

By: Representative Simpson

To: Judiciary A

HOUSE BILL NO. 913

1 AN ACT TO AMEND SECTIONS 75-7-102, 75-7-103, 75-7-104,
2 75-7-105, 75-7-106, 75-7-201, 75-7-202, 75-7-203, 75-7-204,
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, 75-7-507, 75-7-601 AND 75-7-701,
7 MISSISSIPPI CODE OF 1972, DEALING WITH DOCUMENTS OF TITLE, TO MAKE
8 TECHNICAL CORRECTIONS AND REVISE NUMBERING AND LETTERING OF THE
9 ACT SO AS TO COMPORT WITH THE MODEL ACT AS PROMULGATED BY THE
10 NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS; TO
11 AMEND SECTIONS 75-1-201 AND 75-9-102, MISSISSIPPI CODE OF 1972, TO
12 CONFORM; AND FOR RELATED PURPOSES.

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

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

16 75-7-102. (a) In this chapter, unless the context otherwise
17 requires:

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

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

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

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

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

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

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

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

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

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

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

55 (A) To execute or adopt a tangible symbol; or

56 (B) To attach to or logically associate with the
57 record an electronic sound, symbol, or process.

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

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

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

64 (1) "Contract for sale," Section 75-2-106.

65 (2) "Lessee in the ordinary course of business,"
66 Section 75-2A-103.

67 (3) "'Receipt' of goods," Section 75-2-103.

68 (c) In addition, Chapter 1 of this title contains general
69 definitions and principles of construction and interpretation
70 applicable throughout this chapter.

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

73 75-7-103. (a) This chapter is subject to any treaty or
74 statute of the United States or regulatory statute of this state
75 to the extent the treaty, statute, or regulatory statute is
76 applicable.

77 (b) This chapter does not repeal or modify any law
78 prescribing the form or contents of a document of title or the
79 services or facilities to be afforded by a bailee, or otherwise
80 regulating a bailee's businesses in respects not specifically
81 treated in this chapter. However, violation of these laws does
82 not affect the status of a document of title that otherwise
83 complies with the definition of a document of title.

84 (c) This chapter modifies, limits, and supersedes the
85 federal Electronic Signatures in Global and National Commerce Act
86 (15 USCS Section 7001 et seq.) but does not modify, limit, or
87 supersede Section 101(c) of that act (15 USCS Section 7001(c)) or
88 authorize electronic delivery of any of the notices described in
89 Section 103(b) of that act (15 USCS Section 7003(b)).

90 (d) To the extent there is a conflict between the Uniform
91 Electronic Transactions Act (Title 75, Chapter 12) and this
92 chapter, this chapter governs.

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

95 75-7-104. (a) * * * A document of title is negotiable if by
96 its terms the goods are to be delivered to bearer or to the order
97 of a named person.

98 (b) A document of title other than one described in
99 subsection (a) is nonnegotiable. A bill of lading that states
100 that the goods are consigned to a named person is not made
101 negotiable by a provision that the goods are to be delivered only
102 against an order in a record signed by the same or another named
103 person.

104 (c) A document of title is nonnegotiable if, at the time it
105 is issued, the document has a conspicuous legend, however
106 expressed, that it is nonnegotiable.

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

109 75-7-105. (a) Upon request of a person entitled under an
110 electronic document of title, the issuer of the electronic
111 document may issue a tangible document of title as a substitute
112 for the electronic document if:

113 (1) The person entitled under the electronic document
114 surrenders control of the document to the issuer; and

115 (2) The tangible document when issued contains a
116 statement that it is issued in substitution for the electronic
117 document.

118 (b) Upon issuance of a tangible document of title in
119 substitution for an electronic document of title in accordance
120 with subsection (a):

121 (1) The electronic document ceases to have any effect
122 or validity; and

123 (2) The person that procured issuance of the tangible
124 document warrants to all subsequent persons entitled under the
125 tangible document that the warrantor was a person entitled under
126 the electronic document when the warrantor surrendered control of
127 the electronic document to the issuer.

128 (c) Upon request of a person entitled under a tangible
129 document of title, the issuer of the tangible document may issue

130 an electronic document of title as a substitute for the tangible
131 document if:

132 (1) The person entitled under the tangible document
133 surrenders possession of the document to the issuer; and

134 (2) The electronic document when issued contains a
135 statement that it is issued in substitution for the tangible
136 document.

137 (d) Upon issuance of an electronic document of title in
138 substitution for a tangible document of title in accordance with
139 subsection (c):

140 (1) The tangible document ceases to have any effect or
141 validity; and

142 (2) The person that procured issuance of the electronic
143 document warrants to all subsequent persons entitled under the
144 electronic document that the warrantor was a person entitled under
145 the tangible document when the warrantor surrendered possession of
146 the tangible document to the issuer.

147 **SECTION 5.** Section 75-7-106, Mississippi Code of 1972, is
148 amended as follows:

149 75-7-106. (a) A person has control of an electronic
150 document of title if a system employed for evidencing the transfer
151 of interests in the electronic document reliably establishes that
152 person as the person to which the electronic document was issued
153 or transferred.

154 (b) A system satisfies subsection (a), and a person is
155 deemed to have control of an electronic document of title, if the
156 document is created, stored, and assigned in such a manner that:

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

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

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

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

167 (3) The authoritative copy is communicated to and
168 maintained by the person asserting control or is designated
169 custodian;

170 (4) Copies or amendments that add or change an
171 identified assignee of the authoritative copy can be made only
172 with the consent of the person asserting control;

173 (5) Each copy of the authoritative copy and any copy of
174 a copy is readily identifiable as a copy that is not the
175 authoritative copy; and

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

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

180 75-7-201. (a) A warehouse receipt may be issued by any
181 warehouse.

182 (b) If goods, including distilled spirits and agricultural
183 commodities, are stored under a statute requiring a bond against
184 withdrawal or a license for the issuance of receipts in the nature
185 of warehouse receipts, a receipt issued for the goods is deemed to
186 be * * * a warehouse receipt even if issued by a person that is
187 the owner of the goods and is not a warehouse.

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

190 75-7-202. (a) A warehouse receipt need not be in any
191 particular form.

192 (b) Unless a warehouse receipt provides for each of the
193 following, the warehouse is liable for damages caused to a person
194 injured by its omission:

195 (1) The location of the warehouse facility where the
196 goods are stored;

197 (2) The date of issue of the receipt;

198 (3) The unique identification code of the receipt;

199 (4) A statement whether the goods received will be
200 delivered to the bearer, to a named person, or to a named person
201 or its order;

202 (5) The rate of storage and handling charges, but if
203 goods are stored under a field warehousing arrangement, * * * a
204 statement of that fact is sufficient on a nonnegotiable receipt;

205 (6) A description of the goods or * * * the packages
206 containing them;

207 (7) The signature of the warehouse or its agent;

208 (8) If the receipt is issued for goods that the
209 warehouse owns, either solely, jointly, or in common with
210 others, * * * the fact of that ownership; and

211 (9) A statement of the amount of advances made and of
212 liabilities incurred for which the warehouse claims a lien or
213 security interest, but if the precise amount of advances made or
214 of * * * liabilities incurred is, at the time of the issue of the
215 receipt, * * * unknown to the warehouse or to its agent that
216 issued the receipt, * * * a statement of the fact that advances
217 have been made or liabilities incurred and the purpose of the
218 advances or liabilities is sufficient.

219 (c) A warehouse may insert in its receipt any * * * terms
220 that are not contrary to the provisions of the Uniform Commercial
221 Code and do not impair its obligation of delivery under Section
222 75-7-403 or its duty of care under Section 75-7-204. Any contrary
223 provisions are ineffective.

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

226 75-7-203. A party to or purchaser for value in good faith of
227 a document of title, other than a bill of lading, that relies upon

228 the description of the goods in the document may recover from the
229 issuer damages caused by the nonreceipt or misdescription of the
230 goods, except to the extent that:

231 (1) The document conspicuously indicates that the
232 issuer does not know whether all or part of the goods in fact were
233 received or conform to the description, such as a case in which
234 the description is in terms of marks or labels or kind, quantity,
235 or condition, or the receipt or description is qualified by
236 "contents, condition, and quality unknown," "said to contain," or
237 words of similar import, if the indication is true; or

238 (2) The party or purchaser otherwise has notice of the
239 nonreceipt or misdescription.

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

242 75-7-204. (a) A warehouse is liable for damages for loss of
243 or injury to the goods caused by its failure to exercise care with
244 regard to the goods that a reasonably careful person would
245 exercise under similar circumstances. However, unless otherwise
246 agreed, the warehouse is not liable for damages that could not
247 have been avoided by the exercise of that care.

248 (b) Damages may be limited by a term in the warehouse
249 receipt or storage agreement limiting the amount of liability in
250 case of loss or damage beyond which the warehouse is not liable.
251 Such a limitation is not effective with respect to the warehouse's
252 liability for conversion to its own use. The warehouse's
253 liability, on request of the bailor in a record at the time of
254 signing such storage agreement or within a reasonable time after
255 receipt of the warehouse receipt, * * * may be increased on part
256 or all of the goods covered by the storage agreement or the
257 warehouse receipt. In this event, increased rates may be charged
258 based on an increased valuation of the goods.

259 (c) Reasonable provisions as to the time and manner of
260 presenting claims and commencing actions based on the bailment may
261 be included in the warehouse receipt or storage agreement.

262 (d) This section does not impair or repeal Title 75, Chapter
263 43, or Title 75, Chapter 44.

264 **SECTION 10.** Section 75-7-206, Mississippi Code of 1972, is
265 amended as follows:

266 75-7-206. (a) A warehouse, by giving notice to the person
267 on whose account the goods are held and any other person known to
268 claim an interest in the goods, may require payment of any charges
269 and removal of the goods from the warehouse at the termination of
270 the period of storage fixed by the document of title or, if a
271 period is not fixed, within a stated period not less than thirty
272 (30) days after the warehouse gives notice. If the goods are not
273 removed before the date specified in the notice, the warehouse may
274 sell them pursuant to Section 75-7-210.

275 (b) If a warehouse in good faith believes that * * * goods
276 are about to deteriorate or decline in value to less than the
277 amount of its lien within the time provided in subsection (a) and
278 Section 75-7-210, the warehouse may specify in the notice given
279 under subsection (a) any reasonable shorter time for removal of
280 the goods and, if the goods are not removed, may sell them at
281 public sale held not less than one (1) week after a single
282 advertisement or posting.

283 (c) If, as a result of a quality or condition of the goods
284 of which the warehouse did not have notice at the time of deposit,
285 the goods are a hazard to other property, the warehouse
286 facilities, or other persons, the warehouse may sell the goods at
287 public or private sale without advertisement or posting on
288 reasonable notification to all persons known to claim an interest
289 in the goods. If the warehouse, after a reasonable effort, is
290 unable to sell the goods, it may dispose of them in any lawful
291 manner and does not incur liability by reason of that disposition.

292 (d) A warehouse shall deliver the goods to any person
293 entitled to them under this chapter upon due demand made at any
294 time before sale or other disposition under this section.

295 (e) A warehouse may satisfy its lien from the proceeds of
296 any sale or disposition under this section but shall hold the
297 balance for delivery on the demand of any person to which the
298 warehouse would have been bound to deliver the goods.

299 **SECTION 11.** Section 75-7-207, Mississippi Code of 1972, is
300 amended as follows:

301 75-7-207. (a) Unless the warehouse receipt provides
302 otherwise * * *, a warehouse shall keep separate the goods covered
303 by each receipt so as to permit at all times identification and
304 delivery of those goods. However, different lots of fungible
305 goods may be commingled.

306 (b) If different lots of fungible goods are commingled, the
307 goods are owned in common by the persons entitled thereto and the
308 warehouse is severally liable to each owner for that owner's
309 share. If, because of overissue, a mass of fungible goods is
310 insufficient to meet all the receipts the warehouse has issued
311 against it, the persons entitled include all holders to which
312 overissued receipts have been duly negotiated.

313 **SECTION 12.** Section 75-7-208, Mississippi Code of 1972, is
314 amended as follows:

315 75-7-208. If a blank in a negotiable tangible warehouse
316 receipt has been filled in without authority, a good faith
317 purchaser for value and without notice of the lack of authority
318 may treat the insertion as authorized. Any other unauthorized
319 alteration leaves any tangible or electronic warehouse receipt
320 enforceable against the issuer according to its original tenor.

321 **SECTION 13.** Section 75-7-209, Mississippi Code of 1972, is
322 amended as follows:

323 75-7-209. (a) A warehouse has a lien against the bailor on
324 the goods covered by a warehouse receipt or storage agreement or

325 on the proceeds thereof in its possession for charges for storage
326 or transportation, including demurrage and terminal charges,
327 insurance, labor, or other charges, present or future, in relation
328 to the goods, and for expenses necessary for preservation of the
329 goods or reasonably incurred in their sale pursuant to law. If
330 the person on whose account the goods are held is liable for
331 similar charges or expenses in relation to other goods whenever
332 deposited and it is stated in the warehouse receipt or storage
333 agreement that a lien is claimed for charges and expenses in
334 relation to other goods, the warehouse also has a lien against the
335 goods covered by the warehouse receipt or storage agreement or on
336 the proceeds thereof in its possession for those charges and
337 expenses, whether or not the other goods have been delivered by
338 the warehouse. However, as against a person to which a negotiable
339 warehouse receipt is duly negotiated, a warehouse's lien is
340 limited to charges in an amount or at a rate specified in the
341 warehouse receipt or, if no charges are so specified, to a
342 reasonable charge for storage of the specific goods covered by the
343 receipt subsequent to the date of the receipt.

344 (b) The warehouse may also reserve a security interest under
345 Title 75, Chapter 9, against the bailor for the maximum amount
346 specified on the receipt for charges other than those specified in
347 subsection (a), such as for money advanced and interest. A
348 security interest is governed by the chapter on Secured
349 Transactions (Title 75, Chapter 9).

350 (c) A warehouse's lien for charges and expenses under
351 subsection (a) or a security interest under subsection (b) is also
352 effective against any person that so entrusted the bailor with
353 possession of the goods that a pledge of them by the bailor to a
354 good faith purchaser for value would have been valid. However,
355 the lien or security interest is not effective against a person
356 that before issuance of a document of title had a legal interest
357 or a perfected security interest in the goods and that did not:

358 (1) Deliver or entrust the goods or any document * * *
359 covering the goods to the bailor or the bailor's nominee
360 with * * * actual or apparent authority to ship, store, or sell;
361 or with power to obtain delivery under Section 75-7-403; or
362 with power of disposition under Section 75-2-403, 75-2A-304(2),
363 75-2A-305(2) or 75-9-320 or other statute or rule of law; or

364 (2) Acquiesce in the procurement by the bailor or its
365 nominee of any document.

366 (d) A warehouse's lien on household goods for charges and
367 expenses in relation to the goods under subsection (a) is also
368 effective against all persons if the depositor was the legal
369 possessor of the goods at the time of deposit. In this
370 subsection, "household goods" means furniture, furnishings, or
371 personal effects used by the depositor in a dwelling.

372 (e) A warehouse loses its lien on any goods that it
373 voluntarily delivers or unjustifiably refuses to deliver.

374 **SECTION 14.** Section 75-7-210, Mississippi Code of 1972, is
375 amended as follows:

376 75-7-210. (a) Except as otherwise provided in subsection
377 (b), a warehouse's lien may be enforced by public or private sale
378 of the goods, in bulk or in packages, at any time or place and on
379 any terms that are commercially reasonable, after notifying all
380 persons known to claim an interest in the goods. The notification
381 must include a statement of the amount due, the nature of the
382 proposed sale, and the time and place of any public sale. The
383 fact that a better price could have been obtained by a sale at a
384 different time or in a different method from that selected by the
385 warehouse is not of itself sufficient to establish that the sale
386 was not made in a commercially reasonable manner. The warehouse
387 has sold in a commercially reasonable manner if the warehouse
388 sells the goods in the usual manner in any recognized market
389 therefor, sells at the price current in that market at the time of
390 the sale, or has otherwise sold in conformity with commercially

391 reasonable practices among dealers in the type of goods sold. A
392 sale of more goods than apparently necessary to be offered to
393 insure satisfaction of the obligation is not commercially
394 reasonable, except in cases covered by the preceding sentence.

395 (b) A warehouse's lien on goods, other than goods stored by
396 a merchant in the course of its business, may be enforced only if
397 the following requirements are satisfied:

398 (1) All persons known to claim an interest in the goods
399 must be notified.

400 (2) The notification must include an itemized statement
401 of the claim, a description of the goods subject to the lien, a
402 demand for payment within a specified time not less than ten (10)
403 days after receipt of the notification, and a conspicuous
404 statement that unless the claim is paid within that time the goods
405 will be advertised for sale and sold by auction at a specified
406 time and place.

407 (3) The sale must conform to the terms of the
408 notification.

409 (4) The sale must be held at the nearest suitable place
410 to * * * where the goods are held or stored.

411 (5) After the expiration of the time given in the
412 notification, an advertisement of the sale must be published once
413 a week for two (2) weeks consecutively in a newspaper of general
414 circulation where the sale is to be held. The advertisement must
415 include a description of the goods, the name of the person on
416 whose account the goods are being held, and the time and place of
417 the sale. The sale must take place at least fifteen (15) days
418 after the first publication. If there is no newspaper of general
419 circulation in the county where the sale is to be held, the
420 advertisement must be posted at least ten (10) days before the
421 sale in not less than six (6) conspicuous places in the
422 neighborhood of the proposed sale.

423 (c) Before any sale pursuant to this section, any person
424 claiming a right in the goods may pay the amount necessary to
425 satisfy the lien and the reasonable expenses incurred in complying
426 with this section. In that event, the goods may not be sold but
427 must be retained by the warehouse subject to the terms of the
428 receipt and this chapter.

429 (d) A warehouse may buy at any public sale held pursuant to
430 this section.

431 (e) A purchaser in good faith of goods sold to enforce a
432 warehouse's lien takes the goods free of any rights of persons
433 against which the lien was valid, despite the warehouse's
434 noncompliance with this section.

435 (f) A warehouse may satisfy its lien from the proceeds of
436 any sale pursuant to this section but must hold the balance, if
437 any, for delivery on demand to any person to which the warehouse
438 would have been bound to deliver the goods.

439 (g) The rights provided by this section are in addition to
440 all other rights allowed by law to a creditor against a debtor.

441 (h) If a lien is on goods stored by a merchant in the course
442 of its business, the lien may be enforced in accordance with * * *
443 subsection (a) or (b).

444 (i) A warehouse is liable for damages caused by failure to
445 comply with the requirements for sale under this section and, in
446 case of willful violation, is liable for conversion.

447 **SECTION 15.** Section 75-7-301, Mississippi Code of 1972, is
448 amended as follows:

449 75-7-301. (a) A consignee of a nonnegotiable bill of lading
450 which has given value in good faith, or a holder to which a
451 negotiable bill has been duly negotiated, relying upon the
452 description of the goods in the bill or upon the date shown in the
453 bill, may recover from the issuer damages caused by the misdating
454 of the bill or the nonreceipt or misdescription of the goods,
455 except to the extent that the document of title indicates that the

456 issuer does not know whether any part or all of the goods in fact
457 were received or conform to the description, such as in a case in
458 which the description is in terms of marks or labels or kind,
459 quantity, or condition or the receipt or description is qualified
460 by "contents or condition of contents of packages unknown," "said
461 to contain," "shipper's weight, load and count," or words of
462 similar import, if that indication is true.

463 **(b)** If goods are loaded by the issuer of the bill of
464 lading, the issuer shall count the packages of goods if shipped in
465 packages and ascertain the kind and quantity if shipped in bulk
466 and * * * words such as "shipper's weight, load and count," or
467 words of similar import indicating that the description was made
468 by the shipper are ineffective except as to goods concealed by
469 packages.

470 **(c)** If bulk goods are loaded by a shipper that makes
471 available to the issuer of the bill of lading adequate facilities
472 for weighing those goods, the issuer shall ascertain the kind and
473 quantity within a reasonable time after receiving the shipper's
474 request in a record to do so. In that case, "shipper's weight" or
475 other words of similar import are ineffective.

476 **(d)** The issuer * * *, by including in the bill of lading the
477 words "shipper's weight, load and count," or * * * words of
478 similar import, may indicate that the goods were loaded by the
479 shipper, and, if that statement is true, the issuer is not liable
480 for damages caused by the improper loading. However, * * *
481 omission of such words does not imply liability for damages caused
482 by improper loading.

483 **(e)** A shipper guarantees to the issuer the accuracy at the
484 time of shipment of the description, marks, labels, number, kind,
485 quantity, condition, and weight, as furnished by the shipper, and
486 the shipper shall indemnify the issuer against damage caused by
487 inaccuracies in those particulars. This right of the issuer to
488 that indemnity does not limit its responsibility or liability

489 under the contract of carriage to any person other than the
490 shipper.

491 **SECTION 16.** Section 75-7-302, Mississippi Code of 1972, is
492 amended as follows:

493 75-7-302. (a) The issuer of a through bill of lading or
494 other document of title embodying an undertaking to be performed
495 in part by a person acting as its agent or by a performing carrier
496 is liable to any person entitled to recover on the * * * document
497 for any breach by the other person or the performing carrier of
498 its obligation under the * * * document. However, to the extent
499 that the bill * * * covers an undertaking to be performed overseas
500 or in territory not contiguous to the continental United States or
501 an undertaking including matters other than transportation, this
502 liability for breach by the other person or the performing carrier
503 may be varied by agreement of the parties.

504 (b) If goods covered by a through bill of lading or other
505 document of title embodying an undertaking to be performed in part
506 by a person other than the issuer are received by that person, the
507 person is subject, with respect to its own performance while the
508 goods are in its possession, to the obligation of the issuer. The
509 person's obligation is discharged by delivery of the goods to
510 another * * * person pursuant to the * * * document and does not
511 include liability for breach by any other person or by the issuer.

512 (c) The issuer of a through bill of lading or other document
513 of title described in subsection (a) is entitled to recover from
514 the performing carrier, or other person in possession of the goods
515 when the breach of the obligation under the * * * document
516 occurred:

517 (1) The amount it may be required to pay to any person
518 entitled to recover on the * * * document for the breach, as may
519 be evidenced by any receipt, judgment, or transcript of judgment;
520 and

521 (2) The amount of any expense reasonably incurred by
522 the issuer in defending any action commenced by any person
523 entitled to recover on the * * * document for the breach.

524 **SECTION 17.** Section 75-7-303, Mississippi Code of 1972, is
525 amended as follows:

526 75-7-303. (a) Unless the bill of lading otherwise provides,
527 a carrier may deliver the goods to a person or destination other
528 than that stated in the bill or may otherwise dispose of the
529 goods, without liability for misdelivery, on instructions from:

530 (1) The holder of a negotiable bill; * * *

531 (2) The consignor on a nonnegotiable bill even if the
532 consignee has given contrary instruction; * * *

533 (3) The consignee on a nonnegotiable bill in the
534 absence of contrary instructions from the consignor, if the goods
535 have arrived at the billed destination or if the consignee is in
536 possession of the tangible bill or in control of the electronic
537 bill; or

538 (4) The consignee on a nonnegotiable bill, if the
539 consignee is entitled as against the consignor to dispose of the
540 goods.

541 (b) Unless instructions described in subsection (a) are
542 included in a negotiable bill of lading, a person to which the
543 bill is duly negotiated may hold the bailee according to the
544 original terms.

545 **SECTION 18.** Section 75-7-304, Mississippi Code of 1972, is
546 amended as follows:

547 75-7-304. (a) Except as customary in international
548 transportation, a tangible bill of lading may not be issued in a
549 set of parts. The issuer is liable for damages caused by
550 violation of this subsection.

551 (b) If a tangible bill of lading is lawfully issued in a set
552 of parts, each of which contains an identification code and is
553 expressed to be valid only if the goods have not been delivered

554 against any other part, the whole of the parts constitute one (1)
555 bill.

556 (c) If a tangible negotiable bill of lading is lawfully
557 issued in a set of parts and different parts are negotiated to
558 different persons, the title of the holder to which the first due
559 negotiation is made prevails as to both the document of title and
560 the goods even if any later holder may have received the goods
561 from the carrier in good faith and discharged the carrier's
562 obligation by surrender of its part.

563 (d) A person that negotiates or transfers a single part of a
564 tangible bill of lading issued in a set is liable to holders of
565 that part as if it were the whole set.

566 (e) The bailee is obliged to deliver in accordance with Part
567 4 of this chapter against the first presented part of a tangible
568 bill of lading lawfully issued in a set. Delivery in this manner
569 discharges the bailee's obligation on the whole bill.

570 **SECTION 19.** Section 75-7-305, Mississippi Code of 1972, is
571 amended as follows:

572 75-7-305. (a) Instead of issuing a bill of lading to the
573 consignor at the place of shipment, a carrier, at the request of
574 the consignor, may procure the bill to be issued at destination or
575 at any other place designated in the request.

576 (b) Upon request of any person entitled as against a carrier
577 to control the goods while in transit and on surrender of
578 possession or control of any outstanding bill of lading or other
579 receipt covering the goods, the issuer, subject to Section
580 75-7-105, may procure a substitute bill to be issued at any place
581 designated in the request.

582 **SECTION 20.** Section 75-7-307, Mississippi Code of 1972, is
583 amended as follows:

584 75-7-307. (a) A carrier has a lien on the goods covered by
585 a bill of lading or on the proceeds thereof in its possession for
586 charges after the date of the carrier's receipt of the goods for

587 storage or transportation, including demurrage and terminal
588 charges, and for expenses necessary for preservation of the goods
589 incident to their transportation or reasonably incurred in their
590 sale pursuant to law. However, against a purchaser for value of a
591 negotiable bill of lading, a carrier's lien is limited to charges
592 stated in the bill or the applicable tariffs or, if no charges are
593 stated, a reasonable charge.

594 (b) A lien for charges and expenses under subsection (a) on
595 goods that the carrier was required by law to receive for
596 transportation is effective against the consignor or any person
597 entitled to the goods unless the carrier had notice that the
598 consignor lacked authority to subject the goods to those charges
599 and expenses. Any other lien under subsection (a) is effective
600 against the consignor and any person that permitted the bailor to
601 have control or possession of the goods unless the carrier had
602 notice that the bailor lacked authority.

603 (c) A carrier loses its lien on any goods that it
604 voluntarily delivers or unjustifiably refuses to deliver.

605 **SECTION 21.** Section 75-7-308, Mississippi Code of 1972, is
606 amended as follows:

607 75-7-308. (a) A carrier's lien on goods may be enforced by
608 public or private sale of the goods, in bulk or in packages, at
609 any time or place and on any terms that are commercially
610 reasonable, after notifying all persons known to claim an interest
611 in the goods. The notification must include a statement of the
612 amount due, the nature of the proposed sale, and the time and
613 place of any public sale. The fact that a better price could have
614 been obtained by a sale at a different time or in a different
615 method from that selected by the carrier is not of itself
616 sufficient to establish that the sale was not made in a
617 commercially reasonable manner. The carrier has sold goods in a
618 commercially reasonable manner if the carrier sells the goods in
619 the usual manner in any recognized market therefor, sells at the

620 price current in that market at the time of the sale, or has
621 otherwise sold in conformity with commercially reasonable
622 practices among dealers in the type of goods sold. A sale of more
623 goods than apparently necessary to be offered to ensure
624 satisfaction of the obligation is not commercially reasonable,
625 except in cases covered by the preceding sentence.

626 (b) Before any sale pursuant to this section, any person
627 claiming a right in the goods may pay the amount necessary to
628 satisfy the lien and the reasonable expenses incurred in complying
629 with this section. In that event, the goods may not be sold but
630 must be retained by the carrier, subject to the terms of the bill
631 of lading and this chapter.

632 (c) A carrier may buy at any public sale pursuant to this
633 section.

634 (d) A purchaser in good faith of goods sold to enforce a
635 carrier's lien takes the goods free of any rights of persons
636 against which the lien was valid, despite the carrier's
637 noncompliance with this section.

638 (e) A carrier may satisfy its lien from the proceeds of any
639 sale pursuant to this section but shall hold the balance, if any,
640 for delivery on demand to any person to which the carrier would
641 have been bound to deliver the goods.

642 (f) The rights provided by this section are in addition to
643 all other rights allowed by law to a creditor against a debtor.

644 (g) A carrier's lien may be enforced pursuant to either
645 subsection (a) or the procedure set forth in Section 75-7-210(b).

646 (h) A carrier is liable for damages caused by failure to
647 comply with the requirements for sale under this section and, in
648 case of willful violation, is liable for conversion.

649 **SECTION 22.** Section 75-7-309, Mississippi Code of 1972, is
650 amended as follows:

651 75-7-309. (a) A carrier that issues a bill of lading,
652 whether negotiable or nonnegotiable, shall exercise the degree of

653 care in relation to the goods which a reasonably careful person
654 would exercise under similar circumstances. This subsection does
655 not affect any statute, regulation, or rule of law that imposes
656 liability upon a common carrier for damages not caused by its
657 negligence.

658 (b) Damages may be limited by a term in the bill of lading
659 or in a transportation agreement that the carrier's liability may
660 not exceed a value stated in the bill or transportation agreement
661 if the carrier's rates are dependent upon value and the consignor
662 is afforded an opportunity to declare a higher value and the
663 consignor is advised of the opportunity. However, such a
664 limitation is not effective with respect to the carrier's
665 liability for conversion to its own use.

666 (c) Reasonable provisions as to the time and manner of
667 presenting claims and commencing actions based on the shipment may
668 be included in a bill of lading or a transportation agreement.

669 **SECTION 23.** Section 75-7-401, Mississippi Code of 1972, is
670 amended as follows:

671 75-7-401. The obligations imposed by this chapter on an
672 issuer apply to a document of title even if:

673 (1) The document does not comply with the requirements
674 of this chapter or of any other statute, rule, or regulation
675 regarding its issue, form, or content; * * *

676 (2) The issuer violated laws regulating the conduct of
677 its business; * * *

678 (3) The goods covered by the document were owned by the
679 bailee when the document was issued; or

680 (4) The person issuing the document is not a warehouse
681 but the document purports to be a warehouse receipt.

682 **SECTION 24.** Section 75-7-402, Mississippi Code of 1972, is
683 amended as follows:

684 75-7-402. A duplicate or any other document of title
685 purporting to cover goods already represented by an outstanding

686 document of the same issuer does not confer any right in the
687 goods, except as provided in the case of tangible bills of lading
688 in a set of parts, overissue of documents for fungible goods,
689 substitutes for lost, stolen, or destroyed documents, or
690 substitute documents issued pursuant to Section 75-7-105. The
691 issuer is liable for damages caused by its overissue or failure to
692 identify a duplicate document by a conspicuous notation * * *.

693 **SECTION 25.** Section 75-7-403, Mississippi Code of 1972, is
694 amended as follows:

695 75-7-403. (a) A bailee shall deliver the goods to a person
696 entitled under a document of title if the person complies with
697 subsections (b) and (c), unless and to the extent that the bailee
698 establishes any of the following:

699 (1) Delivery of the goods to a person whose receipt was
700 rightful as against the claimant;

701 (2) Damage to or delay, loss, or destruction of the
702 goods for which the bailee is not liable;

703 (3) Previous sale or other disposition of the goods in
704 lawful enforcement of a lien or on warehouse's lawful termination
705 of storage;

706 (4) The exercise by a seller of its right to stop
707 delivery pursuant to Section 75-2-705 or by a lessor of its right
708 to stop delivery pursuant to Section 75-2A-526; * * *

709 (5) A diversion, reconsignment, or other disposition
710 pursuant to Section 75-7-303;

711 (6) Release, satisfaction, or any other fact according
712 a personal defense against the claimant; or

713 (7) Any other lawful excuse.

714 (b) A person claiming goods covered by a document of title
715 shall satisfy the bailee's lien if the bailee so requests or * * *
716 the bailee is prohibited by law from delivering the goods until
717 the charges are paid.

718 (c) Unless a person claiming the goods is one against which
719 the document of title does not confer a right under Section
720 75-7-503(a):

721 (1) The person claiming under a document shall
722 surrender possession or control of any outstanding negotiable
723 document covering the goods for cancellation or indication of
724 partial deliveries; and

725 (2) The bailee shall cancel the document or
726 conspicuously indicate in the document the partial delivery or be
727 liable to any person to which the document is duly negotiated.

728 **SECTION 26.** Section 75-7-404, Mississippi Code of 1972, is
729 amended as follows:

730 75-7-404. A bailee that in good faith has received goods and
731 delivered or otherwise disposed of the goods according to the
732 terms of the document of title or pursuant to this chapter is not
733 liable for the goods even if:

734 (1) The person from which the bailee received the goods
735 did not have authority to procure the document or to dispose of
736 the goods; or

737 (2) The person to which the bailee delivered the goods
738 did not have authority to receive the goods.

739 **SECTION 27.** Section 75-7-501, Mississippi Code of 1972, is
740 amended as follows:

741 75-7-501. (a) The following rules apply to a negotiable
742 tangible document of title:

743 (1) If the document's original terms run to the order
744 of a named person, the document is negotiated by the named
745 person's indorsement and delivery. After the named person's
746 indorsement in blank or to bearer, any person may negotiate the
747 document by delivery alone.

748 (2) If the document's original terms run to bearer, it
749 is negotiated by delivery alone.

750 (3) If the document's original terms run to the order
751 of a named person and it is delivered to the named person, the
752 effect is the same as if the document had been negotiated.

753 (4) Negotiation of the document after it has been
754 indorsed to a named person requires indorsement by the named
755 person as well as delivery.

756 (5) A document is duly negotiated if it is negotiated
757 in the manner stated in this subsection to a holder that purchases
758 it in good faith, without notice of any defense against or claim
759 to it on the part of any person, and for value, unless it is
760 established that the negotiation is not in the regular course of
761 business or financing or involves receiving the document in
762 settlement or payment of a monetary obligation.

763 (b) The following rules apply to a negotiable electronic
764 document of title:

765 (1) If the document's original terms run to the order
766 of a named person or to bearer, the document is negotiated by
767 delivery of the document to another person. Indorsement by the
768 named person is not required to negotiate the document.

769 (2) If the document's original terms run to the order
770 of a named person and the named person has control of the
771 document, the effect is the same as if the document had been
772 negotiated.

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

780 (c) Endorsement of a nonnegotiable document of title neither
781 makes it negotiable nor adds to the transferee's rights.

782 (d) The naming in a negotiable bill of lading of a person to
783 be notified of the arrival of the goods does not limit the
784 negotiability of the bill or constitute notice to a purchaser of
785 the bill of any interest of that person in the goods.

786 **SECTION 28.** Section 75-7-502, Mississippi Code of 1972, is
787 amended as follows:

788 75-7-502. (a) Subject to Sections 75-7-205 and 75-7-503, a
789 holder to which a negotiable document of title has been duly
790 negotiated acquires thereby:

791 (1) Title to the document;

792 (2) Title to the goods;

793 (3) All rights accruing under the law of agency or
794 estoppel, including rights to goods delivered to the bailee after
795 the document was issued; and

796 (4) The direct obligation of the issuer to hold or
797 deliver the goods according to the terms of the document free of
798 any defense or claim by the issuer except those arising under the
799 terms of the document or under this chapter. In the case of a
800 delivery order, the bailee's obligation accrues only upon the
801 bailee's acceptance of the delivery order and the obligation
802 acquired by the holder is that the issuer and any indorser will
803 procure the acceptance of the bailee.

804 (b) Subject to Section 75-7-503, title and rights acquired
805 by due negotiation are not defeated by any stoppage of the goods
806 represented by the document of title or by surrender of the goods
807 by the bailee and are not impaired even if:

808 (1) The due negotiation or any prior negotiation
809 constituted a breach of duty;

810 (2) Any person has been deprived of possession of a
811 negotiable tangible document or control of a negotiable electronic
812 document by misrepresentation, fraud, accident, mistake, duress,
813 loss, theft, or conversion; or

814 (3) A previous sale or other transfer of the goods or
815 document has been made to a third person.

816 **SECTION 29.** Section 75-7-503, Mississippi Code of 1972, is
817 amended as follows:

818 75-7-503. (a) A document of title confers no right in goods
819 against a person that before issuance of the document had a legal
820 interest or a perfected security interest in the goods and that
821 did not:

822 (1) Deliver or entrust the goods or any document * * *
823 covering the goods to the bailor or the bailor's nominee
824 with * * * actual or apparent authority to ship, store, or sell;
825 with power to obtain delivery under Section 75-7-403; or
826 with power of disposition under Sections 75-2-403, 75-2A-304(2),
827 75-2A-305(2), or * * * 75-9-320 or other statute or rule of law;
828 or

829 (2) Acquiesce in the procurement by the bailor or its
830 nominee of any document.

831 (b) Title to goods based upon an unaccepted delivery order
832 is subject to the rights of any person to which a negotiable
833 warehouse receipt or bill of lading covering the goods has been
834 duly negotiated. That title may be defeated under Section
835 75-7-504 to the same extent as the rights of the issuer or a
836 transferee from the issuer.

837 (c) Title to goods based upon a bill of lading issued to a
838 freight forwarder is subject to the rights of any person to which
839 a bill issued by the freight forwarder is duly negotiated.
840 However, delivery by the carrier in accordance with Part 4 of this
841 chapter pursuant to its own bill of lading discharges the
842 carrier's obligation to deliver.

843 **SECTION 30.** Section 75-7-504, Mississippi Code of 1972, is
844 amended as follows:

845 75-7-504. (a) A transferee of a document of title, whether
846 negotiable or nonnegotiable, to which the document has been

847 delivered but not duly negotiated, acquires the title and rights
848 that its transferor had or had actual authority to convey.

849 (b) In the case of a nonnegotiable document of title, until,
850 but not after, the bailee receives notice of the transfer, the
851 rights of the transferee may be defeated:

852 (1) By those creditors of the transferor that could
853 treat the transfer as void under Section 75-2-402 or
854 75-2A-308; * * *

855 (2) By a buyer from the transferor in ordinary course
856 of business if the bailee has delivered the goods to the buyer or
857 received notification of the buyer's rights; * * *

858 (3) By a lessee from the transferor in * * * ordinary
859 course of business if the bailee has delivered the goods to the
860 lessee or received notification of the lessee's rights; or

861 (4) As against the bailee, by good faith dealings of
862 the bailee with the transferor.

863 (c) A diversion or other change of shipping instructions by
864 the consignor in a nonnegotiable bill of lading which causes the
865 bailee not to deliver the goods to the consignee defeats the
866 consignee's title to the goods if the goods have been delivered to
867 a buyer in ordinary course of business or a lessee in ordinary
868 course of business and in any event defeats the consignee's rights
869 against the bailee.

870 (d) Delivery of the goods pursuant to a nonnegotiable
871 document of title may be stopped by a seller under Section
872 75-2-705 or a lessor under Section 75-2A-526, subject to the
873 requirements of due notification in those sections. A bailee
874 honoring the seller's or lessor's instructions is entitled to be
875 indemnified by the seller or lessor against any resulting loss or
876 expense.

877 **SECTION 31.** Section 75-7-507, Mississippi Code of 1972, is
878 amended as follows:

879 75-7-507. If a person negotiates or delivers a document of
880 title for value, otherwise than as a mere intermediary under
881 Section 75-7-508, unless otherwise agreed, the transferor warrants
882 to its immediate purchaser only in addition to any warranty made
883 in selling or leasing the goods * * * that:

884 (1) The document is genuine; * * *

885 (2) The transferor does not have knowledge of any fact
886 that would impair the document's validity or worth; and

887 (3) The negotiation or delivery is rightful and fully
888 effective with respect to the title to the document and the goods
889 it represents.

890 **SECTION 32.** Section 75-7-601, Mississippi Code of 1972, is
891 amended as follows:

892 75-7-601. (a) If a document of title is lost, stolen, or
893 destroyed, a court may order delivery of the goods or issuance of
894 a substitute document and the bailee may without liability to any
895 person comply with the order. If the document was negotiable, a
896 court may not order delivery of the goods or issuance of a
897 substitute document without the claimant's posting security unless
898 it finds that any person that may suffer loss as a result of
899 nonsurrender of possession or control of the document is
900 adequately protected against the loss. If the document was
901 nonnegotiable, the court may require security. The court may also
902 order payment of the bailee's reasonable costs and attorney's fees
903 in any action under this subsection.

904 (b) A bailee that without court order delivers goods to a
905 person claiming under a missing negotiable document of title is
906 liable to any person injured thereby. If the delivery is not in
907 good faith, the bailee is liable for conversion. Delivery in good
908 faith is not conversion if the claimant posts security with the
909 bailee in an amount at least double the value of the goods at the
910 time of posting to indemnify any person injured by the delivery

911 which files a notice of claim within one (1) year after the
912 delivery.

913 **SECTION 33.** Section 75-7-701, Mississippi Code of 1972, is
914 amended as follows:

915 75-7-701. (a) The amendments to this chapter contained in
916 Chapter 527, Laws of 2006, as amended by House Bill No. 913, 2007
917 Regular Session, apply to a document of title that is issued or a
918 bailment that arises on or after July 1, 2006, but do not apply
919 to: (1) a document of title that is issued or a bailment that
920 arises before July 1, 2006, even if the document of title or
921 bailment would be so subject if the document of title had been
922 issued or bailment had arisen after July 1, 2006, or (2) a right
923 of action that has accrued before July 1, 2006.

924 (b) A document of title issued or a bailment that arises
925 before July 1, 2006, and the rights, obligations, and interests
926 flowing from that document or bailment are governed by any statute
927 amended or repealed by Chapter 527, Laws of 2006, as amended by
928 House Bill No. 913, 2007 Regular Session, as if amendment or
929 repeal had not occurred and may be terminated, completed,
930 consummated, or enforced under that statute as it existed on June
931 30, 2006.

932 **SECTION 34.** Section 75-1-201, Mississippi Code of 1972, is
933 amended as follows:

934 75-1-201. Subject to additional definitions contained in the
935 subsequent chapters of the Uniform Commercial Code which are
936 applicable to specific chapters or Parts thereof, and unless the
937 context otherwise requires, in the Uniform Commercial Code:

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

941 (2) "Aggrieved party" means a party entitled to resort
942 to a remedy.

943 (3) "Agreement" means the bargain of the parties in
944 fact as found in their language or by implication from other
945 circumstances including course of dealing or usage of trade or
946 course of performance as provided in this code (Sections 75-1-205
947 and 75-2-208). Whether an agreement has legal consequences is
948 determined by the provisions of this code, if applicable;
949 otherwise by the law of contracts (Section 75-1-103). (Compare
950 "Contract.")

951 (4) "Bank" means any person engaged in the business of
952 banking.

953 (5) "Bearer" means a person in control of a negotiable
954 electronic document of title or a person in possession of an
955 instrument, * * * negotiable tangible document of title, or * * *
956 certificated security payable to bearer or indorsed in blank.

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

961 (7) "Branch" includes a separately incorporated foreign
962 branch of a bank.

963 (8) "Burden of establishing" a fact means the burden of
964 persuading the triers of fact that the existence of the fact is
965 more probable than its nonexistence.

966 (9) "Buyer in ordinary course of business" means a
967 person that buys goods in good faith, without knowledge that the
968 sale violates the rights of another person in the goods, and in
969 the ordinary course from a person, other than a pawnbroker, in the
970 business of selling goods of that kind. A person buys goods in
971 the ordinary course if the sale to the person comports with the
972 usual or customary practices in the kind of business in which the
973 seller is engaged or with the seller's own usual or customary
974 practices. A person that sells oil, gas, or other minerals at the
975 wellhead or minehead is a person in the business of selling goods

976 of that kind. A buyer in the ordinary course of business may buy
977 for cash, by exchange of other property, or on secured or
978 unsecured credit, and may acquire goods or documents of title
979 under a preexisting contract for sale. Only a buyer that takes
980 possession of the goods or has a right to recover the goods from
981 the seller under Title 75, Chapter 2, may be a buyer in ordinary
982 course of business. A person that acquires goods in a transfer in
983 bulk or as security for or in total or partial satisfaction of a
984 money debt is not a buyer in ordinary course of business.

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

990 (A) A heading in capitals equal to or greater in
991 size than the surrounding text, or in contrasting type, font, or
992 color to the surrounding text of the same or lessor size; and

993 (B) Language in the body of a record or display in
994 larger type than the surrounding text, or in contrasting type,
995 font, or color to the surrounding text of the same size, or set
996 off from surrounding text of the same size by symbols or other
997 marks that call attention to the language.

998 (11) "Contract" means the total legal obligation which
999 results from the parties' agreement as affected by this code and
1000 any other applicable rules of law. (Compare "Agreement.")

1001 (12) "Creditor" includes a general creditor, a secured
1002 creditor, a lien creditor and any representative of creditors,
1003 including an assignee for the benefit of creditors, a trustee in
1004 bankruptcy, a receiver in equity and an executor or administrator
1005 of an insolvent debtor's or assignor's estate.

1006 (13) "Defendant" includes a person in the position of
1007 defendant in a cross-action or counterclaim.

1008 (14) "Delivery" with respect to an electronic document
1009 of title means voluntary transfer of control and with respect to
1010 instruments, tangible documents of title, chattel paper, or
1011 certificated securities means voluntary transfer of possession.

1012 (15) "Document of title" means a record (i) that in the
1013 regular course of business or financing is treated as adequately
1014 evidencing that the person in possession or control of the
1015 record * * * is entitled to receive, control, hold, and dispose of
1016 the record and the goods the record covers and (ii) that purports
1017 to be issued by or addressed to a bailee and to cover goods in the
1018 bailee's possession which are either identified or are fungible
1019 portions of an identified mass. The term includes a bill of
1020 lading, transport document, dock warrant, dock receipt, warehouse
1021 receipt, and order for delivery of goods. An electronic document
1022 of title is evidenced by a record consisting of information stored
1023 in an electronic medium. A tangible document of title
1024 is evidenced by a record consisting of information that is
1025 inscribed on a tangible medium.

1026 (16) "Fault" means wrongful act, omission or breach.

1027 (17) "Fungible" with respect to goods or securities
1028 means goods or securities of which any unit is, by nature or usage
1029 of trade, the equivalent of any other like unit. Goods which are
1030 not fungible shall be deemed fungible for the purposes of this
1031 code to the extent that under a particular agreement or document
1032 unlike units are treated as equivalents.

1033 (18) "Genuine" means free of forgery or counterfeiting.

1034 (19) "Good faith" means honesty in fact in the conduct
1035 or transaction concerned.

1036 (20) "Holder" means:

1037 (A) The person in possession of a negotiable
1038 instrument that is payable either to bearer or to an identified
1039 person that is the person in possession;

1040 (B) The person in possession of a negotiable
1041 tangible document of title if the goods are deliverable either to
1042 bearer or to the order of the person in possession; or

1043 (C) A person in control of a negotiable electronic
1044 document of title.

1045 (21) To "honor" is to pay or to accept and pay, or
1046 where a credit so engages to purchase or discount a draft
1047 complying with the terms of the credit.

1048 (22) "Insolvency proceedings" includes any assignment
1049 for the benefit of creditors or other proceedings intended to
1050 liquidate or rehabilitate the estate of the person involved.

1051 (23) A person is "insolvent" who either has ceased to
1052 pay his debts in the ordinary course of business or cannot pay his
1053 debts as they become due or is insolvent within the meaning of the
1054 federal bankruptcy law.

1055 (24) "Money" means a medium of exchange authorized or
1056 adopted by a domestic or foreign government and includes a
1057 monetary unit of account established by an intergovernmental
1058 organization or by agreement between two (2) or more nations.

1059 (25) Subject to subsection (27), a person has "notice"
1060 of a fact if the person:

1061 (A) Has actual knowledge of it; * * *

1062 (B) Has received a notice or notification of it;

1063 or

1064 (C) From all the facts and circumstances known to
1065 the person at the time in question, has reason to know that it
1066 exists.

1067 A person "knows" or has "knowledge" of a fact when the person
1068 has actual knowledge of it. "Discover" or "learn" or a word or
1069 phrase of similar import refers to knowledge rather than to reason
1070 to know. The time and circumstances under which a notice or
1071 notification may cease to be effective are not determined by the
1072 Uniform Commercial Code.

1073 (26) A person "notifies" or "gives" a notice or
1074 notification to another person by taking such steps as may be
1075 reasonably required to inform the other person in ordinary course
1076 whether or not the other person actually comes to know of it.
1077 Subject to subsection (27), a person "receives" a notice or
1078 notification when:

1079 (A) It comes to that person's attention; or
1080 (B) It is duly delivered in a form reasonable
1081 under the circumstances at the place of business through which the
1082 contract was made or at another location held out by that person
1083 as the place for receipt of such communications.

1084 (27) Notice, knowledge, or a notice or notification
1085 received by an organization is effective for a particular
1086 transaction from the time when it is brought to the attention of
1087 the individual conducting that transaction, and in any event, from
1088 the time when it would have been brought to the individual's
1089 attention if the organization had exercised due diligence. An
1090 organization exercises due diligence if it maintains reasonable
1091 routines for communicating significant information to the person
1092 conducting the transaction and there is reasonable compliance with
1093 the routines. Due diligence does not require an individual acting
1094 for the organization to communicate information unless such
1095 communication is part of the individual's regular duties or the
1096 individual has reason to know of the transaction and that the
1097 transaction would be materially affected by the information.

1098 (28) "Organization" includes a corporation, government
1099 or governmental subdivision or agency, business trust, estate,
1100 trust, partnership or association, two (2) or more persons having
1101 a joint or common interest, or any other legal or commercial
1102 entity.

1103 (29) "Party," as distinct from "third party," means a
1104 person who has engaged in a transaction or made an agreement
1105 within this code.

1106 (30) "Person" includes an individual or an organization
1107 (see Section 75-1-102).

1108 (31) "Presumption" or "presumed" means that the trier
1109 of fact must find the existence of the fact presumed unless and
1110 until evidence is introduced which would support a finding of its
1111 nonexistence.

1112 (32) "Purchase" includes taking by sale, discount,
1113 negotiation, mortgage, pledge, lien, security interest, issue or
1114 reissue, gift, or any other voluntary transaction creating an
1115 interest in property.

1116 (33) "Purchaser" means a person who takes by purchase.

1117 (34) "Remedy" means any remedial right to which an
1118 aggrieved party is entitled with or without resort to a tribunal.

1119 (35) "Representative" includes an agent, an officer of
1120 a corporation or association, and a trustee, executor or
1121 administrator of an estate, or any other person empowered to act
1122 for another.

1123 (36) "Rights" includes remedies.

1124 (37) "Security interest" means an interest in personal
1125 property or fixtures which secures payment or performance of an
1126 obligation.

1127 (A) The term also includes any interest of a
1128 consignor and a buyer of accounts, chattel paper, a payment
1129 intangible, or a promissory note in a transaction that is subject
1130 to Article 9. The special property interest of a buyer of goods
1131 on identification of such goods to a contract for sale under
1132 Section 75-2-401 is not a "security interest," but a buyer may
1133 also acquire "security interest," by complying with Article 9.
1134 Except as otherwise provided in Section 75-2-505, the right of a
1135 seller or lessor of goods under Article 2 or 2A to retain or
1136 acquire possession of the goods is not a "security interest," but
1137 a seller or lessor may also acquire a "security interest" by
1138 complying with Article 9. The retention or reservation of title

1139 by a seller of goods notwithstanding shipment or delivery to the
1140 buyer (Section 75-2-401) is limited in effect to a reservation of
1141 a security interest.

1142 (B) Whether a transaction creates a lease or
1143 security interest is determined by the facts of each case;
1144 however, a transaction creates a security interest if the
1145 consideration the lessee is to pay the lessor for the right to
1146 possession and use of the goods is an obligation for the term of
1147 the lease not subject to termination by the lessee, and

1148 (i) The original term of the lease is equal
1149 to or greater than the remaining economic life of the goods,

1150 (ii) The lessee is bound to renew the lease
1151 for the remaining economic life of the goods or is bound to become
1152 the owner of the goods,

1153 (iii) The lessee has an option to renew the
1154 lease for the remaining economic life of the goods for no
1155 additional consideration or nominal additional consideration upon
1156 compliance with the lease agreement, or

1157 (iv) The lessee has an option to become the
1158 owner of the goods for no additional consideration or nominal
1159 additional consideration upon compliance with the lease agreement.

1160 (C) A transaction does not create a security
1161 interest merely because it provides that:

1162 (i) The present value of the consideration
1163 the lessee is obligated to pay the lessor for the right to
1164 possession and use of the goods is substantially equal to or is
1165 greater than the fair market value of the goods at the time the
1166 lease is entered into,

1167 (ii) The lessee assumes risk of loss of the
1168 goods, or agrees to pay taxes, insurance, filing, recording, or
1169 registration fees, or service or maintenance costs with respect to
1170 the goods,

1171 (iii) The lessee has an option to renew the
1172 lease or to become the owner of the goods,

1173 (iv) The lessee has an option to renew the
1174 lease for a fixed rent that is equal to or greater than the
1175 reasonably predictable fair market rent for the use of the goods
1176 for the term of the renewal at the time the option is to be
1177 performed, or

1178 (v) The lessee has an option to become the
1179 owner of the goods for a fixed price that is equal to or greater
1180 than the reasonably predictable fair market value of the goods at
1181 the time the option is to be performed.

1182 (D) For purposes of this subsection (37):

1183 (i) Additional consideration is not nominal
1184 if:

1185 1. When the option to renew the lease is
1186 granted to the lessee the rent is stated to be the fair market
1187 rent for the use of the goods for the term of the renewal
1188 determined at the time the option is to be performed, or

1189 2. When the option to become the owner
1190 of the goods is granted to the lessee the price is stated to be
1191 the fair market value of the goods determined at the time the
1192 option is to be performed. Additional consideration is nominal if
1193 it is less than the lessee's reasonably predictable cost of
1194 performing under the lease agreement if the option is not
1195 exercised;

1196 (ii) "Reasonably predictable" and "remaining
1197 economic life of the goods" are to be determined with reference to
1198 the fact and circumstances at the time the transaction is entered
1199 into; and

1200 (iii) "Present value" means the amount as of
1201 a date certain of one or more sums payable in the future,
1202 discounted to the date certain. The discount is determined by the
1203 interest rate specified by the parties if the rate is not

1204 manifestly unreasonable at the time the transaction is entered
1205 into; otherwise, the discount is determined by a commercially
1206 reasonable rate that takes into account the facts and
1207 circumstances of each case at the time the transaction was entered
1208 into.

1209 (38) "Send" in connection with a writing, record, or
1210 notice means:

1211 (A) To deposit in the mail or deliver for
1212 transmission by any other usual means of communication with
1213 postage or cost of transmission provided for and properly
1214 addressed and, in the case of an instrument, to an address
1215 specified thereon or otherwise agreed, or if there be none to any
1216 address * * * reasonable under the circumstances; or

1217 (B) In any other way to cause to be received any
1218 record or notice within the time it would have arrived if properly
1219 sent.

1220 (39) "Signed" includes any symbol executed or adopted
1221 by a party with present intention to authenticate a writing.

1222 (40) "Surety" includes guarantor.

1223 (41) "Telegram" includes a message transmitted by
1224 radio, teletype, cable, any mechanical method of transmission, or
1225 the like.

1226 (42) "Term" means that portion of an agreement which
1227 relates to a particular matter.

1228 (43) "Unauthorized" signature means one made without
1229 actual, implied or apparent authority and includes a forgery.

1230 (44) "Value," except as otherwise provided with respect
1231 to negotiable instruments and bank collections (Sections 75-3-303,
1232 75-4-208 and 75-4-209), a person gives "value" for rights if he
1233 acquires them:

1234 (A) In return for a binding commitment to extend
1235 credit or for the extension of immediately available credit

1236 whether or not drawn upon and whether or not a charge-back is
1237 provided for in the event of difficulties in collection; or

1238 (B) As security for or in total or partial
1239 satisfaction of a preexisting claim; or

1240 (C) By accepting delivery pursuant to a
1241 preexisting contract for purchase; or

1242 (D) Generally, in return for any consideration
1243 sufficient to support a simple contract.

1244 (45) "Warehouse receipt" means a document of title
1245 issued by a person engaged in the business of storing goods for
1246 hire.

1247 (46) "Written" or "writing" includes printing,
1248 typewriting, or any other intentional reduction to tangible form.

1249 **SECTION 35.** Section 75-9-102, Mississippi Code of 1972, is
1250 amended as follows:

1251 75-9-102. (a) In this article:

1252 (1) "Accession" means goods that are physically united
1253 with other goods in such a manner that the identity of the
1254 original goods is not lost.

1255 (2) "Account," except as used in "account for," means a
1256 right to payment of a monetary obligation, whether or not earned
1257 by performance, (i) for property that has been or is to be sold,
1258 leased, licensed, assigned, or otherwise disposed of, (ii) for
1259 services rendered or to be rendered, (iii) for a policy of
1260 insurance issued or to be issued, (iv) for a secondary obligation
1261 incurred or to be incurred, (v) for energy provided or to be
1262 provided, (vi) for the use or hire of a vessel under a charter or
1263 other contract, (vii) arising out of the use of a credit or charge
1264 card or information contained on or for use with the card, or
1265 (viii) as winnings in a lottery or other game of chance operated
1266 or sponsored by a state, governmental unit of a state, or person
1267 licensed or authorized to operate the game by a state or
1268 governmental unit of a state. The term includes

1269 health-care-insurance receivables. The term does not include (i)
1270 rights to payment evidenced by chattel paper or an instrument,
1271 (ii) commercial tort claims, (iii) deposit accounts, (iv)
1272 investment property, (v) letter-of-credit rights or letters of
1273 credit, or (vi) rights to payment for money or funds advanced or
1274 sold, other than rights arising out of the use of a credit or
1275 charge card or information contained on or for use with the card.

1276 (3) "Account debtor" means a person obligated on an
1277 account, chattel paper, or general intangible. The term does not
1278 include persons obligated to pay a negotiable instrument, even if
1279 the instrument constitutes part of chattel paper.

1280 (4) "Accounting," except as used in "accounting for,"
1281 means a record:

1282 (A) Authenticated by a secured party;

1283 (B) Indicating the aggregate unpaid secured
1284 obligations as of a date not more than thirty-five (35) days
1285 earlier or thirty-five (35) days later than the date of the
1286 record; and

1287 (C) Identifying the components of the obligations
1288 in reasonable detail.

1289 (5) "Agricultural lien" means an interest in farm
1290 products:

1291 (A) Which secures payment or performance of an
1292 obligation for:

1293 (i) Goods or services furnished in connection
1294 with a debtor's farming operation; or

1295 (ii) Rent on real property leased by a debtor
1296 in connection with its farming operation;

1297 (B) Which is created by statute in favor of a
1298 person that:

1299 (i) In the ordinary course of its business
1300 furnished goods or services to a debtor in connection with a
1301 debtor's farming operation; or

1302 (ii) Leased real property to a debtor in
1303 connection with the debtor's farming operation; and

1304 (C) Whose effectiveness does not depend on the
1305 person's possession of the personal property.

1306 (6) "As-extracted collateral" means:

1307 (A) Oil, gas, or other minerals that are subject
1308 to a security interest that:

1309 (i) Is created by a debtor having an interest
1310 in the minerals before extraction; and

1311 (ii) Attaches to the minerals as extracted;

1312 or

1313 (B) Accounts arising out of the sale at the
1314 wellhead or minehead of oil, gas, or other minerals in which the
1315 debtor had an interest before extraction.

1316 (7) "Authenticate" means:

1317 (A) To sign; or

1318 (B) To execute or otherwise adopt a symbol, or
1319 encrypt or similarly process a record in whole or in part, with
1320 the present intent of the authenticating person to identify the
1321 person and adopt or accept a record.

1322 (8) "Bank" means an organization that is engaged in the
1323 business of banking. The term includes savings banks, savings and
1324 loan associations, credit unions, and trust companies.

1325 (9) "Cash proceeds" means proceeds that are money,
1326 checks, deposit accounts, or the like.

1327 (10) "Certificate of title" means a certificate of
1328 title with respect to which a statute provides for the security
1329 interest in question to be indicated on the certificate as a
1330 condition or result of the security interest's obtaining priority
1331 over the rights of a lien creditor with respect to the collateral.

1332 (11) "Chattel paper" means a record or records that
1333 evidence both a monetary obligation and a security interest in
1334 specific goods, a security interest in specific goods and software

1335 used in the goods, a security interest in specific goods and
1336 license of software used in the goods, a lease of specific goods,
1337 or a lease of specific goods and license of software used in the
1338 goods. In this paragraph, "monetary obligation" means a monetary
1339 obligation secured by the goods or owed under a lease of the goods
1340 and includes a monetary obligation with respect to software used
1341 in the goods. The term does not include (i) charters or other
1342 contracts involving the use or hire of a vessel or (ii) records
1343 that evidence a right to payment arising out of the use of a
1344 credit or charge card or information contained on or for use with
1345 the card. If a transaction is evidenced by records that include
1346 an instrument or series of instruments, the group of records taken
1347 together constitutes chattel paper.

1348 (12) "Collateral" means the property subject to a
1349 security interest or agricultural lien. The term includes:

1350 (A) Proceeds to which a security interest
1351 attaches;

1352 (B) Accounts, chattel paper, payment intangibles,
1353 and promissory notes that have been sold; and

1354 (C) Goods that are the subject of a consignment.

1355 (13) "Commercial tort claim" means a claim arising in
1356 tort with respect to which:

1357 (A) The claimant is an organization; or

1358 (B) The claimant is an individual and the claim:

1359 (i) Arose in the course of the claimant's
1360 business or profession; and

1361 (ii) Does not include damages arising out of
1362 personal injury to or the death of an individual.

1363 (14) "Commodity account" means an account maintained by
1364 a commodity intermediary in which a commodity contract is carried
1365 for a commodity customer.

1366 (15) "Commodity contract" means a commodity futures
1367 contract, an option on a commodity futures contract, a commodity
1368 option, or another contract if the contract or option is:

1369 (A) Traded on or subject to the rules of a board
1370 of trade that has been designated as a contract market for such a
1371 contract pursuant to federal commodities laws; or

1372 (B) Traded on a foreign commodity board of trade,
1373 exchange, or market, and is carried on the books of a commodity
1374 intermediary for a commodity customer.

1375 (16) "Commodity customer" means a person for which a
1376 commodity intermediary carries a commodity contract on its books.

1377 (17) "Commodity intermediary" means a person that:

1378 (A) Is registered as a futures commission merchant
1379 under federal commodities law; or

1380 (B) In the ordinary course of its business
1381 provides clearance or settlement services for a board of trade
1382 that has been designated as a contract market pursuant to federal
1383 commodities law.

1384 (18) "Communicate" means:

1385 (A) To send a written or other tangible record;

1386 (B) To transmit a record by any means agreed upon
1387 by the persons sending and receiving the record; or

1388 (C) In the case of transmission of a record to or
1389 by a filing office, to transmit a record by any means prescribed
1390 by filing-office rule.

1391 (19) "Consignee" means a merchant to which goods are
1392 delivered in a consignment.

1393 (20) "Consignment" means a transaction, regardless of
1394 its form, in which a person delivers goods to a merchant for the
1395 purpose of sale and:

1396 (A) The merchant:

1397 (i) Deals in goods of that kind under a name
1398 other than the name of the person making delivery;

1399 (ii) Is not an auctioneer; and
1400 (iii) Is not generally known by its creditors
1401 to be substantially engaged in selling the goods of others;
1402 (B) With respect to each delivery, the aggregate
1403 value of the goods is One Thousand Dollars (\$1,000.00) or more at
1404 the time of delivery;
1405 (C) The goods are not consumer goods immediately
1406 before delivery; and
1407 (D) The transaction does not create a security
1408 interest that secures an obligation.
1409 (21) "Consignor" means a person that delivers goods to
1410 a consignee in a consignment.
1411 (22) "Consumer debtor" means a debtor in a consumer
1412 transaction.
1413 (23) "Consumer goods" means goods that are used or
1414 bought for use primarily for personal, family, or household
1415 purposes.
1416 (24) "Consumer-goods transaction" means a consumer
1417 transaction in which:
1418 (A) An individual incurs an obligation primarily
1419 for personal, family, or household purposes; and
1420 (B) A security interest in consumer goods secures
1421 the obligation.
1422 (25) "Consumer obligor" means an obligor who is an
1423 individual and who incurred the obligation as part of a
1424 transaction entered into primarily for personal, family, or
1425 household purposes.
1426 (26) "Consumer transaction" means a transaction in
1427 which (i) an individual incurs an obligation primarily for
1428 personal, family, or household purposes, (ii) a security interest
1429 secures the obligation, and (iii) the collateral is held or
1430 acquired primarily for personal, family, or household purposes.
1431 The term includes consumer-goods transactions.

1432 (27) "Continuation statement" means an amendment of a
1433 financing statement which:

1434 (A) Identifies, by its file number, the initial
1435 financing statement to which it relates; and

1436 (B) Indicates that it is a continuation statement
1437 for, or that it is filed to continue the effectiveness of, the
1438 identified financing statement.

1439 (28) "Debtor" means:

1440 (A) A person having an interest, other than a
1441 security interest or other lien, in the collateral, whether or not
1442 the person is an obligor;

1443 (B) A seller of accounts, chattel paper, payment
1444 intangibles, or promissory notes; or

1445 (C) A consignee.

1446 (29) "Deposit account" means a demand, time, savings,
1447 passbook, or similar account maintained with a bank. The term
1448 does not include investment property or accounts evidenced by an
1449 instrument.

1450 (30) "Document" means a document of title or a receipt
1451 of the type described in Section 75-7-201**(b)**.

1452 (31) "Electronic chattel paper" means chattel paper
1453 evidenced by a record or records consisting of information stored
1454 in an electronic medium.

1455 (32) "Encumbrance" means a right, other than an
1456 ownership interest, in real property. The term includes mortgages
1457 and other liens on real property.

1458 (33) "Equipment" means goods other than inventory, farm
1459 products, or consumer goods.

1460 (34) "Farm products" means goods, other than standing
1461 timber, with respect to which the debtor is engaged in a farming
1462 operation and which are:

1463 (A) Crops grown, growing, or to be grown,
1464 including:

1465 (i) Crops produced on trees, vines, and
1466 bushes; and

1467 (ii) Aquatic goods produced in aquacultural
1468 operations;

1469 (B) Livestock, born or unborn, including aquatic
1470 goods produced in aquacultural operations;

1471 (C) Supplies used or produced in a farming
1472 operation; or

1473 (D) Products of crops or livestock in their
1474 unmanufactured states.

1475 (35) "Farming operation" means raising, cultivating,
1476 propagating, fattening, grazing, or any other farming, livestock
1477 or aquacultural operation.

1478 (36) "File number" means the number assigned to an
1479 initial financing statement pursuant to Section 75-9-519(a).

1480 (37) "Filing office" means an office designated in
1481 Section 75-9-501 as the place to file a financing statement.

1482 (38) "Filing-office rule" means a rule adopted pursuant
1483 to Section 75-9-526.

1484 (39) "Financing statement" means a record or records
1485 composed of an initial financing statement and any filed record
1486 relating to the initial financing statement.

1487 (40) "Fixture filing" means the filing of a financing
1488 statement covering goods that are or are to become fixtures and
1489 satisfying Section 75-9-502(a) and (b). The term includes the
1490 filing of a financing statement covering goods of a transmitting
1491 utility which are or are to become fixtures.

1492 (41) "Fixtures" means goods that have become so related
1493 to particular real property that an interest in them arises under
1494 real property law.

1495 (42) "General intangible" means any personal property,
1496 including things in action, other than accounts, chattel paper,
1497 commercial tort claims, deposit accounts, documents, goods,

1498 instruments, investment property, letter-of-credit rights, letters
1499 of credit, money, and oil, gas, or other minerals before
1500 extraction. The term includes payment intangibles and software.

1501 (43) "Good faith" means honesty in fact and the
1502 observance of reasonable commercial standards of fair dealing.

1503 (44) "Goods" means all things that are movable when a
1504 security interest attaches. The term includes (i) fixtures, (ii)
1505 standing timber that is to be cut and removed under a conveyance
1506 or contract for sale, (iii) the unborn young of animals, (iv)
1507 crops grown, growing, or to be grown, even if the crops are
1508 produced on trees, vines, or bushes, (v) farm-raised fish produced
1509 in fresh water according to the usual and customary techniques of
1510 commercial agriculture, (vi) manufactured homes and (vii) marine
1511 vessels (herein defined as every type of watercraft used, or
1512 capable of being used, as a means of transportation on water)
1513 including both marine vessels under construction, including
1514 engines and all items of equipment installed or to be installed
1515 therein, whether such vessels are being constructed by the
1516 shipbuilder for his own use or for sale (said vessels under
1517 construction being classified as inventory within the meaning of
1518 Section 75-9-102(48)), and marine vessels after completion of
1519 construction so long as such vessels have not become "vessels of
1520 the United States" within the meaning of the Ship Mortgage Act of
1521 1920, 46 USCS, Section 911(4), as same is now written or may
1522 hereafter be amended (said completed vessels being classified as
1523 equipment within the meaning of Section 75-9-102(33)). The term
1524 also includes a computer program embedded in goods and any
1525 supporting information provided in connection with a transaction
1526 relating to the program if (i) the program is associated with the
1527 goods in such a manner that it customarily is considered part of
1528 the goods, or (ii) by becoming the owner of the goods, a person
1529 acquires a right to use the program in connection with the goods.
1530 The term does not include a computer program embedded in goods

1531 that consist solely of the medium in which the program is
1532 embedded. The term also does not include accounts, chattel paper,
1533 commercial tort claims, deposit accounts, documents, general
1534 intangibles, instruments, investment property, letter-of-credit
1535 rights, letters of credit, money, or oil, gas, or other minerals
1536 before extraction.

1537 (45) "Governmental unit" means a subdivision, agency,
1538 department, county, parish, municipality or other unit of the
1539 government of the United States, a state, or a foreign country.
1540 The term includes an organization having a separate corporate
1541 existence if the organization is eligible to issue debt on which
1542 interest is exempt from income taxation under the laws of the
1543 United States.

1544 (46) "Health-care-insurance receivable" means an
1545 interest in or claim under a policy of insurance which is a right
1546 to payment of a monetary obligation for health-care goods or
1547 services provided or to be provided.

1548 (47) "Instrument" means a negotiable instrument or any
1549 other writing that evidences a right to the payment of a monetary
1550 obligation, is not itself a security agreement or lease, and is of
1551 a type that in ordinary course of business is transferred by
1552 delivery with any necessary endorsement or assignment. The term
1553 does not include (i) investment property, (ii) letters of credit,
1554 or (iii) writings that evidence a right to payment arising out of
1555 the use of a credit or charge card or information contained on or
1556 for use with the card.

1557 (48) "Inventory" means goods, other than farm products,
1558 which:

1559 (A) Are leased by a person as lessor;

1560 (B) Are held by a person for sale or lease or to
1561 be furnished under a contract of service;

1562 (C) Are furnished by a person under a contract of
1563 service; or

1564 (D) Consist of raw materials, work in process or
1565 materials used or consumed in a business.

1566 (49) "Investment property" means a security, whether
1567 certificated or uncertificated, security entitlement, securities
1568 account, commodity contract, or commodity account.

1569 (50) "Jurisdiction of organization," with respect to a
1570 registered organization, means the jurisdiction under whose law
1571 the organization is organized.

1572 (51) "Letter-of-credit right" means a right to payment
1573 or performance under a letter of credit, whether or not the
1574 beneficiary has demanded or is at the time entitled to demand
1575 payment or performance. The term does not include the right of a
1576 beneficiary to demand payment or performance under a letter of
1577 credit.

1578 (52) "Lien creditor" means:

1579 (A) A creditor that has acquired a lien on the
1580 property involved by attachment, levy, or the like;

1581 (B) An assignee for benefit of creditors from the
1582 time of assignment;

1583 (C) A trustee in bankruptcy from the date of the
1584 filing of the petition; or

1585 (D) A receiver in equity from the time of
1586 appointment.

1587 (53) "Manufactured home" means a structure,
1588 transportable in one or more sections, which, in the traveling
1589 mode, is eight (8) body feet or more in width or forty (40) body
1590 feet or more in length, or, when erected on site, is three hundred
1591 twenty (320) or more square feet, and which is built on a
1592 permanent chassis and designed to be used as a dwelling with or
1593 without a permanent foundation when connected to the required
1594 utilities, and includes the plumbing, heating, air-conditioning,
1595 and electrical systems contained therein. The term includes any
1596 structure that meets all of the requirements of this paragraph

1597 except the size requirements and with respect to which the
1598 manufacturer voluntarily files a certification required by the
1599 United States Secretary of Housing and Urban Development and
1600 complies with the standards established under Title 42 of the
1601 United States Code.

1602 (54) "Manufactured-home transaction" means a secured
1603 transaction:

1604 (A) That creates a purchase-money security
1605 interest in a manufactured home, other than a manufactured home
1606 held as inventory; or

1607 (B) In which a manufactured home, other than a
1608 manufactured home held as inventory, is the primary collateral.

1609 (55) "Mortgage" means a consensual interest in real
1610 property, including fixtures, which secures payment or performance
1611 of an obligation. "Mortgage" shall mean and include a deed of
1612 trust.

1613 (56) "New debtor" means a person that becomes bound as
1614 debtor under Section 75-9-203(d) by a security agreement
1615 previously entered into by another person.

1616 (57) "New value" means (i) money, (ii) money's worth in
1617 property, services, or new credit, or (iii) release by a
1618 transferee of an interest in property previously transferred to
1619 the transferee. The term does not include an obligation
1620 substituted for another obligation.

1621 (58) "Noncash proceeds" means proceeds other than cash
1622 proceeds.

1623 (59) "Obligor" means a person that, with respect to an
1624 obligation secured by a security interest in or an agricultural
1625 lien on the collateral, (i) owes payment or other performance of
1626 the obligation, (ii) has provided property other than the
1627 collateral to secure payment or other performance of the
1628 obligation, or (iii) is otherwise accountable in whole or in part

1629 for payment or other performance of the obligation. The term does
1630 not include issuers or nominated persons under a letter of credit.

1631 (60) "Original debtor," except as used in Section
1632 75-9-310(c), means a person that, as debtor, entered into a
1633 security agreement to which a new debtor has become bound under
1634 Section 75-9-203(d).

1635 (61) "Payment intangible" means a general intangible
1636 under which the account debtor's principal obligation is a
1637 monetary obligation.

1638 (62) "Person related to," with respect to an
1639 individual, means:

1640 (A) The spouse of the individual;

1641 (B) A brother, brother-in-law, sister, or
1642 sister-in-law of the individual;

1643 (C) An ancestor or lineal descendant of the
1644 individual or the individual's spouse; or

1645 (D) Any other relative, by blood or marriage, of
1646 the individual or the individual's spouse who shares the same home
1647 with the individual.

1648 (63) "Person related to," with respect to an
1649 organization, means:

1650 (A) A person directly or indirectly controlling,
1651 controlled by, or under common control with the organization;

1652 (B) An officer or director of, or a person
1653 performing similar functions with respect to, the organization;

1654 (C) An officer or director of, or a person
1655 performing similar functions with respect to, a person described
1656 in subparagraph (A);

1657 (D) The spouse of an individual described in
1658 subparagraph (A), (B), or (C); or

1659 (E) An individual who is related by blood or
1660 marriage to an individual described in subparagraph (A), (B), (C),
1661 or (D) and shares the same home with the individual.

1662 (64) "Proceeds," except as used in Section 75-9-609(b),
1663 means the following property:

1664 (A) Whatever is acquired upon the sale, lease,
1665 license, exchange or other disposition of collateral;

1666 (B) Whatever is collected on, or distributed on
1667 account of, collateral;

1668 (C) Rights arising out of collateral;

1669 (D) To the extent of the value of collateral,
1670 claims arising out of the loss, nonconformity, or interference
1671 with the use of, defects or infringement of rights in, or damage
1672 to, the collateral; or

1673 (E) To the extent of the value of collateral and
1674 to the extent payable to the debtor or the secured party,
1675 insurance payable by reason of the loss or nonconformity of,
1676 defects or infringement of rights in, or damage to, the
1677 collateral.

1678 (64A) "Production-money crops" means crops that secure
1679 a production-money obligation incurred with respect to the
1680 production of those crops.

1681 (64B) "Production-money obligation" means an obligation
1682 of an obligor incurred for new value given to enable the debtor to
1683 produce crops if the value is in fact used for the production of
1684 the crops.

1685 (64C) "Production of crops" includes tilling and
1686 otherwise preparing land for growing, planting, cultivating,
1687 fertilizing, irrigating, harvesting and gathering crops, and
1688 protecting them from damage or disease.

1689 (65) "Promissory note" means an instrument that
1690 evidences a promise to pay a monetary obligation, does not
1691 evidence an order to pay, and does not contain an acknowledgment
1692 by a bank that the bank has received for deposit a sum of money or
1693 funds.

1694 (66) "Proposal" means a record authenticated by a
1695 secured party which includes the terms on which the secured party
1696 is willing to accept collateral in full or partial satisfaction of
1697 the obligation it secures pursuant to Sections 75-9-620, 75-9-621,
1698 and 75-9-622.

1699 (67) "Public-finance transaction" means a secured
1700 transaction in connection with which:

1701 (A) Debt securities are issued;

1702 (B) All or a portion of the securities issued have
1703 an initial stated maturity of at least twenty (20) years; and

1704 (C) The debtor, obligor, secured party, account
1705 debtor or other person obligated on collateral, assignor or
1706 assignee of a secured obligation, or assignor or assignee of a
1707 security interest is a state or a governmental unit of a state.

1708 (68) "Pursuant to commitment," with respect to an
1709 advance made or other value given by a secured party, means
1710 pursuant to the secured party's obligation, whether or not a
1711 subsequent event of default or other event not within the secured
1712 party's control has relieved or may relieve the secured party from
1713 its obligation.

1714 (69) "Record," except as used in "for record," "of
1715 record," "record or legal title," and "record owner," means
1716 information that is inscribed on a tangible medium or which is
1717 stored in an electronic or other medium and is retrievable in
1718 perceivable form.

1719 (70) "Registered organization" means an organization
1720 organized solely under the law of a single state or the United
1721 States and as to which the state or the United States must
1722 maintain a public record showing the organization to have been
1723 organized.

1724 (71) "Secondary obligor" means an obligor to the extent
1725 that:

1726 (A) The obligor's obligation is secondary; or

1727 (B) The obligor has a right of recourse with
1728 respect to an obligation secured by collateral against the debtor,
1729 another obligor, or property of either.

1730 (72) "Secured party" means:

1731 (A) A person in whose favor a security interest is
1732 created or provided for under a security agreement, whether or not
1733 any obligation to be secured is outstanding;

1734 (B) A person that holds an agricultural lien;

1735 (C) A consignor;

1736 (D) A person to which accounts, chattel paper,
1737 payment intangibles, or promissory notes have been sold;

1738 (E) A trustee, indenture trustee, agent,
1739 collateral agent, or other representative in whose favor a
1740 security interest or agricultural lien is created or provided for;
1741 or

1742 (F) A person that holds a security interest
1743 arising under Section 75-2-401, 75-2-505, 75-2-711(3),
1744 75-2A-508(5), 75-4-210, or 75-5-118.

1745 (73) "Security agreement" means an agreement that
1746 creates or provides for a security interest.

1747 (74) "Send," in connection with a record or
1748 notification, means:

1749 (A) To deposit in the mail, deliver for
1750 transmission, or transmit by any other usual means of
1751 communication, with postage or cost of transmission provided for,
1752 addressed to any address reasonable under the circumstances; or

1753 (B) To cause the record or notification to be
1754 received within the time that it would have been received if
1755 properly sent under subparagraph (A).

1756 (75) "Software" means a computer program and any
1757 supporting information provided in connection with a transaction
1758 relating to the program. The term does not include a computer
1759 program that is included in the definition of goods.

1760 (76) "State" means a state of the United States, the
1761 District of Columbia, Puerto Rico, the United States Virgin
1762 Islands, or any territory or insular possession subject to the
1763 jurisdiction of the United States.

1764 (77) "Supporting obligation" means a letter-of-credit
1765 right or secondary obligation that supports the payment or
1766 performance of an account, chattel paper, a document, a general
1767 intangible, an instrument, or investment property.

1768 (78) "Tangible chattel paper" means chattel paper
1769 evidenced by a record or records consisting of information that is
1770 inscribed on a tangible medium.

1771 (79) "Termination statement" means an amendment of a
1772 financing statement which:

1773 (A) Identifies, by its file number, the initial
1774 financing statement to which it relates; and

1775 (B) Indicates either that it is a termination
1776 statement or that the identified financing statement is no longer
1777 effective.

1778 (80) "Transmitting utility" means a person primarily
1779 engaged in the business of:

1780 (A) Operating a railroad, subway, street railway,
1781 or trolley bus;

1782 (B) Transmitting communications electrically,
1783 electromagnetically, or by light;

1784 (C) Transmitting goods by pipeline or sewer; or

1785 (D) Transmitting or producing and transmitting
1786 electricity, steam, gas, or water.

1787 (b) The following definitions in other articles apply to
1788 this article:

1789 "Applicant" Section 75-5-102.

1790 "Beneficiary" Section 75-5-102.

1791 "Broker" Section 75-8-102.

1792 "Certificated security" Section 75-8-102.

1793	"Check"	Section 75-3-104.
1794	"Clearing corporation"	Section 75-8-102.
1795	"Contract for sale"	Section 75-2-106.
1796	"Control"	Section 75-7-106.
1797	"Customer"	Section 75-4-104.
1798	"Entitlement holder"	Section 75-8-102.
1799	"Financial asset"	Section 75-8-102.
1800	"Holder in due course"	Section 75-3-302.
1801	"Issuer" (with respect to	
1802	a letter of credit or	
1803	letter-of-credit right)	Section 75-5-102.
1804	"Issuer" (with respect to a	
1805	security)	Section 75-8-201.
1806	"Issuer" (with respect to	
1807	documents of title)	Section 75-7-102.
1808	"Lease"	Section 75-2A-103.
1809	"Lease agreement"	Section 75-2A-103.
1810	"Lease contract"	Section 75-2A-103.
1811	"Leasehold interest"	Section 75-2A-103.
1812	"Lessee"	Section 75-2A-103.
1813	"Lessee in ordinary course	
1814	of business"	Section 75-2A-103.
1815	"Lessor"	Section 75-2A-103.
1816	"Lessor's residual interest"	Section 75-2A-103.
1817	"Letter of credit"	Section 75-5-102.
1818	"Merchant"	Section 75-2-104.
1819	"Negotiable instrument"	Section 75-3-104.
1820	"Nominated person"	Section 75-5-102.
1821	"Note"	Section 75-3-104.
1822	"Proceeds of a letter of	
1823	credit"	Section 75-5-114.
1824	"Prove"	Section 75-3-103.
1825	"Sale"	Section 75-2-106.

1826 "Securities account" Section 75-8-501.
1827 "Securities intermediary" Section 75-8-102.
1828 "Security" Section 75-8-102.
1829 "Security certificate" Section 75-8-102.
1830 "Security entitlement" Section 75-8-102.
1831 "Uncertificated security" Section 75-8-102.
1832 (c) Article 1 contains general definitions and principles of
1833 construction and interpretation applicable throughout this
1834 article.
1835 **SECTION 36.** This act shall take effect and be in force from
1836 and after its passage.