letter-of-credit right may
2855 be perfected only by control under Section 75-9-314; and

2856 (3) A security interest in money may be perfected only
2857 by the secured party's taking possession under Section 75-9-313.

2858 (c) While goods are in the possession of a bailee that has
2859 issued a negotiable document covering the goods:

2860 (1) A security interest in the goods may be perfected
2861 by perfecting a security interest in the document; and

2862 (2) A security interest perfected in the document has
2863 priority over any security interest that becomes perfected in the
2864 goods by another method during that time.

2865 (d) While goods are in the possession of a bailee that has
2866 issued a nonnegotiable document covering the goods, a security
2867 interest in the goods may be perfected by:

2868 (1) Issuance of a document in the name of the secured
2869 party;

2870 (2) The bailee's receipt of notification of the secured
2871 party's interest; or

2872 (3) Filing as to the goods.

2873 (e) A security interest in certificated securities,
2874 negotiable documents, or instruments is perfected without filing
2875 or the taking of possession or control for a period of twenty (20)
2876 days from the time it attaches to the extent that it arises for
2877 new value given under an authenticated security agreement.

2878 (f) A perfected security interest in a negotiable document
2879 or goods in possession of a bailee, other than one that has issued
2880 a negotiable document for the goods, remains perfected for twenty
2881 (20) days without filing if the secured party makes available to
2882 the debtor the goods or documents representing the goods for the
2883 purpose of:

2884 (1) Ultimate sale or exchange; or

2885 (2) Loading, unloading, storing, shipping,
2886 transshipping, manufacturing, processing, or otherwise dealing
2887 with them in a manner preliminary to their sale or exchange.

2888 (g) A perfected security interest in a certificated security
2889 or instrument remains perfected for twenty (20) days without
2890 filing if the secured party delivers the security certificate or
2891 instrument to the debtor for the purpose of:

2892 (1) Ultimate sale or exchange; or

2893 (2) Presentation, collection, enforcement, renewal or
2894 registration of transfer.

2895 (h) After the twenty-day period specified in subsection (e),
2896 (f), or (g) expires, perfection depends upon compliance with this
2897 article.

2898 **SECTION 66.** Section 75-9-313, Mississippi Code of 1972, is
2899 amended as follows:

2900 75-9-313. (a) Except as otherwise provided in subsection
2901 (b), a secured party may perfect a security interest in tangible
2902 negotiable documents, goods, instruments, money, or tangible
2903 chattel paper by taking possession of the collateral. A secured
2904 party may perfect a security interest in certificated securities
2905 by taking delivery of the certificated securities under Section
2906 75-8-301.

2907 (b) With respect to goods covered by a certificate of title
2908 issued by this state, a secured party may perfect a security
2909 interest in the goods by taking possession of the goods only in
2910 the circumstances described in Section 75-9-316(d).

2911 (c) With respect to collateral other than certificated
2912 securities and goods covered by a document, a secured party takes
2913 possession of collateral in the possession of a person other than
2914 the debtor, the secured party, or a lessee of the collateral from
2915 the debtor in the ordinary course of the debtor's business, when:

2916 (1) The person in possession authenticates a record
2917 acknowledging that it holds possession of the collateral for the
2918 secured party's benefit; or

2919 (2) The person takes possession of the collateral after
2920 having authenticated a record acknowledging that it will hold
2921 possession of collateral for the secured party's benefit.

2922 (d) If perfection of a security interest depends upon
2923 possession of the collateral by a secured party, perfection occurs
2924 no earlier than the time the secured party takes possession and
2925 continues only while the secured party retains possession.

2926 (e) A security interest in a certificated security in
2927 registered form is perfected by delivery when delivery of the

2928 certificated security occurs under Section 75-8-301 and remains
2929 perfected by delivery until the debtor obtains possession of the
2930 security certificate.

2931 (f) A person in possession of collateral is not required to
2932 acknowledge that it holds possession for a secured party's
2933 benefit.

2934 (g) If a person acknowledges that it holds possession for
2935 the secured party's benefit:

2936 (1) The acknowledgment is effective under subsection
2937 (c) or Section 75-8-301(a), even if the acknowledgment violates
2938 the rights of a debtor; and

2939 (2) Unless the person otherwise agrees or law other
2940 than this article otherwise provides, the person does not owe any
2941 duty to the secured party and is not required to confirm the
2942 acknowledgment to another person.

2943 (h) A secured party having possession of collateral does not
2944 relinquish possession by delivering the collateral to a person
2945 other than the debtor or a lessee of the collateral from the
2946 debtor in the ordinary course of the debtor's business if the
2947 person was instructed before the delivery or is instructed
2948 contemporaneously with the delivery:

2949 (1) To hold possession of the collateral for the
2950 secured party's benefit; or

2951 (2) A secured party does not relinquish possession,
2952 even if a delivery under subsection (h) violates the rights of a
2953 debtor. A person to which collateral is delivered under
2954 subsection (h) does not owe any duty to the secured party and is
2955 not required to confirm the delivery to another person unless the
2956 person otherwise agrees or law other than this article otherwise
2957 provides.

2958 **SECTION 67.** Section 75-9-314, Mississippi Code of 1972, is
2959 amended as follows:

2960 75-9-314. (a) A security interest in investment property,
2961 deposit accounts, letter-of-credit rights, * * * electronic
2962 chattel paper, or electronic documents may be perfected by control
2963 of the collateral under Section 75-7-106, 75-9-104, 75-9-105,
2964 75-9-106 or 75-9-107.

2965 (b) A security interest in deposit accounts, electronic
2966 chattel paper, letter-of-credit rights, or electronic documents is
2967 perfected by control under Section 75-7-106, 75-9-104, 75-9-105 or
2968 75-9-107 when the secured party obtains control and remains
2969 perfected by control only while the secured party retains control.

2970 (c) A security interest in investment property is perfected
2971 by control under Section 75-9-106 from the time the secured party
2972 obtains control and remains perfected by control until:

2973 (1) The secured party does not have control; and

2974 (2) One (1) of the following occurs:

2975 (A) If the collateral is a certificated security,
2976 the debtor has or acquires possession of the security certificate;

2977 (B) If the collateral is an uncertificated
2978 security, the issuer has registered or registers the debtor as the
2979 registered owner; or

2980 (C) If the collateral is a security entitlement,
2981 the debtor is or becomes the entitlement holder.

2982 **SECTION 68.** Section 75-9-317, Mississippi Code of 1972, is
2983 amended as follows:

2984 75-9-317. (a) A security interest or agricultural lien is
2985 subordinate to the rights of:

2986 (1) A person entitled to priority under Section
2987 75-9-322; and

2988 (2) Except as otherwise provided in subsection (e), a
2989 person that becomes a lien creditor before the earlier of the
2990 time:

2991 (A) The security interest or agricultural lien is
2992 perfected; or

2993 (B) One (1) of the conditions specified in Section
2994 75-9-203(b)(3) is met and a financing statement covering the
2995 collateral is filed.

2996 (b) Except as otherwise provided in subsection (e), a buyer,
2997 other than a secured party, of tangible chattel paper, documents,
2998 goods, instruments, or a security certificate takes free of a
2999 security interest or agricultural lien if the buyer gives value
3000 and receives delivery of the collateral without knowledge of the
3001 security interest or agricultural lien and before it is perfected.

3002 (c) Except as otherwise provided in subsection (e), a lessee
3003 of goods takes free of a security interest or agricultural lien if
3004 the lessee gives value and receives delivery of the collateral
3005 without knowledge of the security interest or agricultural lien
3006 and before it is perfected.

3007 (d) A licensee of a general intangible or a buyer, other
3008 than a secured party, of accounts, electronic chattel paper,
3009 electronic documents, general intangibles, or investment property
3010 other than a certificated security takes free of a security
3011 interest if the licensee or buyer gives value without knowledge of
3012 the security interest and before it is perfected.

3013 (e) Except as otherwise provided in Sections 75-9-320 and
3014 75-9-321, if a person files a financing statement with respect to
3015 a purchase-money security interest before or within twenty (20)
3016 days after the debtor receives delivery of the collateral, the
3017 security interest takes priority over the rights of a buyer,
3018 lessee, or lien creditor which arise between the time the security
3019 interest attaches and the time of filing.

3020 **SECTION 69.** Section 75-9-338, Mississippi Code of 1972, is
3021 amended as follows:

3022 75-9-338. If a security interest or agricultural lien is
3023 perfected by a filed financing statement providing information
3024 described in Section 75-9-516(b)(5) which is incorrect at the time
3025 the financing statement is filed:

3026 (1) The security interest or agricultural lien is
3027 subordinate to a conflicting perfected security interest in the
3028 collateral to the extent that the holder of the conflicting
3029 security interest gives value in reasonable reliance upon the
3030 incorrect information; and

3031 (2) A purchaser, other than a secured party, of the
3032 collateral takes free of the security interest or agricultural
3033 lien to the extent that, in reasonable reliance upon the incorrect
3034 information, the purchaser gives value and, in the case of
3035 tangible chattel paper, tangible documents, goods, instruments, or
3036 a security certificate, receives delivery of the collateral.

3037 **SECTION 70.** Section 75-9-601, Mississippi Code of 1972, is
3038 amended as follows:

3039 75-9-601. (a) After default, a secured party has the rights
3040 provided in this part and, except as otherwise provided in Section
3041 75-9-602, those provided by agreement of the parties. A secured
3042 party:

3043 (1) May reduce a claim to judgment, foreclose, or
3044 otherwise enforce the claim, security interest, or agricultural
3045 lien by any available judicial procedure; and

3046 (2) If the collateral is documents, may proceed either
3047 as to the documents or as to the goods they cover.

3048 (b) A secured party in possession of collateral or control
3049 of collateral under Section 75-7-106, 75-9-104, 75-9-105, 75-9-106
3050 or 75-9-107 has the rights and duties provided in Section
3051 75-9-207.

3052 (c) The rights under subsections (a) and (b) are cumulative
3053 and may be exercised simultaneously.

3054 (d) Except as otherwise provided in subsection (g) and
3055 Section 75-9-605, after default, a debtor and an obligor have the
3056 rights provided in this part and by agreement of the parties.

3057 (e) If a secured party has reduced its claim to judgment,
3058 the lien of any levy that may be made upon the collateral by

3059 virtue of an execution based upon the judgment relates back to the
3060 earliest of:

3061 (1) The date of perfection of the security interest or
3062 agricultural lien in the collateral;

3063 (2) The date of filing a financing statement covering
3064 the collateral; or

3065 (3) Any date specified in a statute under which the
3066 agricultural lien was created.

3067 (f) A sale pursuant to an execution is a foreclosure of the
3068 security interest or agricultural lien by judicial procedure
3069 within the meaning of this section. A secured party may purchase
3070 at the sale and thereafter hold the collateral free of any other
3071 requirements of this chapter.

3072 (g) Except as otherwise provided in Section 75-9-607(c),
3073 this part imposes no duties upon a secured party that is a
3074 consignor or is a buyer of accounts, chattel paper, payment
3075 intangibles, or promissory notes.

3076 **SECTION 71.** Section 75-10-104, Mississippi Code of 1972,
3077 which provides that Title 75, Chapter 7, on documents of title
3078 does not repeal or modify other laws concerning titles and
3079 bailment, is repealed because the substance thereof has been
3080 incorporated in Section 75-7-103(2).

3081 **SECTION 72.** This act shall take effect and be in force from
3082 and after July 1, 2006.