

By: Representative Watson

To: Judiciary A

HOUSE BILL NO. 1311

1 AN ACT TO ENACT REVISED ARTICLE 9 - SECURED TRANSACTIONS OF
2 THE UNIFORM COMMERCIAL CODE; TO CREATE A NATIONWIDE FILING SYSTEM
3 BASED ON THE DEBTOR'S LOCATION OR RESIDENCE RATHER THAN THE
4 LOCATION OF COLLATERAL; TO CODIFY A BROADER DEFINITION OF
5 "PURCHASE MONEY SECURITY INTEREST"; TO REVISE RULES FOR PERFECTION
6 OF A SECURITY INTEREST; TO REVISE CHOICE OF LAW PROVISIONS; TO
7 PROVIDE FOR EXCLUSIVE CENTRALIZED FILING OF FINANCING STATEMENTS
8 AND OTHER SECURITY INTEREST DOCUMENTS; TO PROVIDE SPECIAL RULES
9 FOR CERTAIN TRANSACTIONS IN WHICH THE DEBTOR IS A CONSUMER; TO
10 REVISE PROVISIONS ON DEFAULT AND ENFORCEMENT OF SECURED INTERESTS;
11 TO ENACT A DEFINITION OF "FORMER ARTICLE 9"; TO MAKE TRANSITION
12 PROVISIONS; TO REPEAL SECTIONS 75-9-101 THROUGH 75-9-507,
13 MISSISSIPPI CODE OF 1972, WHICH CONSTITUTE UNIFORM COMMERCIAL CODE
14 ARTICLE 9 - SECURED TRANSACTIONS; TO CODIFY SECTION 75-5-118,
15 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR SECURITY INTEREST OF
16 ISSUER OR NOMINATED PERSON; TO AMEND SECTIONS 75-1-105, 75-1-201,
17 75-2-103, 75-2-210, 75-2-326, 75-2-502, 75-2-716, 75-2A-103,
18 75-2A-303, 75-2A-307, 75-2A-309, 75-4-210, 75-7-503, 75-8-103,
19 75-8-106, 75-8-110, 75-8-301, 75-8-302, 75-8-510, 71-3-43,
20 41-29-177, 49-7-251, 67-1-93, 97-17-4, 97-43-11, 53-3-41,
21 75-11-106, 85-7-1, 85-8-9, 89-7-51, 89-7-53, 99-41-23 AND 25-7-9,
22 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO CREATE A NEW
23 CODE SECTION TO REQUIRE THE SECRETARY OF STATE TO PAY A CERTAIN
24 PORTION OF THE FEES COLLECTED UNDER THE REVISED ARTICLE 9 TO
25 CHANCERY CLERKS FOR A LIMITED TIME; TO AFFIRMATIVELY STATE THAT
26 THE PURPOSE OF SUCH PAYMENTS IS TO PROVIDE NOTICE THAT SUCH FILING
27 FEES WILL NO LONGER BE COLLECTED BY THE CHANCERY CLERKS, AS THE
28 EXCLUSIVE FILING OF THE RECORDS ASSOCIATED WITH THE FEES SHALL BE
29 IN THE OFFICE OF THE SECRETARY OF STATE, AND TO PROVIDE
30 COMPENSATION TO CHANCERY CLERKS FOR MAINTAINING CERTAIN RECORDS
31 UNDER THE REPEALED FORMER VERSION OF ARTICLE 9; AND FOR RELATED
32 PURPOSES.

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

34 SECTION 1. The following is Revised Article 9 - Secured
35 Transactions of the Uniform Commercial Code, and shall be codified
36 in Chapter 9 of Title 75, Mississippi Code of 1972, to replace
37 Article 9 repealed in Section 2 of this act:

38 **ARTICLE 9 - SECURED TRANSACTIONS**

39 **PART 1**

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GENERAL PROVISIONS

SUBPART 1. SHORT TITLE, DEFINITIONS, AND GENERAL CONCEPTS

SECTION 75-9-101. Short title. This article may be cited as Uniform Commercial Code - Secured Transactions.

SECTION 75-9-102. Definitions and index of definitions.

(a) In this article:

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

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

(3) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not

72 include persons obligated to pay a negotiable instrument, even if
73 the instrument constitutes part of chattel paper.

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

76 (A) Authenticated by a secured party;

77 (B) Indicating the aggregate unpaid secured
78 obligations as of a date not more than thirty-five (35) days
79 earlier or thirty-five (35) days later than the date of the
80 record; and

81 (C) Identifying the components of the obligations
82 in reasonable detail.

83 (5) "Agricultural lien" means an interest, other than a
84 security interest, in farm products:

85 (A) Which secures payment or performance of an
86 obligation for:

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

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

91 (B) Which is created by statute in favor of a
92 person that:

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

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

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

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

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

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

105 (ii) Attaches to the minerals as extracted;
106 or

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

110 (7) "Authenticate" means:

111 (A) To sign; or

112 (B) To execute or otherwise adopt a symbol, or
113 encrypt or similarly process a record in whole or in part, with
114 the present intent of the authenticating person to identify the
115 person and adopt or accept a record.

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

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

121 (10) "Certificate of title" means a certificate of
122 title with respect to which a statute provides for the security
123 interest in question to be indicated on the certificate as a
124 condition or result of the security interest's obtaining priority
125 over the rights of a lien creditor with respect to the collateral.

126 (11) "Chattel paper" means a record or records that
127 evidence both a monetary obligation and a security interest in
128 specific goods, a security interest in specific goods and software
129 used in the goods, a security interest in specific goods and
130 license of software used in the goods, a lease of specific goods,
131 or a lease of specific goods and license of software used in the
132 goods. In this paragraph, "monetary obligation" means a monetary
133 obligation secured by the goods or owed under a lease of the goods
134 and includes a monetary obligation with respect to software used
135 in the goods. The term does not include (i) charters or other
136 contracts involving the use or hire of a vessel or (ii) records
137 that evidence a right to payment arising out of the use of a

138 credit or charge card or information contained on or for use with
139 the card. If a transaction is evidenced by records that include
140 an instrument or series of instruments, the group of records taken
141 together constitutes chattel paper.

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

144 (A) Proceeds to which a security interest
145 attaches;

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

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

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

151 (A) The claimant is an organization; or

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

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

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

157 (14) "Commodity account" means an account maintained by
158 a commodity intermediary in which a commodity contract is carried
159 for a commodity customer.

160 (15) "Commodity contract" means a commodity futures
161 contract, an option on a commodity futures contract, a commodity
162 option, or another contract if the contract or option is:

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

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

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

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

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

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

178 (18) "Communicate" means:

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

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

182 (C) In the case of transmission of a record to or
183 by a filing office, to transmit a record by any means prescribed
184 by filing-office rule.

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

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

190 (A) The merchant:

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

193 (ii) Is not an auctioneer; and

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

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

199 (C) The goods are not consumer goods immediately
200 before delivery; and

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

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

205 (22) "Consumer debtor" means a debtor in a consumer
206 transaction.

207 (23) "Consumer goods" means goods that are used or
208 bought for use primarily for personal, family or household
209 purposes.

210 (24) "Consumer-goods transaction" means a consumer
211 transaction in which:

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

214 (B) A security interest in consumer goods secures
215 the obligation.

216 (25) "Consumer obligor" means an obligor who is an
217 individual and who incurred the obligation as part of a
218 transaction entered into primarily for personal, family or
219 household purposes.

220 (26) "Consumer transaction" means a transaction in
221 which (i) an individual incurs an obligation primarily for
222 personal, family, or household purposes, (ii) a security interest
223 secures the obligation, and (iii) the collateral is held or
224 acquired primarily for personal, family or household purposes.
225 The term includes consumer-goods transactions.

226 (27) "Continuation statement" means an amendment of a
227 financing statement which:

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

230 (B) Indicates that it is a continuation statement
231 for, or that it is filed to continue the effectiveness of, the
232 identified financing statement.

233 (28) "Debtor" means:

234 (A) A person having an interest, other than a
235 security interest or other lien, in the collateral, whether or not
236 the person is an obligor;

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

239 (C) A consignee.

240 (29) "Deposit account" means a demand, time, savings,
241 passbook or similar account maintained with a bank. The term does
242 not include investment property or accounts evidenced by an
243 instrument.

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

246 (31) "Electronic chattel paper" means chattel paper
247 evidenced by a record or records consisting of information stored
248 in an electronic medium.

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

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

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

257 (A) Crops grown, growing, or to be grown,
258 including:

259 (i) Crops produced on trees, vines, and
260 bushes; and

261 (ii) Aquatic goods produced in aquacultural
262 operations;

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

265 (C) Supplies used or produced in a farming
266 operation; or

267 (D) Products of crops or livestock in their
268 unmanufactured states.

269 (35) "Farming operation" means raising, cultivating,
270 propagating, fattening, grazing, or any other farming, livestock
271 or aquacultural operation.

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

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

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

278 (39) "Financing statement" means a record or records
279 composed of an initial financing statement and any filed record
280 relating to the initial financing statement.

281 (40) "Fixture filing" means the filing of a financing
282 statement covering goods that are or are to become fixtures and
283 satisfying Section 75-9-502(a) and (b). The term includes the
284 filing of a financing statement covering goods of a transmitting
285 utility which are or are to become fixtures.

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

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

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

297 (44) "Goods" means all things that are movable when a
298 security interest attaches. The term includes (i) fixtures, (ii)
299 standing timber that is to be cut and removed under a conveyance

300 or contract for sale, (iii) the unborn young of animals, (iv)
301 crops grown, growing, or to be grown, even if the crops are
302 produced on trees, vines, or bushes, (v) farm-raised fish produced
303 in fresh water according to the usual and customary techniques of
304 commercial agriculture, (vi) manufactured homes and (vii) marine
305 vessels (herein defined as every type of watercraft used, or
306 capable of being used, as a means of transportation on water)
307 including both marine vessels under construction, including
308 engines and all items of equipment installed or to be installed
309 therein, whether such vessels are being constructed by the
310 shipbuilder for his own use or for sale (said vessels under
311 construction being classified as inventory within the meaning of
312 Section 75-9-102(48)), and marine vessels after completion of
313 construction so long as such vessels have not become "vessels of
314 the United States" within the meaning of the Ship Mortgage Act of
315 1920, 46 USCS, Section 911(4), as same is now written or may
316 hereafter be amended (said completed vessels being classified as
317 equipment within the meaning of Section 75-9-102(33)). The term
318 also includes a computer program embedded in goods and any
319 supporting information provided in connection with a transaction
320 relating to the program if (i) the program is associated with the
321 goods in such a manner that it customarily is considered part of
322 the goods, or (ii) by becoming the owner of the goods, a person
323 acquires a right to use the program in connection with the goods.
324 The term does not include a computer program embedded in goods
325 that consist solely of the medium in which the program is
326 embedded. The term also does not include accounts, chattel paper,
327 commercial tort claims, deposit accounts, documents, general
328 intangibles, instruments, investment property, letter-of-credit
329 rights, letters of credit, money, or oil, gas or other minerals
330 before extraction.

331 (45) "Governmental unit" means a subdivision, agency,
332 department, county, parish, municipality or other unit of the

333 government of the United States, a state or a foreign country.
334 The term includes an organization having a separate corporate
335 existence if the organization is eligible to issue debt on which
336 interest is exempt from income taxation under the laws of the
337 United States.

338 (46) "Health-care-insurance receivable" means an
339 interest in or claim under a policy of insurance which is a right
340 to payment of a monetary obligation for health-care goods or
341 services provided.

342 (47) "Instrument" means a negotiable instrument or any
343 other writing that evidences a right to the payment of a monetary
344 obligation, is not itself a security agreement or lease, and is of
345 a type that in ordinary course of business is transferred by
346 delivery with any necessary endorsement or assignment. The term
347 does not include (i) investment property, (ii) letters of credit,
348 or (iii) writings that evidence a right to payment arising out of
349 the use of a credit or charge card or information contained on or
350 for use with the card.

351 (48) "Inventory" means goods, other than farm products,
352 which:

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

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

356 (C) Are furnished by a person under a contract of
357 service; or

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

360 (49) "Investment property" means a security, whether
361 certificated or uncertificated, security entitlement, securities
362 account, commodity contract or commodity account.

363 (50) "Jurisdiction of organization," with respect to a
364 registered organization, means the jurisdiction under whose law
365 the organization is organized.

366 (51) "Letter-of-credit right" means a right to payment
367 or performance under a letter of credit, whether or not the
368 beneficiary has demanded or is at the time entitled to demand
369 payment or performance. The term does not include the right of a
370 beneficiary to demand payment or performance under a letter of
371 credit.

372 (52) "Lien creditor" means:

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

375 (B) An assignee for benefit of creditors from the
376 time of assignment;

377 (C) A trustee in bankruptcy from the date of the
378 filing of the petition; or

379 (D) A receiver in equity from the time of
380 appointment.

381 (53) "Manufactured home" means a structure,
382 transportable in one or more sections, which, in the traveling
383 mode, is eight (8) body feet or more in width or forty (40) body
384 feet or more in length, or, when erected on site, is three hundred
385 twenty (320) or more square feet, and which is built on a
386 permanent chassis and designed to be used as a dwelling with or
387 without a permanent foundation when connected to the required
388 utilities, and includes the plumbing, heating, air-conditioning
389 and electrical systems contained therein. The term includes any
390 structure that meets all of the requirements of this paragraph
391 except the size requirements and with respect to which the
392 manufacturer voluntarily files a certification required by the
393 United States Secretary of Housing and Urban Development and
394 complies with the standards established under Title 42 of the
395 United States Code.

396 (54) "Manufactured-home transaction" means a secured
397 transaction:

398 (A) That creates a purchase-money security
399 interest in a manufactured home, other than a manufactured home
400 held as inventory; or

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

403 (55) "Mortgage" means a consensual interest in real
404 property, including fixtures, which secures payment or performance
405 of an obligation. "Mortgage" shall mean and include a deed of
406 trust.

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

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

415 (58) "Noncash proceeds" means proceeds other than cash
416 proceeds.

417 (59) "Obligor" means a person that, with respect to an
418 obligation secured by a security interest in or an agricultural
419 lien on the collateral, (i) owes payment or other performance of
420 the obligation, (ii) has provided property other than the
421 collateral to secure payment or other performance of the
422 obligation, or (iii) is otherwise accountable in whole or in part
423 for payment or other performance of the obligation. The term does
424 not include issuers or nominated persons under a letter of credit.

425 (60) "Original debtor," except as used in Section
426 75-9-310(c), means a person that, as debtor, entered into a
427 security agreement to which a new debtor has become bound under
428 Section 75-9-203(d).

429 (61) "Payment intangible" means a general intangible
430 under which the account debtor's principal obligation is a
431 monetary obligation.

432 (62) "Person related to," with respect to an
433 individual, means:

434 (A) The spouse of the individual;

435 (B) A brother, brother-in-law, sister or
436 sister-in-law of the individual;

437 (C) An ancestor or lineal descendant of the
438 individual or the individual's spouse; or

439 (D) Any other relative, by blood or marriage, of
440 the individual or the individual's spouse who shares the same home
441 with the individual.

442 (63) "Person related to," with respect to an
443 organization, means:

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

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

448 (C) An officer or director of, or a person
449 performing similar functions with respect to, a person described
450 in subparagraph (A);

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

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

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

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

460 (B) Whatever is collected on, or distributed on
461 account of, collateral;

462 (C) Rights arising out of collateral;

463 (D) To the extent of the value of collateral,
464 claims arising out of the loss, nonconformity, or interference
465 with the use of, defects or infringement of rights in, or damage
466 to, the collateral; or

467 (E) To the extent of the value of collateral and
468 to the extent payable to the debtor or the secured party,
469 insurance payable by reason of the loss or nonconformity of,
470 defects or infringement of rights in, or damage to, the
471 collateral.

472 (64A) "Production-money crops" means crops that secure
473 a production-money obligation incurred with respect to the
474 production of those crops.

475 (64B) "Production-money obligation" means an obligation
476 of an obligor incurred for new value given to enable the debtor to
477 produce crops if the value is in fact used for the production of
478 the crops.

479 (64C) "Production of crops" includes tilling and
480 otherwise preparing land for growing, planting, cultivating,
481 fertilizing, irrigating, harvesting and gathering crops, and
482 protecting them from damage or disease.

483 (65) "Promissory note" means an instrument that
484 evidences a promise to pay a monetary obligation, does not
485 evidence an order to pay, and does not contain an acknowledgment
486 by a bank that the bank has received for deposit a sum of money or
487 funds.

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

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

495 (A) Debt securities are issued;

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

498 (C) The debtor, obligor, secured party, account
499 debtor or other person obligated on collateral, assignor or
500 assignee of a secured obligation, or assignor or assignee of a
501 security interest is a state or a governmental unit of a state.

502 (68) "Pursuant to commitment," with respect to an
503 advance made or other value given by a secured party, means
504 pursuant to the secured party's obligation, whether or not a
505 subsequent event of default or other event not within the secured
506 party's control has relieved or may relieve the secured party from
507 its obligation.

508 (69) "Record," except as used in "for record," "of
509 record," "record or legal title," and "record owner," means
510 information that is inscribed on a tangible medium or which is
511 stored in an electronic or other medium and is retrievable in
512 perceivable form.

513 (70) "Registered organization" means an organization
514 organized solely under the law of a single state or the United
515 States and as to which the state or the United States must
516 maintain a public record showing the organization to have been
517 organized.

518 (71) "Secondary obligor" means an obligor to the extent
519 that:

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

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

524 (72) "Secured party" means:

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

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

529 (C) A consignor;

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

532 (E) A trustee, indenture trustee, agent,
533 collateral agent or other representative in whose favor a security
534 interest or agricultural lien is created or provided for; or

535 (F) A person that holds a security interest
536 arising under Section 75-2-401, 75-2-505, 75-2-711(3),
537 75-2A-508(5), 75-4-210 or 75-5-118.

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

540 (74) "Send," in connection with a record or
541 notification, means:

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

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

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

553 (76) "State" means a state of the United States, the
554 District of Columbia, Puerto Rico, the United States Virgin
555 Islands, or any territory or insular possession subject to the
556 jurisdiction of the United States.

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

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

564 (79) "Termination statement" means an amendment of a
565 financing statement which:

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

568 (B) Indicates either that it is a termination
569 statement or that the identified financing statement is no longer
570 effective.

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

573 (A) Operating a railroad, subway, street railway,
574 or trolley bus;

575 (B) Transmitting communications electrically,
576 electromagnetically or by light;

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

578 (D) Transmitting or producing and transmitting
579 electricity, steam, gas or water.

580 (b) The following definitions in other articles apply to
581 this article:

582 "Applicant" Section 75-5-102.

583 "Beneficiary" Section 75-5-102.

584 "Broker" Section 75-8-102.

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

586 "Check" Section 75-3-104.

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

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

589 "Customer" Section 75-4-104.

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

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

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

593 "Issuer" (with respect to

| | | |
|-----|--|--------------------|
| 594 | a letter of credit or | |
| 595 | letter-of-credit right) | Section 75-5-102. |
| 596 | "Issuer" (with respect to a | |
| 597 | security) | Section 75-8-201. |
| 598 | "Lease" | Section 75-2A-103. |
| 599 | "Lease agreement" | Section 75-2A-103. |
| 600 | "Lease contract" | Section 75-2A-103. |
| 601 | "Leasehold interest" | Section 75-2A-103. |
| 602 | "Lessee" | Section 75-2A-103. |
| 603 | "Lessee in ordinary course | |
| 604 | of business" | Section 75-2A-103. |
| 605 | "Lessor" | Section 75-2A-103. |
| 606 | "Lessor's residual interest" | Section 75-2A-103. |
| 607 | "Letter of credit" | Section 75-5-102. |
| 608 | "Merchant" | Section 75-2-104. |
| 609 | "Negotiable instrument" | Section 75-3-104. |
| 610 | "Nominated person" | Section 75-5-102. |
| 611 | "Note" | Section 75-3-104. |
| 612 | "Proceeds of a letter of | |
| 613 | credit" | Section 75-5-114. |
| 614 | "Prove" | Section 75-3-103. |
| 615 | "Sale" | Section 75-2-106. |
| 616 | "Securities account" | Section 75-8-501. |
| 617 | "Securities intermediary" | Section 75-8-102. |
| 618 | "Security" | Section 75-8-102. |
| 619 | "Security certificate" | Section 75-8-102. |
| 620 | "Security entitlement" | Section 75-8-102. |
| 621 | "Uncertificated security" | Section 75-8-102. |
| 622 | (c) Article 1 contains general definitions and principles of | |
| 623 | construction and interpretation applicable throughout this | |
| 624 | article. | |

625 **SECTION 75-9-103. Purchase-money security interest;**
626 **application of payments; burden of establishing.**

627 (a) In this section:

628 (1) "Purchase-money collateral" means goods or software
629 that secures a purchase-money obligation incurred with respect to
630 that collateral; and

631 (2) "Purchase-money obligation" means an obligation of
632 an obligor incurred as all or part of the price of the collateral
633 or for value given to enable the debtor to acquire rights in or
634 the use of the collateral if the value is in fact so used.

635 (b) A security interest in goods is a purchase-money
636 security interest:

637 (1) To the extent that the goods are purchase-money
638 collateral with respect to that security interest;

639 (2) If the security interest is in inventory that is or
640 was purchase-money collateral, also to the extent that the
641 security interest secures a purchase-money obligation incurred
642 with respect to other inventory in which the secured party holds
643 or held a purchase-money security interest; and

644 (3) Also to the extent that the security interest
645 secures a purchase-money obligation incurred with respect to
646 software in which the secured party holds or held a purchase-money
647 security interest.

648 (c) A security interest in software is a purchase-money
649 security interest to the extent that the security interest also
650 secures a purchase-money obligation incurred with respect to goods
651 in which the secured party holds or held a purchase-money security
652 interest if:

653 (1) The debtor acquired its interest in the software in
654 an integrated transaction in which it acquired an interest in the
655 goods; and

656 (2) The debtor acquired its interest in the software
657 for the principal purpose of using the software in the goods.

658 (d) The security interest of a consignor in goods that are
659 the subject of a consignment is a purchase-money security interest
660 in inventory.

661 (e) In a transaction other than a consumer-goods
662 transaction, if the extent to which a security interest is a
663 purchase-money security interest depends on the application of a
664 payment to a particular obligation, the payment must be applied:

665 (1) In accordance with any reasonable method of
666 application to which the parties agree;

667 (2) In the absence of the parties' agreement to a
668 reasonable method, in accordance with any intention of the obligor
669 manifested at or before the time of payment; or

670 (3) In the absence of an agreement to a reasonable
671 method and a timely manifestation of the obligor's intention, in
672 the following order:

673 (A) To obligations that are not secured; and

674 (B) If more than one (1) obligation is secured, to
675 obligations secured by purchase-money security interests in the
676 order in which those obligations were incurred.

677 (f) In a transaction other than a consumer-goods
678 transaction, a purchase-money security interest does not lose its
679 status as such, even if:

680 (1) The purchase-money collateral also secures an
681 obligation that is not a purchase-money obligation;

682 (2) Collateral that is not purchase-money collateral
683 also secures the purchase-money obligation; or

684 (3) The purchase-money obligation has been renewed,
685 refinanced, consolidated or restructured.

686 (g) In a transaction other than a consumer-goods
687 transaction, a secured party claiming a purchase-money security
688 interest has the burden of establishing the extent to which the
689 security interest is a purchase-money security interest.

690 (h) The limitation of the rules in subsections (e), (f) and
691 (g) to transactions other than consumer-goods transactions is
692 intended to leave to the court the determination of the proper
693 rules in consumer-goods transactions. The court may not infer
694 from that limitation the nature of the proper rule in
695 consumer-goods transactions and may continue to apply established
696 approaches.

697 **SECTION 75-9-103A. "Production-money crops";**
698 **"production-money obligation"; production-money security interest;**
699 **burden of establishing.**

700 (a) A security interest in crops is a production-money
701 security interest to the extent that the crops are
702 production-money crops.

703 (b) If the extent to which a security interest is a
704 production-money security interest depends on the application of a
705 payment to a particular obligation, the payment must be applied:

706 (1) In accordance with any reasonable method of
707 application to which the parties agree;

708 (2) In the absence of the parties' agreement to a
709 reasonable method, in accordance with any intention of the obligor
710 manifested at or before the time of payment; or

711 (3) In the absence of an agreement to a reasonable
712 method and a timely manifestation of the obligor's intention, in
713 the following order:

714 (A) To obligations that are not secured; and

715 (B) If more than one (1) obligation is secured, to
716 obligations secured by production-money security interests in the
717 order in which those obligations were incurred.

718 (c) A production-money security interest does not lose its
719 status as such, even if:

720 (1) The production-money crops also secure an
721 obligation that is not a production-money obligation;

722 (2) Collateral that is not production-money crops also
723 secures the production-money obligation; or

724 (3) The production-money obligation has been renewed,
725 refinanced, or restructured.

726 (d) A secured party claiming a production-money security
727 interest has the burden of establishing the extent to which the
728 security interest is a production-money security interest.

729 **SECTION 75-9-104. Control of deposit account.**

730 (a) A secured party has control of a deposit account if:

731 (1) The secured party is the bank with which the
732 deposit account is maintained;

733 (2) The debtor, secured party and bank have agreed in
734 an authenticated record that the bank will comply with
735 instructions originated by the secured party directing disposition
736 of the funds in the deposit account without further consent by the
737 debtor; or

738 (3) The secured party becomes the bank's customer with
739 respect to the deposit account.

740 (b) A secured party that has satisfied subsection (a) has
741 control, even if the debtor retains the right to direct the
742 disposition of funds from the deposit account.

743 **SECTION 75-9-105. Control of electronic chattel paper.** A
744 secured party has control of electronic chattel paper if the
745 record or records comprising the chattel paper are created, stored
746 and assigned in such a manner that:

747 (1) A single authoritative copy of the record or
748 records exists which is unique, identifiable and, except as
749 otherwise provided in paragraphs (4), (5) and (6), unalterable;

750 (2) The authoritative copy identifies the secured party
751 as the assignee of the record or records;

752 (3) The authoritative copy is communicated to and
753 maintained by the secured party or its designated custodian;

754 (4) Copies or revisions that add or change an
755 identified assignee of the authoritative copy can be made only
756 with the participation of the secured party;

757 (5) Each copy of the authoritative copy and any copy of
758 a copy is readily identifiable as a copy that is not the
759 authoritative copy; and

760 (6) Any revision of the authoritative copy is readily
761 identifiable as an authorized or unauthorized revision.

762 **SECTION 75-9-106. Control of investment property.**

763 (a) A person has control of a certificated security,
764 uncertificated security, or security entitlement as provided in
765 Section 75-8-106.

766 (b) A secured party has control of a commodity contract if:

767 (1) The secured party is the commodity intermediary
768 with which the commodity contract is carried; or

769 (2) The commodity customer, secured party, and
770 commodity intermediary have agreed that the commodity intermediary
771 will apply any value distributed on account of the commodity
772 contract as directed by the secured party without further consent
773 by the commodity customer.

774 (c) A secured party having control of all security
775 entitlements or commodity contracts carried in a securities
776 account or commodity account has control over the securities
777 account or commodity account.

778 **SECTION 75-9-107. Control of letter-of-credit right.** A
779 secured party has control of a letter-of-credit right to the
780 extent of any right to payment or performance by the issuer or any
781 nominated person if the issuer or nominated person has consented
782 to an assignment of proceeds of the letter of credit under Section
783 75-5-114(c) or otherwise applicable law or practice.

784 **SECTION 75-9-108. Sufficiency of description.**

785 (a) Except as otherwise provided in subsections (c), (d) and
786 (e), a description of personal or real property is sufficient,

787 whether or not it is specific, if it reasonably identifies what is
788 described.

789 (b) Except as otherwise provided in subsection (d), a
790 description of collateral reasonably identifies the collateral if
791 it identifies the collateral by:

792 (1) Specific listing;

793 (2) Category;

794 (3) Except as otherwise provided in subsection (e), a
795 type of collateral defined in the Uniform Commercial Code;

796 (4) Quantity;

797 (5) Computational or allocational formula or procedure;

798 or

799 (6) Except as otherwise provided in subsection (c), any
800 other method, if the identity of the collateral is objectively
801 determinable.

802 (c) A description of collateral as "all the debtor's assets"
803 or "all the debtor's personal property" or using words of similar
804 import does not reasonably identify the collateral.

805 (d) Except as otherwise provided in subsection (e), a
806 description of a security entitlement, securities account or
807 commodity account is sufficient if it describes:

808 (1) The collateral by those terms or as investment
809 property; or

810 (2) The underlying financial asset or commodity
811 contract.

812 (e) A description only by type of collateral defined in the
813 Uniform Commercial Code is an insufficient description of:

814 (1) A commercial tort claim; or

815 (2) In a consumer transaction, consumer goods, a
816 security entitlement, a securities account or a commodity account.

817 SUBPART 2. APPLICABILITY OF ARTICLE

818 **SECTION 75-9-109. Scope.**

819 (a) Except as otherwise provided in subsections (c) and (d),
820 this article applies to:

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

823 (2) An agricultural lien;

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

826 (4) A consignment;

827 (5) A security interest arising under Section 75-2-401,
828 75-2-505, 75-2-711(3) or 75-2A-508(5), as provided in Section
829 75-9-110; and

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

832 (b) The application of this article to a security interest
833 in a secured obligation is not affected by the fact that the
834 obligation is itself secured by a transaction or interest to which
835 this article does not apply.

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

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

839 (2) Another statute of this state expressly governs the
840 creation, perfection, priority or enforcement of a security
841 interest created by this state or a governmental unit of this
842 state;

843 (3) A statute of another state, a foreign country, or a
844 governmental unit of another state or a foreign country, other
845 than a statute generally applicable to security interests,
846 expressly governs creation, perfection, priority or enforcement of
847 a security interest created by the state, country or governmental
848 unit; or

849 (4) The rights of a transferee beneficiary or nominated
850 person under a letter of credit are independent and superior under
851 Section 75-5-114.

852 (d) This article does not apply to:

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

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

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

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

862 (5) An assignment of accounts, chattel paper, payment
863 intangibles or promissory notes which is for the purpose of
864 collection only;

865 (6) An assignment of a right to payment under a
866 contract to an assignee that is also obligated to perform under
867 the contract;

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

871 (8) A transfer of an interest in or an assignment of a
872 claim under a policy of insurance, other than an assignment by or
873 to a health-care provider of a health-care-insurance receivable
874 and any subsequent assignment of the right to payment, but
875 Sections 75-9-315 and 75-9-322 apply with respect to proceeds and
876 priorities in proceeds;

877 (9) An assignment of a right represented by a judgment,
878 other than a judgment taken on a right to payment that was
879 collateral;

880 (10) A right of recoupment or set-off, but:

881 (A) Section 75-9-340 applies with respect to the
882 effectiveness of rights of recoupment or set-off against deposit
883 accounts; and

884 (B) Section 75-9-404 applies with respect to
885 defenses or claims of an account debtor;

886 (11) The creation or transfer of an interest in or lien
887 on real property, including a lease or rents thereunder, except to
888 the extent that provision is made for:

889 (A) Liens on real property in Sections 75-9-203
890 and 75-9-308;

891 (B) Fixtures in Section 75-9-334;

892 (C) Fixture filings in Sections 75-9-501,
893 75-9-502, 75-9-512, 75-9-516 and 75-9-519; and

894 (D) Security agreements covering personal and real
895 property in Section 75-9-604;

896 (12) An assignment of a claim arising in tort, other
897 than a commercial tort claim, but Sections 75-9-315 and 75-9-322
898 apply with respect to proceeds and priorities in proceeds;

899 (13) An assignment of a deposit account in a consumer
900 transaction, but Sections 75-9-315 and 75-9-322 apply with respect
901 to proceeds and priorities in proceeds; or

902 (14) To a transfer by a government or governmental
903 subdivision or agency.

904 **SECTION 75-9-110. Security interests arising under Article 2**

905 **or 2A.** A security interest arising under Section 75-2-401,
906 75-2-505, 75-2-711(3) or 75-2A-508(5) is subject to this article.

907 However, until the debtor obtains possession of the goods:

908 (1) The security interest is enforceable, even if
909 Section 75-9-203(b)(3) has not been satisfied;

910 (2) Filing is not required to perfect the security
911 interest;

912 (3) The rights of the secured party after default by
913 the debtor are governed by Article 2 or 2A; and

914 (4) The security interest has priority over a
915 conflicting security interest created by the debtor.

916 **PART 2**

917 **EFFECTIVENESS OF SECURITY AGREEMENT;**
918 **ATTACHMENT OF SECURITY INTEREST;**
919 **RIGHTS OF PARTIES TO SECURITY AGREEMENT**
920 SUBPART 1. EFFECTIVENESS AND ATTACHMENT
921 **SECTION 75-9-201. General effectiveness of security**
922 **agreement.**

923 (a) Except as otherwise provided in the Uniform Commercial
924 Code, a security agreement is effective according to its terms
925 between the parties, against purchasers of the collateral, and
926 against creditors.

927 (b) A transaction subject to this article is subject to any
928 applicable rule of law which establishes a different rule for
929 consumers and to Sections 75-67-101 through 75-67-135, Sections
930 75-67-201 through 75-67-243, Sections 75-67-1 through 75-67-39,
931 Sections 63-19-1 through 63-19-55 and to any other statute or
932 regulation of this state that regulates the rates, charges,
933 agreements, and practices for loans, credit sales, or other
934 extensions of credit, and to any consumer-protection statute or
935 regulation of this state.

936 (c) In case of conflict between this article and a rule of
937 law, statute or regulation described in subsection (b), the rule
938 of law, statute, or regulation controls. Failure to comply with a
939 statute or regulation described in subsection (b) has only the
940 effect the statute or regulation specifies.

941 (d) This article does not:

942 (1) Validate any rate, charge, agreement or practice
943 that violates a rule of law, statute or regulation described in
944 subsection (b); or

945 (2) Extend the application of the rule of law, statute
946 or regulation to a transaction not otherwise subject to it.

947 **SECTION 75-9-202. Title to collateral immaterial.** Except as
948 otherwise provided with respect to consignments or sales of
949 accounts, chattel paper, payment intangibles or promissory notes,

950 the provisions of this article with regard to rights and
951 obligations apply whether title to collateral is in the secured
952 party or the debtor.

953 **SECTION 75-9-203. Attachment and enforceability of security**
954 **interest; proceeds; supporting obligations; formal requisites.**

955 (a) A security interest attaches to collateral when it
956 becomes enforceable against the debtor with respect to the
957 collateral, unless an agreement expressly postpones the time of
958 attachment.

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

962 (1) Value has been given;

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

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

966 (A) The debtor has authenticated a security
967 agreement that provides a description of the collateral and, if
968 the security interest covers timber to be cut, a description of
969 the land concerned;

970 (B) The collateral is not a certificated security
971 and is in the possession of the secured party under Section
972 75-9-313 pursuant to the debtor's security agreement;

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

977 (D) The collateral is deposit accounts, electronic
978 chattel paper, investment property, or letter-of-credit rights,
979 and the secured party has control under Section 75-9-104,
980 75-9-105, 75-9-106 or 75-9-107 pursuant to the debtor's security
981 agreement.

982 (c) Subsection (b) is subject to Section 75-4-210 on the
983 security interest of a collecting bank, Section 75-5-118 on the
984 security interest of a letter-of-credit issuer or nominated
985 person, Section 75-9-110 on a security interest arising under
986 Article 2 or 2A of Title 75, and Section 75-9-206 on security
987 interests in investment property.

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

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

993 (2) The person becomes generally obligated for the
994 obligations of the other person, including the obligation secured
995 under the security agreement, and acquires or succeeds to all or
996 substantially all of the assets of the other person.

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

999 (1) The agreement satisfies subsection (b)(3) with
1000 respect to existing or after-acquired property of the new debtor
1001 to the extent the property is described in the agreement; and

1002 (2) Another agreement is not necessary to make a
1003 security interest in the property enforceable.

1004 (f) The attachment of a security interest in collateral
1005 gives the secured party the rights to proceeds provided by Section
1006 75-9-315 and is also attachment of a security interest in a
1007 supporting obligation for the collateral.

1008 (g) The attachment of a security interest in a right to
1009 payment or performance secured by a security interest or other
1010 lien on personal or real property is also attachment of a security
1011 interest in the security interest, mortgage or other lien.

1012 (h) The attachment of a security interest in a securities
1013 account is also attachment of a security interest in the security
1014 entitlements carried in the securities account.

1015 (i) The attachment of a security interest in a commodity
1016 account is also attachment of a security interest in the commodity
1017 contracts carried in the commodity account.

1018 **SECTION 75-9-204. After-acquired property; future advances.**

1019 (a) Except as otherwise provided in subsection (b), a
1020 security agreement may create or provide for a security interest
1021 in after-acquired collateral.

1022 (b) A security interest does not attach under a term
1023 constituting an after-acquired property clause to:

1024 (1) Consumer goods, other than an accession when given
1025 as additional security, unless the debtor acquires rights in them
1026 within ten (10) days after the secured party gives value; or

1027 (2) A commercial tort claim.

1028 (c) A security agreement may provide that collateral
1029 secures, or that accounts, chattel paper, payment intangibles or
1030 promissory notes are sold in connection with, future advances or
1031 other value, whether or not the advances or value are given
1032 pursuant to commitment.

1033 **SECTION 75-9-205. Use or disposition of collateral**
1034 **permissible.**

1035 (a) A security interest is not invalid or fraudulent against
1036 creditors solely because:

1037 (1) The debtor has the right or ability to:

1038 (A) Use, commingle or dispose of all or part of
1039 the collateral, including returned or repossessed goods;

1040 (B) Collect, compromise, enforce or otherwise deal
1041 with collateral;

1042 (C) Accept the return of collateral or make
1043 repossessions; or

1044 (D) Use, commingle or dispose of proceeds; or

1045 (2) The secured party fails to require the debtor to
1046 account for proceeds or replace collateral.

1047 (b) This section does not relax the requirements of
1048 possession if attachment, perfection or enforcement of a security
1049 interest depends upon possession of the collateral by the secured
1050 party.

1051 **SECTION 75-9-206. Security interest arising in purchase or**
1052 **delivery of financial asset.**

1053 (a) A security interest in favor of a securities
1054 intermediary attaches to a person's security entitlement if:

1055 (1) The person buys a financial asset through the
1056 securities intermediary in a transaction in which the person is
1057 obligated to pay the purchase price to the securities intermediary
1058 at the time of the purchase; and

1059 (2) The securities intermediary credits the financial
1060 asset to the buyer's securities account before the buyer pays the
1061 securities intermediary.

1062 (b) The security interest described in subsection (a)
1063 secures the person's obligation to pay for the financial asset.

1064 (c) A security interest in favor of a person that delivers a
1065 certificated security or other financial asset represented by a
1066 writing attaches to the security or other financial asset if:

1067 (1) The security or other financial asset:

1068 (A) In the ordinary course of business is
1069 transferred by delivery with any necessary endorsement or
1070 assignment; and

1071 (B) Is delivered under an agreement between
1072 persons in the business of dealing with such securities or
1073 financial assets; and

1074 (2) The agreement calls for delivery against payment.

1075 (d) The security interest described in subsection (c)
1076 secures the obligation to make payment for the delivery.

1077 **SUBPART 2. RIGHTS AND DUTIES**

1078 **SECTION 75-9-207. Rights and duties of secured party having**
1079 **possession or control of collateral.**

1080 (a) Except as otherwise provided in subsection (d), a
1081 secured party shall use reasonable care in the custody and
1082 preservation of collateral in the secured party's possession. In
1083 the case of chattel paper or an instrument, reasonable care
1084 includes taking necessary steps to preserve rights against prior
1085 parties unless otherwise agreed.

1086 (b) Except as otherwise provided in subsection (d), if a
1087 secured party has possession of collateral:

1088 (1) Reasonable expenses, including the cost of
1089 insurance and payment of taxes or other charges, incurred in the
1090 custody, preservation, use or operation of the collateral are
1091 chargeable to the debtor and are secured by the collateral;

1092 (2) The risk of accidental loss or damage is on the
1093 debtor to the extent of a deficiency in any effective insurance
1094 coverage;

1095 (3) The secured party shall keep the collateral
1096 identifiable, but fungible collateral may be commingled; and

1097 (4) The secured party may use or operate the
1098 collateral:

1099 (A) For the purpose of preserving the collateral
1100 or its value;

1101 (B) As permitted by an order of a court having
1102 competent jurisdiction; or

1103 (C) Except in the case of consumer goods, in the
1104 manner and to the extent agreed by the debtor.

1105 (c) Except as otherwise provided in subsection (d), a
1106 secured party having possession of collateral or control of
1107 collateral under Section 75-9-104, 75-9-105, 75-9-106 or 75-9-107:

1108 (1) May hold as additional security any proceeds,
1109 except money or funds, received from the collateral;

1110 (2) Shall apply money or funds received from the
1111 collateral to reduce the secured obligation, unless remitted to
1112 the debtor; and

1113 (3) May create a security interest in the collateral.

1114 (d) If the secured party is a buyer of accounts, chattel
1115 paper, payment intangibles or promissory notes or a consignor:

1116 (1) Subsection (a) does not apply unless the secured
1117 party is entitled under an agreement:

1118 (A) To charge back uncollected collateral; or

1119 (B) Otherwise to full or limited recourse against
1120 the debtor or a secondary obligor based on the nonpayment or other
1121 default of an account debtor or other obligor on the collateral;
1122 and

1123 (2) Subsections (b) and (c) do not apply.

1124 **SECTION 75-9-208. Additional duties of secured party having**
1125 **control of collateral.**

1126 (a) This section applies to cases in which there is no
1127 outstanding secured obligation and the secured party is not
1128 committed to make advances, incur obligations or otherwise give
1129 value.

1130 (b) Within ten (10) days after receiving an authenticated
1131 demand by the debtor:

1132 (1) A secured party having control of a deposit account
1133 under Section 75-9-104(a)(2) shall send to the bank with which the
1134 deposit account is maintained an authenticated statement that
1135 releases the bank from any further obligation to comply with
1136 instructions originated by the secured party;

1137 (2) A secured party having control of a deposit account
1138 under Section 75-9-104(a)(3) shall:

1139 (A) Pay the debtor the balance on deposit in the
1140 deposit account; or

1141 (B) Transfer the balance on deposit into a deposit
1142 account in the debtor's name;

1143 (3) A secured party, other than a buyer, having control
1144 of electronic chattel paper under Section 75-9-105 shall:

1145 (A) Communicate the authoritative copy of the
1146 electronic chattel paper to the debtor or its designated
1147 custodian;

1148 (B) If the debtor designates a custodian that is
1149 the designated custodian with which the authoritative copy of the
1150 electronic chattel paper is maintained for the secured party,
1151 communicate to the custodian an authenticated record releasing the
1152 designated custodian from any further obligation to comply with
1153 instructions originated by the secured party and instructing the
1154 custodian to comply with instructions originated by the debtor;
1155 and

1156 (C) Take appropriate action to enable the debtor
1157 or its designated custodian to make copies of or revisions to the
1158 authoritative copy which add or change an identified assignee of
1159 the authoritative copy without the consent of the secured party;

1160 (4) A secured party having control of investment
1161 property under Section 75-8-106(d)(2) or 75-9-106(b) shall send to
1162 the securities intermediary or commodity intermediary with which
1163 the security entitlement or commodity contract is maintained an
1164 authenticated record that releases the securities intermediary or
1165 commodity intermediary from any further obligation to comply with
1166 entitlement orders or directions originated by the secured party;
1167 and

1168 (5) A secured party having control of a
1169 letter-of-credit right under Section 75-9-107 shall send to each
1170 person having an unfulfilled obligation to pay or deliver proceeds
1171 of the letter of credit to the secured party an authenticated
1172 release from any further obligation to pay or deliver proceeds of
1173 the letter of credit to the secured party.

1174 **SECTION 75-9-209. Duties of secured party if account debtor**
1175 **has been notified of assignment.**

1176 (a) Except as otherwise provided in subsection (c), this
1177 section applies if:

1178 (1) There is no outstanding secured obligation; and
1179 (2) The secured party is not committed to make
1180 advances, incur obligations or otherwise give value.

1181 (b) Within ten (10) days after receiving an authenticated
1182 demand by the debtor, a secured party shall send to an account
1183 debtor that has received notification of an assignment to the
1184 secured party as assignee under Section 75-9-406(a) an
1185 authenticated record that releases the account debtor from any
1186 further obligation to the secured party.

1187 (c) This section does not apply to an assignment
1188 constituting the sale of an account, chattel paper or payment
1189 intangible.

1190 **SECTION 75-9-210. Request for accounting; request regarding**
1191 **list of collateral or statement of account.**

1192 (a) In this section:

1193 (1) "Request" means a record of a type described in
1194 paragraph (2), (3) or (4).

1195 (2) "Request for an accounting" means a record
1196 authenticated by a debtor requesting that the recipient provide an
1197 accounting of the unpaid obligations secured by collateral and
1198 reasonably identifying the transaction or relationship that is the
1199 subject of the request.

1200 (3) "Request regarding a list of collateral" means a
1201 record authenticated by a debtor requesting that the recipient
1202 approve or correct a list of what the debtor believes to be the
1203 collateral securing an obligation and reasonably identifying the
1204 transaction or relationship that is the subject of the request.

1205 (4) "Request regarding a statement of account" means a
1206 record authenticated by a debtor requesting that the recipient
1207 approve or correct a statement indicating what the debtor believes
1208 to be the aggregate amount of unpaid obligations secured by
1209 collateral as of a specified date and reasonably identifying the
1210 transaction or relationship that is the subject of the request.

1211 (b) Subject to subsections (c), (d), (e) and (f), a secured
1212 party, other than a buyer of accounts, chattel paper, payment
1213 intangibles or promissory notes or a consignor, shall comply with
1214 a request within fourteen (14) days after receipt:

1215 (1) In the case of a request for an accounting, by
1216 authenticating and sending to the debtor an accounting; and

1217 (2) In the case of a request regarding a list of
1218 collateral or a request regarding a statement of account, by
1219 authenticating and sending to the debtor an approval or
1220 correction.

1221 (c) A secured party that claims a security interest in all
1222 of a particular type of collateral owned by the debtor may comply
1223 with a request regarding a list of collateral by sending to the
1224 debtor an authenticated record including a statement to that
1225 effect within fourteen (14) days after receipt.

1226 (d) A person that receives a request regarding a list of
1227 collateral, claims no interest in the collateral when it receives
1228 the request, and claimed an interest in the collateral at an
1229 earlier time shall comply with the request within fourteen (14)
1230 days after receipt by sending to the debtor an authenticated
1231 record:

1232 (1) Disclaiming any interest in the collateral; and

1233 (2) If known to the recipient, providing the name and
1234 mailing address of any assignee of or successor to the recipient's
1235 interest in the collateral.

1236 (e) A person that receives a request for an accounting or a
1237 request regarding a statement of account, claims no interest in
1238 the obligations when it receives the request, and claimed an
1239 interest in the obligations at an earlier time shall comply with
1240 the request within fourteen (14) days after receipt by sending to
1241 the debtor an authenticated record:

1242 (1) Disclaiming any interest in the obligations; and

1243 (2) If known to the recipient, providing the name and
1244 mailing address of any assignee of or successor to the recipient's
1245 interest in the obligations.

1246 (f) A debtor is entitled without charge to one (1) response
1247 to a request under this section during any six-month period. The
1248 secured party may require payment of a charge not exceeding
1249 Twenty-five Dollars (\$25.00) for each additional response.

1250 **PART 3**

1251 **PERFECTION AND PRIORITY**

1252 **SUBPART 1. LAW GOVERNING PERFECTION AND PRIORITY**

1253 **SECTION 75-9-301. Law governing perfection and priority of**

1254 **security interests.** Except as otherwise provided in Sections
1255 75-9-303 through 75-9-306, the following rules determine the law
1256 governing perfection, the effect of perfection or nonperfection,
1257 and the priority of a security interest in collateral:

1258 (1) Except as otherwise provided in this section, while
1259 a debtor is located in a jurisdiction, the local law of that
1260 jurisdiction governs perfection, the effect of perfection or
1261 nonperfection, and the priority of a security interest in
1262 collateral.

1263 (2) While collateral is located in a jurisdiction, the
1264 local law of that jurisdiction governs perfection, the effect of
1265 perfection or nonperfection, and the priority of a possessory
1266 security interest in that collateral.

1267 (3) Except as otherwise provided in paragraph (4),
1268 while negotiable documents, goods, instruments, money or tangible
1269 chattel paper is located in a jurisdiction, the local law of that
1270 jurisdiction governs:

1271 (A) Perfection of a security interest in the goods
1272 by filing a fixture filing;

1273 (B) Perfection of a security interest in timber to
1274 be cut; and

1275 (C) The effect of perfection or nonperfection and
1276 the priority of a nonpossessory security interest in the
1277 collateral.

1278 (4) The local law of the jurisdiction in which the
1279 wellhead or minehead is located governs perfection, the effect of
1280 perfection or nonperfection, and the priority of a security
1281 interest in as-extracted collateral.

1282 **SECTION 75-9-302. Law governing perfection and priority of**
1283 **agricultural liens.** While farm products are located in a
1284 jurisdiction, the local law of that jurisdiction governs
1285 perfection, the effect of perfection or nonperfection, and the
1286 priority of an agricultural lien on the farm products.

1287 **SECTION 75-9-303. Law governing perfection and priority of**
1288 **security interests in goods covered by a certificate of title.**

1289 (a) This section applies to goods covered by a certificate
1290 of title, even if there is no other relationship between the
1291 jurisdiction under whose certificate of title the goods are
1292 covered and the goods or the debtor.

1293 (b) Goods become covered by a certificate of title when a
1294 valid application for the certificate of title and the applicable
1295 fee are delivered to the appropriate authority. Goods cease to be
1296 covered by a certificate of title at the earlier of the time the
1297 certificate of title ceases to be effective under the law of the
1298 issuing jurisdiction or the time the goods become covered
1299 subsequently by a certificate of title issued by another
1300 jurisdiction.

1301 (c) The local law of the jurisdiction under whose
1302 certificate of title the goods are covered governs perfection, the
1303 effect of perfection or nonperfection, and the priority of a
1304 security interest in goods covered by a certificate of title from
1305 the time the goods become covered by the certificate of title
1306 until the goods cease to be covered by the certificate of title.

1307 **SECTION 75-9-304. Law governing perfection and priority of**
1308 **security interests in deposit accounts.**

1309 (a) The local law of a bank's jurisdiction governs
1310 perfection, the effect of perfection or nonperfection, and the
1311 priority of a security interest in a deposit account maintained
1312 with that bank.

1313 (b) The following rules determine a bank's jurisdiction for
1314 purposes of this part:

1315 (1) If an agreement between the bank and the debtor
1316 governing the deposit account expressly provides that a particular
1317 jurisdiction is the bank's jurisdiction for purposes of this part,
1318 this article, or the Uniform Commercial Code, that jurisdiction is
1319 the bank's jurisdiction.

1320 (2) If paragraph (1) does not apply and an agreement
1321 between the bank and its customer governing the deposit account
1322 expressly provides that the agreement is governed by the law of a
1323 particular jurisdiction, that jurisdiction is the bank's
1324 jurisdiction.

1325 (3) If neither paragraph (1) nor paragraph (2) applies
1326 and an agreement between the bank and its customer governing the
1327 deposit account expressly provides that the deposit account is
1328 maintained at an office in a particular jurisdiction, that
1329 jurisdiction is the bank's jurisdiction.

1330 (4) If none of the preceding paragraphs applies, the
1331 bank's jurisdiction is the jurisdiction in which the office
1332 identified in an account statement as the office serving the
1333 customer's account is located.

1334 (5) If none of the preceding paragraphs applies, the
1335 bank's jurisdiction is the jurisdiction in which the chief
1336 executive office of the bank is located.

1337 **SECTION 75-9-305. Law governing perfection and priority of**
1338 **security interests in investment property.**

1339 (a) Except as otherwise provided in subsection (c), the
1340 following rules apply:

1341 (1) While a security certificate is located in a
1342 jurisdiction, the local law of that jurisdiction governs
1343 perfection, the effect of perfection or nonperfection, and the
1344 priority of a security interest in the certificated security
1345 represented thereby.

1346 (2) The local law of the issuer's jurisdiction as
1347 specified in Section 75-8-110(d) governs perfection, the effect of
1348 perfection or nonperfection, and the priority of a security
1349 interest in an uncertificated security.

1350 (3) The local law of the securities intermediary's
1351 jurisdiction as specified in Section 75-8-110(e) governs
1352 perfection, the effect of perfection or nonperfection, and the
1353 priority of a security interest in a security entitlement or
1354 securities account.

1355 (4) The local law of the commodity intermediary's
1356 jurisdiction governs perfection, the effect of perfection or
1357 nonperfection, and the priority of a security interest in a
1358 commodity contract or commodity account.

1359 (b) The following rules determine a commodity intermediary's
1360 jurisdiction for purposes of this part:

1361 (1) If an agreement between the commodity intermediary
1362 and commodity customer governing the commodity account expressly
1363 provides that a particular jurisdiction is the commodity
1364 intermediary's jurisdiction for purposes of this part, this
1365 article, or the Uniform Commercial Code, that jurisdiction is the
1366 commodity intermediary's jurisdiction.

1367 (2) If paragraph (1) does not apply and an agreement
1368 between the commodity intermediary and commodity customer
1369 governing the commodity account expressly provides that the
1370 agreement is governed by the law of a particular jurisdiction,
1371 that jurisdiction is the commodity intermediary's jurisdiction.

1372 (3) If neither paragraph (1) nor paragraph (2) applies
1373 and an agreement between the commodity intermediary and commodity
1374 customer governing the commodity account expressly provides that
1375 the commodity account is maintained at an office in a particular
1376 jurisdiction, that jurisdiction is the commodity intermediary's
1377 jurisdiction.

1378 (4) If none of the preceding paragraphs applies, the
1379 commodity intermediary's jurisdiction is the jurisdiction in which
1380 the office identified in an account statement as the office
1381 serving the commodity customer's account is located.

1382 (5) If none of the preceding paragraphs applies, the
1383 commodity intermediary's jurisdiction is the jurisdiction in which
1384 the chief executive office of the commodity intermediary is
1385 located.

1386 (c) The local law of the jurisdiction in which the debtor is
1387 located governs:

1388 (1) Perfection of a security interest in investment
1389 property by filing;

1390 (2) Automatic perfection of a security interest in
1391 investment property created by a broker or securities
1392 intermediary; and

1393 (3) Automatic perfection of a security interest in a
1394 commodity contract or commodity account created by a commodity
1395 intermediary.

1396 **SECTION 75-9-306. Law governing perfection and priority of**
1397 **security interests in letter-of-credit rights.**

1398 (a) Subject to subsection (c), the local law of the issuer's
1399 jurisdiction or a nominated person's jurisdiction governs
1400 perfection, the effect of perfection or nonperfection, and the
1401 priority of a security interest in a letter-of-credit right if the
1402 issuer's jurisdiction or nominated person's jurisdiction is a
1403 state.

1404 (b) For purposes of this part, an issuer's jurisdiction or
1405 nominated person's jurisdiction is the jurisdiction whose law
1406 governs the liability of the issuer or nominated person with
1407 respect to the letter-of-credit right as provided in Section
1408 75-5-116.

1409 (c) This section does not apply to a security interest that
1410 is perfected only under Section 75-9-308(d).

1411 **SECTION 75-9-307. Location of debtor.**

1412 (a) In this section, "place of business" means a place where
1413 a debtor conducts its affairs.

1414 (b) Except as otherwise provided in this section, the
1415 following rules determine a debtor's location:

1416 (1) A debtor who is an individual is located at the
1417 individual's principal residence.

1418 (2) A debtor that is an organization and has only one
1419 (1) place of business is located at its place of business.

1420 (3) A debtor that is an organization and has more than
1421 one (1) place of business is located at its chief executive
1422 office.

1423 (c) Subsection (b) applies only if a debtor's residence,
1424 place of business, or chief executive office, as applicable, is
1425 located in a jurisdiction whose law generally requires information
1426 concerning the existence of a nonpossessory security interest to
1427 be made generally available in a filing, recording or registration
1428 system as a condition or result of the security interest's
1429 obtaining priority over the rights of a lien creditor with respect
1430 to the collateral. If subsection (b) does not apply, the debtor
1431 is located in the District of Columbia.

1432 (d) A person that ceases to exist, has a residence, or has a
1433 place of business continues to be located in the jurisdiction
1434 specified by subsections (b) and (c).

1435 (e) A registered organization that is organized under the
1436 law of a state is located in that state.

1437 (f) Except as otherwise provided in subsection (i), a
1438 registered organization that is organized under the law of the
1439 United States and a branch or agency of a bank that is not
1440 organized under the law of the United States or a state are
1441 located:

1442 (1) In the state that the law of the United States
1443 designates, if the law designates a state of location;

1444 (2) In the state that the registered organization,
1445 branch or agency designates, if the law of the United States
1446 authorizes the registered organization, branch or agency to
1447 designate its state of location; or

1448 (3) In the District of Columbia, if neither paragraph
1449 (1) nor paragraph (2) applies.

1450 (g) A registered organization continues to be located in the
1451 jurisdiction specified by subsection (e) or (f) notwithstanding:

1452 (1) The suspension, revocation, forfeiture or lapse of
1453 the registered organization's status as such in its jurisdiction
1454 of organization; or

1455 (2) The dissolution, winding up or cancellation of the
1456 existence of the registered organization.

1457 (h) The United States is located in the District of
1458 Columbia.

1459 (i) A branch or agency of a bank that is not organized under
1460 the law of the United States or a state is located in the state in
1461 which the branch or agency is licensed, if all branches and
1462 agencies of the bank are licensed in only one (1) state.

1463 (j) A foreign air carrier under the Federal Aviation Act of
1464 1958, as amended, is located at the designated office of the agent
1465 upon which service of process may be made on behalf of the
1466 carrier.

1467 (k) This section applies only for purposes of this part.

1468 SUBPART 2. PERFECTION

1469 **SECTION 75-9-308. When security interest or agricultural**
1470 **lien is perfected; continuity of perfection.**

1471 (a) Except as otherwise provided in this section and Section
1472 75-9-309, a security interest is perfected if it has attached and
1473 all of the applicable requirements for perfection in Sections
1474 75-9-310 through 75-9-316 have been satisfied. A security
1475 interest is perfected when it attaches if the applicable
1476 requirements are satisfied before the security interest attaches.

1477 (b) An agricultural lien is perfected if it has become
1478 effective and all of the applicable requirements for perfection in
1479 Section 75-9-310 have been satisfied. An agricultural lien is
1480 perfected when it becomes effective if the applicable requirements
1481 are satisfied before the agricultural lien becomes effective.

1482 (c) A security interest or agricultural lien is perfected
1483 continuously if it is originally perfected by one method under
1484 this article and is later perfected by another method under this
1485 article, without an intermediate period when it was unperfected.

1486 (d) Perfection of a security interest in collateral also
1487 perfects a security interest in a supporting obligation for the
1488 collateral.

1489 (e) Perfection of a security interest in a right to payment
1490 or performance also perfects a security interest in a security
1491 interest, mortgage or other lien on personal or real property
1492 securing the right.

1493 (f) Perfection of a security interest in a securities
1494 account also perfects a security interest in the security
1495 entitlements carried in the securities account.

1496 (g) Perfection of a security interest in a commodity account
1497 also perfects a security interest in the commodity contracts
1498 carried in the commodity account.

1499 **SECTION 75-9-309. Security interest perfected upon**
1500 **attachment.** The following security interests are perfected when
1501 they attach:

1502 (1) A purchase-money security interest in consumer
1503 goods, except as otherwise provided in Section 75-9-311(b) with
1504 respect to consumer goods that are subject to a statute or treaty
1505 described in Section 75-9-311(a);

1506 (2) An assignment of accounts or payment intangibles
1507 which does not by itself or in conjunction with other assignments
1508 to the same assignee transfer a significant part of the assignor's
1509 outstanding accounts or payment intangibles;

1510 (3) A sale of a payment intangible;

1511 (4) A sale of a promissory note;

1512 (5) A security interest created by the assignment of a
1513 health-care-insurance receivable to the provider of the
1514 health-care goods or services;

1515 (6) A security interest arising under Section 75-2-401,
1516 75-2-505, 75-2-711(3) or 75-2A-508(5), until the debtor obtains
1517 possession of the collateral;

1518 (7) A security interest of a collecting bank arising
1519 under Section 75-4-210;

1520 (8) A security interest of an issuer or nominated
1521 person arising under Section 75-5-118;

1522 (9) A security interest arising in the delivery of a
1523 financial asset under Section 75-9-206(c);

1524 (10) A security interest in investment property created
1525 by a broker or securities intermediary;

1526 (11) A security interest in a commodity contract or a
1527 commodity account created by a commodity intermediary;

1528 (12) An assignment for the benefit of all creditors of
1529 the transferor and subsequent transfers by the assignee
1530 thereunder; and

1531 (13) A security interest created by an assignment of a
1532 beneficial interest in a decedent's estate.

1533 **SECTION 75-9-310. When filing required to perfect security**
1534 **interest or agricultural lien; security interests and agricultural**
1535 **liens to which filing provisions do not apply.**

1536 (a) Except as otherwise provided in subsection (b) and
1537 Section 75-9-312(b), a financing statement must be filed to
1538 perfect all security interests and agricultural liens.

1539 (b) The filing of a financing statement is not necessary to
1540 perfect a security interest:

1541 (1) That is perfected under Section 75-9-308(d), (e),
1542 (f) or (g);

1543 (2) That is perfected under Section 75-9-309 when it
1544 attaches;

1545 (3) In property subject to a statute, regulation or
1546 treaty described in Section 75-9-311(a);

1547 (4) In goods in possession of a bailee which is
1548 perfected under Section 75-9-312(d)(1) or (2);

1549 (5) In certificated securities, documents, goods or
1550 instruments which is perfected without filing or possession under
1551 Section 75-9-312(e), (f) or (g);

1552 (6) In collateral in the secured party's possession
1553 under Section 75-9-313;

1554 (7) In a certificated security which is perfected by
1555 delivery of the security certificate to the secured party under
1556 Section 75-9-313;

1557 (8) In deposit accounts, electronic chattel paper,
1558 investment property or letter-of-credit rights which is perfected
1559 by control under Section 75-9-314;

1560 (9) In proceeds which is perfected under Section
1561 75-9-315; or

1562 (10) That is perfected under Section 75-9-316.

1563 (c) If a secured party assigns a perfected security interest
1564 or agricultural lien, a filing under this article is not required

1565 to continue the perfected status of the security interest against
1566 creditors of and transferees from the original debtor.

1567 **SECTION 75-9-311. Perfection of security interests in**
1568 **property subject to certain statutes, regulations and treaties.**

1569 (a) Except as otherwise provided in subsection (d), the
1570 filing of a financing statement is not necessary or effective to
1571 perfect a security interest in property subject to:

1572 (1) A statute, regulation or treaty of the United
1573 States whose requirements for a security interest's obtaining
1574 priority over the rights of a lien creditor with respect to the
1575 property preempt Section 75-9-310(a);

1576 (2) Sections 63-21-1 through 63-21-77 (the Mississippi
1577 Motor Vehicle and Manufactured Housing Title Law); or

1578 (3) A certificate-of-title statute of another
1579 jurisdiction which provides for a security interest to be
1580 indicated on the certificate as a condition or result of the
1581 security interest's obtaining priority over the rights of a lien
1582 creditor with respect to the property.

1583 (b) Compliance with the requirements of a statute,
1584 regulation or treaty described in subsection (a) for obtaining
1585 priority over the rights of a lien creditor is equivalent to the
1586 filing of a financing statement under this article. Except as
1587 otherwise provided in subsection (d) and Sections 75-9-313 and
1588 75-9-316(d) and (e) for goods covered by a certificate of title, a
1589 security interest in property subject to a statute, regulation or
1590 treaty described in subsection (a) may be perfected only by
1591 compliance with those requirements, and a security interest so
1592 perfected remains perfected notwithstanding a change in the use or
1593 transfer of possession of the collateral.

1594 (c) Except as otherwise provided in subsection (d) and
1595 Section 75-9-316(d) and (e), duration and renewal of perfection of
1596 a security interest perfected by compliance with the requirements
1597 prescribed by a statute, regulation or treaty described in

1598 subsection (a) are governed by the statute, regulation or treaty.
1599 In other respects, the security interest is subject to this
1600 article.

1601 (d) During any period in which collateral subject to a
1602 statute specified in subsection (a)(2) is inventory held for sale
1603 or lease by a person or leased by that person as lessor and that
1604 person is in the business of selling goods of that kind, this
1605 section does not apply to a security interest in that collateral
1606 created by that person.

1607 **SECTION 75-9-312. Perfection of security interests in**
1608 **chattel paper, deposit accounts, documents, goods covered by**
1609 **documents, instruments, investment property, letter-of-credit**
1610 **rights and money; perfection by permissive filing; temporary**
1611 **perfection without filing or transfer of possession.**

1612 (a) A security interest in chattel paper, negotiable
1613 documents, instruments or investment property may be perfected by
1614 filing.

1615 (b) Except as otherwise provided in Section 75-9-315(c) and
1616 (d) for proceeds:

1617 (1) A security interest in a deposit account may be
1618 perfected only by control under Section 75-9-314;

1619 (2) And except as otherwise provided in Section
1620 75-9-308(d), a security interest in a letter-of-credit right may
1621 be perfected only by control under Section 75-9-314; and

1622 (3) A security interest in money may be perfected only
1623 by the secured party's taking possession under Section 75-9-313.

1624 (c) While goods are in the possession of a bailee that has
1625 issued a negotiable document covering the goods:

1626 (1) A security interest in the goods may be perfected
1627 by perfecting a security interest in the document; and

1628 (2) A security interest perfected in the document has
1629 priority over any security interest that becomes perfected in the
1630 goods by another method during that time.

1631 (d) While goods are in the possession of a bailee that has
1632 issued a nonnegotiable document covering the goods, a security
1633 interest in the goods may be perfected by:

1634 (1) Issuance of a document in the name of the secured
1635 party;

1636 (2) The bailee's receipt of notification of the secured
1637 party's interest; or

1638 (3) Filing as to the goods.

1639 (e) A security interest in certificated securities,
1640 negotiable documents or instruments is perfected without filing or
1641 the taking of possession for a period of twenty (20) days from the
1642 time it attaches to the extent that it arises for new value given
1643 under an authenticated security agreement.

1644 (f) A perfected security interest in a negotiable document
1645 or goods in possession of a bailee, other than one that has issued
1646 a negotiable document for the goods, remains perfected for twenty
1647 (20) days without filing if the secured party makes available to
1648 the debtor the goods or documents representing the goods for the
1649 purpose of:

1650 (1) Ultimate sale or exchange; or

1651 (2) Loading, unloading, storing, shipping,
1652 transshipping, manufacturing, processing or otherwise dealing with
1653 them in a manner preliminary to the sale or exchange.

1654 (g) A perfected security interest in a certificated security
1655 or instrument remains perfected for twenty (20) days without
1656 filing if the secured party delivers the security certificate or
1657 instrument to the debtor for the purpose of:

1658 (1) Ultimate sale or exchange; or

1659 (2) Presentation, collection, enforcement, renewal or
1660 registration of transfer.

1661 (h) After the twenty-day period specified in subsection (e),
1662 (f) or (g) expires, perfection depends upon compliance with this
1663 article.

1664 **SECTION 75-9-313. When possession by or delivery to secured**
1665 **party perfects security interest without filing.**

1666 (a) Except as otherwise provided in subsection (b), a
1667 secured party may perfect a security interest in negotiable
1668 documents, goods, instruments, money or tangible chattel paper by
1669 taking possession of the collateral. A secured party may perfect
1670 a security interest in certificated securities by taking delivery
1671 of the certificated securities under Section 75-8-301.

1672 (b) With respect to goods covered by a certificate of title
1673 issued by this state, a secured party may perfect a security
1674 interest in the goods by taking possession of the goods only in
1675 the circumstances described in Section 75-9-316(d).

1676 (c) With respect to collateral other than certificated
1677 securities and goods covered by a document, a secured party takes
1678 possession of collateral in the possession of a person other than
1679 the debtor, the secured party, or a lessee of the collateral from
1680 the debtor in the ordinary course of the debtor's business, when:

1681 (1) The person in possession authenticates a record
1682 acknowledging that it holds possession of the collateral for the
1683 secured party's benefit; or

1684 (2) The person takes possession of the collateral after
1685 having authenticated a record acknowledging that it will hold
1686 possession of collateral for the secured party's benefit.

1687 (d) If perfection of a security interest depends upon
1688 possession of the collateral by a secured party, perfection occurs
1689 no earlier than the time the secured party takes possession and
1690 continues only while the secured party retains possession.

1691 (e) A security interest in a certificated security in
1692 registered form is perfected by delivery when delivery of the
1693 certificated security occurs under Section 75-8-301 and remains
1694 perfected by delivery until the debtor obtains possession of the
1695 security certificate.

1696 (f) A person in possession of collateral is not required to
1697 acknowledge that it holds possession for a secured party's
1698 benefit.

1699 (g) If a person acknowledges that it holds possession for
1700 the secured party's benefit:

1701 (1) The acknowledgment is effective under subsection
1702 (c) or Section 75-8-301(a), even if the acknowledgment violates
1703 the rights of a debtor; and

1704 (2) Unless the person otherwise agrees or law other
1705 than this article otherwise provides, the person does not owe any
1706 duty to the secured party and is not required to confirm the
1707 acknowledgment to another person.

1708 (h) A secured party having possession of collateral does not
1709 relinquish possession by delivering the collateral to a person
1710 other than the debtor or a lessee of the collateral from the
1711 debtor in the ordinary course of the debtor's business if the
1712 person was instructed before the delivery or is instructed
1713 contemporaneously with the delivery:

1714 (1) To hold possession of the collateral for the
1715 secured party's benefit; or

1716 (2) A secured party does not relinquish possession,
1717 even if a delivery under subsection (h) violates the rights of a
1718 debtor. A person to which collateral is delivered under
1719 subsection (h) does not owe any duty to the secured party and is
1720 not required to confirm the delivery to another person unless the
1721 person otherwise agrees or law other than this article otherwise
1722 provides.

1723 **SECTION 75-9-314. Perfection by control.**

1724 (a) A security interest in investment property, deposit
1725 accounts, letter-of-credit rights, or electronic chattel paper may
1726 be perfected by control of the collateral under Section 75-9-104,
1727 75-9-105, 75-9-106 or 75-9-107.

1728 (b) A security interest in deposit accounts, electronic
1729 chattel paper or letter-of-credit rights is perfected by control
1730 under Section 75-9-104, 75-9-105 or 75-9-107 when the secured
1731 party obtains control and remains perfected by control only while
1732 the secured party retains control.

1733 (c) A security interest in investment property is perfected
1734 by control under Section 75-9-106 from the time the secured party
1735 obtains control and remains perfected by control until:

1736 (1) The secured party does not have control; and

1737 (2) One (1) of the following occurs:

1738 (A) If the collateral is a certificated security,
1739 the debtor has or acquires possession of the security certificate;

1740 (B) If the collateral is an uncertificated
1741 security, the issuer has registered or registers the debtor as the
1742 registered owner; or

1743 (C) If the collateral is a security entitlement,
1744 the debtor is or becomes the entitlement holder.

1745 **SECTION 75-9-315. Secured party's rights on disposition of**
1746 **collateral and in proceeds.**

1747 (a) Except as otherwise provided in this article and in
1748 Section 75-2-403(2):

1749 (1) A security interest or agricultural lien continues
1750 in collateral notwithstanding sale, lease, license, exchange or
1751 other disposition thereof unless the secured party authorized the
1752 disposition free of the security interest or agricultural lien;
1753 and

1754 (2) A security interest attaches to any identifiable
1755 proceeds of collateral.

1756 (b) Proceeds that are commingled with other property are
1757 identifiable proceeds:

1758 (1) If the proceeds are goods, to the extent provided
1759 by Section 75-9-336; and

1760 (2) If the proceeds are not goods, to the extent that
1761 the secured party identifies the proceeds by a method of tracing,
1762 including application of equitable principles, that is permitted
1763 under law other than this article with respect to commingled
1764 property of the type involved.

1765 (c) A security interest in proceeds is a perfected security
1766 interest if the security interest in the original collateral was
1767 perfected.

1768 (d) A perfected security interest in proceeds becomes
1769 unperfected on the twenty-first day after the security interest
1770 attaches to the proceeds unless:

1771 (1) The following conditions are satisfied:

1772 (A) A filed financing statement covers the
1773 original collateral;

1774 (B) The proceeds are collateral in which a
1775 security interest may be perfected by filing in the office in
1776 which the financing statement has been filed; and

1777 (C) The proceeds are not acquired with cash
1778 proceeds;

1779 (2) The proceeds are identifiable cash proceeds; or

1780 (3) The security interest in the proceeds is perfected
1781 other than under subsection (c) when the security interest
1782 attaches to the proceeds or within twenty (20) days thereafter.

1783 (e) If a filed financing statement covers the original
1784 collateral, a security interest in proceeds which remains
1785 perfected under subsection (d)(1) becomes unperfected at the later
1786 of:

1787 (1) When the effectiveness of the filed financing
1788 statement lapses under Section 75-9-515 or is terminated under
1789 Section 75-9-513; or

1790 (2) The twenty-first day after the security interest
1791 attaches to the proceeds.

1792 **SECTION 75-9-316. Continued perfection of security interest**
1793 **following change in governing law.**

1794 (a) A security interest perfected pursuant to the law of the
1795 jurisdiction designated in Section 75-9-301(1) or 75-9-305(c)
1796 remains perfected until the earliest of:

1797 (1) The time perfection would have ceased under the law
1798 of that jurisdiction;

1799 (2) The expiration of four (4) months after a change of
1800 the debtor's location to another jurisdiction; or

1801 (3) The expiration of one (1) year after a transfer of
1802 collateral to a person that thereby becomes a debtor and is
1803 located in another jurisdiction.

1804 (b) If a security interest described in subsection (a)
1805 becomes perfected under the law of the other jurisdiction before
1806 the earliest time or event described in that subsection, it
1807 remains perfected thereafter. If the security interest does not
1808 become perfected under the law of the other jurisdiction before
1809 the earliest time or event, it becomes unperfected and is deemed
1810 never to have been perfected as against a purchaser of the
1811 collateral for value.

1812 (c) A possessory security interest in collateral, other than
1813 goods covered by a certificate of title and as-extracted
1814 collateral consisting of goods, remains continuously perfected if:

1815 (1) The collateral is located in one (1) jurisdiction
1816 and subject to a security interest perfected under the law of that
1817 jurisdiction;

1818 (2) Thereafter the collateral is brought into another
1819 jurisdiction; and

1820 (3) Upon entry into the other jurisdiction, the
1821 security interest is perfected under the law of the other
1822 jurisdiction.

1823 (d) Except as otherwise provided in subsection (e), a
1824 security interest in goods covered by a certificate of title which

1825 is perfected by any method under the law of another jurisdiction
1826 when the goods become covered by a certificate of title from this
1827 state remains perfected until the security interest would have
1828 become unperfected under the law of the other jurisdiction had the
1829 goods not become so covered.

1830 (e) A security interest described in subsection (d) becomes
1831 unperfected as against a purchaser of the goods for value and is
1832 deemed never to have been perfected as against a purchaser of the
1833 goods for value if the applicable requirements for perfection
1834 under Section 75-9-311(b) or 75-9-313 are not satisfied before the
1835 earlier of:

1836 (1) The time the security interest would have become
1837 unperfected under the law of the other jurisdiction had the goods
1838 not become covered by a certificate of title from this state; or

1839 (2) The expiration of four (4) months after the goods
1840 had become so covered.

1841 (f) A security interest in deposit accounts,
1842 letter-of-credit rights, or investment property which is perfected
1843 under the law of the bank's jurisdiction, the issuer's
1844 jurisdiction, a nominated person's jurisdiction, the securities
1845 intermediary's jurisdiction, or the commodity intermediary's
1846 jurisdiction, as applicable, remains perfected until the earlier
1847 of:

1848 (1) The time the security interest would have become
1849 unperfected under the law of that jurisdiction; or

1850 (2) The expiration of four (4) months after a change of
1851 the applicable jurisdiction to another jurisdiction.

1852 (g) If a security interest described in subsection (f)
1853 becomes perfected under the law of the other jurisdiction before
1854 the earlier of the time or the end of the period described in that
1855 subsection, it remains perfected thereafter. If the security
1856 interest does not become perfected under the law of the other
1857 jurisdiction before the earlier of that time or the end of that

1858 period, it becomes unperfected and is deemed never to have been
1859 perfected as against a purchaser of the collateral for value.

1860 SUBPART 3. PRIORITY

1861 SECTION 75-9-317. Interests that take priority over or take
1862 free of security interest or agricultural lien.

1863 (a) A security interest or agricultural lien is subordinate
1864 to the rights of:

1865 (1) A person entitled to priority under Section
1866 75-9-322; and

1867 (2) Except as otherwise provided in subsection (e), a
1868 person that becomes a lien creditor before the earlier of the
1869 time:

1870 (A) The security interest or agricultural lien is
1871 perfected; or

1872 (B) One (1) of the conditions specified in Section
1873 75-9-203(b)(3) is met and a financing statement covering the
1874 collateral is filed.

1875 (b) Except as otherwise provided in subsection (e), a buyer,
1876 other than a secured party, of tangible chattel paper, documents,
1877 goods, instruments or a security certificate takes free of a
1878 security interest or agricultural lien if the buyer gives value
1879 and receives delivery of the collateral without knowledge of the
1880 security interest or agricultural lien and before it is perfected.

1881 (c) Except as otherwise provided in subsection (e), a lessee
1882 of goods takes free of a security interest or agricultural lien if
1883 the lessee gives value and receives delivery of the collateral
1884 without knowledge of the security interest or agricultural lien
1885 and before it is perfected.

1886 (d) A licensee of a general intangible or a buyer, other
1887 than a secured party, of accounts, electronic chattel paper,
1888 general intangibles or investment property other than a
1889 certificated security takes free of a security interest if the

1890 licensee or buyer gives value without knowledge of the security
1891 interest and before it is perfected.

1892 (e) Except as otherwise provided in Sections 75-9-320 and
1893 75-9-321, if a person files a financing statement with respect to
1894 a purchase-money security interest before or within twenty (20)
1895 days after the debtor receives delivery of the collateral, the
1896 security interest takes priority over the rights of a buyer,
1897 lessee or lien creditor which arise between the time the security
1898 interest attaches and the time of filing.

1899 **SECTION 75-9-318. No interest retained in right to payment**
1900 **that is sold; rights and title of seller of account or chattel**
1901 **paper with respect to creditors and purchasers.**

1902 (a) A debtor that has sold an account, chattel paper,
1903 payment intangible or promissory note does not retain a legal or
1904 equitable interest in the collateral sold.

1905 (b) For purposes of determining the rights of creditors of,
1906 and purchasers for value of an account or chattel paper from, a
1907 debtor that has sold an account or chattel paper, while the
1908 buyer's security interest is unperfected, the debtor is deemed to
1909 have rights and title to the account or chattel paper identical to
1910 those the debtor sold.

1911 **SECTION 75-9-319. Rights and title of consignee with respect**
1912 **to creditors and purchasers.**

1913 (a) Except as otherwise provided in subsection (b), for
1914 purposes of determining the rights of creditors of, and purchasers
1915 for value of goods from, a consignee, while the goods are in the
1916 possession of the consignee, the consignee is deemed to have
1917 rights and title to the goods identical to those the consignor had
1918 or had power to transfer.

1919 (b) For purposes of determining the rights of a creditor of
1920 a consignee, law other than this article determines the rights and
1921 title of a consignee while goods are in the consignee's possession

1922 if, under this part, a perfected security interest held by the
1923 consignor would have priority over the rights of the creditor.

1924 **SECTION 75-9-320. Buyer of goods.**

1925 (a) Except as otherwise provided in subsection (e), a buyer
1926 in ordinary course of business, other than a person buying farm
1927 products from a person engaged in farming operations, takes free
1928 of a security interest created by the buyer's seller, even if the
1929 security interest is perfected and the buyer knows of its
1930 existence.

1931 (b) Except as otherwise provided in subsection (e), a buyer
1932 of goods from a person who used or bought the goods for use
1933 primarily for personal, family or household purposes takes free of
1934 a security interest, even if perfected, if the buyer buys:

1935 (1) Without knowledge of the security interest;

1936 (2) For value;

1937 (3) Primarily for the buyer's personal, family or
1938 household purposes; and

1939 (4) Before the filing of a financing statement covering
1940 the goods.

1941 (c) To the extent that it affects the priority of a security
1942 interest over a buyer of goods under subsection (b), the period of
1943 effectiveness of a filing made in the jurisdiction in which the
1944 seller is located is governed by Section 75-9-316(a) and (b).

1945 (d) A buyer in ordinary course of business buying oil, gas
1946 or other minerals at the wellhead or minehead or after extraction
1947 takes free of an interest arising out of an encumbrance.

1948 (e) Subsections (a) and (b) do not affect a security
1949 interest in goods in the possession of the secured party under
1950 Section 75-9-313.

1951 (f) Notwithstanding subsection (a), a secured party may not
1952 enforce a security interest in farm products against a buyer,
1953 commission merchant or selling agent who purchases or sells farm
1954 products in the ordinary course of business from or for a person

1955 engaged in farming operations unless the secured party has
1956 complied with the regulations issued by the Secretary of state
1957 under subsection (g) or unless the buyer, commission merchant or
1958 selling agent has received from the secured party or seller
1959 written notice of the security interest which complies with the
1960 requirements of Section 1324 of the Food Security Act of 1985, as
1961 now enacted or as hereafter may be amended.

1962 (g) The Secretary of State shall issue regulations
1963 implementing a central filing system relating to farm products
1964 which conforms with the requirements of Section 1324 of the Food
1965 Security Act of 1985, as now enacted or as hereafter may be
1966 amended. The Secretary of State is authorized to set reasonable
1967 fees to defray the costs of the central filing system established
1968 pursuant to this section. At least thirty (30) days prior to the
1969 promulgation of such regulations or any amendments thereto, the
1970 Secretary of State shall give notice of such regulations and/or
1971 amendments to all licensed attorneys in the State of Mississippi.

1972 **SECTION 75-9-321. Licensee of general intangible and lessee**
1973 **of goods in ordinary course of business.**

1974 (a) In this section, "licensee in ordinary course of
1975 business" means a person that becomes a licensee of a general
1976 intangible in good faith, without knowledge that the license
1977 violates the rights of another person in the general intangible,
1978 and in the ordinary course from a person in the business of
1979 licensing general intangibles of that kind. A person becomes a
1980 licensee in the ordinary course if the license to the person
1981 comports with the usual or customary practices in the kind of
1982 business in which the licensor is engaged or with the licensor's
1983 own usual or customary practices.

1984 (b) A licensee in ordinary course of business takes its
1985 rights under a nonexclusive license free of a security interest in
1986 the general intangible created by the licensor, even if the

1987 security interest is perfected and the licensee knows of its
1988 existence.

1989 (c) A lessee in ordinary course of business takes its
1990 leasehold interest free of a security interest in the goods
1991 created by the lessor, even if the security interest is perfected
1992 and the lessee knows of its existence.

1993 **SECTION 75-9-322. Priorities among conflicting security**
1994 **interests in and agricultural liens on same collateral.**

1995 (a) Except as otherwise provided in this section, priority
1996 among conflicting security interests and agricultural liens in the
1997 same collateral is determined according to the following rules:

1998 (1) Conflicting perfected security interests and
1999 agricultural liens rank according to priority in time of filing or
2000 perfection. Priority dates from the earlier of the time a filing
2001 covering the collateral is first made or the security interest or
2002 agricultural lien is first perfected, if there is no period
2003 thereafter when there is neither filing nor perfection.

2004 (2) A perfected security interest or agricultural lien
2005 has priority over a conflicting unperfected security interest or
2006 agricultural lien.

2007 (3) The first security interest or agricultural lien to
2008 attach or become effective has priority if conflicting security
2009 interests and agricultural liens are unperfected.

2010 (b) For the purposes of subsection (a)(1):

2011 (1) The time of filing or perfection as to a security
2012 interest in collateral is also the time of filing or perfection as
2013 to a security interest in proceeds; and

2014 (2) The time of filing or perfection as to a security
2015 interest in collateral supported by a supporting obligation is
2016 also the time of filing or perfection as to a security interest in
2017 the supporting obligation.

2018 (c) Except as otherwise provided in subsection (f), a
2019 security interest in collateral which qualifies for priority over

2020 a conflicting security interest under Section 75-9-327, 75-9-328,
2021 75-9-329, 75-9-330 or 75-9-331 also has priority over a
2022 conflicting security interest in:

2023 (1) Any supporting obligation for the collateral; and

2024 (2) Proceeds of the collateral if:

2025 (A) The security interest in proceeds is
2026 perfected;

2027 (B) The proceeds are cash proceeds or of the same
2028 type as the collateral; and

2029 (C) In the case of proceeds that are proceeds of
2030 proceeds, all intervening proceeds are cash proceeds, proceeds of
2031 the same type as the collateral, or an account relating to the
2032 collateral.

2033 (d) Subject to subsection (e) and except as otherwise
2034 provided in subsection (f), if a security interest in chattel
2035 paper, deposit accounts, negotiable documents, instruments,
2036 investment property or letter-of-credit rights is perfected by a
2037 method other than filing, conflicting perfected security interests
2038 in proceeds of the collateral rank according to priority in time
2039 of filing.

2040 (e) Subsection (d) applies only if the proceeds of the
2041 collateral are not cash proceeds, chattel paper, negotiable
2042 documents, instruments, investment property or letter-of-credit
2043 rights.

2044 (f) Subsections (a) through (e) are subject to:

2045 (1) Subsection (g) and the other provisions of this
2046 part;

2047 (2) Section 75-4-210 with respect to a security
2048 interest of a collecting bank;

2049 (3) Section 75-5-118 with respect to a security
2050 interest of an issuer or nominated person; and

2051 (4) Section 75-9-110 with respect to a security
2052 interest arising under Article 2 or 2A.

2053 (g) A perfected agricultural lien on collateral has priority
2054 over a conflicting security interest in or agricultural lien on
2055 the same collateral if the statute creating the agricultural lien
2056 so provides.

2057 **SECTION 75-9-323. Future advances.**

2058 (a) Except as otherwise provided in subsection (c), for
2059 purposes of determining the priority of a perfected security
2060 interest under Section 75-9-322(a)(1), perfection of the security
2061 interest dates from the time an advance is made to the extent that
2062 the security interest secures an advance that:

2063 (1) Is made while the security interest is perfected
2064 only:

2065 (A) Under Section 75-9-309 when it attaches; or

2066 (B) Temporarily under Section 75-9-312(e), (f), or
2067 (g); and

2068 (2) Is not made pursuant to a commitment entered into
2069 before or while the security interest is perfected by a method
2070 other than under Section 75-9-309 or 75-9-312(e), (f) or (g).

2071 (b) Except as otherwise provided in subsection (c), a
2072 security interest is subordinate to the rights of a person that
2073 becomes a lien creditor to the extent that the security interest
2074 secures an advance made more than forty-five (45) days after the
2075 person becomes a lien creditor unless the advance is made:

2076 (1) Without knowledge of the lien; or

2077 (2) Pursuant to a commitment entered into without
2078 knowledge of the lien.

2079 (c) Subsections (a) and (b) do not apply to a security
2080 interest held by a secured party that is a buyer of accounts,
2081 chattel paper, payment intangibles or promissory notes or a
2082 consignor.

2083 (d) Except as otherwise provided in subsection (e), a buyer
2084 of goods other than a buyer in ordinary course of business takes

2085 free of a security interest to the extent that it secures advances
2086 made after the earlier of:

2087 (1) The time the secured party acquires knowledge of
2088 the buyer's purchase; or

2089 (2) Forty-five (45) days after the purchase.

2090 (e) Subsection (d) does not apply if the advance is made
2091 pursuant to a commitment entered into without knowledge of the
2092 buyer's purchase and before the expiration of the forty-five-day
2093 period.

2094 (f) Except as otherwise provided in subsection (g), a lessee
2095 of goods, other than a lessee in ordinary course of business,
2096 takes the leasehold interest free of a security interest to the
2097 extent that it secures advances made after the earlier of:

2098 (1) The time the secured party acquires knowledge of
2099 the lease; or

2100 (2) Forty-five (45) days after the lease contract
2101 becomes enforceable.

2102 (g) Subsection (f) does not apply if the advance is made
2103 pursuant to a commitment entered into without knowledge of the
2104 lease and before the expiration of the forty-five-day period.

2105 **SECTION 75-9-324. Priority of purchase-money security**
2106 **interests.**

2107 (a) Except as otherwise provided in subsection (g), a
2108 perfected purchase-money security interest in goods other than
2109 inventory or livestock has priority over a conflicting security
2110 interest in the same goods, and, except as otherwise provided in
2111 Section 75-9-327, a perfected security interest in its
2112 identifiable proceeds also has priority, if the purchase-money
2113 security interest is perfected when the debtor receives possession
2114 of the collateral or within twenty (20) days thereafter.

2115 (b) Subject to subsection (c) and except as otherwise
2116 provided in subsection (g), a perfected purchase-money security
2117 interest in inventory has priority over a conflicting security

2118 interest in the same inventory, has priority over a conflicting
2119 security interest in chattel paper or an instrument constituting
2120 proceeds of the inventory and in proceeds of the chattel paper, if
2121 so provided in Section 75-9-330, and, except as otherwise provided
2122 in Section 75-9-327, also has priority in identifiable cash
2123 proceeds of the inventory to the extent the identifiable cash
2124 proceeds are received on or before the delivery of the inventory
2125 to a buyer, if:

2126 (1) The purchase-money security interest is perfected
2127 when the debtor receives possession of the inventory;

2128 (2) The purchase-money secured party sends an
2129 authenticated notification to the holder of the conflicting
2130 security interest;

2131 (3) The holder of the conflicting security interest
2132 receives the notification within five (5) years before the debtor
2133 receives possession of the inventory; and

2134 (4) The notification states that the person sending the
2135 notification has or expects to acquire a purchase-money security
2136 interest in inventory of the debtor and describes the inventory.

2137 (c) Subsections (b)(2) through (4) apply only if the holder
2138 of the conflicting security interest had filed a financing
2139 statement covering the same types of inventory:

2140 (1) If the purchase-money security interest is
2141 perfected by filing, before the date of the filing; or

2142 (2) If the purchase-money security interest is
2143 temporarily perfected without filing or possession under Section
2144 75-9-312(f), before the beginning of the twenty-day period
2145 thereunder.

2146 (d) Subject to subsection (e) and except as otherwise
2147 provided in subsection (g), a perfected purchase-money security
2148 interest in livestock that are farm products has priority over a
2149 conflicting security interest in the same livestock, and, except
2150 as otherwise provided in Section 75-9-327, a perfected security

2151 interest in their identifiable proceeds and identifiable products
2152 in their unmanufactured states also has priority, if:

2153 (1) The purchase-money security interest is perfected
2154 when the debtor receives possession of the livestock;

2155 (2) The purchase-money secured party sends an
2156 authenticated notification to the holder of the conflicting
2157 security interest;

2158 (3) The holder of the conflicting security interest
2159 receives the notification within six (6) months before the debtor
2160 receives possession of the livestock; and

2161 (4) The notification states that the person sending the
2162 notification has or expects to acquire a purchase-money security
2163 interest in livestock of the debtor and describes the livestock.

2164 (e) Subsections (d)(2) through (4) apply only if the holder
2165 of the conflicting security interest had filed a financing
2166 statement covering the same types of livestock:

2167 (1) If the purchase-money security interest is
2168 perfected by filing, before the date of the filing; or

2169 (2) If the purchase-money security interest is
2170 temporarily perfected without filing or possession under Section
2171 75-9-312(f), before the beginning of the twenty-day period
2172 thereunder.

2173 (f) Except as otherwise provided in subsection (g), a
2174 perfected purchase-money security interest in software has
2175 priority over a conflicting security interest in the same
2176 collateral, and, except as otherwise provided in Section 75-9-327,
2177 a perfected security interest in its identifiable proceeds also
2178 has priority, to the extent that the purchase-money security
2179 interest in the goods in which the software was acquired for use
2180 has priority in the goods and proceeds of the goods under this
2181 section.

2182 (g) If more than one (1) security interest qualifies for
2183 priority in the same collateral under subsection (a), (b), (d) or
2184 (f):

2185 (1) A security interest securing an obligation incurred
2186 as all or part of the price of the collateral has priority over a
2187 security interest securing an obligation incurred for value given
2188 to enable the debtor to acquire rights in or the use of
2189 collateral; and

2190 (2) In all other cases, Section 75-9-322(a) applies to
2191 the qualifying security interests.

2192 **SECTION 75-9-324A. Priority of production-money security**
2193 **interests and agricultural liens.**

2194 (a) Except as otherwise provided in subsections (c), (d) and
2195 (e), if the requirements of subsection (b) are satisfied, a
2196 perfected production-money security interest in production-money
2197 crops has priority over a conflicting security interest in the
2198 same crops and, except as otherwise provided in Section 75-9-327,
2199 also has priority in their identifiable proceeds.

2200 (b) A production-money security interest has priority under
2201 subsection (a) if:

2202 (1) The production-money security interest is perfected
2203 by filing when the production-money secured party first gives new
2204 value to enable the debtor to produce the crops;

2205 (2) The production-money secured party sends an
2206 authenticated notification to the holder of the conflicting
2207 security interest not less than ten (10) or more than thirty (30)
2208 days before the production-money secured party first gives new
2209 value to enable the debtor to produce the crops if the holder had
2210 filed a financing statement covering the crops before the date of
2211 the filing made by the production-money secured party; and

2212 (3) The notification states that the production-money
2213 secured party has or expects to acquire a production-money

2214 security interest in the debtor's crops and provides a description
2215 of the crops.

2216 (c) Except as otherwise provided in subsection (d) or (e),
2217 if more than one (1) security interest qualifies for priority in
2218 the same collateral under subsection (a), the security interests
2219 rank according to priority in time of filing under Section
2220 75-9-322(a).

2221 (d) To the extent that a person holding a perfected security
2222 interest in production-money crops that are the subject of a
2223 production-money security interest gives new value to enable the
2224 debtor to produce the production-money crops and the value is in
2225 fact used for the production of the production-money crops, the
2226 security interests rank according to priority in time of filing
2227 under Section 75-9-322(a).

2228 (e) To the extent that a person holds both an agricultural
2229 lien and a production-money security interest in the same
2230 collateral securing the same obligations, the rules of priority
2231 applicable to agricultural liens govern priority.

2232 **SECTION 75-9-325. Priority of security interests in**
2233 **transferred collateral.**

2234 (a) Except as otherwise provided in subsection (b), a
2235 security interest created by a debtor is subordinate to a security
2236 interest in the same collateral created by another person if:

2237 (1) The debtor acquired the collateral subject to the
2238 security interest created by the other person;

2239 (2) The security interest created by the other person
2240 was perfected when the debtor acquired the collateral; and

2241 (3) There is no period thereafter when the security
2242 interest is unperfected.

2243 (b) Subsection (a) subordinates a security interest only if
2244 the security interest:

2245 (1) Otherwise would have priority solely under Section
2246 75-9-322(a) or 75-9-324; or

2247 (2) Arose solely under Section 75-2-711(3) or
2248 75-2A-508(5).

2249 **SECTION 75-9-326. Priority of security interests created by**
2250 **new debtor.**

2251 (a) Subject to subsection (b), a security interest created
2252 by a new debtor which is perfected by a filed financing statement
2253 that is effective solely under Section 75-9-508 in collateral in
2254 which a new debtor has or acquires rights is subordinate to a
2255 security interest in the same collateral which is perfected other
2256 than by a filed financing statement that is effective solely under
2257 Section 75-9-508.

2258 (b) The other provisions of this part determine the priority
2259 among conflicting security interests in the same collateral
2260 perfected by filed financing statements that are effective solely
2261 under Section 75-9-508. However, if the security agreements to
2262 which a new debtor became bound as debtor were not entered into by
2263 the same original debtor, the conflicting security interests rank
2264 according to priority in time of the new debtor's having become
2265 bound.

2266 **SECTION 75-9-327. Priority of security interests in deposit**
2267 **account.** The following rules govern priority among conflicting
2268 security interests in the same deposit account:

2269 (1) A security interest held by a secured party having
2270 control of the deposit account under Section 75-9-104 has priority
2271 over a conflicting security interest held by a secured party that
2272 does not have control.

2273 (2) Except as otherwise provided in paragraphs (3) and
2274 (4), security interests perfected by control under Section
2275 75-9-314 rank according to priority in time of obtaining control.

2276 (3) Except as otherwise provided in paragraph (4), a
2277 security interest held by the bank with which the deposit account
2278 is maintained has priority over a conflicting security interest
2279 held by another secured party.

2280 (4) A security interest perfected by control under
2281 Section 75-9-104(a)(3) has priority over a security interest held
2282 by the bank with which the deposit account is maintained.

2283 **SECTION 75-9-328. Priority of security interests in**
2284 **investment property.** The following rules govern priority among
2285 conflicting security interests in the same investment property:

2286 (1) A security interest held by a secured party having
2287 control of investment property under Section 75-9-106 has priority
2288 over a security interest held by a secured party that does not
2289 have control of the investment property.

2290 (2) Except as otherwise provided in paragraphs (3) and
2291 (4), conflicting security interests held by secured parties each
2292 of which has control under Section 75-9-106 rank according to
2293 priority in time of:

2294 (A) If the collateral is a security, obtaining
2295 control;

2296 (B) If the collateral is a security entitlement
2297 carried in a securities account and:

2298 (i) If the secured party obtained control
2299 under Section 75-8-106(d)(1), the secured party's becoming the
2300 person for which the securities account is maintained;

2301 (ii) If the secured party obtained control
2302 under Section 75-8-106(d)(2), the securities intermediary's
2303 agreement to comply with the secured party's entitlement orders
2304 with respect to security entitlements carried or to be carried in
2305 the securities account; or

2306 (iii) If the secured party obtained control
2307 through another person under Section 75-8-106(d)(3), the time on
2308 which priority would be based under this paragraph if the other
2309 person were the secured party; or

2310 (C) If the collateral is a commodity contract
2311 carried with a commodity intermediary, the satisfaction of the
2312 requirement for control specified in Section 75-9-106(b)(2) with

2313 respect to commodity contracts carried or to be carried with the
2314 commodity intermediary.

2315 (3) A security interest held by a securities
2316 intermediary in a security entitlement or a securities account
2317 maintained with the securities intermediary has priority over a
2318 conflicting security interest held by another secured party.

2319 (4) A security interest held by a commodity
2320 intermediary in a commodity contract or a commodity account
2321 maintained with the commodity intermediary has priority over a
2322 conflicting security interest held by another secured party.

2323 (5) A security interest in a certificated security in
2324 registered form which is perfected by taking delivery under
2325 Section 75-9-313(a) and not by control under Section 75-9-314 has
2326 priority over a conflicting security interest perfected by a
2327 method other than control.

2328 (6) Conflicting security interests created by a broker,
2329 securities intermediary or commodity intermediary which are
2330 perfected without control under Section 75-9-106 rank equally.

2331 (7) In all other cases, priority among conflicting
2332 security interests in investment property is governed by Sections
2333 75-9-322 and 75-9-323.

2334 **SECTION 75-9-329. Priority of security interests in**
2335 **letter-of-credit right.** The following rules govern priority among
2336 conflicting security interests in the same letter-of-credit right:

2337 (1) A security interest held by a secured party having
2338 control of the letter-of-credit right under Section 75-9-107 has
2339 priority to the extent of its control over a conflicting security
2340 interest held by a secured party that does not have control.

2341 (2) Security interests perfected by control under
2342 Section 75-9-314 rank according to priority in time of obtaining
2343 control.

2344 **SECTION 75-9-330. Priority of purchaser of chattel paper or**
2345 **instrument.**

2346 (a) A purchaser of chattel paper has priority over a
2347 security interest in the chattel paper which is claimed merely as
2348 proceeds of inventory subject to a security interest if:

2349 (1) In good faith and in the ordinary course of the
2350 purchaser's business, the purchaser gives new value and takes
2351 possession of the chattel paper or obtains control of the chattel
2352 paper under Section 75-9-105; and

2353 (2) The chattel paper does not indicate that it has
2354 been assigned to an identified assignee other than the purchaser.

2355 (b) A purchaser of chattel paper has priority over a
2356 security interest in the chattel paper which is claimed other than
2357 merely as proceeds of inventory subject to a security interest if
2358 the purchaser gives new value and takes possession of the chattel
2359 paper or obtains control of the chattel paper under Section
2360 75-9-105 in good faith, in the ordinary course of the purchaser's
2361 business, and without knowledge that the purchase violates the
2362 rights of the secured party.

2363 (c) Except as otherwise provided in Section 75-9-327, a
2364 purchaser having priority in chattel paper under subsection (a) or
2365 (b) also has priority in proceeds of the chattel paper to the
2366 extent that:

2367 (1) Section 75-9-322 provides for priority in the
2368 proceeds; or

2369 (2) The proceeds consist of the specific goods covered
2370 by the chattel paper or cash proceeds of the specific goods, even
2371 if the purchaser's security interest in the proceeds is
2372 unperfected.

2373 (d) Except as otherwise provided in Section 75-9-331(a), a
2374 purchaser of an instrument has priority over a security interest
2375 in the instrument perfected by a method other than possession if
2376 the purchaser gives value and takes possession of the instrument
2377 in good faith and without knowledge that the purchase violates the
2378 rights of the secured party.

2379 (e) For purposes of subsections (a) and (b), the holder of a
2380 purchase-money security interest in inventory gives new value for
2381 chattel paper constituting proceeds of the inventory.

2382 (f) For purposes of subsections (b) and (d), if chattel
2383 paper or an instrument indicates that it has been assigned to an
2384 identified secured party other than the purchaser, a purchaser of
2385 the chattel paper or instrument has knowledge that the purchase
2386 violates the rights of the secured party.

2387 **SECTION 75-9-331. Priority of rights of purchasers of**
2388 **instruments, documents and securities under other articles;**
2389 **priority of interests in financial assets and security**
2390 **entitlements under Article 8.**

2391 (a) This article does not limit the rights of a holder in
2392 due course of a negotiable instrument, a holder to which a
2393 negotiable document of title has been duly negotiated, or a
2394 protected purchaser of a security. These holders or purchasers
2395 take priority over an earlier security interest, even if
2396 perfected, to the extent provided in Articles 3, 7 and 8.

2397 (b) This article does not limit the rights of or impose
2398 liability on a person to the extent that the person is protected
2399 against the assertion of a claim under Article 8.

2400 (c) Filing under this article does not constitute notice of
2401 a claim or defense to the holders or purchasers or persons
2402 described in subsections (a) and (b).

2403 **SECTION 75-9-332. Transfer of money; transfer of funds from**
2404 **deposit account.**

2405 (a) A transferee of money takes the money free of a security
2406 interest unless the transferee acts in collusion with the debtor
2407 in violating the rights of the secured party.

2408 (b) A transferee of funds from a deposit account takes the
2409 funds free of a security interest in the deposit account unless
2410 the transferee acts in collusion with the debtor in violating the
2411 rights of the secured party.

2412 **SECTION 75-9-333. Priority of certain liens arising by**
2413 **operation of law.**

2414 (a) In this section, "possessory lien" means an interest,
2415 other than a security interest or an agricultural lien:

2416 (1) Which secures payment or performance of an
2417 obligation for services or materials furnished with respect to
2418 goods by a person in the ordinary course of the person's business;

2419 (2) Which is created by statute or rule of law in favor
2420 of the person; and

2421 (3) Whose effectiveness depends on the person's
2422 possession of the goods.

2423 (b) A possessory lien on goods has priority over a security
2424 interest in the goods unless the lien is created by a statute that
2425 expressly provides otherwise.

2426 **SECTION 75-9-334. Priority of security interests in fixtures**
2427 **and crops.**

2428 (a) A security interest under this article may be created in
2429 goods that are fixtures or may continue in goods that become
2430 fixtures. A security interest does not exist under this article
2431 in ordinary building materials incorporated into an improvement on
2432 land.

2433 (b) This article does not prevent creation of an encumbrance
2434 upon fixtures under real property law.

2435 (c) In cases not governed by subsections (d) through (h), a
2436 security interest in fixtures is subordinate to a conflicting
2437 interest of an encumbrancer or owner of the related real property
2438 other than the debtor.

2439 (d) Except as otherwise provided in subsection (h), a
2440 perfected security interest in fixtures has priority over a
2441 conflicting interest of an encumbrancer or owner of the real
2442 property if the debtor has an interest of record in or is in
2443 possession of the real property and:

2444 (1) The security interest is a purchase-money security
2445 interest;

2446 (2) The interest of the encumbrancer or owner arises
2447 before the goods become fixtures; and

2448 (3) The security interest is perfected by a fixture
2449 filing before the goods become fixtures or within twenty (20) days
2450 thereafter.

2451 (e) A perfected security interest in fixtures has priority
2452 over a conflicting interest of an encumbrancer or owner of the
2453 real property if:

2454 (1) The debtor has an interest of record in the real
2455 property or is in possession of the real property and the security
2456 interest:

2457 (A) Is perfected by a fixture filing before the
2458 interest of the encumbrancer or owner is of record; and

2459 (B) Has priority over any conflicting interest of
2460 a predecessor in title of the encumbrancer or owner;

2461 (2) Before the goods become fixtures, the security
2462 interest is perfected by any method permitted by this article and
2463 the fixtures are readily removable:

2464 (A) Factory or office machines;

2465 (B) Equipment that is not primarily used or leased
2466 for use in the operation of the real property; or

2467 (C) Replacements of domestic appliances that are
2468 consumer goods;

2469 (3) The conflicting interest is a lien on the real
2470 property obtained by legal or equitable proceedings after the
2471 security interest was perfected by any method permitted by this
2472 article; or

2473 (4) The security interest is:

2474 (A) Created in a manufactured home in a
2475 manufactured-home transaction; and

2476 (B) Perfected pursuant to a statute described in
2477 Section 75-9-311(a)(2).

2478 (f) A security interest in fixtures, whether or not
2479 perfected, has priority over a conflicting interest of an
2480 encumbrancer or owner of the real property if:

2481 (1) The encumbrancer or owner has, in an authenticated
2482 record, consented to the security interest or disclaimed an
2483 interest in the goods as fixtures; or

2484 (2) The debtor has a right to remove the goods as
2485 against the encumbrancer or owner.

2486 (g) The priority of the security interest under paragraph
2487 (f)(2) continues for a reasonable time if the debtor's right to
2488 remove the goods as against the encumbrancer or owner terminates.

2489 (h) A mortgage is a construction mortgage to the extent that
2490 it secures an obligation incurred for the construction of an
2491 improvement on land, including the acquisition cost of the land,
2492 if a recorded record of the mortgage so indicates. Except as
2493 otherwise provided in subsections (e) and (f), a security interest
2494 in fixtures is subordinate to a construction mortgage if a record
2495 of the mortgage is recorded before the goods become fixtures and
2496 the goods become fixtures before the completion of the
2497 construction. A mortgage has this priority to the same extent as
2498 a construction mortgage to the extent that it is given to
2499 refinance a construction mortgage.

2500 (i) A perfected security interest in crops growing on real
2501 property has priority over a conflicting interest of an
2502 encumbrancer or owner of the real property if the debtor has an
2503 interest of record in or is in possession of the real property.

2504 **SECTION 75-9-335. Accessions.**

2505 (a) A security interest may be created in an accession and
2506 continues in collateral that becomes an accession.

2507 (b) If a security interest is perfected when the collateral
2508 becomes an accession, the security interest remains perfected in
2509 the collateral.

2510 (c) Except as otherwise provided in subsection (d), the
2511 other provisions of this part determine the priority of a security
2512 interest in an accession.

2513 (d) A security interest in an accession is subordinate to a
2514 security interest in the whole which is perfected by compliance
2515 with the requirements of a certificate-of-title statute under
2516 Section 75-9-311(b).

2517 (e) After default, subject to Part 6, a secured party may
2518 remove an accession from other goods if the security interest in
2519 the accession has priority over the claims of every person having
2520 an interest in the whole.

2521 (f) A secured party that removes an accession from other
2522 goods under subsection (e) shall promptly reimburse any holder of
2523 a security interest or other lien on, or owner of, the whole or of
2524 the other goods, other than the debtor, for the cost of repair of
2525 any physical injury to the whole or the other goods. The secured
2526 party need not reimburse the holder or owner for any diminution in
2527 value of the whole or the other goods caused by the absence of the
2528 accession removed or by any necessity for replacing it. A person
2529 entitled to reimbursement may refuse permission to remove until
2530 the secured party gives adequate assurance for the performance of
2531 the obligation to reimburse.

2532 **SECTION 75-9-336. Commingled goods.**

2533 (a) In this section, "commingled goods" means goods that are
2534 physically united with other goods in such a manner that their
2535 identity is lost in a product or mass.

2536 (b) A security interest does not exist in commingled goods
2537 as such. However, a security interest may attach to a product or
2538 mass that results when goods become commingled goods.

2539 (c) If collateral becomes commingled goods, a security
2540 interest attaches to the product or mass.

2541 (d) If a security interest in collateral is perfected before
2542 the collateral becomes commingled goods, the security interest
2543 that attaches to the product or mass under subsection (c) is
2544 perfected.

2545 (e) Except as otherwise provided in subsection (f), the
2546 other provisions of this part determine the priority of a security
2547 interest that attaches to the product or mass under subsection
2548 (c).

2549 (f) If more than one (1) security interest attaches to the
2550 product or mass under subsection (c), the following rules
2551 determine priority:

2552 (1) A security interest that is perfected under
2553 subsection (d) has priority over a security interest that is
2554 unperfected at the time the collateral becomes commingled goods.

2555 (2) If more than one (1) security interest is perfected
2556 under subsection (d), the security interests rank equally in
2557 proportion to the value of the collateral at the time it became
2558 commingled goods.

2559 **SECTION 75-9-337. Priority of security interests in goods**
2560 **covered by certificate of title.** If, while a security interest in
2561 goods is perfected by any method under the law of another
2562 jurisdiction, this state issues a certificate of title that does
2563 not show that the goods are subject to the security interest or
2564 contain a statement that they may be subject to security interests
2565 not shown on the certificate:

2566 (1) A buyer of the goods, other than a person in the
2567 business of selling goods of that kind, takes free of the security
2568 interest if the buyer gives value and receives delivery of the
2569 goods after issuance of the certificate and without knowledge of
2570 the security interest; and

2571 (2) The security interest is subordinate to a
2572 conflicting security interest in the goods that attaches, and is
2573 perfected under Section 75-9-311(b), after issuance of the
2574 certificate and without the conflicting secured party's knowledge
2575 of the security interest.

2576 **SECTION 75-9-338. Priority of security interest or**
2577 **agricultural lien perfected by filed financing statement providing**
2578 **certain incorrect information.** If a security interest or
2579 agricultural lien is perfected by a filed financing statement
2580 providing information described in Section 75-9-516(b)(5) which is
2581 incorrect at the time the financing statement is filed:

2582 (1) The security interest or agricultural lien is
2583 subordinate to a conflicting perfected security interest in the
2584 collateral to the extent that the holder of the conflicting
2585 security interest gives value in reasonable reliance upon the
2586 incorrect information; and

2587 (2) A purchaser, other than a secured party, of the
2588 collateral takes free of the security interest or agricultural
2589 lien to the extent that, in reasonable reliance upon the incorrect
2590 information, the purchaser gives value and, in the case of chattel
2591 paper, documents, goods, instruments or a security certificate,
2592 receives delivery of the collateral.

2593 **SECTION 75-9-339. Priority subject to subordination.** This
2594 article does not preclude subordination by agreement by a person
2595 entitled to priority.

2596 SUBPART 4. RIGHTS OF BANK

2597 **SECTION 75-9-340. Effectiveness of right of recoupment or**
2598 **set-off against deposit account.**

2599 (a) Except as otherwise provided in subsection (c), a bank
2600 with which a deposit account is maintained may exercise any right
2601 of recoupment or set-off against a secured party that holds a
2602 security interest in the deposit account.

2603 (b) Except as otherwise provided in subsection (c), the
2604 application of this article to a security interest in a deposit
2605 account does not affect a right of recoupment or set-off of the
2606 secured party as to a deposit account maintained with the secured
2607 party.

2608 (c) The exercise by a bank of a set-off against a deposit
2609 account is ineffective against a secured party that holds a
2610 security interest in the deposit account which is perfected by
2611 control under Section 75-9-104(a)(3), if the set-off is based on a
2612 claim against the debtor.

2613 **SECTION 75-9-341. Bank's rights and duties with respect to**
2614 **deposit account.** Except as otherwise provided in Section
2615 75-9-340(c), and unless the bank otherwise agrees in an
2616 authenticated record, a bank's rights and duties with respect to a
2617 deposit account maintained with the bank are not terminated,
2618 suspended or modified by:

2619 (1) The creation, attachment or perfection of a
2620 security interest in the deposit account;

2621 (2) The bank's knowledge of the security interest; or

2622 (3) The bank's receipt of instructions from the secured
2623 party.

2624 **SECTION 75-9-342. Bank's right to refuse to enter into or**
2625 **disclose existence of control agreement.** This article does not
2626 require a bank to enter into an agreement of the kind described in
2627 Section 75-9-104(a)(2), even if its customer so requests or
2628 directs. A bank that has entered into such an agreement is not
2629 required to confirm the existence of the agreement to another
2630 person unless requested to do so by its customer.

2631 **PART 4**

2632 **RIGHTS OF THIRD PARTIES**

2633 **SECTION 75-9-401. Alienability of debtor's rights.**

2634 (a) Except as otherwise provided in subsection (b) and
2635 Sections 75-9-406, 75-9-407, 75-9-408 and 75-9-409, whether a

2636 debtor's rights in collateral may be voluntarily or involuntarily
2637 transferred is governed by law other than this article.

2638 (b) An agreement between the debtor and secured party which
2639 prohibits a transfer of the debtor's rights in collateral or makes
2640 the transfer a default does not prevent the transfer from taking
2641 effect.

2642 **SECTION 75-9-402. Secured party not obligated on contract of**
2643 **debtor or in tort.** The existence of a security interest,
2644 agricultural lien, or authority given to a debtor to dispose of or
2645 use collateral, without more, does not subject a secured party to
2646 liability in contract or tort for the debtor's acts or omissions.

2647 **SECTION 75-9-403. Agreement not to assert defenses against**
2648 **assignee.**

2649 (a) In this section, "value" has the meaning provided in
2650 Section 75-3-303(a).

2651 (b) Except as otherwise provided in this section, an
2652 agreement between an account debtor and an assignor not to assert
2653 against an assignee any claim or defense that the account debtor
2654 may have against the assignor is enforceable by an assignee that
2655 takes an assignment:

2656 (1) For value;

2657 (2) In good faith;

2658 (3) Without notice of a claim of a property or
2659 possessory right to the property assigned; and

2660 (4) Without notice of a defense or claim in recoupment
2661 of the type that may be asserted against a person entitled to
2662 enforce a negotiable instrument under Section 75-3-305(a).

2663 (c) Subsection (b) does not apply to defenses of a type that
2664 may be asserted against a holder in due course of a negotiable
2665 instrument under Section 75-3-305(b).

2666 (d) In a consumer transaction, if a record evidences the
2667 account debtor's obligation, law other than this article requires
2668 that the record include a statement to the effect that the rights

2669 of an assignee are subject to claims or defenses that the account
2670 debtor could assert against the original obligee, and the record
2671 does not include such a statement:

2672 (1) The record has the same effect as if the record
2673 included such a statement; and

2674 (2) The account debtor may assert against an assignee
2675 those claims and defenses that would have been available if the
2676 record included such a statement.

2677 (e) This section is subject to law other than this article
2678 which establishes a different rule for an account debtor who is an
2679 individual and who incurred the obligation primarily for personal,
2680 family or household purposes.

2681 (f) Except as otherwise provided in subsection (d), this
2682 section does not displace law other than this article which gives
2683 effect to an agreement by an account debtor not to assert a claim
2684 or defense against an assignee.

2685 **SECTION 75-9-404. Rights acquired by assignee; claims and**
2686 **defenses against assignee.**

2687 (a) Unless an account debtor has made an enforceable
2688 agreement not to assert defenses or claims, and subject to
2689 subsections (b) through (e), the rights of an assignee are subject
2690 to:

2691 (1) All terms of the agreement between the account
2692 debtor and assignor and any defense or claim in recoupment arising
2693 from the transaction that gave rise to the contract; and

2694 (2) Any other defense or claim of the account debtor
2695 against the assignor which accrues before the account debtor
2696 receives a notification of the assignment authenticated by the
2697 assignor or the assignee.

2698 (b) Subject to subsection (c) and except as otherwise
2699 provided in subsection (d), the claim of an account debtor against
2700 an assignor may be asserted against an assignee under subsection
2701 (a) only to reduce the amount the account debtor owes.

2702 (c) This section is subject to law other than this article
2703 which establishes a different rule for an account debtor who is an
2704 individual and who incurred the obligation primarily for personal,
2705 family or household purposes.

2706 (d) In a consumer transaction, if a record evidences the
2707 account debtor's obligation, law other than this article requires
2708 that the record include a statement to the effect that the account
2709 debtor's recovery against an assignee with respect to claims and
2710 defenses against the assignor may not exceed amounts paid by the
2711 account debtor under the record, and the record does not include
2712 such a statement, the extent to which a claim of an account debtor
2713 against the assignor may be asserted against an assignee is
2714 determined as if the record included such a statement.

2715 (e) This section does not apply to an assignment of a
2716 health-care-insurance receivable.

2717 **SECTION 75-9-405. Modification of assigned contract.**

2718 (a) A modification of or substitution for an assigned
2719 contract is effective against an assignee if made in good faith.
2720 The assignee acquires corresponding rights under the modified or
2721 substituted contract. The assignment may provide that the
2722 modification or substitution is a breach of contract by the
2723 assignor. This subsection is subject to subsections (b) through
2724 (d).

2725 (b) Subsection (a) applies to the extent that:

2726 (1) The right to payment or a part thereof under an
2727 assigned contract has not been fully earned by performance; or

2728 (2) The right to payment or a part thereof has been
2729 fully earned by performance and the account debtor has not
2730 received notification of the assignment under Section 75-9-406(a).

2731 (c) This section is subject to law other than this article
2732 which establishes a different rule for an account debtor who is an
2733 individual and who incurred the obligation primarily for personal,
2734 family or household purposes.

2735 (d) This section does not apply to an assignment of a
2736 health-care-insurance receivable.

2737 **SECTION 75-9-406. Discharge of account debtor; notification**
2738 **of assignment; identification and proof of assignment;**
2739 **restrictions on assignment of accounts, chattel paper, payment**
2740 **intangibles and promissory notes ineffective.**

2741 (a) Subject to subsections (b) through (i), an account
2742 debtor on an account, chattel paper, or a payment intangible may
2743 discharge its obligation by paying the assignor until, but not
2744 after, the account debtor receives a notification, authenticated
2745 by the assignor or the assignee, that the amount due or to become
2746 due has been assigned and that payment is to be made to the
2747 assignee. After receipt of the notification, the account debtor
2748 may discharge its obligation by paying the assignee and may not
2749 discharge the obligation by paying the assignor.

2750 (b) Subject to subsection (h), notification is ineffective
2751 under subsection (a):

2752 (1) If it does not reasonably identify the rights
2753 assigned;

2754 (2) To the extent that an agreement between an account
2755 debtor and a seller of a payment intangible limits the account
2756 debtor's duty to pay a person other than the seller and the
2757 limitation is effective under law other than this article; or

2758 (3) At the option of an account debtor, if the
2759 notification notifies the account debtor to make less than the
2760 full amount of any installment or other periodic payment to the
2761 assignee, even if:

2762 (A) Only a portion of the account, chattel paper,
2763 or payment intangible has been assigned to that assignee;

2764 (B) A portion has been assigned to another
2765 assignee; or

2766 (C) The account debtor knows that the assignment
2767 to that assignee is limited.

2768 (c) Subject to subsection (h), if requested by the account
2769 debtor, an assignee shall seasonably furnish reasonable proof that
2770 the assignment has been made. Unless the assignee complies, the
2771 account debtor may discharge its obligation by paying the
2772 assignor, even if the account debtor has received a notification
2773 under subsection (a).

2774 (d) Except as otherwise provided in subsection (e) and
2775 Sections 75-2A-303 and 75-9-407, and subject to subsection (h), a
2776 term in an agreement between an account debtor and an assignor or
2777 in a promissory note is ineffective to the extent that it:

2778 (1) Prohibits, restricts or requires the consent of the
2779 account debtor or person obligated on the promissory note to the
2780 assignment or transfer of, or the creation, attachment, perfection
2781 or enforcement of a security interest in, the account, chattel
2782 paper, payment intangible or promissory note; or

2783 (2) Provides that the assignment or transfer or the
2784 creation, attachment, perfection or enforcement of the security
2785 interest may give rise to a default, breach, right of recoupment,
2786 claim, defense, termination, right of termination or remedy under
2787 the account, chattel paper, payment intangible or promissory note.

2788 (e) Subsection (d) does not apply to the sale of a payment
2789 intangible or promissory note.

2790 (f) Except as otherwise provided in Sections 75-2A-303 and
2791 75-9-407 and subject to subsections (h) and (i), a rule of law,
2792 statute or regulation that prohibits, restricts or requires the
2793 consent of a government, governmental body or official, or account
2794 debtor to the assignment or transfer of, or creation of a security
2795 interest in, an account or chattel paper is ineffective to the
2796 extent that the rule of law, statute or regulation:

2797 (1) Prohibits, restricts or requires the consent of the
2798 government, governmental body or official, or account debtor to
2799 the assignment or transfer of, or the creation, attachment,

2800 perfection or enforcement of a security interest in the account or
2801 chattel paper; or

2802 (2) Provides that the assignment or transfer or the
2803 creation, attachment, perfection or enforcement of the security
2804 interest may give rise to a default, breach, right of recoupment,
2805 claim, defense, termination, right of termination or remedy under
2806 the account or chattel paper.

2807 (g) Subject to subsection (h), an account debtor may not
2808 waive or vary its option under subsection (b)(3).

2809 (h) This section is subject to law other than this article
2810 which establishes a different rule for an account debtor who is an
2811 individual and who incurred the obligation primarily for personal,
2812 family or household purposes.

2813 (i) This section does not apply to an assignment of a
2814 health-care-insurance receivable.

2815 (j) This section prevails over any inconsistent provision of
2816 an existing or future statute, rule or regulation of this state
2817 unless the provision is contained in a statute of this state,
2818 refers expressly to this section, and states that the provision
2819 prevails over this section.

2820 **SECTION 75-9-407. Restrictions on creation or enforcement of**
2821 **security interest in leasehold interest or in lessor's residual**
2822 **interest.**

2823 (a) Except as otherwise provided in subsection (b), a term
2824 in a lease agreement is ineffective to the extent that it:

2825 (1) Prohibits, restricts or requires the consent of a
2826 party to the lease to the assignment or transfer of, or the
2827 creation, attachment, perfection or enforcement of a security
2828 interest in, an interest of a party under the lease contract or in
2829 the lessor's residual interest in the goods; or

2830 (2) Provides that the assignment or transfer or the
2831 creation, attachment, perfection or enforcement of the security
2832 interest may give rise to a default, breach, right of recoupment,

2833 claim, defense, termination, right of termination or remedy under
2834 the lease.

2835 (b) Except as otherwise provided in Section 75-2A-303(7), a
2836 term described in subsection (a)(2) is effective to the extent
2837 that there is:

2838 (1) A transfer by the lessee of the lessee's right of
2839 possession or use of the goods in violation of the term; or

2840 (2) A delegation of a material performance of either
2841 party to the lease contract in violation of the term.

2842 (c) The creation, attachment, perfection or enforcement of a
2843 security interest in the lessor's interest under the lease
2844 contract or the lessor's residual interest in the goods is not a
2845 transfer that materially impairs the lessee's prospect of
2846 obtaining return performance or materially changes the duty of or
2847 materially increases the burden or risk imposed on the lessee
2848 within the purview of Section 75-2A-303(4) unless, and then only
2849 to the extent that, enforcement actually results in a delegation
2850 of material performance of the lessor.

2851 **SECTION 75-9-408. Restrictions on assignment of promissory**
2852 **notes, health-care-insurance receivables, and certain general**
2853 **intangibles ineffective.**

2854 (a) Except as otherwise provided in subsection (b), a term
2855 in a promissory note or in an agreement between an account debtor
2856 and a debtor which relates to a health-care-insurance receivable
2857 or a general intangible, including a contract, permit, license or
2858 franchise, and which term prohibits, restricts or requires the
2859 consent of the person obligated on the promissory note or the
2860 account debtor to, the assignment or transfer of, or creation,
2861 attachment or perfection of a security interest in, the promissory
2862 note, health-care-insurance receivable, or general intangible, is
2863 ineffective to the extent that the term:

2864 (1) Would impair the creation, attachment or perfection
2865 of a security interest; or

2866 (2) Provides that the assignment or transfer or the
2867 creation, attachment or perfection of the security interest may
2868 give rise to a default, breach, right of recoupment, claim,
2869 defense, termination, right of termination or remedy under the
2870 promissory note, health-care-insurance receivable, or general
2871 intangible.

2872 (b) Subsection (a) applies to a security interest in a
2873 payment intangible or promissory note only if the security
2874 interest arises out of a sale of the payment intangible or
2875 promissory note.

2876 (c) A rule of law, statute or regulation that prohibits,
2877 restricts or requires the consent of a government, governmental
2878 body or official, person obligated on a promissory note, or
2879 account debtor to the assignment or transfer of, or creation of a
2880 security interest in, a promissory note, health-care-insurance
2881 receivable or general intangible, including a contract, permit,
2882 license or franchise between an account debtor and a debtor, is
2883 ineffective to the extent that the rule of law, statute or
2884 regulation:

2885 (1) Would impair the creation, attachment or perfection
2886 of a security interest; or

2887 (2) Provides that the assignment or transfer or the
2888 creation, attachment or perfection of the security interest may
2889 give rise to a default, breach, right of recoupment, claim,
2890 defense, termination, right of termination or remedy under the
2891 promissory note, health-care-insurance receivable or general
2892 intangible.

2893 (d) To the extent that a term in a promissory note or in an
2894 agreement between an account debtor and a debtor which relates to
2895 a health-care-insurance receivable or general intangible or a rule
2896 of law, statute or regulation described in subsection (c) would be
2897 effective under law other than this article but is ineffective
2898 under subsection (a) or (c), the creation, attachment or

2899 perfection of a security interest in the promissory note,
2900 health-care-insurance receivable or general intangible:

2901 (1) Is not enforceable against the person obligated on
2902 the promissory note or the account debtor;

2903 (2) Does not impose a duty or obligation on the person
2904 obligated on the promissory note or the account debtor;

2905 (3) Does not require the person obligated on the
2906 promissory note or the account debtor to recognize the security
2907 interest, pay or render performance to the secured party or accept
2908 payment or performance from the secured party;

2909 (4) Does not entitle the secured party to use or assign
2910 the debtor's rights under the promissory note,
2911 health-care-insurance receivable or general intangible, including
2912 any related information or materials furnished to the debtor in
2913 the transaction giving rise to the promissory note,
2914 health-care-insurance receivable or general intangible;

2915 (5) Does not entitle the secured party to use, assign,
2916 possess or have access to any trade secrets or confidential
2917 information of the person obligated on the promissory note or the
2918 account debtor; and

2919 (6) Does not entitle the secured party to enforce the
2920 security interest in the promissory note, health-care-insurance
2921 receivable or general intangible.

2922 (e) This section prevails over any inconsistent provision of
2923 an existing or future statute, rule or regulation of this state
2924 unless the provision is contained in a statute of this state,
2925 refers expressly to this section, and states that the provision
2926 prevails over this section.

2927 **SECTION 75-9-409. Restrictions on assignment of**
2928 **letter-of-credit rights ineffective.**

2929 (a) A term in a letter of credit or a rule of law, statute,
2930 regulation, custom or practice applicable to the letter of credit
2931 which prohibits, restricts or requires the consent of an

2932 applicant, issuer or nominated person to a beneficiary's
2933 assignment of or creation of a security interest in a
2934 letter-of-credit right is ineffective to the extent that the term
2935 or rule of law, statute, regulation, custom or practice:

2936 (1) Would impair the creation, attachment or perfection
2937 of a security interest in the letter-of-credit right; or

2938 (2) Provides that the assignment or the creation,
2939 attachment or perfection of the security interest may give rise to
2940 a default, breach, right of recoupment, claim, defense,
2941 termination, right of termination or remedy under the
2942 letter-of-credit right.

2943 (b) To the extent that a term in a letter of credit is
2944 ineffective under subsection (a) but would be effective under law
2945 other than this article or a custom or practice applicable to the
2946 letter of credit, to the transfer of a right to draw or otherwise
2947 demand performance under the letter of credit, or to the
2948 assignment of a right to proceeds of the letter of credit, the
2949 creation, attachment or perfection of a security interest in the
2950 letter-of-credit right:

2951 (1) Is not enforceable against the applicant, issuer,
2952 nominated person or transferee beneficiary;

2953 (2) Imposes no duties or obligations on the applicant,
2954 issuer, nominated person or transferee beneficiary; and

2955 (3) Does not require the applicant, issuer, nominated
2956 person or transferee beneficiary to recognize the security
2957 interest, pay or render performance to the secured party, or
2958 accept payment or other performance from the secured party.

2959 **PART 5**

2960 **FILING**

2961 **SUBPART 1. FILING OFFICE; CONTENTS AND**

2962 **EFFECTIVENESS OF FINANCING STATEMENT**

2963 **SECTION 75-9-501. Filing office.**

2964 (a) Except as otherwise provided in subsection (b), if the
2965 local law of this state governs perfection of a security interest
2966 or agricultural lien, the office in which to file a financing
2967 statement to perfect the security interest or agricultural lien
2968 is:

2969 (1) The office designated for the filing or recording
2970 of a record of a mortgage on the related real property, if:

2971 (A) The collateral is as-extracted collateral or
2972 timber to be cut; or

2973 (B) The financing statement is filed as a fixture
2974 filing and the collateral is goods that are or are to become
2975 fixtures; or

2976 (2) The Office of the Secretary of State in all other
2977 cases, including a case in which the collateral is goods that are
2978 or are to become fixtures and the financing statement is not filed
2979 as a fixture filing.

2980 (b) The office in which to file a financing statement to
2981 perfect a security interest in collateral, including fixtures, of
2982 a transmitting utility is the Office of the Secretary of State.
2983 The financing statement also constitutes a fixture filing as to
2984 the collateral indicated in the financing statement which is or is
2985 to become fixtures.

2986 **SECTION 75-9-502. Contents of financing statement; record of**
2987 **mortgage as financing statement; time of filing financing**
2988 **statement.**

2989 (a) Subject to subsection (b), a financing statement is
2990 sufficient only if it:

2991 (1) Provides the name of the debtor;

2992 (2) Provides the name of the secured party or a
2993 representative of the secured party; and

2994 (3) Indicates the collateral covered by the financing
2995 statement.

2996 (b) Except as otherwise provided in Section 75-9-501(b), to
2997 be sufficient, a financing statement that covers as-extracted
2998 collateral or timber to be cut, or which is filed as a fixture
2999 filing and covers goods that are or are to become fixtures, must
3000 satisfy subsection (a) and also:

3001 (1) Indicate that it covers this type of collateral;

3002 (2) Indicate that it is to be filed for record in the
3003 real property records;

3004 (3) Provide a description of the real property to which
3005 the collateral is related sufficient to give constructive notice
3006 of a mortgage under the law of this state if the description were
3007 contained in a record of the mortgage of the real property; and

3008 (4) If the debtor does not have an interest of record
3009 in the real property, provide the name of a record owner.

3010 (c) A record of a mortgage is effective, from the date of
3011 recording, as a financing statement filed as a fixture filing or
3012 as a financing statement covering as-extracted collateral or
3013 timber to be cut only if:

3014 (1) The record indicates the goods or accounts that it
3015 covers;

3016 (2) The goods are or are to become fixtures related to
3017 the real property described in the record or the collateral is
3018 related to the real property described in the record and is
3019 as-extracted collateral or timber to be cut;

3020 (3) The record satisfies the requirements for a
3021 financing statement in this section other than an indication that
3022 it is to be filed in the real property records; and

3023 (4) The record is duly recorded.

3024 (d) A financing statement may be filed before a security
3025 agreement is made or a security interest otherwise attaches.

3026 **SECTION 75-9-503. Name of debtor and secured party.**

3027 (a) A financing statement sufficiently provides the name of
3028 the debtor:

3029 (1) If the debtor is a registered organization, only if
3030 the financing statement provides the name of the debtor indicated
3031 on the public record of the debtor's jurisdiction of organization
3032 which shows the debtor to have been organized;

3033 (2) If the debtor is a decedent's estate, only if the
3034 financing statement provides the name of the decedent and
3035 indicates that the debtor is an estate;

3036 (3) If the debtor is a trust or a trustee acting with
3037 respect to property held in trust, only if the financing
3038 statement:

3039 (A) Provides the name specified for the trust in
3040 its organic documents or, if no name is specified, provides the
3041 name of the settlor and additional information sufficient to
3042 distinguish the debtor from other trusts having one or more of the
3043 same settlors; and

3044 (B) Indicates, in the debtor's name or otherwise,
3045 that the debtor is a trust or is a trustee acting with respect to
3046 property held in trust; and

3047 (4) In other cases:

3048 (A) If the debtor has a name, only if it provides
3049 the individual or organizational name of the debtor; and

3050 (B) If the debtor does not have a name, only if it
3051 provides the names of the partners, members, associates or other
3052 persons comprising the debtor.

3053 (b) A financing statement that provides the name of the
3054 debtor in accordance with subsection (a) is not rendered
3055 ineffective by the absence of:

3056 (1) A trade name or other name of the debtor; or

3057 (2) Unless required under subsection (a)(4)(B), names
3058 of partners, members, associates or other persons comprising the
3059 debtor.

3060 (c) A financing statement that provides only the debtor's
3061 trade name does not sufficiently provide the name of the debtor.

3062 (d) Failure to indicate the representative capacity of a
3063 secured party or representative of a secured party does not affect
3064 the sufficiency of a financing statement.

3065 (e) A financing statement may provide the name of more than
3066 one (1) debtor and the name of more than one (1) secured party.

3067 **SECTION 75-9-504. Indication of collateral.** A financing
3068 statement sufficiently indicates the collateral that it covers if
3069 the financing statement provides:

3070 (1) A description of the collateral pursuant to Section
3071 75-9-108; or

3072 (2) An indication that the financing statement covers
3073 all assets or all personal property.

3074 **SECTION 75-9-505. Filing and compliance with other statutes
3075 and treaties for consignments, leases, other bailments, and other
3076 transactions.**

3077 (a) A consignor, lessor or other bailor of goods, a
3078 licensor, or a buyer of a payment intangible or promissory note
3079 may file a financing statement, or may comply with a statute or
3080 treaty described in Section 75-9-311(a), using the terms
3081 "consignor," "consignee," "lessor," "lessee," "bailor," "bailee,"
3082 "licensor," "licensee," "owner," "registered owner," "buyer,"
3083 "seller," or words of similar import, instead of the terms
3084 "secured party" and "debtor."

3085 (b) This part applies to the filing of a financing statement
3086 under subsection (a) and, as appropriate, to compliance that is
3087 equivalent to filing a financing statement under Section
3088 75-9-311(b), but the filing or compliance is not of itself a
3089 factor in determining whether the collateral secures an
3090 obligation. If it is determined for another reason that the
3091 collateral secures an obligation, a security interest held by the
3092 consignor, lessor, bailor, licensor, owner or buyer which attaches
3093 to the collateral is perfected by the filing or compliance.

3094 **SECTION 75-9-506. Effect of errors or omissions.**

3095 (a) A financing statement substantially satisfying the
3096 requirements of this part is effective, even if it has minor
3097 errors or omissions, unless the errors or omissions make the
3098 financing statement seriously misleading.

3099 (b) Except as otherwise provided in subsection (c), a
3100 financing statement that fails sufficiently to provide the name of
3101 the debtor in accordance with Section 75-9-503(a) is seriously
3102 misleading.

3103 (c) If a search of the records of the filing office under
3104 the debtor's correct name, using the filing office's standard
3105 search logic, if any, would disclose a financing statement that
3106 fails sufficiently to provide the name of the debtor in accordance
3107 with Section 75-9-503(a), the name provided does not make the
3108 financing statement seriously misleading.

3109 (d) For purposes of Section 75-9-508(b), the "debtor's
3110 correct name" in subsection (c) means the correct name of the new
3111 debtor.

3112 **SECTION 75-9-507. Effect of certain events on effectiveness**
3113 **of financing statement.**

3114 (a) A filed financing statement remains effective with
3115 respect to collateral that is sold, exchanged, leased, licensed or
3116 otherwise disposed of and in which a security interest or
3117 agricultural lien continues, even if the secured party knows of or
3118 consents to the disposition.

3119 (b) Except as otherwise provided in subsection (c) and
3120 Section 75-9-508, a financing statement is not rendered
3121 ineffective if, after the financing statement is filed, the
3122 information provided in the financing statement becomes seriously
3123 misleading under Section 75-9-506.

3124 (c) If a debtor so changes its name that a filed financing
3125 statement becomes seriously misleading under Section 75-9-506:

3126 (1) The financing statement is effective to perfect a
3127 security interest in collateral acquired by the debtor before, or
3128 within four (4) months after, the change; and

3129 (2) The financing statement is not effective to perfect
3130 a security interest in collateral acquired by the debtor more than
3131 four (4) months after the change, unless an amendment to the
3132 financing statement which renders the financing statement not
3133 seriously misleading is filed within four (4) months after the
3134 change.

3135 **SECTION 75-9-508. Effectiveness of financing statement if**
3136 **new debtor becomes bound by security agreement.**

3137 (a) Except as otherwise provided in this section, a filed
3138 financing statement naming an original debtor is effective to
3139 perfect a security interest in collateral in which a new debtor
3140 has or acquires rights to the extent that the financing statement
3141 would have been effective had the original debtor acquired rights
3142 in the collateral.

3143 (b) If the difference between the name of the original
3144 debtor and that of the new debtor causes a filed financing
3145 statement that is effective under subsection (a) to be seriously
3146 misleading under Section 75-9-506:

3147 (1) The financing statement is effective to perfect a
3148 security interest in collateral acquired by the new debtor before,
3149 and within four (4) months after, the new debtor becomes bound
3150 under Section 75-9-203(d); and

3151 (2) The financing statement is not effective to perfect
3152 a security interest in collateral acquired by the new debtor more
3153 than four (4) months after the new debtor becomes bound under
3154 Section 75-9-203(d) unless an initial financing statement
3155 providing the name of the new debtor is filed before the
3156 expiration of that time.

3157 (c) This section does not apply to collateral as to which a
3158 filed financing statement remains effective against the new debtor
3159 under Section 75-9-507(a).

3160 **SECTION 75-9-509. Persons entitled to file a record.**

3161 (a) A person may file an initial financing statement,
3162 amendment that adds collateral covered by a financing statement,
3163 or amendment that adds a debtor to a financing statement only if:

3164 (1) The debtor authorizes the filing in an
3165 authenticated record or pursuant to subsection (b) or (c); or

3166 (2) The person holds an agricultural lien that has
3167 become effective at the time of filing and the financing statement
3168 covers only collateral in which the person holds an agricultural
3169 lien.

3170 (b) By authenticating or becoming bound as debtor by a
3171 security agreement, a debtor or new debtor authorizes the filing
3172 of an initial financing statement, and an amendment, covering:

3173 (1) The collateral described in the security agreement;
3174 and

3175 (2) Property that becomes collateral under Section
3176 75-9-315(a)(2), whether or not the security agreement expressly
3177 covers proceeds.

3178 (c) By acquiring collateral in which a security interest or
3179 agricultural lien continues under Section 75-9-315(a)(1), a debtor
3180 authorizes the filing of an initial financing statement, and an
3181 amendment, covering the collateral and property that becomes
3182 collateral under Section 75-9-315(a)(2).

3183 (d) A person may file an amendment other than an amendment
3184 that adds collateral covered by a financing statement or an
3185 amendment that adds a debtor to a financing statement only if:

3186 (1) The secured party of record authorizes the filing;
3187 or

3188 (2) The amendment is a termination statement for a
3189 financing statement as to which the secured party of record has

3190 failed to file or send a termination statement as required by
3191 Section 75-9-513(a) or (c), the debtor authorizes the filing, and
3192 the termination statement indicates that the debtor authorized it
3193 to be filed.

3194 (e) If there is more than one (1) secured party of record
3195 for a financing statement, each secured party of record may
3196 authorize the filing of an amendment under subsection (d).

3197 **SECTION 75-9-510. Effectiveness of filed record.**

3198 (a) A filed record is effective only to the extent that it
3199 was filed by a person that may file it under Section 75-9-509.

3200 (b) A record authorized by one (1) secured party of record
3201 does not affect the financing statement with respect to another
3202 secured party of record.

3203 (c) A continuation statement that is not filed within the
3204 six-month period prescribed by Section 75-9-515(d) is ineffective.

3205 **SECTION 75-9-511. Secured party of record.**

3206 (a) A secured party of record with respect to a financing
3207 statement is a person whose name is provided as the name of the
3208 secured party or a representative of the secured party in an
3209 initial financing statement that has been filed. If an initial
3210 financing statement is filed under Section 75-9-514(a), the
3211 assignee named in the initial financing statement is the secured
3212 party of record with respect to the financing statement.

3213 (b) If an amendment of a financing statement which provides
3214 the name of a person as a secured party or a representative of a
3215 secured party is filed, the person named in the amendment is a
3216 secured party of record. If an amendment is filed under Section
3217 75-9-514(b), the assignee named in the amendment is a secured
3218 party of record.

3219 (c) A person remains a secured party of record until the
3220 filing of an amendment of the financing statement which deletes
3221 the person.

3222 **SECTION 75-9-512. Amendment of financing statement.**

3223 (a) Subject to Section 75-9-509, a person may add or delete
3224 collateral covered by, continue or terminate the effectiveness of,
3225 or, subject to subsection (e), otherwise amend the information
3226 provided in, a financing statement by filing an amendment that:

3227 (1) Identifies, by its file number, the initial
3228 financing statement to which the amendment relates; and

3229 (2) If the amendment relates to an initial financing
3230 statement filed for record in a filing office described in Section
3231 75-9-501(a)(1), provides the date that the initial financing
3232 statement was filed for record and the information specified in
3233 Section 75-9-502(b).

3234 (b) Except as otherwise provided in Section 75-9-515, the
3235 filing of an amendment does not extend the period of effectiveness
3236 of the financing statement.

3237 (c) A financing statement that is amended by an amendment
3238 that adds collateral is effective as to the added collateral only
3239 from the date of the filing of the amendment.

3240 (d) A financing statement that is amended by an amendment
3241 that adds a debtor is effective as to the added debtor only from
3242 the date of the filing of the amendment.

3243 (e) An amendment is ineffective to the extent it:

3244 (1) Purports to delete all debtors and fails to provide
3245 the name of a debtor to be covered by the financing statement; or

3246 (2) Purports to delete all secured parties of record
3247 and fails to provide the name of a new secured party of record.

3248 **SECTION 75-9-513. Termination statement.**

3249 (a) A secured party shall cause the secured party of record
3250 for a financing statement to file a termination statement for the
3251 financing statement if the financing statement covers consumer
3252 goods and:

3253 (1) There is no obligation secured by the collateral
3254 covered by the financing statement and no commitment to make an
3255 advance, incur an obligation, or otherwise give value; or

3256 (2) The debtor did not authorize the filing of the
3257 initial financing statement.

3258 (b) To comply with subsection (a), a secured party shall
3259 cause the secured party of record to file the termination
3260 statement:

3261 (1) Within one (1) month after there is no obligation
3262 secured by the collateral covered by the financing statement and
3263 no commitment to make an advance, incur an obligation, or
3264 otherwise give value; or

3265 (2) If earlier, within twenty (20) days after the
3266 secured party receives an authenticated demand from a debtor.

3267 (c) In cases not governed by subsection (a), within twenty
3268 (20) days after a secured party receives an authenticated demand
3269 from a debtor, the secured party shall cause the secured party of
3270 record for a financing statement to send to the debtor a
3271 termination statement for the financing statement or file the
3272 termination statement in the filing office if:

3273 (1) Except in the case of a financing statement
3274 covering accounts or chattel paper that has been sold or goods
3275 that are the subject of a consignment, there is no obligation
3276 secured by the collateral covered by the financing statement and
3277 no commitment to make an advance, incur an obligation, or
3278 otherwise give value;

3279 (2) The financing statement covers accounts or chattel
3280 paper that has been sold but as to which the account debtor or
3281 other person obligated has discharged its obligation;

3282 (3) The financing statement covers goods that were the
3283 subject of a consignment to the debtor but are not in the debtor's
3284 possession; or

3285 (4) The debtor did not authorize the filing of the
3286 initial financing statement.

3287 (d) Except as otherwise provided in Section 75-9-510, upon
3288 the filing of a termination statement with the filing office, the

3289 financing statement to which the termination statement relates
3290 ceases to be effective. Except as otherwise provided in Section
3291 75-9-510, for purposes of Sections 75-9-519(g), 75-9-522(a) and
3292 75-9-523(c), the filing with the filing office of a termination
3293 statement relating to a financing statement that indicates that
3294 the debtor is a transmitting utility also causes the effectiveness
3295 of the financing statement to lapse.

3296 **SECTION 75-9-514. Assignment of powers of secured party of**
3297 **record.**

3298 (a) Except as otherwise provided in subsection (c), an
3299 initial financing statement may reflect an assignment of all of
3300 the secured party's power to authorize an amendment to the
3301 financing statement by providing the name and mailing address of
3302 the assignee as the name and address of the secured party.

3303 (b) Except as otherwise provided in subsection (c), a
3304 secured party of record may assign of record all or part of its
3305 power to authorize an amendment to a financing statement by filing
3306 in the filing office an amendment of the financing statement
3307 which:

3308 (1) Identifies, by its file number, the initial
3309 financing statement to which it relates;

3310 (2) Provides the name of the assignor; and

3311 (3) Provides the name and mailing address of the
3312 assignee.

3313 (c) An assignment of record of a security interest in a
3314 fixture covered by a record of a mortgage which is effective as a
3315 financing statement filed as a fixture filing under Section
3316 75-9-502(c) may be made only by an assignment of record of the
3317 mortgage in the manner provided by law of this state other than
3318 the Uniform Commercial Code.

3319 **SECTION 75-9-515. Duration and effectiveness of financing**
3320 **statement; effect of lapsed financing statement.**

3321 (a) Except as otherwise provided in subsections (b), (e),
3322 (f) and (g), a filed financing statement is effective for a period
3323 of five (5) years after the date of filing.

3324 (b) Except as otherwise provided in subsections (e), (f) and
3325 (g), an initial financing statement filed in connection with a
3326 public-finance transaction or manufactured-home transaction is
3327 effective for a period of thirty (30) years after the date of
3328 filing if it indicates that it is filed in connection with a
3329 public-finance transaction or manufactured-home transaction.

3330 (c) The effectiveness of a filed financing statement lapses
3331 on the expiration of the period of its effectiveness unless before
3332 the lapse a continuation statement is filed pursuant to subsection
3333 (d). Upon lapse, a financing statement ceases to be effective and
3334 any security interest or agricultural lien that was perfected by
3335 the financing statement becomes unperfected, unless the security
3336 interest is perfected otherwise. If the security interest or
3337 agricultural lien becomes unperfected upon lapse, it is deemed
3338 never to have been perfected as against a purchaser of the
3339 collateral for value.

3340 (d) A continuation statement may be filed only within six
3341 (6) months before the expiration of the five-year period specified
3342 in subsection (a) or the thirty-year period specified in
3343 subsection (b), whichever is applicable.

3344 (e) Except as otherwise provided in Section 75-9-510, upon
3345 timely filing of a continuation statement, the effectiveness of
3346 the initial financing statement continues for a period of five (5)
3347 years commencing on the day on which the financing statement would
3348 have become ineffective in the absence of the filing. Upon the
3349 expiration of the five-year period, the financing statement lapses
3350 in the same manner as provided in subsection (c), unless, before
3351 the lapse, another continuation statement is filed pursuant to
3352 subsection (d). Succeeding continuation statements may be filed

3353 in the same manner to continue the effectiveness of the initial
3354 financing statement.

3355 (f) If a debtor is a transmitting utility and a filed
3356 financing statement so indicates, the financing statement is
3357 effective until a termination statement is filed.

3358 (g) A record of a mortgage that is effective as a financing
3359 statement filed as a fixture filing under Section 75-9-502(c)
3360 remains effective as a financing statement filed as a fixture
3361 filing until the mortgage is released or satisfied of record or
3362 its effectiveness otherwise terminates as to the real property.

3363 **SECTION 75-9-516. What constitutes filing; effectiveness of**
3364 **filing.**

3365 (a) Except as otherwise provided in subsection (b),
3366 communication of a record to a filing office and tender of the
3367 filing fee or acceptance of the record by the filing office
3368 constitutes filing.

3369 (b) Filing does not occur with respect to a record that a
3370 filing office refuses to accept because:

3371 (1) The record is not communicated by a method or
3372 medium of communication authorized by the filing office;

3373 (2) An amount equal to or greater than the applicable
3374 filing fee is not tendered;

3375 (3) The filing office is unable to index the record
3376 because:

3377 (A) In the case of an initial financing statement,
3378 the record does not provide a name for the debtor;

3379 (B) In the case of an amendment or correction
3380 statement, the record:

3381 (i) Does not identify the initial financing
3382 statement as required by Section 75-9-512 or 75-9-518, as
3383 applicable; or

3384 (ii) Identifies an initial financing
3385 statement whose effectiveness has lapsed under Section 75-9-515;

3386 (C) In the case of an initial financing statement
3387 that provides the name of a debtor identified as an individual or
3388 an amendment that provides a name of a debtor identified as an
3389 individual which was not previously provided in the financing
3390 statement to which the record relates, the record does not
3391 identify the debtor's last name; or

3392 (D) In the case of a record filed, or filed for
3393 record, in the filing office described in Section 75-9-501(a)(1),
3394 the record does not provide a sufficient description of the real
3395 property to which it relates;

3396 (4) In the case of an initial financing statement or an
3397 amendment that adds a secured party of record, the record does not
3398 provide a name and mailing address for the secured party of
3399 record;

3400 (5) In the case of an initial financing statement or an
3401 amendment that provides a name of a debtor which was not
3402 previously provided in the financing statement to which the
3403 amendment relates, the record does not:

3404 (A) Provide a mailing address for the debtor;

3405 (B) Indicate whether the debtor is an individual
3406 or an organization; or

3407 (C) If the financing statement indicates that the
3408 debtor is an organization, provide:

3409 (i) A type of organization for the debtor;

3410 (ii) A jurisdiction of organization for the
3411 debtor; or

3412 (iii) An organizational identification number
3413 for the debtor or indicate that the debtor has none;

3414 (6) In the case of an assignment reflected in an
3415 initial financing statement under Section 75-9-514(a) or an
3416 amendment filed under Section 75-9-514(b), the record does not
3417 provide a name and mailing address for the assignee; or

3418 (7) In the case of a continuation statement, the record
3419 is not filed within the six-month period prescribed by Section
3420 75-9-515(d).

3421 (c) For purposes of subsection (b):

3422 (1) A record does not provide information if the filing
3423 office is unable to read or decipher the information; and

3424 (2) A record that does not indicate that it is an
3425 amendment or identify an initial financing statement to which it
3426 relates, as required by Section 75-9-512, 75-9-514 or 75-9-518, is
3427 an initial financing statement.

3428 (d) A record that is communicated to the filing office with
3429 tender of the filing fee, but which the filing office refuses to
3430 accept for a reason other than one set forth in subsection (b), is
3431 effective as a filed record except as against a purchaser of the
3432 collateral which gives value in reasonable reliance upon the
3433 absence of the record from the files.

3434 **SECTION 75-9-517. Effect of indexing errors.** The failure of
3435 the filing office to index a record correctly does not affect the
3436 effectiveness of the filed record.

3437 **SECTION 75-9-518. Claim concerning inaccurate or wrongfully**
3438 **filed record.**

3439 (a) A person may file in the filing office a correction
3440 statement with respect to a record indexed there under the
3441 person's name if the person believes that the record is inaccurate
3442 or was wrongfully filed.

3443 (b) A correction statement must:

3444 (1) Identify the record to which it relates by:

3445 (A) The file number assigned to the initial
3446 financing statement to which the record relates; and

3447 (B) If the correction statement relates to a
3448 record filed for record in a filing office described in Section
3449 75-9-501(a)(1), the date that the initial financing statement was

3450 filed for record and the information specified in Section
3451 75-9-502(b);

3452 (2) Indicate that it is a correction statement; and

3453 (3) Provide the basis for the person's belief that the
3454 record is inaccurate and indicate the manner in which the person
3455 believes the record should be amended to cure any inaccuracy or
3456 provide the basis for the person's belief that the record was
3457 wrongfully filed.

3458 (c) The filing of a correction statement does not affect the
3459 effectiveness of an initial financing statement or other filed
3460 record.

3461 SUBPART 2. DUTIES AND OPERATION OF FILING OFFICE

3462 **SECTION 75-9-519. Numbering, maintaining and indexing**
3463 **records; communicating information provided in records.**

3464 (a) For each record filed in a filing office, the filing
3465 office shall:

3466 (1) Assign a unique number to the filed record;

3467 (2) Create a record that bears the number assigned to
3468 the filed record and the date and time of filing;

3469 (3) Maintain the filed record for public inspection;

3470 and

3471 (4) Index the filed record in accordance with
3472 subsections (c), (d) and (e).

3473 (b) Except as provided in subsection (i), a file number
3474 assigned after January 1, 2002, must include a digit that:

3475 (1) Is mathematically derived from or related to the
3476 other digits of the file number; and

3477 (2) Aids the filing office in determining whether a
3478 number communicated as the file number includes a single-digit or
3479 transpositional error.

3480 (c) Except as otherwise provided in subsections (d) and (e),
3481 the filing office shall:

3482 (1) Index an initial financing statement according to
3483 the name of the debtor and index all filed records relating to the
3484 initial financing statement in a manner that associates with one
3485 another an initial financing statement and all filed records
3486 relating to the initial financing statement; and

3487 (2) Index a record that provides a name of a debtor
3488 which was not previously provided in the financing statement to
3489 which the record relates also according to the name that was not
3490 previously provided.

3491 (d) If a financing statement is filed as a fixture filing or
3492 covers as-extracted collateral or timber to be cut, it must be
3493 filed for record and the filing office shall index it:

3494 (1) Under the names of the debtor and of each owner of
3495 record shown on the financing statement as if they were the
3496 mortgagors under a mortgage of the real property described; and

3497 (2) To the extent that the law of this state provides
3498 for indexing of records of mortgages under the name of the
3499 mortgagee, under the name of the secured party as if the secured
3500 party were the mortgagee thereunder, or, if indexing is by
3501 description, as if the financing statement were a record of a
3502 mortgage of the real property described.

3503 (e) If a financing statement is filed as a fixture filing or
3504 covers as-extracted collateral or timber to be cut, the filing
3505 office shall index an assignment filed under Section 75-9-514(a)
3506 or an amendment filed under Section 75-9-514(b):

3507 (1) Under the name of the assignor as grantor; and

3508 (2) To the extent that the law of this state provides
3509 for indexing a record of the assignment of a mortgage under the
3510 name of the assignee, under the name of the assignee.

3511 (f) The filing office shall maintain a capability:

3512 (1) To retrieve a record by the name of the debtor and:

3513 (A) If the filing office is described in Section
3514 75-9-501(a)(1), by the file number assigned to the initial

3515 financing statement to which the record relates and the date and
3516 time that the record was filed for record; or

3517 (B) If the filing office is described in Section
3518 75-9-501(a)(2), by the file number assigned to the initial
3519 financing statement to which the record relates; and

3520 (2) To associate and retrieve with one another an
3521 initial financing statement and each filed record relating to the
3522 initial financing statement.

3523 (g) The filing office may not remove a debtor's name from
3524 the index until one (1) year after the effectiveness of a
3525 financing statement naming the debtor lapses under Section
3526 75-9-515 with respect to all secured parties of record.

3527 (h) Except as provided in subsection (i), the filing office
3528 shall perform the acts required by subsections (a) through (e) at
3529 the time and in the manner prescribed by filing-office rule, but
3530 not later than two (2) business days after the filing office
3531 receives the record in question.

3532 (i) Subsections (b) and (h) do not apply to a filing office
3533 described in Section 75-9-501(a)(1).

3534 **SECTION 75-9-520. Acceptance and refusal to accept record.**

3535 (a) A filing office shall refuse to accept a record for
3536 filing for a reason set forth in Section 75-9-516(b) and may
3537 refuse to accept a record for filing only for a reason set forth
3538 in Section 75-9-516(b).

3539 (b) If a filing office refuses to accept a record for
3540 filing, it shall communicate to the person that presented the
3541 record the fact of and reason for the refusal and the date and
3542 time the record would have been filed had the filing office
3543 accepted it. The communication must be made at the time and in
3544 the manner prescribed by filing-office rule but, in the case of a
3545 filing office described in Section 75-9-501(a)(1), in no event
3546 more than two (2) business days after the filing office receives
3547 the record.

3548 (c) A filed financing statement satisfying Section
3549 75-9-502(a) and (b) is effective, even if the filing office is
3550 required to refuse to accept it for filing under subsection (a).
3551 However, Section 75-9-338 applies to a filed financing statement
3552 providing information described in Section 75-9-516(b)(5) which is
3553 incorrect at the time the financing statement is filed.

3554 (d) If a record communicated to a filing office provides
3555 information that relates to more than one (1) debtor, this part
3556 applies as to each debtor separately.

3557 **SECTION 75-9-521. Uniform form of written financing**
3558 **statement and amendment.**

3559 (a) A filing office that accepts written records may not
3560 refuse to accept a written initial financing statement in the form
3561 and format set forth in the final official text of the 1999
3562 revisions to Article 9 of the Uniform Commercial Code promulgated
3563 by The American Law Institute and the National Conference of
3564 Commissioners on Uniform State Laws, except for a reason set forth
3565 in Section 75-9-516(b).

3566 (b) A filing office that accepts written records may not
3567 refuse to accept a written record in the form and format set forth
3568 in the final official text of the 1999 revisions to Article 9 of
3569 the Uniform Commercial Code promulgated by The American Law
3570 Institute and the National Conference of Commissioners on Uniform
3571 State Laws, except for a reason set forth in Section 75-9-516(b).

3572 **SECTION 75-9-522. Maintenance and destruction of records.**

3573 (a) The filing office shall maintain a record of the
3574 information provided in a filed financing statement for at least
3575 one (1) year after the effectiveness of the financing statement
3576 has lapsed under Section 75-9-515 with respect to all secured
3577 parties of record. The record must be retrievable by using the
3578 name of the debtor and:

3579 (1) If the record was filed or recorded in the filing
3580 office described in Section 75-9-501(a)(1), by using the file

3581 number assigned to the initial financing statement to which the
3582 record relates and the date that the record was filed for record;
3583 or

3584 (2) If the record was filed in the filing office
3585 described in Section 75-9-501(a)(2), by using the file number
3586 assigned to the initial financing statement to which the record
3587 relates.

3588 (b) Except to the extent that a statute governing
3589 disposition of public records provides otherwise, the filing
3590 office immediately may destroy any written record evidencing a
3591 financing statement. However, if the filing office destroys a
3592 written record, it shall maintain another record of the financing
3593 statement which complies with subsection (a).

3594 **SECTION 75-9-523. Information from filing office; sale or**
3595 **license of records.**

3596 (a) If a person that files a written record requests an
3597 acknowledgment of the filing, the filing office shall send to the
3598 person an image of the record showing the number assigned to the
3599 record pursuant to Section 75-9-519(a)(1) and the date and time of
3600 the filing of the record. However, if the person furnishes a copy
3601 of the record to the filing office, the filing office may instead:

3602 (1) Note upon the copy the number assigned to the
3603 record pursuant to Section 75-9-519(a)(1) and the date and time of
3604 the filing of the record; and

3605 (2) Send the copy to the person.

3606 (b) If a person files a record other than a written record,
3607 the filing office shall communicate to the person an
3608 acknowledgment that provides:

3609 (1) The information in the record;

3610 (2) The number assigned to the record pursuant to
3611 Section 75-9-519(a)(1); and

3612 (3) The date and time of the filing of the record.

3613 (c) The filing office shall communicate or otherwise make
3614 available in a record the following information to any person that
3615 requests it:

3616 (1) Whether there is on file on a date and time
3617 specified by the filing office, but not a date earlier than three
3618 (3) business days before the filing office receives the request,
3619 any financing statement that:

3620 (A) Designates a particular debtor or, if the
3621 request so states, designates a particular debtor at the address
3622 specified in the request;

3623 (B) Has not lapsed under Section 75-9-515 with
3624 respect to all secured parties of record; and

3625 (C) If the request so states, has lapsed under
3626 Section 75-9-515 and a record of which is maintained by the filing
3627 office under Section 75-9-522(a);

3628 (2) The date and time of filing of each financing
3629 statement; and

3630 (3) The information provided in each financing
3631 statement.

3632 (d) In complying with its duty under subsection (c), the
3633 filing office may communicate information in any medium. However,
3634 if requested, the filing office shall communicate information by
3635 issuing its written certificate or, if so requested in writing, a
3636 record that can be admitted into evidence in the courts of this
3637 state without extrinsic evidence of its authenticity.

3638 (e) The filing office shall perform the acts required by
3639 subsections (a) through (d) at the time and in the manner
3640 prescribed by filing-office rule, but, in the case of a filing
3641 office described in Section 75-9-501(a)(2), not later than two (2)
3642 business days after the filing office receives the request.

3643 (f) At least weekly, the filing office shall offer to sell
3644 or license to the public on a nonexclusive basis, in bulk, copies
3645 of all records filed in it under this part, in every medium from

3646 time to time available to the filing office. This subsection
3647 shall apply only to records filed in a filing office described in
3648 Section 75-9-501(a)(2).

3649 **SECTION 75-9-524. Delay by filing office.** Delay by the
3650 filing office beyond a time limit prescribed by this part is
3651 excused if:

3652 (1) The delay is caused by interruption of
3653 communication or computer facilities, war, emergency conditions,
3654 failure of equipment, or other circumstances beyond control of the
3655 filing office; and

3656 (2) The filing office exercises reasonable diligence
3657 under the circumstances.

3658 **SECTION 75-9-525. Fees.**

3659 (a) Except as otherwise provided in subsection (e), the fee
3660 for filing and indexing a record under this part, other than an
3661 initial financing statement of the kind described in subsection
3662 (b) is the amount specified in subsection (c), if applicable,
3663 plus:

3664 (1) Five Dollars (\$5.00) if the record is communicated
3665 in writing and is in the standard form prescribed by the Secretary
3666 of State;

3667 (2) Ten Dollars (\$10.00) if the record is communicated
3668 in writing and is not in the standard form prescribed by the
3669 Secretary of State; and

3670 (3) Three Dollars (\$3.00) if the record is communicated
3671 by another medium authorized by filing-office rule.

3672 (b) Except as otherwise provided in subsection (e), the fee
3673 for filing and indexing an initial financing statement of the
3674 following kind is the amount specified in subsection (c), if
3675 applicable, plus:

3676 (1) Ten Dollars (\$10.00) if the financing statement
3677 indicates that it is filed in connection with a public-finance
3678 transaction;

3679 (2) Five Dollars (\$5.00) if the financing statement
3680 indicates that it is filed in connection with a manufactured-home
3681 transaction.

3682 (c) Except as otherwise provided in subsection (e), if a
3683 record is communicated in writing, the fee for each additional
3684 debtor name more than one (1) required to be indexed is Two
3685 Dollars (\$2.00).

3686 (d) The fee for responding to a request for information from
3687 the filing office, including for issuing a certificate showing
3688 whether there is on file any financing statement naming a
3689 particular debtor, is:

3690 (1) Five Dollars (\$5.00) if the request is communicated
3691 in writing on the standard form prescribed by the Secretary of
3692 State;

3693 (2) Ten Dollars (\$10.00) if the request is communicated
3694 in writing and is not in the standard form prescribed by the
3695 Secretary of State;

3696 (3) Three Dollars (\$3.00) if the request is
3697 communicated by another medium authorized by filing-office rule;
3698 and

3699 (4) An additional fee of Two Dollars (\$2.00) shall be
3700 paid by the requesting party for each financing statement listed
3701 on the filing officer's certificate, the aggregate of which shall
3702 be billed to the requesting party at the time the filing officer's
3703 certificate is issued.

3704 (e) This section does not require a fee with respect to a
3705 record of a mortgage which is effective as a financing statement
3706 filed as a fixture filing or as a financing statement covering
3707 as-extracted collateral or timber to be cut under Section
3708 75-9-502(c). However, the recording and satisfaction fees that
3709 otherwise would be applicable under Section 25-7-9 to the record
3710 of the mortgage apply.

3711 **SECTION 75-9-526. Filing-office rules.**

3712 (a) The Secretary of State shall adopt and publish rules to
3713 implement this article. The filing-office rules must be:

3714 (1) Consistent with this article; and

3715 (2) Adopted and published in accordance with the
3716 Mississippi Administrative Procedures Act.

3717 (b) To keep the filing-office rules and practices of the
3718 filing office in harmony with the rules and practices of filing
3719 offices in other jurisdictions that enact substantially this part,
3720 and to keep the technology used by the filing office compatible
3721 with the technology used by filing offices in other jurisdictions
3722 that enact substantially this part, the Secretary of State, so far
3723 as is consistent with the purposes, policies and provisions of
3724 this article, in adopting, amending and repealing filing-office
3725 rules, shall:

3726 (1) Consult with filing offices in other jurisdictions
3727 that enact substantially this part; and

3728 (2) Consult the most recent version of the Model Rules
3729 promulgated by the International Association of Corporate
3730 Administrators or any successor organization; and

3731 (3) Take into consideration the rules and practices of,
3732 and the technology used by, filing offices in other jurisdictions
3733 that enact substantially this part.

3734 **SECTION 75-9-527. Duty to report.** The Secretary of State
3735 shall report annually on or before January 2 to the Legislature on
3736 the operation of the filing office. The report must contain a
3737 statement of the extent to which:

3738 (1) The filing-office rules are not in harmony with the
3739 rules of filing offices in other jurisdictions that enact
3740 substantially this part and the reasons for these variations; and

3741 (2) The filing-office rules are not in harmony with the
3742 most recent version of the Model Rules promulgated by the
3743 International Association of Corporate Administrators, or any
3744 successor organization, and the reasons for these variations.

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PART 6

DEFAULT

SUBPART 1. DEFAULT AND ENFORCEMENT OF SECURITY INTEREST

SECTION 75-9-601. Rights after default; judicial enforcement; consignor or buyer of accounts, chattel paper, payment intangibles or promissory notes.

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

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

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

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

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

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

(e) If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

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

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

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

3778 (f) A sale pursuant to an execution is a foreclosure of the
3779 security interest or agricultural lien by judicial procedure
3780 within the meaning of this section. A secured party may purchase
3781 at the sale and thereafter hold the collateral free of any other
3782 requirements of this article.

3783 (g) Except as otherwise provided in Section 75-9-607(c),
3784 this part imposes no duties upon a secured party that is a
3785 consignor or is a buyer of accounts, chattel paper, payment
3786 intangibles or promissory notes.

3787 **SECTION 75-9-602. Waiver and variance of rights and duties.**

3788 Except as otherwise provided in Section 75-9-624, to the extent
3789 that they give rights to a debtor or obligor and impose duties on
3790 a secured party, the debtor or obligor may not waive or vary the
3791 rules stated in the following listed sections:

3792 (1) Section 75-9-207(b)(4)(C), which deals with use and
3793 operation of the collateral by the secured party;

3794 (2) Section 75-9-210, which deals with requests for an
3795 accounting and requests concerning a list of collateral and
3796 statement of account;

3797 (3) Section 75-9-607(c), which deals with collection
3798 and enforcement of collateral;

3799 (4) Sections 75-9-608(a) and 75-9-615(c) to the extent
3800 that they deal with application or payment of noncash proceeds of
3801 collection, enforcement or disposition;

3802 (5) Sections 75-9-608(a) and 75-9-615(d) to the extent
3803 that they require accounting for or payment of surplus proceeds of
3804 collateral;

3805 (6) Section 75-9-609 to the extent that it imposes upon
3806 a secured party that takes possession of collateral without
3807 judicial process the duty to do so without breach of the peace;

3808 (7) Sections 75-9-610(b), 75-9-611, 75-9-613 and
3809 75-9-614, which deal with disposition of collateral;

3810 (8) Section 75-9-615(f), which deals with calculation
3811 of a deficiency or surplus when a disposition is made to the
3812 secured party, a person related to the secured party, or a
3813 secondary obligor;

3814 (9) Section 75-9-616, which deals with explanation of
3815 the calculation of a surplus or deficiency;

3816 (10) Sections 75-9-620, 75-9-621 and 75-9-622, which
3817 deal with acceptance of collateral in satisfaction of obligation;

3818 (11) Section 75-9-623, which deals with redemption of
3819 collateral;

3820 (12) Section 75-9-624, which deals with permissible
3821 waivers; and

3822 (13) Sections 75-9-625 and 75-9-626, which deal with
3823 the secured party's liability for failure to comply with this
3824 article.

3825 **SECTION 75-9-603. Agreement on standards concerning rights**
3826 **and duties.**

3827 (a) The parties may determine by agreement the standards
3828 measuring the fulfillment of the rights of a debtor or obligor and
3829 the duties of a secured party under a rule stated in Section
3830 75-9-602 if the standards are not manifestly unreasonable.

3831 (b) Subsection (a) does not apply to the duty under Section
3832 75-9-609 to refrain from breaching the peace.

3833 **SECTION 75-9-604. Procedure if security agreement covers**
3834 **real property or fixtures.**

3835 (a) If a security agreement covers both personal and real
3836 property, a secured party may proceed:

3837 (1) Under this part as to the personal property without
3838 prejudicing any rights with respect to the real property; or

3839 (2) As to both the personal property and the real
3840 property in accordance with the rights with respect to the real
3841 property, in which case the other provisions of this part do not
3842 apply.

3843 (b) Subject to subsection (c), if a security agreement
3844 covers goods that are or become fixtures, a secured party may
3845 proceed:

3846 (1) Under this part; or

3847 (2) In accordance with the rights with respect to real
3848 property, in which case the other provisions of this part do not
3849 apply.

3850 (c) Subject to the other provisions of this part, if a
3851 secured party holding a security interest in fixtures has priority
3852 over all owners and encumbrancers of the real property, the
3853 secured party, after default, may remove the collateral from the
3854 real property.

3855 (d) A secured party that removes collateral shall promptly
3856 reimburse any encumbrancer or owner of the real property, other
3857 than the debtor, for the cost of repair of any physical injury
3858 caused by the removal. The secured party need not reimburse the
3859 encumbrancer or owner for any diminution in value of the real
3860 property caused by the absence of the goods removed or by any
3861 necessity of replacing them. A person entitled to reimbursement
3862 may refuse permission to remove until the secured party gives
3863 adequate assurance for the performance of the obligation to
3864 reimburse.

3865 **SECTION 75-9-605. Unknown debtor or secondary obligor.** A
3866 secured party does not owe a duty based on its status as secured
3867 party:

3868 (1) To a person that is a debtor or obligor, unless the
3869 secured party knows:

3870 (A) That the person is a debtor or obligor;

3871 (B) The identity of the person; and

3872 (C) How to communicate with the person; or

3873 (2) To a secured party or lienholder that has filed a
3874 financing statement against a person, unless the secured party
3875 knows:

3876 (A) That the person is a debtor; and

3877 (B) The identity of the person.

3878 **SECTION 75-9-606. Time of default for agricultural lien.**

3879 For purposes of this part, a default occurs in connection with an
3880 agricultural lien at the time the secured party becomes entitled
3881 to enforce the lien in accordance with the statute under which it
3882 was created.

3883 **SECTION 75-9-607. Collection and enforcement by secured**
3884 **party.**

3885 (a) If so agreed, and in any event after default, a secured
3886 party:

3887 (1) May notify an account debtor or other person
3888 obligated on collateral to make payment or otherwise render
3889 performance to or for the benefit of the secured party;

3890 (2) May take any proceeds to which the secured party is
3891 entitled under Section 75-9-315;

3892 (3) May enforce the obligations of an account debtor or
3893 other person obligated on collateral and exercise the rights of
3894 the debtor with respect to the obligation of the account debtor or
3895 other person obligated on collateral to make payment or otherwise
3896 render performance to the debtor, and with respect to any property
3897 that secures the obligations of the account debtor or other person
3898 obligated on the collateral;

3899 (4) If it holds a security interest in a deposit
3900 account perfected by control under Section 75-9-104(a)(1), may
3901 apply the balance of the deposit account to the obligation secured
3902 by the deposit account; and

3903 (5) If it holds a security interest in a deposit
3904 account perfected by control under Section 75-9-104(a)(2) or (3),
3905 may instruct the bank to pay the balance of the deposit account to
3906 or for the benefit of the secured party.

3907 (b) If necessary to enable a secured party to exercise under
3908 subsection (a)(3) the right of a debtor to enforce a mortgage

3909 nonjudicially, the secured party may record in the office in which
3910 a record of the mortgage is recorded:

3911 (1) A copy of the security agreement that creates or
3912 provides for a security interest in the obligation secured by the
3913 mortgage; and

3914 (2) The secured party's sworn affidavit in recordable
3915 form stating that:

3916 (A) A default has occurred; and

3917 (B) The secured party is entitled to enforce the
3918 mortgage nonjudicially.

3919 (c) A secured party shall proceed in a commercially
3920 reasonable manner if the secured party:

3921 (1) Undertakes to collect from or enforce an obligation
3922 of an account debtor or other person obligated on collateral; and

3923 (2) Is entitled to charge back uncollected collateral
3924 or otherwise to full or limited recourse against the debtor or a
3925 secondary obligor.

3926 (d) A secured party may deduct from the collections made
3927 pursuant to subsection (c) reasonable expenses of collection and
3928 enforcement, including reasonable attorney's fees and legal
3929 expenses incurred by the secured party.

3930 (e) This section does not determine whether an account
3931 debtor, bank or other person obligated on collateral owes a duty
3932 to a secured party.

3933 **SECTION 75-9-608. Application of proceeds of collection or**
3934 **enforcement; liability for deficiency and right to surplus.**

3935 (a) If a security interest or agricultural lien secures
3936 payment or performance of an obligation, the following rules
3937 apply:

3938 (1) A secured party shall apply or pay over for
3939 application the cash proceeds of collection or enforcement under
3940 Section 75-9-607 in the following order to:

3941 (A) The reasonable expenses of collection and
3942 enforcement and, to the extent provided for by agreement and not
3943 prohibited by law, reasonable attorney's fees and legal expenses
3944 incurred by the secured party;

3945 (B) The satisfaction of obligations secured by the
3946 security interest or agricultural lien under which the collection
3947 or enforcement is made; and

3948 (C) The satisfaction of obligations secured by any
3949 subordinate security interest in or other lien on the collateral
3950 subject to the security interest or agricultural lien under which
3951 the collection or enforcement is made if the secured party
3952 receives an authenticated demand for proceeds before distribution
3953 of the proceeds is completed.

3954 (2) If requested by a secured party, a holder of a
3955 subordinate security interest or other lien shall furnish
3956 reasonable proof of the interest or lien within a reasonable time.
3957 Unless the holder complies, the secured party need not comply with
3958 the holder's demand under paragraph (1)(C).

3959 (3) A secured party need not apply or pay over for
3960 application noncash proceeds of collection and enforcement under
3961 Section 75-9-607 unless the failure to do so would be commercially
3962 unreasonable. A secured party that applies or pays over for
3963 application noncash proceeds shall do so in a commercially
3964 reasonable manner.

3965 (4) A secured party shall account to and pay a debtor
3966 for any surplus, and the obligor is liable for any deficiency.

3967 (b) If the underlying transaction is a sale of accounts,
3968 chattel paper, payment intangibles or promissory notes, the debtor
3969 is not entitled to any surplus, and the obligor is not liable for
3970 any deficiency.

3971 **SECTION 75-9-609. Secured party's right to take possession**
3972 **after default.**

3973 (a) After default, a secured party:

3974 (1) May take possession of the collateral; and
3975 (2) Without removal, may render equipment unusable and
3976 dispose of collateral on a debtor's premises under Section
3977 75-9-610.

3978 (b) A secured party may proceed under subsection (a):

3979 (1) Pursuant to judicial process; or

3980 (2) Without judicial process, if it proceeds without
3981 breach of the peace.

3982 (c) If so agreed, and in any event after default, a secured
3983 party may require the debtor to assemble the collateral and make
3984 it available to the secured party at a place to be designated by
3985 the secured party which is reasonably convenient to both parties.

3986 **SECTION 75-9-610. Disposition of collateral after default.**

3987 (a) After default, a secured party may sell, lease, license,
3988 or otherwise dispose of any or all of the collateral in its
3989 present condition or following any commercially reasonable
3990 preparation or processing.

3991 (b) Every aspect of a disposition of collateral, including
3992 the method, manner, time, place and other terms, must be
3993 commercially reasonable. If commercially reasonable, a secured
3994 party may dispose of collateral by public or private proceedings,
3995 by one or more contracts, as a unit or in parcels, and at any time
3996 and place and on any terms.

3997 (c) A secured party may purchase collateral:

3998 (1) At a public disposition; or

3999 (2) At a private disposition only if the collateral is
4000 of a kind that is customarily sold on a recognized market or the
4001 subject of widely distributed standard price quotations.

4002 (d) A contract for sale, lease, license or other disposition
4003 includes the warranties relating to title, possession, quiet
4004 enjoyment, and the like which by operation of law accompany a
4005 voluntary disposition of property of the kind subject to the
4006 contract.

4007 (e) A secured party may disclaim or modify warranties under
4008 subsection (d):

4009 (1) In a manner that would be effective to disclaim or
4010 modify the warranties in a voluntary disposition of property of
4011 the kind subject to the contract of disposition; or

4012 (2) By communicating to the purchaser a record
4013 evidencing the contract for disposition and including an express
4014 disclaimer or modification of the warranties.

4015 (f) A record is sufficient to disclaim warranties under
4016 subsection (e) if it indicates "There is no warranty relating to
4017 title, possession, quiet enjoyment or the like in this
4018 disposition" or uses words of similar import.

4019 **SECTION 75-9-611. Notification before disposition of**
4020 **collateral.**

4021 (a) In this section, "notification date" means the earlier
4022 of the date on which:

4023 (1) A secured party sends to the debtor and any
4024 secondary obligor an authenticated notification of disposition; or

4025 (2) The debtor and any secondary obligor waive the
4026 right to notification.

4027 (b) Except as otherwise provided in subsection (d), a
4028 secured party that disposes of collateral under Section 75-9-610
4029 shall send to the persons specified in subsection (c) a reasonable
4030 authenticated notification of disposition.

4031 (c) To comply with subsection (b), the secured party shall
4032 send an authenticated notification of disposition to:

4033 (1) The debtor;

4034 (2) Any secondary obligor; and

4035 (3) If the collateral is other than consumer goods:

4036 (A) Any other person from which the secured party
4037 has received, before the notification date, an authenticated
4038 notification of a claim of an interest in the collateral;

4039 (B) Any other secured party or lienholder that,
4040 ten (10) days before the notification date, held a security
4041 interest in or other lien on the collateral perfected by the
4042 filing of a financing statement that:

4043 (i) Identified the collateral;

4044 (ii) Was indexed under the debtor's name as
4045 of that date; and

4046 (iii) Was filed in the office in which to
4047 file a financing statement against the debtor covering the
4048 collateral as of that date; and

4049 (C) Any other secured party that, ten (10) days
4050 before the notification date, held a security interest in the
4051 collateral perfected by compliance with a statute, regulation or
4052 treaty described in Section 75-9-311(a).

4053 (d) Subsection (b) does not apply if the collateral is
4054 perishable or threatens to decline speedily in value or is of a
4055 type customarily sold on a recognized market.

4056 (e) A secured party complies with the requirement for
4057 notification prescribed by subsection (c)(3)(B) if:

4058 (1) Not later than twenty (20) days or earlier than
4059 thirty (30) days before the notification date, the secured party
4060 requests, in a commercially reasonable manner, information
4061 concerning financing statements indexed under the debtor's name in
4062 the office indicated in subsection (c)(3)(B); and

4063 (2) Before the notification date, the secured party:

4064 (A) Did not receive a response to the request for
4065 information; or

4066 (B) Received a response to the request for
4067 information and sent an authenticated notification of disposition
4068 to each secured party or other lienholder named in that response
4069 whose financing statement covered the collateral.

4070 **SECTION 75-9-612. Timeliness of notification before**
4071 **disposition of collateral.**

4072 (a) Except as otherwise provided in subsection (b), whether
4073 a notification is sent within a reasonable time is a question of
4074 fact.

4075 (b) In a transaction other than a consumer transaction, a
4076 notification of disposition sent after default and ten (10) days
4077 or more before the earliest time of disposition set forth in the
4078 notification is sent within a reasonable time before the
4079 disposition.

4080 **SECTION 75-9-613. Contents and form of notification before**
4081 **disposition of collateral: general.** Except in a consumer-goods
4082 transaction, the following rules apply:

4083 (1) The contents of a notification of disposition are
4084 sufficient if the notification:

4085 (A) Describes the debtor and the secured party;

4086 (B) Describes the collateral that is the subject
4087 of the intended disposition;

4088 (C) States the method of intended disposition;

4089 (D) States that the debtor is entitled to an
4090 accounting of the unpaid indebtedness and states the charge, if
4091 any, for an accounting; and

4092 (E) States the time and place of a public
4093 disposition or the time after which any other disposition is to be
4094 made.

4095 (2) Whether the contents of a notification that lacks
4096 any of the information specified in paragraph (1) are nevertheless
4097 sufficient is a question of fact.

4098 (3) The contents of a notification providing
4099 substantially the information specified in paragraph (1) are
4100 sufficient, even if the notification includes:

4101 (A) Information not specified by that paragraph;

4102 or

4103 (B) Minor errors that are not seriously
4104 misleading.

4105 (4) A particular phrasing of the notification is not
4106 required.

4107 (5) The following form of notification and the form
4108 appearing in Section 75-9-614(3), when completed, each provides
4109 sufficient information:

4110 **NOTIFICATION OF DISPOSITION OF COLLATERAL**

4111 To: [Name of debtor, obligor or other
4112 person to which the notification
4113 is sent]

4114 From: [Name, address and telephone number
4115 of secured party]

4116 Name of Debtor(s): [Include only if debtor(s) are not
4117 an addressee]

4118 [For a public disposition:]

4119 We will sell (or lease or license, as applicable) the
4120 [describe collateral] to the highest qualified bidder in
4121 public as follows:

4122 Day and Date: _____

4123 Time: _____

4124 Place: _____

4125 [For a private disposition:]

4126 We will sell (or lease or license, as applicable), the
4127 [describe collateral] privately sometime after [day and
4128 date] .

4129 You are entitled to an accounting of the unpaid indebtedness
4130 secured by the property that we intend to sell (or lease or
4131 license, as applicable) (for a charge of \$_____). You may
4132 request an accounting by calling us at [telephone number] .

4133 **[END OF FORM]**

4134 **SECTION 75-9-614. Contents and form of notification before**
4135 **disposition of collateral: consumer-goods transaction.** In a
4136 consumer-goods transaction, the following rules apply:

4137 (1) A notification of disposition must provide the
4138 following information:

4139 (A) The information specified in Section
4140 75-9-613(1);

4141 (B) A description of any liability for a
4142 deficiency of the person to which the notification is sent;

4143 (C) A telephone number from which the amount that
4144 must be paid to the secured party to redeem the collateral under
4145 Section 75-9-623 is available; and

4146 (D) A telephone number or mailing address from
4147 which additional information concerning the disposition and the
4148 obligation secured is available.

4149 (2) A particular phrasing of the notification is not
4150 required.

4151 (3) The following form of notification, when completed,
4152 provides sufficient information:

4153 Name and address of secured party:

4154 Date:

4155 **NOTICE OF OUR PLAN TO SELL PROPERTY**

4156 Name and address of any obligor who is also a debtor:

4157 Subject: [Identification of transaction]

4158 We have your: [describe collateral] because you broke
4159 promises in our agreement.

4160 [For a public disposition:]

4161 We will sell [describe collateral] at public sale. A sale
4162 could include a lease or license. The sale will be held as
4163 follows:

4164 Date: _____

4165 Time: _____

4166 Place: _____

4167 You may attend the sale and bring bidders if you want.

4168 [For a private disposition]

4169 We will sell [describe collateral] at private sale sometime
4170 after [date] . A sale could include a lease or license.
4171 The money that we get from the sale (after paying our costs) will
4172 reduce the amount you owe. If we get less money than you owe, you
4173 [will or will not, as applicable] still owe us the difference.
4174 If we get more money than you owe, you will get the extra money,
4175 unless we must pay it to someone else.
4176 You can get the property back at any time before we sell it by
4177 paying us the full amount you owe which is then due or past due,
4178 (excluding any amount that would not be due except for an
4179 acceleration provision), including our expenses. To learn the
4180 exact amount you must pay, call us at [telephone number] .
4181 If you want us to explain to you in writing how we have figured
4182 the amount that you owe us, you may call us at [telephone
4183 number] , or write us at [secured party's address] and
4184 request a written explanation. We will charge you \$_____ for
4185 the explanation if we sent you another written explanation of the
4186 amount you owe us within the last six (6) months.
4187 If you need more information about the sale call us at
4188 [telephone number] , or write us at [secured party's
4189 address] .

4190 We are sending this notice to the following other people who have
4191 an interest in [describe collateral] or who owe money under
4192 your agreement:

4193 Names of all other debtors and obligors, if any:

4194 **[END OF FORM]**

4195 (4) A notification in the form of paragraph (3) is
4196 sufficient, even if additional information appears at the end of
4197 the form.

4198 (5) A notification in the form of paragraph (3) is
4199 sufficient, even if it includes errors in information not required
4200 by paragraph (1), unless the error is misleading with respect to
4201 rights arising under this article.

4202 (6) If a notification under this section is not in the
4203 form of paragraph (3), law other than this article determines the
4204 effect of including information not required by paragraph (1).

4205 **SECTION 75-9-615. Application of proceeds of disposition;**
4206 **liability for deficiency and right to surplus.**

4207 (a) A secured party shall apply or pay over for application
4208 the cash proceeds of disposition under Section 75-9-610 in the
4209 following order to:

4210 (1) The reasonable expenses of retaking, holding,
4211 preparing for disposition, processing and disposing, and, to the
4212 extent provided for by agreement and not prohibited by law,
4213 reasonable attorney's fees and legal expenses incurred by the
4214 secured party;

4215 (2) The satisfaction of obligations secured by the
4216 security interest or agricultural lien under which the disposition
4217 is made;

4218 (3) The satisfaction of obligations secured by any
4219 subordinate security interest in or other subordinate lien on the
4220 collateral if:

4221 (A) The secured party receives from the holder of
4222 the subordinate security interest or other lien an authenticated
4223 demand for proceeds before distribution of the proceeds is
4224 completed; and

4225 (B) In a case in which a consignor has an interest
4226 in the collateral, the subordinate security interest or other lien
4227 is senior to the interest of the consignor; and

4228 (4) A secured party that is a consignor of the
4229 collateral if the secured party receives from the consignor an
4230 authenticated demand for proceeds before distribution of the
4231 proceeds is completed.

4232 (b) If requested by a secured party, a holder of a
4233 subordinate security interest or other lien shall furnish
4234 reasonable proof of the interest or lien within a reasonable time.

4235 Unless the holder does so, the secured party need not comply with
4236 the holder's demand under subsection (a)(3).

4237 (c) A secured party need not apply or pay over for
4238 application noncash proceeds of disposition under Section 75-9-610
4239 unless the failure to do so would be commercially unreasonable. A
4240 secured party that applies or pays over for application noncash
4241 proceeds shall do so in a commercially reasonable manner.

4242 (d) If the security interest under which a disposition is
4243 made secures payment or performance of an obligation, after making
4244 the payments and applications required by subsection (a) and
4245 permitted by subsection (c):

4246 (1) Unless subsection (a)(4) requires the secured party
4247 to apply or pay over cash proceeds to a consignor, the secured
4248 party shall account to and pay a debtor for any surplus; and

4249 (2) The obligor is liable for any deficiency.

4250 (e) If the underlying transaction is a sale of accounts,
4251 chattel paper, payment intangibles or promissory notes:

4252 (1) The debtor is not entitled to any surplus; and

4253 (2) The obligor is not liable for any deficiency.

4254 (f) The surplus or deficiency following a disposition is
4255 calculated based on the amount of proceeds that would have been
4256 realized in a disposition complying with this part to a transferee
4257 other than the secured party, a person related to the secured
4258 party, or a secondary obligor if:

4259 (1) The transferee in the disposition is the secured
4260 party, a person related to the secured party, or a secondary
4261 obligor; and

4262 (2) The amount of proceeds of the disposition is
4263 significantly below the range of proceeds that a complying
4264 disposition to a person other than the secured party, a person
4265 related to the secured party, or a secondary obligor would have
4266 brought.

4267 (g) A secured party that receives cash proceeds of a
4268 disposition in good faith and without knowledge that the receipt
4269 violates the rights of the holder of a security interest or other
4270 lien that is not subordinate to the security interest or
4271 agricultural lien under which the disposition is made:

4272 (1) Takes the cash proceeds free of the security
4273 interest or other lien;

4274 (2) Is not obligated to apply the proceeds of the
4275 disposition to the satisfaction of obligations secured by the
4276 security interest or other lien; and

4277 (3) Is not obligated to account to or pay the holder of
4278 the security interest or other lien for any surplus.

4279 **SECTION 75-9-616. Explanation of calculation of surplus or**
4280 **deficiency.**

4281 (a) In this section:

4282 (1) "Explanation" means a writing that:

4283 (A) States the amount of the surplus or
4284 deficiency;

4285 (B) Provides an explanation in accordance with
4286 subsection (c) of how the secured party calculated the surplus or
4287 deficiency;

4288 (C) States, if applicable, that future debits,
4289 credits, charges, including additional credit service charges or
4290 interest, rebates and expenses may affect the amount of the
4291 surplus or deficiency; and

4292 (D) Provides a telephone number or mailing address
4293 from which additional information concerning the transaction is
4294 available.

4295 (2) "Request" means a record:

4296 (A) Authenticated by a debtor or consumer obligor;

4297 (B) Requesting that the recipient provide an
4298 explanation; and

4299 (C) Sent after disposition of the collateral under
4300 Section 75-9-610.

4301 (b) In a consumer-goods transaction in which the debtor is
4302 entitled to a surplus or a consumer obligor is liable for a
4303 deficiency under Section 75-9-615, the secured party shall:

4304 (1) Send an explanation to the debtor or consumer
4305 obligor, as applicable, after the disposition and:

4306 (A) Before or when the secured party accounts to
4307 the debtor and pays any surplus or first makes written demand on
4308 the consumer obligor after the disposition for payment of the
4309 deficiency; and

4310 (B) Within fourteen (14) days after receipt of a
4311 request; or

4312 (2) In the case of a consumer obligor who is liable for
4313 a deficiency, within fourteen (14) days after receipt of a
4314 request, send to the consumer obligor a record waiving the secured
4315 party's right to a deficiency.

4316 (c) To comply with subsection (a)(1)(B), a writing must
4317 provide the following information in the following order:

4318 (1) The aggregate amount of obligations secured by the
4319 security interest under which the disposition was made, and, if
4320 the amount reflects a rebate of unearned interest or credit
4321 service charge, an indication of that fact, calculated as of a
4322 specified date:

4323 (A) If the secured party takes or receives
4324 possession of the collateral after default, not more than
4325 thirty-five (35) days before the secured party takes or receives
4326 possession; or

4327 (B) If the secured party takes or receives
4328 possession of the collateral before default or does not take
4329 possession of the collateral, not more than thirty-five (35) days
4330 before the disposition;

4331 (2) The amount of proceeds of the disposition;

4332 (3) The aggregate amount of the obligations after
4333 deducting the amount of proceeds;

4334 (4) The amount, in the aggregate or by type, and types
4335 of expenses, including expenses of retaking, holding, preparing
4336 for disposition, processing and disposing of the collateral, and
4337 attorney's fees secured by the collateral which are known to the
4338 secured party and relate to the current disposition;

4339 (5) The amount, in the aggregate or by type, and types
4340 of credits, including rebates of interest or credit service
4341 charges, to which the obligor is known to be entitled and which
4342 are not reflected in the amount in paragraph (1); and

4343 (6) The amount of the surplus or deficiency.

4344 (d) A particular phrasing of the explanation is not
4345 required. An explanation complying substantially with the
4346 requirements of subsection (a) is sufficient, even if it includes
4347 minor errors that are not seriously misleading.

4348 (e) A debtor or consumer obligor is entitled without charge
4349 to one (1) response to a request under this section during any
4350 six-month period in which the secured party did not send to the
4351 debtor or consumer obligor an explanation pursuant to subsection
4352 (b)(1). The secured party may require payment of a charge not
4353 exceeding Twenty-five Dollars (\$25.00) for each additional
4354 response.

4355 **SECTION 75-9-617. Rights of transferee of collateral.**

4356 (a) A secured party's disposition of collateral after
4357 default:

4358 (1) Transfers to a transferee for value all of the
4359 debtor's rights in the collateral;

4360 (2) Discharges the security interest under which the
4361 disposition is made; and

4362 (3) Discharges any subordinate security interest or
4363 other subordinate lien.

4364 (b) A transferee that acts in good faith takes free of the
4365 rights and interests described in subsection (a), even if the
4366 secured party fails to comply with this article or the
4367 requirements of any judicial proceeding.

4368 (c) If a transferee does not take free of the rights and
4369 interests described in subsection (a), the transferee takes the
4370 collateral subject to:

4371 (1) The debtor's rights in the collateral;

4372 (2) The security interest or agricultural lien under
4373 which the disposition is made; and

4374 (3) Any other security interest or other lien.

4375 **SECTION 75-9-618. Rights and duties of certain secondary**
4376 **obligors.**

4377 (a) A secondary obligor acquires the rights and becomes
4378 obligated to perform the duties of the secured party after the
4379 secondary obligor:

4380 (1) Receives an assignment of a secured obligation from
4381 the secured party;

4382 (2) Receives a transfer of collateral from the secured
4383 party and agrees to accept the rights and assume the duties of the
4384 secured party; or

4385 (3) Is subrogated to the rights of a secured party with
4386 respect to collateral.

4387 (b) An assignment, transfer, or subrogation described in
4388 subsection (a):

4389 (1) Is not a disposition of collateral under Section
4390 75-9-610; and

4391 (2) Relieves the secured party of further duties under
4392 this article.

4393 **SECTION 75-9-619. Transfer of record or legal title.**

4394 (a) In this section, "transfer statement" means a record
4395 authenticated by a secured party stating:

4396 (1) That the debtor has defaulted in connection with an
4397 obligation secured by specified collateral;

4398 (2) That the secured party has exercised its
4399 post-default remedies with respect to the collateral;

4400 (3) That, by reason of the exercise, a transferee has
4401 acquired the rights of the debtor in the collateral; and

4402 (4) The name and mailing address of the secured party,
4403 debtor and transferee.

4404 (b) A transfer statement entitles the transferee to the
4405 transfer of record of all rights of the debtor in the collateral
4406 specified in the statement in any official filing, recording,
4407 registration or certificate-of-title system covering the
4408 collateral. If a transfer statement is presented with the
4409 applicable fee and request form to the official or office
4410 responsible for maintaining the system, the official or office
4411 shall:

4412 (1) Accept the transfer statement;

4413 (2) Promptly amend its records to reflect the transfer;
4414 and

4415 (3) If applicable, issue a new appropriate certificate
4416 of title in the name of the transferee.

4417 (c) A transfer of the record or legal title to collateral to
4418 a secured party under subsection (b) or otherwise is not of itself
4419 a disposition of collateral under this article and does not of
4420 itself relieve the secured party of its duties under this article.

4421 **SECTION 75-9-620. Acceptance of collateral in full or**
4422 **partial satisfaction of obligation; compulsory disposition of**
4423 **collateral.**

4424 (a) Except as otherwise provided in subsection (g), a
4425 secured party may accept collateral in full or partial
4426 satisfaction of the obligation it secures only if:

4427 (1) The debtor consents to the acceptance under
4428 subsection (c);

4429 (2) The secured party does not receive, within the time
4430 set forth in subsection (d), a notification of objection to the
4431 proposal authenticated by:

4432 (A) A person to which the secured party was
4433 required to send a proposal under Section 75-9-621; or

4434 (B) Any other person, other than the debtor,
4435 holding an interest in the collateral subordinate to the security
4436 interest that is the subject of the proposal;

4437 (3) If the collateral is consumer goods, the collateral
4438 is not in the possession of the debtor when the debtor consents to
4439 the acceptance; and

4440 (4) Subsection (e) does not require the secured party
4441 to dispose of the collateral or the debtor waives the requirement
4442 pursuant to Section 75-9-624.

4443 (b) A purported or apparent acceptance of collateral under
4444 this section is ineffective unless:

4445 (1) The secured party consents to the acceptance in an
4446 authenticated record or sends a proposal to the debtor; and

4447 (2) The conditions of subsection (a) are met.

4448 (c) For purposes of this section:

4449 (1) A debtor consents to an acceptance of collateral in
4450 partial satisfaction of the obligation it secures only if the
4451 debtor agrees to the terms of the acceptance in a record
4452 authenticated after default; and

4453 (2) A debtor consents to an acceptance of collateral in
4454 full satisfaction of the obligation it secures only if the debtor
4455 agrees to the terms of the acceptance in a record authenticated
4456 after default or the secured party:

4457 (A) Sends to the debtor after default a proposal
4458 that is unconditional or subject only to a condition that
4459 collateral not in the possession of the secured party be preserved
4460 or maintained;

4461 (B) In the proposal, proposes to accept collateral
4462 in full satisfaction of the obligation it secures; and

4463 (C) Does not receive a notification of objection
4464 authenticated by the debtor within twenty (20) days after the
4465 proposal is sent.

4466 (d) To be effective under subsection (a)(2), a notification
4467 of objection must be received by the secured party:

4468 (1) In the case of a person to which the proposal was
4469 sent pursuant to Section 75-9-621, within twenty (20) days after
4470 notification was sent to that person; and

4471 (2) In other cases:

4472 (A) Within twenty (20) days after the last
4473 notification was sent pursuant to Section 75-9-621; or

4474 (B) If a notification was not sent, before the
4475 debtor consents to the acceptance under subsection (c).

4476 (e) A secured party that has taken possession of collateral
4477 shall dispose of the collateral pursuant to Section 75-9-610
4478 within the time specified in subsection (f) if:

4479 (1) Sixty percent (60%) of the cash price has been paid
4480 in the case of a purchase-money security interest in consumer
4481 goods; or

4482 (2) Sixty percent (60%) of the principal amount of the
4483 obligation secured has been paid in the case of a
4484 nonpurchase-money security interest in consumer goods.

4485 (f) To comply with subsection (e), the secured party shall
4486 dispose of the collateral:

4487 (1) Within ninety (90) days after taking possession; or

4488 (2) Within any longer period to which the debtor and
4489 all secondary obligors have agreed in an agreement to that effect
4490 entered into and authenticated after default.

4491 (g) In a consumer transaction, a secured party may not
4492 accept collateral in partial satisfaction of the obligation it
4493 secures.

4494 **SECTION 75-9-621. Notification of proposal to accept**
4495 **collateral.**

4496 (a) A secured party that desires to accept collateral in
4497 full or partial satisfaction of the obligation it secures shall
4498 send its proposal to:

4499 (1) Any person from which the secured party has
4500 received, before the debtor consented to the acceptance, an
4501 authenticated notification of a claim of an interest in the
4502 collateral;

4503 (2) Any other secured party or lienholder that, ten
4504 (10) days before the debtor consented to the acceptance, held a
4505 security interest in or other lien on the collateral perfected by
4506 the filing of a financing statement that:

4507 (A) Identified the collateral;

4508 (B) Was indexed under the debtor's name as of that
4509 date; and

4510 (C) Was filed in the office or offices in which to
4511 file a financing statement against the debtor covering the
4512 collateral as of that date; and

4513 (3) Any other secured party that, ten (10) days before
4514 the debtor consented to the acceptance, held a security interest
4515 in the collateral perfected by compliance with a statute,
4516 regulation or treaty described in Section 75-9-311(a).

4517 (b) A secured party that desires to accept collateral in
4518 partial satisfaction of the obligation it secures shall send its
4519 proposal to any secondary obligor in addition to the persons
4520 described in subsection (a).

4521 **SECTION 75-9-622. Effect of acceptance of collateral.**

4522 (a) A secured party's acceptance of collateral in full or
4523 partial satisfaction of the obligation it secures:

4524 (1) Discharges the obligation to the extent consented
4525 to by the debtor;

4526 (2) Transfers to the secured party all of a debtor's
4527 rights in the collateral;

4528 (3) Discharges the security interest or agricultural
4529 lien that is the subject of the debtor's consent and any
4530 subordinate security interest or other subordinate lien; and

4531 (4) Terminates any other subordinate interest.

4532 (b) A subordinate interest is discharged or terminated under
4533 subsection (a), even if the secured party fails to comply with
4534 this article.

4535 **SECTION 75-9-623. Right to redeem collateral.**

4536 (a) A debtor, any secondary obligor, or any other secured
4537 party or lienholder may redeem collateral.

4538 (b) To redeem collateral, a person shall tender:

4539 (1) Fulfillment of all obligations secured by the
4540 collateral then due or past due (excluding any sums that would not
4541 be due except for an acceleration provision); and

4542 (2) The reasonable expenses and attorney's fees
4543 described in Section 75-9-615(a)(1).

4544 (c) A redemption may occur at any time before a secured
4545 party:

4546 (1) Has collected collateral under Section 75-9-607;

4547 (2) Has disposed of collateral or entered into a
4548 contract for its disposition under Section 75-9-610; or

4549 (3) Has accepted collateral in full or partial
4550 satisfaction of the obligation it secures under Section 75-9-622.

4551 **SECTION 75-9-624. Waiver.**

4552 (a) A debtor or secondary obligor may waive the right to
4553 notification of disposition of collateral under Section 75-9-611
4554 only by an agreement to that effect entered into and authenticated
4555 after default.

4556 (b) A debtor may waive the right to require disposition of
4557 collateral under Section 75-9-620(e) only by an agreement to that
4558 effect entered into and authenticated after default.

4559 (c) Except in a consumer-goods transaction, a debtor or
4560 secondary obligor may waive the right to redeem collateral under
4561 Section 75-9-623 only by an agreement to that effect entered into
4562 and authenticated after default.

4563 SUBPART 2. NONCOMPLIANCE WITH ARTICLE

4564 **SECTION 75-9-625. Remedies for secured party's failure to**
4565 **comply with article.**

4566 (a) If it is established that a secured party is not
4567 proceeding in accordance with this article, a court may order or
4568 restrain collection, enforcement or disposition of collateral on
4569 appropriate terms and conditions.

4570 (b) Subject to subsections (c), (d) and (f), a person is
4571 liable for damages in the amount of any loss caused by a failure
4572 to comply with this article. Loss caused by a failure to comply
4573 may include loss resulting from the debtor's inability to obtain,
4574 or increased costs of, alternative financing.

4575 (c) Except as otherwise provided in Section 75-9-628:

4576 (1) A person that, at the time of the failure, was a
4577 debtor, was an obligor or held a security interest in or other
4578 lien on the collateral may recover damages under subsection (b)
4579 for its loss; and

4580 (2) If the collateral is consumer goods, a person that
4581 was a debtor or a secondary obligor at the time a secured party
4582 failed to comply with this part may recover for that failure in
4583 any event an amount not less than the credit service charge plus
4584 ten percent (10%) of the principal amount of the obligation or the
4585 time-price differential plus ten percent (10%) of the cash price.

4586 (d) A debtor whose deficiency is eliminated under Section
4587 75-9-626 may recover damages for the loss of any surplus.
4588 However, a debtor or secondary obligor whose deficiency is
4589 eliminated or reduced under Section 75-9-626 may not otherwise
4590 recover under subsection (b) for noncompliance with the provisions

4591 of this part relating to collection, enforcement, disposition, or
4592 acceptance.

4593 (e) In addition to any damages recoverable under subsection
4594 (b), the debtor, consumer obligor or person named as a debtor in a
4595 filed record, as applicable, may recover Five Hundred Dollars
4596 (\$500.00) in each case from a person that:

4597 (1) Fails to comply with Section 75-9-208;

4598 (2) Fails to comply with Section 75-9-209;

4599 (3) Files a record that the person is not entitled to
4600 file under Section 75-9-509(a);

4601 (4) Fails to cause the secured party of record to file
4602 or send a termination statement as required by Section 75-9-513(a)
4603 or (c);

4604 (5) Fails to comply with Section 75-9-616(b)(1) and
4605 whose failure is part of a pattern, or consistent with a practice,
4606 of noncompliance; or

4607 (6) Fails to comply with Section 75-9-616(b)(2).

4608 (f) A debtor or consumer obligor may recover damages under
4609 subsection (b) and, in addition, Five Hundred Dollars (\$500.00) in
4610 each case from a person that, without reasonable cause, fails to
4611 comply with a request under Section 75-9-210. A recipient of a
4612 request under Section 75-9-210 which never claimed an interest in
4613 the collateral or obligations that are the subject of a request
4614 under that section has a reasonable excuse for failure to comply
4615 with the request within the meaning of this subsection.

4616 (g) If a secured party fails to comply with a request
4617 regarding a list of collateral or a statement of account under
4618 Section 75-9-210, the secured party may claim a security interest
4619 only as shown in the list or statement included in the request as
4620 against a person that is reasonably misled by the failure.

4621 **SECTION 75-9-626. Action in which deficiency or surplus is**
4622 **in issue.**

4623 (a) In an action arising from a transaction, other than a
4624 consumer transaction, in which the amount of a deficiency or
4625 surplus is in issue, the following rules apply:

4626 (1) A secured party need not prove compliance with the
4627 provisions of this part relating to collection, enforcement,
4628 disposition or acceptance unless the debtor or a secondary obligor
4629 places the secured party's compliance in issue.

4630 (2) If the secured party's compliance is placed in
4631 issue, the secured party has the burden of establishing that the
4632 collection, enforcement, disposition or acceptance was conducted
4633 in accordance with this part.

4634 (3) Except as otherwise provided in Section 75-9-628,
4635 if a secured party fails to prove that the collection,
4636 enforcement, disposition or acceptance was conducted in accordance
4637 with the provisions of this part relating to collection,
4638 enforcement, disposition or acceptance, the liability of a debtor
4639 or a secondary obligor for a deficiency is limited to an amount by
4640 which the sum of the secured obligation, expenses and attorney's
4641 fees exceeds the greater of:

4642 (A) The proceeds of the collection, enforcement,
4643 disposition or acceptance; or

4644 (B) The amount of proceeds that would have been
4645 realized had the noncomplying secured party proceeded in
4646 accordance with the provisions of this part relating to
4647 collection, enforcement, disposition or acceptance.

4648 (4) For purposes of paragraph (3)(B), the amount of
4649 proceeds that would have been realized is equal to the sum of the
4650 secured obligation, expenses and attorney's fees unless the
4651 secured party proves that the amount is less than that sum.

4652 (5) If a deficiency or surplus is calculated under
4653 Section 75-9-615(f), the debtor or obligor has the burden of
4654 establishing that the amount of proceeds of the disposition is
4655 significantly below the range of prices that a complying

4656 disposition to a person other than the secured party, a person
4657 related to the secured party, or a secondary obligor would have
4658 brought.

4659 (b) The limitation of the rules in subsection (a) to
4660 transactions other than consumer transactions is intended to leave
4661 to the court the determination of the proper rules in consumer
4662 transactions. The court may not infer from that limitation the
4663 nature of the proper rule in consumer transactions and may
4664 continue to apply established approaches.

4665 **SECTION 75-9-627. Determination of whether conduct was**
4666 **commercially reasonable.**

4667 (a) The fact that a greater amount could have been obtained
4668 by a collection, enforcement, disposition or acceptance at a
4669 different time or in a different method from that selected by the
4670 secured party is not of itself sufficient to preclude the secured
4671 party from establishing that the collection, enforcement,
4672 disposition or acceptance was made in a commercially reasonable
4673 manner.

4674 (b) A disposition of collateral is made in a commercially
4675 reasonable manner if the disposition is made:

4676 (1) In the usual manner on any recognized market;

4677 (2) At the price current in any recognized market at
4678 the time of the disposition; or

4679 (3) Otherwise in conformity with reasonable commercial
4680 practices among dealers in the type of property that was the
4681 subject of the disposition.

4682 (c) A collection, enforcement, disposition or acceptance is
4683 commercially reasonable if it has been approved:

4684 (1) In a judicial proceeding;

4685 (2) By a bona fide creditors' committee;

4686 (3) By a representative of creditors; or

4687 (4) By an assignee for the benefit of creditors.

4688 (d) Approval under subsection (c) need not be obtained, and
4689 lack of approval does not mean that the collection, enforcement,
4690 disposition or acceptance is not commercially reasonable.

4691 **SECTION 75-9-628. Nonliability and limitation on liability**
4692 **of secured party; liability of secondary obligor.**

4693 (a) Unless a secured party knows that a person is a debtor
4694 or obligor, knows the identity of the person, and knows how to
4695 communicate with the person:

4696 (1) The secured party is not liable to the person, or
4697 to a secured party or lienholder that has filed a financing
4698 statement against the person, for failure to comply with this
4699 article; and

4700 (2) The secured party's failure to comply with this
4701 article does not affect the liability of the person for a
4702 deficiency.

4703 (b) A secured party is not liable because of its status as
4704 secured party:

4705 (1) To a person that is a debtor or obligor, unless the
4706 secured party knows:

4707 (A) That the person is a debtor or obligor;

4708 (B) The identity of the person; and

4709 (C) How to communicate with the person; or

4710 (2) To a secured party or lienholder that has filed a
4711 financing statement against a person, unless the secured party
4712 knows:

4713 (A) That the person is a debtor; and

4714 (B) The identity of the person.

4715 (c) A secured party is not liable to any person, and a
4716 person's liability for a deficiency is not affected, because of
4717 any act or omission arising out of the secured party's reasonable
4718 belief that a transaction is not a consumer-goods transaction or a
4719 consumer transaction or that goods are not consumer goods, if the
4720 secured party's belief is based on its reasonable reliance on:

4721 (1) A debtor's representation concerning the purpose
4722 for which collateral was to be used, acquired or held; or

4723 (2) An obligor's representation concerning the purpose
4724 for which a secured obligation was incurred.

4725 (d) A secured party is not liable to any person under
4726 Section 75-9-625(c)(2) for its failure to comply with Section
4727 75-9-616.

4728 (e) A secured party is not liable under Section
4729 75-9-625(c)(2) more than once with respect to any one (1) secured
4730 obligation.

4731 **PART 7**

4732 **TRANSITION**

4733 **SECTION 75-9-701. Definitions.** (1) References in Part 7 to
4734 "this act" refer to the legislative enactment by which this part
4735 is added to Article 9 of the Uniform Commercial Code.

4736 (2) References in this part to "former Article 9" are to
4737 Article 9 found in Chapter 9 of Title 75 as in effect on June 30,
4738 2001.

4739 **SECTION 75-9-702. Savings clause.**

4740 (a) Except as otherwise provided in this part, this act
4741 applies to a transaction or lien within its scope, even if the
4742 transaction or lien was entered into or created before this act
4743 takes effect.

4744 (b) Except as otherwise provided in subsection (c) and
4745 Sections 75-9-703 through 75-9-709:

4746 (1) Transactions and liens that were not governed by
4747 former Article 9, were validly entered into or created before this
4748 act takes effect, and would be subject to this act if they had
4749 been entered into or created after this act takes effect, and the
4750 rights, duties and interests flowing from those transactions and
4751 liens remain valid after this act takes effect; and

4752 (2) The transactions and liens may be terminated,
4753 completed, consummated and enforced as required or permitted by

4754 this act or by the law that otherwise would apply if this act had
4755 not taken effect.

4756 (c) This act does not affect an action, case or proceeding
4757 commenced before this act takes effect.

4758 **SECTION 75-9-703. Security interest perfected before**
4759 **effective date.**

4760 (a) A security interest that is enforceable immediately
4761 before this act takes effect and would have priority over the
4762 rights of a person that becomes a lien creditor at that time is a
4763 perfected security interest under this act if, when this act takes
4764 effect, the applicable requirements for enforceability and
4765 perfection under this act are satisfied without further action.

4766 (b) Except as otherwise provided in Section 75-9-705, if,
4767 immediately before this act takes effect, a security interest is
4768 enforceable and would have priority over the rights of a person
4769 that becomes a lien creditor at that time, but the applicable
4770 requirements for enforceability or perfection under this act are
4771 not satisfied when this act takes effect, the security interest:

4772 (1) Is a perfected security interest for one (1) year
4773 after this act takes effect;

4774 (2) Remains enforceable thereafter only if the security
4775 interest becomes enforceable under Section 75-9-203 before the
4776 year expires; and

4777 (3) Remains perfected thereafter only if the applicable
4778 requirements for perfection under this act are satisfied before
4779 the year expires.

4780 **SECTION 75-9-704. Security interest unperfected before**
4781 **effective date.** A security interest that is enforceable

4782 immediately before this act takes effect but which would be
4783 subordinate to the rights of a person that becomes a lien creditor
4784 at that time:

4785 (1) Remains an enforceable security interest for one
4786 (1) year after this act takes effect;

4787 (2) Remains enforceable thereafter if the security
4788 interest becomes enforceable under Section 75-9-203 when this act
4789 takes effect or within one (1) year thereafter; and

4790 (3) Becomes perfected:

4791 (A) Without further action, when this act takes
4792 effect if the applicable requirements for perfection under this
4793 act are satisfied before or at that time; or

4794 (B) When the applicable requirements for
4795 perfection are satisfied if the requirements are satisfied after
4796 that time.

4797 **SECTION 75-9-705. Effectiveness of action taken before**
4798 **effective date.**

4799 (a) If action, other than the filing of a financing
4800 statement, is taken before this act takes effect and the action
4801 would have resulted in priority of a security interest over the
4802 rights of a person that becomes a lien creditor had the security
4803 interest become enforceable before this act takes effect, the
4804 action is effective to perfect a security interest that attaches
4805 under this act within one (1) year after this act takes effect.
4806 An attached security interest becomes unperfected one (1) year
4807 after this act takes effect unless the security interest becomes a
4808 perfected security interest under this act before the expiration
4809 of that period.

4810 (b) The filing of a financing statement before this act
4811 takes effect is effective to perfect a security interest to the
4812 extent the filing would satisfy the applicable requirements for
4813 perfection under this act.

4814 (c) This act does not render ineffective an effective
4815 financing statement that, before this act takes effect, is filed
4816 and satisfies the applicable requirements for perfection under the
4817 law of the jurisdiction governing perfection as provided in former
4818 Section 75-9-103. However, except as otherwise provided in

4819 subsections (d) and (e) and Section 75-9-706, the financing
4820 statement ceases to be effective at the earlier of:

4821 (1) The time the financing statement would have ceased
4822 to be effective under the law of the jurisdiction in which it is
4823 filed; or

4824 (2) June 30, 2006.

4825 (d) The filing of a continuation statement after this act
4826 takes effect does not continue the effectiveness of the financing
4827 statement filed before this act takes effect. However, upon the
4828 timely filing of a continuation statement after this act takes
4829 effect and in accordance with the law of the jurisdiction
4830 governing perfection as provided in Part 3, the effectiveness of a
4831 financing statement filed in the same office in that jurisdiction
4832 before this act takes effect continues for the period provided by
4833 the law of that jurisdiction.

4834 (e) Subsection (c)(2) applies to a financing statement that,
4835 before this act takes effect, is filed against a transmitting
4836 utility and satisfies the applicable requirements for perfection
4837 under the law of the jurisdiction governing perfection as provided
4838 in former Section 75-9-103 only to the extent that Part 3 provides
4839 that the law of a jurisdiction other than the jurisdiction in
4840 which the financing statement is filed governs perfection of a
4841 security interest in collateral covered by the financing
4842 statement.

4843 (f) A financing statement that includes a financing
4844 statement filed before this act takes effect and a continuation
4845 statement filed after this act takes effect is effective only to
4846 the extent that it satisfies the requirements of Part 5 for an
4847 initial financing statement.

4848 **SECTION 75-9-706. When initial financing statement suffices**
4849 **to continue effectiveness of financing statement.**

4850 (a) The filing of an initial financing statement in the
4851 office specified in Section 75-9-501 continues the effectiveness
4852 of a financing statement filed before this act takes effect if:

4853 (1) The filing of an initial financing statement in
4854 that office would be effective to perfect a security interest
4855 under this act;

4856 (2) The preeffective-date financing statement was filed
4857 in an office in another state or another office in this state; and

4858 (3) The initial financing statement satisfies
4859 subsection (c).

4860 (b) The filing of an initial financing statement under
4861 subsection (a) continues the effectiveness of the
4862 preeffective-date financing statement:

4863 (1) If the initial financing statement is filed before
4864 this act takes effect, for the period provided in former Section
4865 75-9-403 with respect to a financing statement; and

4866 (2) If the initial financing statement is filed after
4867 this act takes effect, for the period provided in Section 75-9-515
4868 with respect to an initial financing statement.

4869 (c) To be effective for purposes of subsection (a), an
4870 initial financing statement must:

4871 (1) Satisfy the requirements of Part 5 for an initial
4872 financing statement;

4873 (2) Identify the preeffective-date financing statement
4874 by indicating the office in which the financing statement was
4875 filed and providing the dates of filing and file numbers, if any,
4876 of the financing statement and of the most recent continuation
4877 statement filed with respect to the financing statement; and

4878 (3) Indicate that the preeffective-date financing
4879 statement remains effective.

4880 **SECTION 75-9-707. Amendment of preeffective-date financing**
4881 **statement.**

4882 (a) In this section, "preeffective-date financing statement"
4883 means a financing statement filed before this act takes effect.

4884 (b) After this act takes effect, a person may add or delete
4885 collateral covered by, continue or terminate the effectiveness of,
4886 or otherwise amend the information provided in, a
4887 preeffective-date financing statement only in accordance with the
4888 law of the jurisdiction governing perfection as provided in Part
4889 3. However, the effectiveness of a preeffective-date financing
4890 statement also may be terminated in accordance with the law of the
4891 jurisdiction in which the financing statement is filed.

4892 (c) Except as otherwise provided in subsection (d), if the
4893 law of this state governs perfection of a security interest, the
4894 information in a preeffective-date financing statement may be
4895 amended after this act takes effect only if:

4896 (1) The preeffective-date financing statement and an
4897 amendment are filed in the office specified in Section 75-9-501;

4898 (2) An amendment is filed in the office specified in
4899 Section 75-9-501 concurrently with, or after the filing in that
4900 office of, an initial financing statement that satisfies Section
4901 75-9-706(c); or

4902 (3) An initial financing statement that provides the
4903 information as amended and satisfies Section 75-9-706(c) is filed
4904 in the office specified in Section 75-9-501.

4905 (d) If the law of this state governs perfection of a
4906 security interest, the effectiveness of a preeffective-date
4907 financing statement may be continued only under Section
4908 75-9-705(d) and (f) or 75-9-706.

4909 (e) Whether or not the law of this state governs perfection
4910 of a security interest, the effectiveness of a preeffective-date
4911 financing statement filed in this state may be terminated after
4912 this act takes effect by filing a termination statement in the
4913 office in which the preeffective-date financing statement is
4914 filed, unless an initial financing statement that satisfies

4915 Section 75-9-706(c) has been filed in the office specified by the
4916 law of the jurisdiction governing perfection as provided in Part 3
4917 as the office in which to file a financing statement.

4918 **SECTION 75-9-708. Persons entitled to file initial financing**
4919 **statement or continuation statement.** A person may file an initial
4920 financing statement or a continuation statement under this part
4921 if:

4922 (1) The secured party of record authorizes the filing;
4923 and

4924 (2) The filing is necessary under this part:

4925 (A) To continue the effectiveness of a financing
4926 statement filed before this act takes effect; or

4927 (B) To perfect or continue the perfection of a
4928 security interest.

4929 **SECTION 75-9-709. Priority.**

4930 (a) This act determines the priority of conflicting claims
4931 to collateral. However, if the relative priorities of the claims
4932 were established before this act takes effect, former Article 9
4933 determines priority.

4934 (b) For purposes of Section 75-9-322(a), the priority of a
4935 security interest that becomes enforceable under Section 75-9-203
4936 of this act dates from the time this act takes effect if the
4937 security interest is perfected under this act by the filing of a
4938 financing statement before this act takes effect which would not
4939 have been effective to perfect the security interest under former
4940 Article 9. This subsection does not apply to conflicting security
4941 interests each of which is perfected by the filing of such a
4942 financing statement.

4943 **SECTION 75-9-710. Special transitional provisions for**
4944 **maintaining and searching local records.**

4945 (a) In this section:

4946 (1) "Local filing office" means a filing office, other
4947 than the statewide central filing office identified in Section

4948 75-9-401(1) of former Article 9, that is designated as the proper
4949 place to file a financing statement under Section 75-9-401(1) of
4950 former Article 9. The term applies only with respect to a record
4951 that covers a type of collateral as to which the filing office is
4952 designated in that section as the proper place to file.

4953 (2) "Former-Article-9 record" mean:

4954 (A) Financing statements and other records that
4955 have been filed in a local filing office before July 1, 2001, and
4956 that are, or upon processing and indexing will be, reflected in
4957 the index maintained, as of June 30, 2001, by the local filing
4958 office for financing statements and other records filed in the
4959 local filing office before July 1, 2001, and

4960 (B) The index as of June 30, 2001.

4961 The term does not include records presented to a local filing
4962 office for filing after June 30, 2001, whether or not the records
4963 relate to financing statements filed in the local filing office
4964 before July 1, 2001.

4965 (3) "Mortgage," "as-extracted collateral," "fixture
4966 filing," "goods" and "fixtures" have the meanings set forth in
4967 Revised Article 9 for those terms.

4968 (b) Except as expressly provided in Part 5 of Article 9 as
4969 effective on and after July 1, 2001, a local filing office must
4970 not accept for filing a record presented after June 30, 2001,
4971 whether or not the record relates to a financing statement filed
4972 in the local filing office before July 1, 2001.

4973 (c) Until July 1, 2008, each local filing office must
4974 maintain all former-Article-9 records in accordance with former
4975 Article 9. A former-Article-9 record that is not reflected on the
4976 index maintained at June 30, 2001, by the local filing office must
4977 be processed and indexed, and reflected on the index as of June
4978 30, 2001, as soon as practicable but in any event no later than
4979 July 30, 2001.

4980 (d) Until at least June 30, 2008, each local filing office
4981 must respond to requests for information with respect to
4982 former-Article-9 records relating to a debtor and issue
4983 certificates in accordance with former Article 9.

4984 (1) Upon request in writing of any person, the filing
4985 officer shall issue his certificate showing whether there is on
4986 file, on the date and hour stated therein, any presently effective
4987 financing statements naming a particular debtor thereof, and if
4988 there is, giving the date and hour of filing and file number of
4989 each such financing statement and the name and address of each
4990 secured party or his assignee therein. Each such request shall be
4991 accompanied by a search fee of Five Dollars (\$5.00) if the request
4992 is made on the standard form prescribed by the Secretary of State,
4993 and otherwise it shall be Ten Dollars (\$10.00). An additional fee
4994 of Two Dollars (\$2.00) shall be paid by the requesting party for
4995 each financing statement listed on the filing officer's
4996 certificate, the aggregate of which shall be billed to the
4997 requesting party at the time the filing officer's certificate is
4998 issued. Failure to pay the additional fee by any requesting party
4999 when due may result in denial of further service to the requesting
5000 party until the amount due has been paid.

5001 (2) Upon request, the filing officer shall furnish a
5002 copy of any presently effective financing statements on file for a
5003 uniform fee of Two Dollars (\$2.00) per page naming a particular
5004 debtor when the request is made on the form and in the manner
5005 hereinbefore provided for listing the same.

5006 (e) After June 30, 2008, each local filing office may remove
5007 and destroy, in accordance with any then applicable record
5008 retention law of this state, all former-Article-9 records,
5009 including the related index.

5010 (f) This section does not apply, with respect to financing
5011 statements and other records, to a filing office in which

5012 mortgages or records of mortgages on real property are required to
5013 be filed or recorded, if:

5014 (1) The collateral is timber to be cut or as-extracted
5015 collateral, or

5016 (2) The record is or relates to a financing statement
5017 filed as a fixture filing and the collateral is goods that are or
5018 are to become fixtures.

5019 SECTION 2. Sections 75-9-101, 75-9-102, 75-9-103, 75-9-104,
5020 75-9-105, 75-9-106, 75-9-107, 75-9-108, 75-9-109, 75-9-110,
5021 75-9-111, 75-9-112, 75-9-113, 75-9-114, 75-9-115, 75-9-116,
5022 75-9-201, 75-9-202, 75-9-203, 75-9-204, 75-9-205, 75-9-206,
5023 75-9-207, 75-9-208, 75-9-301, 75-9-302, 75-9-303, 75-9-304,
5024 75-9-305, 75-9-306, 75-9-307, 75-9-308, 75-9-309, 75-9-310,
5025 75-9-311, 75-9-312, 75-9-313, 75-9-314, 75-9-315, 75-9-316,
5026 75-9-317, 75-9-318, 75-9-319, 75-9-401, 75-9-402, 75-9-403,
5027 75-9-404, 75-9-405, 75-9-406, 75-9-407, 75-9-408, 75-9-409,
5028 75-9-410, 75-9-501, 75-9-502, 75-9-503, 75-9-504, 75-9-505,
5029 75-9-506 and 75-9-507, Mississippi Code of 1972, which comprise
5030 Uniform Commercial Code Article 9 - Secured Transactions, are
5031 repealed.

5032 SECTION 3. Section 75-1-105, Mississippi Code of 1972, is
5033 amended as follows:

5034 75-1-105. (1) Except as provided hereafter in this section,
5035 when a transaction bears a reasonable relation to this state and
5036 also to another state or nation the parties may agree that the law
5037 either of this state or of such other state or nation shall govern
5038 their rights and duties. Failing such agreement, this code
5039 applies to transactions bearing an appropriate relation to this
5040 state. Provided, however, the law of the State of Mississippi
5041 shall always govern the rights and duties of the parties in regard
5042 to disclaimers of implied warranties of merchantability or
5043 fitness, limitations of remedies for breaches of implied
5044 warranties of merchantability or fitness, or the necessity for

5045 privity of contract to maintain a civil action for breach of
5046 implied warranties of merchantability or fitness notwithstanding
5047 any agreement by the parties that the laws of some other state or
5048 nation shall govern the rights and duties of the parties.

5049 (2) Where one of the following provisions of this act
5050 specifies the applicable law, that provision governs and a
5051 contrary agreement is effective only to the extent permitted by
5052 the law (including the conflict of laws rules) so specified:

5053 Rights of creditors against sold goods (Section 75-2-402).

5054 Applicability of the Article on Leases (Sections 75-2A-105
5055 and 75-2A-106).

5056 Applicability of the Article on Bank Deposits and Collections
5057 (Section 75-4-102).

5058 Letters of credit (Section 75-5-116).

5059 Applicability of the Article on Investment Securities
5060 (Section 75-8-110).

5061 * * *

5062 Governing law in the Article on Funds Transfers (Section
5063 75-4A-507).

5064 Law governing perfection, the effect of perfection or
5065 nonperfection, and the priority of security interests and
5066 agricultural liens (Sections 75-9-301 through 75-9-307).

5067 SECTION 4. Section 75-1-201, Mississippi Code of 1972, is
5068 amended as follows:

5069 75-1-201. Subject to additional definitions contained in the
5070 subsequent chapters of this code which are applicable to specific
5071 chapters or parts thereof, and unless the context otherwise
5072 requires, in this code:

5073 (1) "Action" in the sense of a judicial proceeding
5074 includes recoupment, counterclaim, set-off, suit in equity and any
5075 other proceedings in which rights are determined.

5076 (2) "Aggrieved party" means a party entitled to resort
5077 to a remedy.

5078 (3) "Agreement" means the bargain of the parties in
5079 fact as found in their language or by implication from other
5080 circumstances including course of dealing or usage of trade or
5081 course of performance as provided in this code (Sections 75-1-205
5082 and 75-2-208). Whether an agreement has legal consequences is
5083 determined by the provisions of this code, if applicable;
5084 otherwise by the law of contracts (Section 75-1-103). (Compare
5085 "Contract.")

5086 (4) "Bank" means any person engaged in the business of
5087 banking.

5088 (5) "Bearer" means the person in possession of an
5089 instrument, document of title, or certificated security payable to
5090 bearer or indorsed in blank.

5091 (6) "Bill of lading" means a document evidencing the
5092 receipt of goods for shipment issued by a person engaged in the
5093 business of transporting or forwarding goods, and includes an
5094 airbill. "Airbill" means a document serving for air
5095 transportation as a bill of lading does for marine or rail
5096 transportation, and includes an air consignment note or air
5097 waybill.

5098 (7) "Branch" includes a separately incorporated foreign
5099 branch of a bank.

5100 (8) "Burden of establishing" a fact means the burden of
5101 persuading the triers of fact that the existence of the fact is
5102 more probable than its nonexistence.

5103 (9) "Buyer in ordinary course of business" means a
5104 person that buys goods in good faith, without knowledge that the
5105 sale violates the * * * rights * * * of another person in the
5106 goods, and in the ordinary course from a person, other than a
5107 pawnbroker, in the business of selling goods of that kind * * *.
5108 A person buys goods in the ordinary course if the sale to the
5109 person comports with the usual or customary practices in the kind
5110 of business in which the seller is engaged or with the seller's

5111 own usual or customary practices. A person that sells oil, gas or
5112 other minerals at the wellhead or minehead is a person in the
5113 business of selling goods of that kind. A buyer in the ordinary
5114 course of business may buy for cash, by exchange of other
5115 property, or on secured or unsecured credit, and may acquire goods
5116 or documents of title under a preexisting contract for sale * * *.
5117 Only a buyer that takes possession of the goods or has a right to
5118 recover the goods from the seller under Article 2 may be a buyer
5119 in ordinary course of business. A person that acquires goods in a
5120 transfer in bulk or as security for or in total or partial
5121 satisfaction of a money debt is not a buyer in ordinary course of
5122 business.

5123 (10) "Conspicuous": A term or clause is conspicuous
5124 when it is so written that a reasonable person against whom it is
5125 to operate ought to have noticed it. A printed heading in
5126 capitals (as: NONNEGOTIABLE BILL OF LADING) is conspicuous.
5127 Language in the body of a form is "conspicuous" if it is in larger
5128 or other contrasting type or color. But in a telegram any stated
5129 term is "conspicuous." Whether a term or clause is "conspicuous"
5130 or not is for decision by the court.

5131 (11) "Contract" means the total legal obligation which
5132 results from the parties' agreement as affected by this code and
5133 any other applicable rules of law. (Compare "Agreement.")

5134 (12) "Creditor" includes a general creditor, a secured
5135 creditor, a lien creditor and any representative of creditors,
5136 including an assignee for the benefit of creditors, a trustee in
5137 bankruptcy, a receiver in equity and an executor or administrator
5138 of an insolvent debtor's or assignor's estate.

5139 (13) "Defendant" includes a person in the position of
5140 defendant in a cross action or counterclaim.

5141 (14) "Delivery" with respect to instruments, documents
5142 of title, chattel paper or certificated securities means voluntary
5143 transfer of possession.

5144 (15) "Document of title" includes bill of lading, dock
5145 warrant, dock receipt, warehouse receipt or order for the delivery
5146 of goods, and also any other document which in the regular course
5147 of business or financing is treated as adequately evidencing that
5148 the person in possession of it is entitled to receive, hold and
5149 dispose of the document and the goods it covers. To be a document
5150 of title a document must purport to be issued by or addressed to a
5151 bailee and purport to cover goods in the bailee's possession which
5152 are either identified or are fungible portions of an identified
5153 mass.

5154 (16) "Fault" means wrongful act, omission or breach.

5155 (17) "Fungible" with respect to goods or securities
5156 means goods or securities of which any unit is, by nature or usage
5157 of trade, the equivalent of any other like unit. Goods which are
5158 not fungible shall be deemed fungible for the purposes of this
5159 code to the extent that under a particular agreement or document
5160 unlike units are treated as equivalents.

5161 (18) "Genuine" means free of forgery or counterfeiting.

5162 (19) "Good faith" means honesty in fact in the conduct
5163 or transaction concerned.

5164 (20) "Holder," with respect to a negotiable instrument,
5165 means the person in possession if the instrument is payable to
5166 bearer or, in the case of an instrument payable to an identified
5167 person, if the identified person is in possession. "Holder," with
5168 respect to a document of title, means the person in possession if
5169 the goods are deliverable to bearer or to the order of the person
5170 in possession.

5171 (21) To "honor" is to pay or to accept and pay, or
5172 where a credit so engages to purchase or discount a draft
5173 complying with the terms of the credit.

5174 (22) "Insolvency proceedings" includes any assignment
5175 for the benefit of creditors or other proceedings intended to
5176 liquidate or rehabilitate the estate of the person involved.

5177 (23) A person is "insolvent" who either has ceased to
5178 pay his debts in the ordinary course of business or cannot pay his
5179 debts as they become due or is insolvent within the meaning of the
5180 federal bankruptcy law.

5181 (24) "Money" means a medium of exchange authorized or
5182 adopted by a domestic or foreign government and includes a
5183 monetary unit of account established by an intergovernmental
5184 organization or by agreement between two (2) or more nations.

5185 (25) A person has "notice" of a fact when

5186 (a) He has actual knowledge of it; or

5187 (b) He has received a notice or notification of
5188 it; or

5189 (c) From all the facts and circumstances known to
5190 him at the time in question he has reason to know that it exists.

5191 A person "knows" or has "knowledge" of a fact when he has
5192 actual knowledge of it. "Discover" or "learn" or a word or phrase
5193 of similar import refers to knowledge rather than to reason to
5194 know. The time and circumstances under which a notice or
5195 notification may cease to be effective are not determined by this
5196 code.

5197 (26) A person "notifies" or "gives" a notice or
5198 notification to another by taking such steps as may be reasonably
5199 required to inform the other in ordinary course whether or not
5200 such other actually comes to know of it. A person "receives" a
5201 notice or notification when:

5202 (a) It comes to his attention; or

5203 (b) It is duly delivered at the place of business
5204 through which the contract was made or at any other place held out
5205 by him as the place for receipt of such communications.

5206 (27) Notice, knowledge or a notice or notification
5207 received by an organization is effective for a particular
5208 transaction from the time when it is brought to the attention of
5209 the individual conducting that transaction, and in any event from

5210 the time when it would have been brought to his attention if the
5211 organization had exercised due diligence. An organization
5212 exercises due diligence if it maintains reasonable routines for
5213 communicating significant information to the person conducting the
5214 transaction and there is reasonable compliance with the routines.
5215 Due diligence does not require an individual acting for the
5216 organization to communicate information unless such communication
5217 is part of his regular duties or unless he has reason to know of
5218 the transaction and that the transaction would be materially
5219 affected by the information.

5220 (28) "Organization" includes a corporation, government
5221 or governmental subdivision or agency, business trust, estate,
5222 trust, partnership or association, two (2) or more persons having
5223 a joint or common interest, or any other legal or commercial
5224 entity.

5225 (29) "Party," as distinct from "third party," means a
5226 person who has engaged in a transaction or made an agreement
5227 within this code.

5228 (30) "Person" includes an individual or an organization
5229 (see Section 75-1-102).

5230 (31) "Presumption" or "presumed" means that the trier
5231 of fact must find the existence of the fact presumed unless and
5232 until evidence is introduced which would support a finding of its
5233 nonexistence.

5234 (32) "Purchase" includes taking by sale, discount,
5235 negotiation, mortgage, pledge, lien, security interest, issue or
5236 reissue, gift or any other voluntary transaction creating an
5237 interest in property.

5238 (33) "Purchaser" means a person who takes by purchase.

5239 (34) "Remedy" means any remedial right to which an
5240 aggrieved party is entitled with or without resort to a tribunal.

5241 (35) "Representative" includes an agent, an officer of
5242 a corporation or association, and a trustee, executor or

5243 administrator of an estate, or any other person empowered to act
5244 for another.

5245 (36) "Rights" includes remedies.

5246 (37) "Security interest" means an interest in personal
5247 property or fixtures which secures payment or performance of an
5248 obligation.

5249 (a) * * * The term also includes any interest of a
5250 consignor and a buyer of accounts, chattel paper, a payment
5251 intangible, or a promissory note in a transaction that is subject
5252 to Article 9. The special property interest of a buyer of goods
5253 on identification of such goods to a contract for sale under
5254 Section 75-2-401 is not a "security interest," but a buyer may
5255 also acquire "security interest," by complying with Article 9.
5256 Except as otherwise provided in Section 75-2-505, the right of a
5257 seller or lessor of goods under Article 2 or 2A to retain or
5258 acquire possession of the goods is not a "security interest," but
5259 a seller or lessor may also acquire a "security interest" by
5260 complying with Article 9. The retention or reservation of title
5261 by a seller of goods notwithstanding shipment or delivery to the
5262 buyer (Section 75-2-401) is limited in effect to a reservation of
5263 a security interest.

5264 (b) Whether a transaction creates a lease or
5265 security interest is determined by the facts of each case;
5266 however, a transaction creates a security interest if the
5267 consideration the lessee is to pay the lessor for the right to
5268 possession and use of the goods is an obligation for the term of
5269 the lease not subject to termination by the lessee, and

5270 (i) The original term of the lease is equal
5271 to or greater than the remaining economic life of the goods,

5272 (ii) The lessee is bound to renew the lease
5273 for the remaining economic life of the goods or is bound to become
5274 the owner of the goods,

5275 (iii) The lessee has an option to renew the
5276 lease for the remaining economic life of the goods for no
5277 additional consideration or nominal additional consideration upon
5278 compliance with the lease agreement, or

5279 (iv) The lessee has an option to become the
5280 owner of the goods for no additional consideration or nominal
5281 additional consideration upon compliance with the lease agreement.

5282 (c) A transaction does not create a security
5283 interest merely because it provides that:

5284 (i) The present value of the consideration
5285 the lessee is obligated to pay the lessor for the right to
5286 possession and use of the goods is substantially equal to or is
5287 greater than the fair market value of the goods at the time the
5288 lease is entered into,

5289 (ii) The lessee assumes risk of loss of the
5290 goods, or agrees to pay taxes, insurance, filing, recording, or
5291 registration fees, or service or maintenance costs with respect to
5292 the goods,

5293 (iii) The lessee has an option to renew the
5294 lease or to become the owner of the goods,

5295 (iv) The lessee has an option to renew the
5296 lease for a fixed rent that is equal to or greater than the
5297 reasonably predictable fair market rent for the use of the goods
5298 for the term of the renewal at the time the option is to be
5299 performed, or

5300 (v) The lessee has an option to become the
5301 owner of the goods for a fixed price that is equal to or greater
5302 than the reasonably predictable fair market value of the goods at
5303 the time the option is to be performed.

5304 (d) For purposes of this subsection (37):

5305 (i) Additional consideration is not nominal
5306 if

5307 1. When the option to renew the lease is
5308 granted to the lessee the rent is stated to be the fair market
5309 rent for the use of the goods for the term of the renewal
5310 determined at the time the option is to be performed, or

5311 2. When the option to become the owner
5312 of the goods is granted to the lessee the price is stated to be
5313 the fair market value of the goods determined at the time the
5314 option is to be performed. Additional consideration is nominal if
5315 it is less than the lessee's reasonably predictable cost of
5316 performing under the lease agreement if the option is not
5317 exercised;

5318 (ii) "Reasonably predictable" and "remaining
5319 economic life of the goods" are to be determined with reference to
5320 the fact and circumstances at the time the transaction is entered
5321 into; and

5322 (iii) "Present value" means the amount as of
5323 a date certain of one or more sums payable in the future,
5324 discounted to the date certain. The discount is determined by the
5325 interest rate specified by the parties if the rate is not
5326 manifestly unreasonable at the time the transaction is entered
5327 into; otherwise, the discount is determined by a commercially
5328 reasonable rate that takes into account the facts and
5329 circumstances of each case at the time the transaction was entered
5330 into.

5331 (38) "Send" in connection with any writing or notice
5332 means to deposit in the mail or deliver for transmission by any
5333 other usual means of communication with postage or cost of
5334 transmission provided for and properly addressed and in the case
5335 of an instrument to an address specified thereon or otherwise
5336 agreed, or if there be none to any address reasonable under the
5337 circumstances. The receipt of any writing or notice within the
5338 time at which it would have arrived if properly sent has the
5339 effect of a proper sending.

5340 (39) "Signed" includes any symbol executed or adopted
5341 by a party with present intention to authenticate a writing.

5342 (40) "Surety" includes guarantor.

5343 (41) "Telegram" includes a message transmitted by
5344 radio, teletype, cable, any mechanical method of transmission, or
5345 the like.

5346 (42) "Term" means that portion of an agreement which
5347 relates to a particular matter.

5348 (43) "Unauthorized" signature means one made without
5349 actual, implied or apparent authority and includes a forgery.

5350 (44) "Value," except as otherwise provided with respect
5351 to negotiable instruments and bank collections (Sections 75-3-303,
5352 75-4-208 and 75-4-209), a person gives "value" for rights if he
5353 acquires them:

5354 (a) In return for a binding commitment to extend
5355 credit or for the extension of immediately available credit
5356 whether or not drawn upon and whether or not a charge-back is
5357 provided for in the event of difficulties in collection; or

5358 (b) As security for or in total or partial
5359 satisfaction of a preexisting claim; or

5360 (c) By accepting delivery pursuant to a
5361 preexisting contract for purchase; or

5362 (d) Generally, in return for any consideration
5363 sufficient to support a simple contract.

5364 (45) "Warehouse receipt" means a receipt issued by a
5365 person engaged in the business of storing goods for hire.

5366 (46) "Written" or "writing" includes printing,
5367 typewriting or any other intentional reduction to tangible form.

5368 SECTION 5. Section 75-2-103, Mississippi Code of 1972, is
5369 amended as follows:

5370 75-2-103. (1) In this chapter unless the context otherwise
5371 requires:

5372 (a) "Buyer" means a person who buys or contracts to buy
5373 goods.

5374 (b) "Good faith" in the case of a merchant means
5375 honesty in fact and the observance of reasonable commercial
5376 standards of fair dealing in the trade.

5377 (c) "Receipt" of goods means taking physical possession
5378 of them.

5379 (d) "Seller" means a person who sells or contracts to
5380 sell goods.

5381 (2) Other definitions applying to this chapter or to
5382 specified parts thereof, and the sections in which they appear
5383 are:

| | | |
|------|--------------------------------|------------------------------|
| 5384 | "Acceptance" | Section <u>75-2-606</u> . |
| 5385 | "Banker's credit" | Section <u>75-2-325</u> . |
| 5386 | "Between merchants" | Section <u>75-2-104</u> . |
| 5387 | "Cancellation" | Section <u>75-2-106(4)</u> . |
| 5388 | "Commercial unit" | Section <u>75-2-105</u> . |
| 5389 | "Confirmed credit" | Section <u>75-2-325</u> . |
| 5390 | "Conforming to contract" | Section <u>75-2-106</u> . |
| 5391 | "Contract for sale" | Section <u>75-2-106</u> . |
| 5392 | "Cover" | Section <u>75-2-712</u> . |
| 5393 | "Entrusting" | Section <u>75-2-403</u> . |
| 5394 | "Financing agency" | Section <u>75-2-104</u> . |
| 5395 | "Future goods" | Section <u>75-2-105</u> . |
| 5396 | "Goods" | Section <u>75-2-105</u> . |
| 5397 | "Identification" | Section <u>75-2-501</u> . |
| 5398 | "Installment contract" | Section <u>75-2-612</u> . |
| 5399 | "Letter of Credit" | Section <u>75-2-325</u> . |
| 5400 | "Lot" | Section <u>75-2-105</u> . |
| 5401 | "Merchant" | Section <u>75-2-104</u> . |
| 5402 | "Overseas" | Section <u>75-2-323</u> . |
| 5403 | "Person in position of seller" | Section <u>75-2-707</u> . |
| 5404 | "Present sale" | Section <u>75-2-106</u> . |

| | | |
|------|--|---------------------------|
| 5405 | "Sale" | Section <u>75-2-106</u> . |
| 5406 | "Sale on approval" | Section <u>75-2-326</u> . |
| 5407 | "Sale or return" | Section <u>75-2-326</u> . |
| 5408 | "Termination" | Section <u>75-2-106</u> . |
| 5409 | (3) The following definitions in other chapters apply to | |
| 5410 | this chapter: | |
| 5411 | "Check" | Section <u>75-3-104</u> . |
| 5412 | "Consignee" | Section <u>75-7-102</u> . |
| 5413 | "Consignor" | Section <u>75-7-102</u> . |
| 5414 | "Consumer goods" | Section <u>75-9-102</u> . |
| 5415 | "Dishonor" | Section <u>75-3-502</u> . |
| 5416 | "Draft" | Section <u>75-3-104</u> . |

5417 (4) In addition Chapter 1 contains general definitions and
5418 principles of construction and interpretation applicable
5419 throughout this chapter.

5420 SECTION 6. Section 75-2-210, Mississippi Code of 1972, is
5421 amended as follows:

5422 75-2-210. (1) A party may perform his duty through a
5423 delegate unless otherwise agreed or unless the other party has a
5424 substantial interest in having his original promisor perform or
5425 control the acts required by the contract. No delegation of
5426 performance relieves the party delegating of any duty to perform
5427 or any liability for breach.

5428 (2) Except as otherwise provided in Section 75-9-406, unless
5429 otherwise agreed, all rights of either seller or buyer can be
5430 assigned except where the assignment would materially change the
5431 duty of the other party, or increase materially the burden or risk
5432 imposed on him by his contract, or impair materially his chance of
5433 obtaining return performance. A right to damages for breach of
5434 the whole contract or a right arising out of the assignor's due
5435 performance of his entire obligation can be assigned despite
5436 agreement otherwise.

5437 (3) The creation, attachment, perfection or enforcement of a
5438 security interest in the seller's interest under a contract is not
5439 a transfer that materially changes the duty of or increases
5440 materially the burden or risk imposed on the buyer or impairs
5441 materially the buyer's chance of obtaining return performance
5442 within the purview of subsection (2) unless, and then only to the
5443 extent that, enforcement actually results in a delegation of
5444 material performance of the seller. Even in that event, the
5445 creation, attachment, perfection and enforcement of the security
5446 interest remain effective, but (i) the seller is liable to the
5447 buyer for damages caused by the delegation to the extent that the
5448 damages could not reasonably be prevented by the buyer, and (ii) a
5449 court having jurisdiction may grant other appropriate relief,
5450 including cancellation of the contract for sale or an injunction
5451 against enforcement of the security interest or consummation of
5452 the enforcement.

5453 (4) Unless the circumstances indicate the contrary a
5454 prohibition of assignment of "the contract" is to be construed as
5455 barring only the delegation to the assignee of the assignor's
5456 performance.

5457 (5) An assignment of "the contract" or of "all my rights
5458 under the contract" or an assignment in similar general terms is
5459 an assignment of rights and unless the language or the
5460 circumstances (as in an assignment for security) indicate the
5461 contrary, it is a delegation of performance of the duties of the
5462 assignor and its acceptance by the assignee constitutes a promise
5463 by him to perform those duties. This promise is enforceable by
5464 either the assignor or the other party to the original contract.

5465 (6) The other party may treat any assignment which delegates
5466 performance as creating reasonable grounds for insecurity and may
5467 without prejudice to his rights against the assignor demand
5468 assurances from the assignee (Section 75-2-609).

5469 SECTION 7. Section 75-2-326, Mississippi Code of 1972, is
5470 amended as follows:

5471 75-2-326. (1) Unless otherwise agreed, if delivered goods
5472 may be returned by the buyer even though they conform to the
5473 contract, the transaction is

5474 (a) A "sale on approval" if the goods are delivered
5475 primarily for use, and

5476 (b) A "sale or return" if the goods are delivered
5477 primarily for resale.

5478 (2) * * * Goods held on approval are not subject to the
5479 claims of the buyer's creditors until acceptance; goods held on
5480 sale or return are subject to such claims while in the buyer's
5481 possession.

5482 * * *

5483 (3) Any "or return" term of a contract for sale is to be
5484 treated as a separate contract for sale within the statute of
5485 frauds section of this chapter (Section 75-2-201) and as
5486 contradicting the sale aspect of the contract within the
5487 provisions of this chapter on parol or extrinsic evidence (Section
5488 75-2-202).

5489 SECTION 8. Section 75-2-502, Mississippi Code of 1972, is
5490 amended as follows:

5491 75-2-502. **Buyer's right to goods on seller's repudiation,**
5492 **failure to deliver, or insolvency.**

5493 (1) Subject to subsections (2) and (3) and even though the
5494 goods have not been shipped a buyer who has paid a part or all of
5495 the price of goods in which he has a special property under the
5496 provisions of Section 75-2-501 may on making and keeping good a
5497 tender of any unpaid portion of their price recover them from the
5498 seller if:

5499 (a) In the case of goods bought for personal, family or
5500 household purposes, the seller repudiates or fails to deliver as
5501 required by the contract; or

5502 (b) In all cases, the seller becomes insolvent within
5503 ten (10) days after receipt of the first installment on their
5504 price.

5505 (2) The buyer's right to recover the goods under subsection
5506 (1)(a) vests upon acquisition of a special property, even if the
5507 seller had not then repudiated or failed to deliver.

5508 (3) If the identification creating his special property has
5509 been made by the buyer he acquires the right to recover the goods
5510 only if they conform to the contract for sale.

5511 SECTION 9. Section 75-2-716, Mississippi Code of 1972, is
5512 amended as follows:

5513 75-2-716. (1) Specific performance may be decreed where the
5514 goods are unique or in other proper circumstances.

5515 (2) The decree for specific performance may include such
5516 terms and conditions as to payment of the price, damages, or other
5517 relief as the court may deem just.

5518 (3) The buyer has a right of replevin for goods identified
5519 to the contract if after reasonable effort he is unable to effect
5520 cover for such goods or the circumstances reasonably indicate that
5521 such effort will be unavailing or if the goods have been shipped
5522 under reservation and satisfaction of the security interest in
5523 them has been made or tendered. In the case of goods bought for
5524 personal, family or household purposes, the buyer's right of
5525 replevin vests upon acquisition of a special property, even if the
5526 seller had not then repudiated or failed to deliver.

5527 SECTION 10. Section 75-2A-103, Mississippi Code of 1972, is
5528 amended as follows:

5529 75-2A-103. (1) In this chapter unless the context otherwise
5530 requires:

5531 (a) "Buyer in ordinary course of business" means a
5532 person who in good faith and without knowledge that the sale to
5533 him is in violation of the ownership rights or security interest
5534 or leasehold interest of a third party in the goods, buys in

5535 ordinary course from a person in the business of selling goods of
5536 that kind but does not include a pawnbroker. "Buying" may be for
5537 cash or by exchange of other property or on secured or unsecured
5538 credit and includes receiving goods or documents of title under a
5539 preexisting contract for sale but does not include a transfer in
5540 bulk or as security for or in total or partial satisfaction of a
5541 money debt.

5542 (b) "Cancellation" occurs when either party puts an end
5543 to the lease contract for default by the other party.

5544 (c) "Commercial unit" means such a unit of goods as by
5545 commercial usage is a single whole for purposes of lease and
5546 division of which materially impairs its character or value on the
5547 market or in use. A commercial unit may be a single article, as a
5548 machine, or a set of articles, as a suite of furniture or a line
5549 of machinery, or a quantity, as a gross or carload, or any other
5550 unit treated in use or in the relevant market as a single whole.

5551 (d) "Conforming" goods or performance under a lease
5552 contract means goods or performance that are in accordance with
5553 the obligations under the lease contract.

5554 (e) "Consumer lease" means a lease that a lessor
5555 regularly engaged in the business of leasing or selling makes to a
5556 lessee who is an individual and who takes under the lease
5557 primarily for a personal, family or household purpose, if the
5558 total payments to be made under the lease contract, excluding
5559 payments for options to renew or buy, do not exceed Twenty-five
5560 Thousand Dollars (\$25,000.00).

5561 (f) "Fault" means wrongful act, omission, breach or
5562 default.

5563 (g) "Finance lease" means a lease with respect to
5564 which:

5565 (i) The lessor does not select, manufacture or
5566 supply the goods;

5567 (ii) The lessor acquires the goods or the right to
5568 possession and use of the goods in connection with the lease; and

5569 (iii) One (1) of the following occurs:

5570 (A) The lessee receives a copy of the
5571 contract by which the lessor acquired the goods or the right to
5572 possession and use of the goods before signing the lease contract;

5573 (B) The lessee's approval of the contract by
5574 which the lessor acquired the goods or the right to possession and
5575 use of the goods is a condition to effectiveness of the lease
5576 contract;

5577 (C) The lessee, before signing the lease
5578 contract, receives an accurate and complete statement designating
5579 the promises and warranties, and any disclaimers of warranties,
5580 limitations or modifications of remedies, or liquidated damages,
5581 including those of a third party, such as the manufacturer of the
5582 goods, provided to the lessor by the person supplying the goods in
5583 connection with or as part of the contract by which the lessor
5584 acquired the goods or the right to possession and use of the
5585 goods; or

5586 (D) If the lease is not a consumer lease, the
5587 lessor, before the lessee signs the lease contract, informs the
5588 lessee in writing (a) of the identity of the person supplying the
5589 goods to the lessor, unless the lessee has selected that person
5590 and directed the lessor to acquire the goods or the right to
5591 possession and use of the goods from that person, (b) that the
5592 lessee is entitled under this chapter to the promises and
5593 warranties, including those of any third party, provided to the
5594 lessor by the person supplying the goods in connection with or as
5595 part of the contract by which the lessor acquired the goods or the
5596 right to possession and use of the goods, and (c) that the lessee
5597 may communicate with the person supplying the goods to the lessor
5598 and receive an accurate and complete statement of those promises

5599 and warranties, including any disclaimers and limitations of them
5600 or of remedies.

5601 (h) "Goods" means all things that are movable at the
5602 time of identification to the lease contract, or are fixtures
5603 (Section 75-2A-309), but the term does not include money,
5604 documents, instruments, accounts, chattel paper, general
5605 intangibles or minerals or the like, including oil and gas, before
5606 extraction. The term also includes the unborn young of animals.

5607 (i) "Installment lease contract" means a lease contract
5608 that authorizes or requires the delivery of goods in separate lots
5609 to be separately accepted, even though the lease contract contains
5610 a clause "each delivery is a separate lease" or its equivalent.

5611 (j) "Lease" means a transfer of the right to possession
5612 and use of goods for a term in return for consideration, but a
5613 sale, including a sale on approval or a sale or return, or
5614 retention or creation of a security interest is not a lease.
5615 Unless the context clearly indicates otherwise, the term includes
5616 a sublease.

5617 (k) "Lease agreement" means the bargain, with respect
5618 to the lease, of the lessor and the lessee in fact as found in
5619 their language or by implication from other circumstances
5620 including course of dealing or usage of trade or course of
5621 performance as provided in this chapter. Unless the context
5622 clearly indicates otherwise, the term includes a sublease
5623 agreement.

5624 (l) "Lease contract" means the total legal obligation
5625 that results from the lease agreement as affected by this chapter
5626 and any other applicable rules of law. Unless the context clearly
5627 indicates otherwise, the term includes a sublease contract.

5628 (m) "Leasehold interest" means the interest of the
5629 lessor or the lessee under a lease contract.

5630 (n) "Lessee" means a person who acquires the right to
5631 possession and use of goods under a lease. Unless the context
5632 clearly indicates otherwise, the term includes a sublease.

5633 (o) "Lessee in ordinary course of business" means a
5634 person who in good faith and without knowledge that the lease to
5635 him is in violation of the ownership rights or security interest
5636 or leasehold interest of a third party in the goods leases in
5637 ordinary course from a person in the business of selling or
5638 leasing goods of that kind but does not include a pawnbroker.
5639 "Leasing" may be for cash or by exchange of other property or on
5640 secured or unsecured credit and includes receiving goods or
5641 documents of title under a preexisting lease contract but does not
5642 include a transfer in bulk or as security for or in total or
5643 partial satisfaction of a money debt.

5644 (p) "Lessor" means a person who transfers the right to
5645 possession and use of goods under a lease. Unless the context
5646 clearly indicates otherwise, the term includes a sublessor.

5647 (q) "Lessor's residual interest" means the lessor's
5648 interest in the goods after expiration, termination or
5649 cancellation of the lease contract.

5650 (r) "Lien" means a charge against or interest in goods
5651 to secure payment of a debt or performance of an obligation, but
5652 the term does not include a security interest.

5653 (s) "Lot" means a parcel or a single article that is
5654 the subject matter of a separate lease or delivery, whether or not
5655 it is sufficient to perform the lease contract.

5656 (t) "Merchant lessee" means a lessee that is a merchant
5657 with respect to goods of the kind subject to the lease.

5658 (u) "Present value" means the amount as of a date
5659 certain of one or more sums payable in the future, discounted to
5660 the date certain. The discount is determined by the interest rate
5661 specified by the parties if the rate was not manifestly
5662 unreasonable at the time the transaction was entered into;

5663 otherwise, the discount is determined by a commercially reasonable
5664 rate that takes into account the facts and circumstances of each
5665 case at the time the transaction was entered into.

5666 (v) "Purchase" includes taking by sale, lease,
5667 mortgage, security interest, pledge, gift or any other voluntary
5668 transaction creating an interest in goods.

5669 (w) "Sublease" means a lease of goods the right to
5670 possession and use of which was acquired by the lessor as a lessee
5671 under an existing lease.

5672 (x) "Supplier" means a person from whom a lessor buys
5673 or leases goods to be leased under a finance lease.

5674 (y) "Supply contract" means a contract under which a
5675 lessor buys or leases goods to be leased.

5676 (z) "Termination" occurs when either party pursuant to
5677 a power created by agreement or law puts an end to the lease
5678 contract otherwise than for default.

5679 (2) Other definitions applying to this chapter and the
5680 sections in which they appear are:

| | | |
|------|--------------------------|--------------------------|
| 5681 | "Accessions." | Section 75-2A-310(1). |
| 5682 | "Construction mortgage." | Section 75-2A-309(1)(d). |
| 5683 | "Encumbrance." | Section 75-2A-309(1)(e). |
| 5684 | "Fixtures." | Section 75-2A-309(1)(a). |
| 5685 | "Fixture filing." | Section 75-2A-309(1)(b). |
| 5686 | "Purchase money lease." | Section 75-2A-309(1)(c). |

5687 (3) The following definitions in other chapters apply to
5688 this chapter:

| | | |
|------|---------------------|----------------------------------|
| 5689 | "Account" | Section <u>75-9-102(a)(2)</u> . |
| 5690 | "Between merchants" | Section 75-2-104(3). |
| 5691 | "Buyer" | Section 75-2-103(1)(a). |
| 5692 | "Chattel paper" | Section <u>75-9-102(a)(11)</u> . |
| 5693 | "Consumer goods" | Section <u>75-9-102(a)(23)</u> . |
| 5694 | "Document" | Section <u>75-9-102(a)(30)</u> . |
| 5695 | "Entrusting" | Section 75-2-403(3). |

5696 "General intangible" Section 75-9-102(a)(42).
5697 "Good faith" Section 75-2-103(1)(b).
5698 "Instrument" Section 75-9-102(a)(47).
5699 "Merchant" Section 75-2-104(1).
5700 "Mortgage" Section 75-9-102(a)(55).
5701 "Pursuant to commitment" Section 75-9-102(a)(68).
5702 "Receipt" Section 75-2-103(1)(c).
5703 "Sale" Section 75-2-106(1).
5704 "Sale on approval" Section 75-2-326.
5705 "Sale or return" Section 75-2-326.
5706 "Seller" Section 75-2-103(1)(d).

5707 (4) In addition, Chapter 1 contains general definitions and
5708 principles of construction and interpretation applicable
5709 throughout this chapter.

5710 SECTION 11. Section 75-2A-303, Mississippi Code of 1972, is
5711 amended as follows:

5712 75-2A-303. (1) As used in this section, "creation of a
5713 security interest" includes the sale of a lease contract that is
5714 subject to Chapter 9, Secured Transactions, by reason of Section
5715 75-9-109(a)(3).

5716 (2) Except as provided in subsection (3) and Section
5717 75-9-407, a provision in a lease agreement which (i) prohibits the
5718 voluntary or involuntary transfer, including a transfer by sale,
5719 sublease, creation or enforcement of a security interest, or
5720 attachment, levy, or other judicial process, of an interest of a
5721 party under the lease contract or of the lessor's residual
5722 interest in the goods, or (ii) makes such a transfer an event of
5723 default, gives rise to the rights and remedies provided in
5724 subsection (4), but a transfer that is prohibited or is an event
5725 of default under the lease agreement is otherwise effective.

5726 * * *

5727 (3) A provision in a lease agreement which (i) prohibits a
5728 transfer of a right to damages for default with respect to the

5729 whole lease contract or of a right to payment arising out of the
5730 transferor's due performance of the transferor's entire
5731 obligation, or (ii) makes such a transfer an event of default, is
5732 not enforceable, and such a transfer is not a transfer that
5733 materially impairs the prospect of obtaining return performance
5734 by, materially changes the duty of, or materially increases the
5735 burden or risk imposed on, the other party to the lease contract
5736 within the purview of subsection (4).

5737 (4) Subject to subsection (3) and Section 75-9-407:

5738 (a) If a transfer is made which is made an event of
5739 default under a lease agreement, the party to the lease contract
5740 not making the transfer, unless that party waives the default or
5741 otherwise agrees, has the rights and remedies described in Section
5742 75-2A-501(2);

5743 (b) If paragraph (a) is not applicable and if a
5744 transfer is made that (i) is prohibited under a lease agreement or
5745 (ii) materially impairs the prospect of obtaining return
5746 performance by, materially changes the duty of, or materially
5747 increases the burden or risk imposed on, the other party to the
5748 lease contract, unless the party not making the transfer agrees at
5749 any time to the transfer in the lease contract or otherwise, then,
5750 except as limited by contract, (i) the transferor is liable to the
5751 party not making the transfer for damages caused by the transfer
5752 to the extent that the damages could not reasonably be prevented
5753 by the party not making the transfer and (ii) a court having
5754 jurisdiction may grant other appropriate relief, including
5755 cancellation of the lease contract or an injunction against the
5756 transfer.

5757 (5) A transfer of "the lease" or of "all my rights under the
5758 lease," or a transfer in similar general terms, is a transfer of
5759 rights and, unless the language or the circumstances, as in a
5760 transfer for security, indicate the contrary, the transfer is a
5761 delegation of duties by the transferor to the transferee.

5762 Acceptance by the transferee constitutes a promise by the
5763 transferee to perform those duties. The promise is enforceable by
5764 either the transferor or the other party to the lease contract.

5765 (6) Unless otherwise agreed by the lessor and the lessee, a
5766 delegation of performance does not relieve the transferor as
5767 against the other party of any duty to perform or of any liability
5768 for default.

5769 (7) In a consumer lease, to prohibit the transfer of an
5770 interest of a party under the lease contract or to make a transfer
5771 an event of default, the language must be specific, by a writing,
5772 and conspicuous.

5773 SECTION 12. Section 75-2A-307, Mississippi Code of 1972, is
5774 amended as follows:

5775 75-2A-307. (1) Except as otherwise provided in Section
5776 75-2A-306, a creditor of a lessee takes subject to the lease
5777 contract.

5778 (2) Except as otherwise provided in subsection (3), * * *
5779 and in Sections 75-2A-306 and 75-2A-308, a creditor of a lessor
5780 takes subject to the lease contract unless * * * the creditor
5781 holds a lien that attached to the goods before the lease contract
5782 became enforceable.

5783 * * *

5784 (3) Except as otherwise provided in Section 75-9-317,
5785 75-9-321 and 75-9-323, a lessee takes a leasehold interest subject
5786 to a security interest held by a creditor of the lessor.

5787 * * *

5788 SECTION 13. Section 75-2A-309, Mississippi Code of 1972, is
5789 amended as follows:

5790 75-2A-309. (1) In this section:

5791 (a) Goods are "fixtures" when they become so related to
5792 particular real estate that an interest in them arises under real
5793 estate law;

5794 (b) A "fixture filing" is the filing, in the office
5795 where a record of a mortgage on the real estate would be filed or
5796 recorded, of a financing statement covering goods that are or are
5797 to become fixtures and conforming to the requirements of Section
5798 75-9-502(a) and (b);

5799 (c) A lease is a "purchase money lease" unless the
5800 lessee has possession or use of the goods or the right to
5801 possession or use of the goods before the lease agreement is
5802 enforceable;

5803 (d) A mortgage is a "construction mortgage" to the
5804 extent it secures an obligation incurred for the construction of
5805 an improvement on land including the acquisition cost of the land,
5806 if the recorded writing so indicates; and

5807 (e) "Encumbrance" includes real estate mortgages and
5808 other liens on real estate and all other rights in real estate
5809 that are not ownership interests.

5810 (2) Under this chapter a lease may be of goods that are
5811 fixtures or may continue in goods that become fixtures, but no
5812 lease exists under this chapter of ordinary building materials
5813 incorporated into an improvement on land.

5814 (3) This chapter does not prevent creation of a lease of
5815 fixtures pursuant to real estate law.

5816 (4) The perfected interest of a lessor of fixtures has
5817 priority over a conflicting interest of an encumbrancer or owner
5818 of the real estate if:

5819 (a) The lease is a purchase money lease, the
5820 conflicting interest of the encumbrancer or owner arises before
5821 the goods become fixtures, the interest of the lessor is perfected
5822 by a fixture filing before the goods become fixtures or within ten
5823 (10) days thereafter, and the lessee has an interest of record in
5824 the real estate or is in possession of the real estate; or

5825 (b) The interest of the lessor is perfected by a
5826 fixture filing before the interest of the encumbrancer or owner is

5827 of record, the lessor's interest has priority over any conflicting
5828 interest of a predecessor in title of the encumbrancer or owner,
5829 and the lessee has an interest of record in the real estate or is
5830 in possession of the real estate.

5831 (5) The interest of a lessor of fixtures, whether or not
5832 perfected, has priority over the conflicting interest of an
5833 encumbrancer or owner of the real estate if:

5834 (a) The fixtures are readily removable factory or
5835 office machines, readily removable equipment that is not primarily
5836 used or leased for use in the operation of the real estate, or
5837 readily removable replacements of domestic appliances that are
5838 goods subject to a consumer lease, and before the goods become
5839 fixtures the lease contract is enforceable; or

5840 (b) The conflicting interest is a lien on the real
5841 estate obtained by legal or equitable proceedings after the lease
5842 contract is enforceable; or

5843 (c) The encumbrancer or owner has consented in writing
5844 to the lease or has disclaimed an interest in the goods as
5845 fixtures; or

5846 (d) The lessee has a right to remove the goods as
5847 against the encumbrancer or owner. If the lessee's right to
5848 remove terminates, the priority of the interest of the lessor
5849 continues for a reasonable time.

5850 (6) Notwithstanding subsection (4)(a) but otherwise subject
5851 to subsections (4) and (5), the interest of a lessor of fixtures,
5852 including the lessor's residual interest, is subordinate to the
5853 conflicting interest of an encumbrancer of the real estate under a
5854 construction mortgage recorded before the goods become fixtures if
5855 the goods become fixtures before the completion of the
5856 construction. To the extent given to refinance a construction
5857 mortgage, the conflicting interest of an encumbrancer of the real
5858 estate under a mortgage has this priority to the same extent as

5859 the encumbrancer of the real estate under the construction
5860 mortgage.

5861 (7) In cases not within the preceding subsections, priority
5862 between the interest of a lessor of fixtures, including the
5863 lessor's residual interest, and the conflicting interest of an
5864 encumbrancer or owner of the real estate who is not the lessee is
5865 determined by the priority rules governing conflicting interests
5866 in real estate.

5867 (8) If the interest of a lessor of fixtures, including the
5868 lessor's residual interest, has priority over all conflicting
5869 interests of all owners and encumbrancers of the real estate, the
5870 lessor or the lessee may (i) on default, expiration, termination
5871 or cancellation of the lease agreement but subject to the lease
5872 agreement and this chapter, or (ii) if necessary to enforce other
5873 rights and remedies of the lessor or lessee under this chapter,
5874 remove the goods from the real estate, free and clear of all
5875 conflicting interests of all owners and encumbrancers of the real
5876 estate, but the lessor or lessee must reimburse any encumbrancer
5877 or owner of the real estate who is not the lessee and who has not
5878 otherwise agreed for the cost of repair of any physical injury,
5879 but not for any diminution in value of the real estate caused by
5880 the absence of the goods removed or by any necessity of replacing
5881 them. A person entitled to reimbursement may refuse permission to
5882 remove until the party seeking removal gives adequate security for
5883 the performance of this obligation.

5884 (9) Even though the lease agreement does not create a
5885 security interest, the interest of a lessor of fixtures, including
5886 the lessor's residual interest, is perfected by filing a financing
5887 statement as a fixture filing for leased goods that are or are to
5888 become fixtures in accordance with the relevant provisions of the
5889 Chapter on Secured Transactions (Chapter 9).

5890 SECTION 14. Section 75-4-210, Mississippi Code of 1972, is
5891 amended as follows:

5892 75-4-210. (a) A collecting bank has a security interest in
5893 an item and any accompanying documents or the proceeds of either:

5894 (1) In case of an item deposited in an account, to the
5895 extent to which credit given for the item has been withdrawn or
5896 applied;

5897 (2) In case of an item for which it has given credit
5898 available for withdrawal as of right, to the extent of the credit
5899 given, whether or not the credit is drawn upon or there is a right
5900 of charge-back; or

5901 (3) If it makes an advance on or against the item.

5902 (b) If credit given for several items received at one time
5903 or pursuant to a single agreement is withdrawn or applied in part,
5904 the security interest remains upon all the items, any accompanying
5905 documents or the proceeds of either. For the purpose of this
5906 section, credits first given are first withdrawn.

5907 (c) Receipt by a collecting bank of a final settlement for
5908 an item is a realization on its security interest in the item,
5909 accompanying documents, and proceeds. So long as the bank does
5910 not receive final settlement for the item or give up possession of
5911 the item or accompanying documents for purposes other than
5912 collection, the security interest continues to that extent and is
5913 subject to Chapter 9, but:

5914 (1) No security agreement is necessary to make the
5915 security interest enforceable (Section 75-9-203(b)(3)(A));

5916 (2) No filing is required to perfect the security
5917 interest; and

5918 (3) The security interest has priority over conflicting
5919 perfected security interests in the item, accompanying documents,
5920 or proceeds.

5921 SECTION 15. The following shall be codified as Section
5922 75-5-118, Mississippi Code of 1972:

5923 75-5-118. **Security interest of issuer or nominated person.**

5924 (a) An issuer or nominated person has a security interest in
5925 a document presented under a letter of credit to the extent that
5926 the issuer or nominated person honors or gives value for the
5927 presentation.

5928 (b) So long as and to the extent that an issuer or nominated
5929 person has not been reimbursed or has not otherwise recovered the
5930 value given with respect to a security interest in a document
5931 under subsection (a), the security interest continues and is
5932 subject to Article 9 of the Uniform Commercial Code, but:

5933 (1) A security agreement is not necessary to make the
5934 security interest enforceable under Section 75-9-203(b)(3);

5935 (2) If the document is presented in a medium other than
5936 a written or other tangible medium, the security interest is
5937 perfected; and

5938 (3) If the document is presented in a written or other
5939 tangible medium and is not a certificated security, chattel paper,
5940 a document of title, an instrument or a letter of credit, the
5941 security interest is perfected and has priority over a conflicting
5942 security interest in the document so long as the debtor does not
5943 have possession of the document.

5944 SECTION 16. Section 75-7-503, Mississippi Code of 1972, is
5945 amended as follows:

5946 75-7-503. (1) A document of title confers no right in goods
5947 against a person who before issuance of the document had a legal
5948 interest or a perfected security interest in them and who neither

5949 (a) Delivered or entrusted them or any document of
5950 title covering them to the bailor or his nominee with actual or
5951 apparent authority to ship, store or sell or with power to obtain
5952 delivery under this chapter (Section 75-7-403) or with power of
5953 disposition under this code (Sections 75-2-403 and 75-9-320) or
5954 other statute or rule of law; nor

5955 (b) Acquiesced in the procurement by the bailor or his
5956 nominee of any document of title.

5957 (2) Title to goods based upon an unaccepted delivery order
5958 is subject to the rights of anyone to whom a negotiable warehouse
5959 receipt or bill of lading covering the goods has been duly
5960 negotiated. Such a title may be defeated under the next section
5961 to the same extent as the rights of the issuer or a transferee
5962 from the issuer.

5963 (3) Title to goods based upon a bill of lading issued to a
5964 freight forwarder is subject to the rights of anyone to whom a
5965 bill issued by the freight forwarder is duly negotiated; but
5966 delivery by the carrier in accordance with Part 4 of this chapter
5967 pursuant to its own bill of lading discharges the carrier's
5968 obligation to deliver.

5969 SECTION 17. Section 75-8-103, Mississippi Code of 1972, is
5970 amended as follows:

5971 75-8-103. (a) A share or similar equity interest issued by
5972 a corporation, business trust, joint stock company or similar
5973 entity is a security.

5974 (b) An "investment company security" is a security.
5975 "Investment company security" means a share or similar equity
5976 interest issued by an entity that is registered as an investment
5977 company under the federal investment company laws, an interest in
5978 a unit investment trust that is so registered, or a face-amount
5979 certificate issued by a face-amount certificate company that is so
5980 registered. Investment company security does not include an
5981 insurance policy or endowment policy or annuity contract issued by
5982 an insurance company.

5983 (c) An interest in a partnership or limited liability
5984 company is not a security unless it is dealt in or traded on
5985 securities exchanges or in securities markets, its terms expressly
5986 provide that it is a security governed by this chapter, or it is
5987 an investment company security. However, an interest in a
5988 partnership or limited liability company is a financial asset if
5989 it is held in a securities account.

5990 (d) A writing that is a security certificate is governed by
5991 this chapter and not by Chapter 3, even though it also meets the
5992 requirements of that chapter. However, a negotiable instrument
5993 governed by Chapter 3 is a financial asset if it is held in a
5994 securities account.

5995 (e) An option or similar obligation issued by a clearing
5996 corporation to its participants is not a security, but is a
5997 financial asset.

5998 (f) A commodity contract, as defined in Section
5999 75-9-102(a)(15), is not a security or a financial asset.

6000 SECTION 18. Section 75-8-106, Mississippi Code of 1972, is
6001 amended as follows:

6002 75-8-106. (a) A purchaser has "control" of a certificated
6003 security in bearer form if the certificated security is delivered
6004 to the purchaser.

6005 (b) A purchaser has "control" of a certificated security in
6006 registered form if the certificated security is delivered to the
6007 purchaser, and:

6008 (1) The certificate is endorsed to the purchaser or in
6009 blank by an effective endorsement; or

6010 (2) The certificate is registered in the name of the
6011 purchaser, upon original issue or registration of transfer by the
6012 issuer.

6013 (c) A purchaser has "control" of an uncertificated security
6014 if:

6015 (1) The uncertificated security is delivered to the
6016 purchaser; or

6017 (2) The issuer has agreed that it will comply with
6018 instructions originated by the purchaser without further consent
6019 by the registered owner.

6020 (d) A purchaser has "control" of a security entitlement if:

6021 (1) The purchaser becomes the entitlement holder; * * *

6022 (2) The securities intermediary has agreed that it will
6023 comply with entitlement orders originated by the purchaser without
6024 further consent by the entitlement holder; or

6025 (3) Another person has control of the security
6026 entitlement on behalf of the purchaser or, having previously
6027 acquired control of the security entitlement, acknowledges that it
6028 has control on behalf of the purchaser.

6029 (e) If an interest in a security entitlement is granted by
6030 the entitlement holder to the entitlement holder's own securities
6031 intermediary, the securities intermediary has control.

6032 (f) A purchaser who has satisfied the requirements of
6033 subsection (c) * * * or (d) * * * has control, even if the
6034 registered owner in the case of subsection (c) * * * or the
6035 entitlement holder in the case of subsection (d) * * * retains the
6036 right to make substitutions for the uncertificated security or
6037 security entitlement, to originate instructions or entitlement
6038 orders to the issuer or securities intermediary, or otherwise to
6039 deal with the uncertificated security or security entitlement.

6040 (g) An issuer or a securities intermediary may not enter
6041 into an agreement of the kind described in subsection (c)(2) or
6042 (d)(2) without the consent of the registered owner or entitlement
6043 holder, but an issuer or a securities intermediary is not required
6044 to enter into such an agreement even though the registered owner
6045 or entitlement holder so directs. An issuer or securities
6046 intermediary that has entered into such an agreement is not
6047 required to confirm the existence of the agreement to another
6048 party unless requested to do so by the registered owner or
6049 entitlement holder.

6050 SECTION 19. Section 75-8-110, Mississippi Code of 1972, is
6051 amended as follows:

6052 75-8-110. (a) The local law of the issuer's jurisdiction,
6053 as specified in subsection (d), governs:

6054 (1) The validity of a security;

6055 (2) The rights and duties of the issuer with respect to
6056 registration of transfer;

6057 (3) The effectiveness of registration of transfer by
6058 the issuer;

6059 (4) Whether the issuer owes any duties to an adverse
6060 claimant to a security; and

6061 (5) Whether an adverse claim can be asserted against a
6062 person to whom transfer of a certificated or uncertificated
6063 security is registered or a person who obtains control of an
6064 uncertificated security.

6065 (b) The local law of the securities intermediary's
6066 jurisdiction, as specified in subsection (e), governs:

6067 (1) Acquisition of a security entitlement from the
6068 securities intermediary;

6069 (2) The rights and duties of the securities
6070 intermediary and entitlement holder arising out of a security
6071 entitlement;

6072 (3) Whether the securities intermediary owes any duties
6073 to an adverse claimant to a security entitlement; and

6074 (4) Whether an adverse claim can be asserted against a
6075 person who acquires a security entitlement from the securities
6076 intermediary or a person who purchases a security entitlement or
6077 interest therein from an entitlement holder.

6078 (c) The local law of the jurisdiction in which a security
6079 certificate is located at the time of delivery governs whether an
6080 adverse claim can be asserted against a person to whom the
6081 security certificate is delivered.

6082 (d) "Issuer's jurisdiction" means the jurisdiction under
6083 which the issuer of the security is organized or, if permitted by
6084 the law of that jurisdiction, the law of another jurisdiction
6085 specified by the issuer. An issuer organized under the law of
6086 this state may specify the law of another jurisdiction as the law
6087 governing the matters specified in subsection (a)(2) through (5).

6088 (e) The following rules determine a "securities
6089 intermediary's jurisdiction" for purposes of this section:

6090 (1) If an agreement between the securities intermediary
6091 and its entitlement holder governing the securities account
6092 expressly provides that a particular jurisdiction is the
6093 securities intermediary's jurisdiction for the purposes of this
6094 part, this article or the Uniform Commercial Code, that
6095 jurisdiction is the securities intermediary's jurisdiction.

6096 (2) If paragraph (1) does not apply and an agreement
6097 between the securities intermediary and its entitlement holder
6098 governing the securities account expressly provides that the
6099 agreement is governed by the law of a particular jurisdiction,
6100 that jurisdiction is the securities intermediary's jurisdiction.

6101 (3) If neither paragraph (1) nor paragraph (2) applies
6102 and an agreement between the securities intermediary and its
6103 entitlement holder governing the securities account expressly
6104 provides that the securities account is maintained at an office in
6105 a particular jurisdiction, that jurisdiction is the securities
6106 intermediary's jurisdiction.

6107 (4) If none of the preceding paragraphs of this
6108 subsection apply, the securities intermediary's jurisdiction is
6109 the jurisdiction in which * * * the office identified in an
6110 account statement as the office serving the entitlement holder's
6111 account is located.

6112 (5) If none of the preceding paragraphs of this
6113 subsection apply, the securities intermediary's jurisdiction is
6114 the jurisdiction in which * * * the chief executive office of the
6115 securities intermediary is located.

6116 (f) A securities intermediary's jurisdiction is not
6117 determined by the physical location of certificates representing
6118 financial assets, or by the jurisdiction in which is organized the
6119 issuer of the financial asset with respect to which an entitlement
6120 holder has a security entitlement, or by the location of

6121 facilities for data processing or other record keeping concerning
6122 the account.

6123 SECTION 20. Section 75-8-301, Mississippi Code of 1972, is
6124 amended as follows:

6125 75-8-301. (a) Delivery of a certificated security to a
6126 purchaser occurs when:

6127 (1) The purchaser acquires possession of the security
6128 certificate;

6129 (2) Another person, other than a securities
6130 intermediary, either acquires possession of the security
6131 certificate on behalf of the purchaser or, having previously
6132 acquired possession of the certificate, acknowledges that it holds
6133 for the purchaser; or

6134 (3) A securities intermediary acting on behalf of the
6135 purchaser acquires possession of the security certificate, only if
6136 the certificate is in registered form and is (i) registered in the
6137 name of the purchaser, (ii) payable to the order of the purchaser,
6138 or (iii) specially endorsed to the purchaser by an effective
6139 endorsement and has not been indorsed to the securities
6140 intermediary or in blank.

6141 (b) Delivery of an uncertificated security to a purchaser
6142 occurs when:

6143 (1) The issuer registers the purchaser as the
6144 registered owner, upon original issue or registration of transfer;
6145 or

6146 (2) Another person, other than a securities
6147 intermediary, either becomes the registered owner of the
6148 uncertificated security on behalf of the purchaser or, having
6149 previously become the registered owner, acknowledges that it holds
6150 for the purchaser.

6151 SECTION 21. Section 75-8-302, Mississippi Code of 1972, is
6152 amended as follows:

6153 75-8-302. (a) Except as otherwise provided in subsections
6154 (b) and (c), * * * a purchaser * * * of a certificated or
6155 uncertificated security * * * acquires all rights in the security
6156 that the transferor had or had power to transfer.

6157 (b) A purchaser of a limited interest acquires rights only
6158 to the extent of the interest purchased.

6159 (c) A purchaser of a certificated security who as a previous
6160 holder had notice of an adverse claim does not improve its
6161 position by taking from a protected purchaser.

6162 SECTION 22. Section 75-8-510, Mississippi Code of 1972, is
6163 amended as follows:

6164 75-8-510. (a) In a case not covered by the priority rules
6165 in Article 9 or the rules stated in subsection (c), an action
6166 based on an adverse claim to a financial asset or security
6167 entitlement, whether framed in conversion, replevin, constructive
6168 trust, equitable lien or other theory, may not be asserted against
6169 a person who purchases a security entitlement, or an interest
6170 therein, from an entitlement holder if the purchaser gives value,
6171 does not have notice of the adverse claim, and obtains control.

6172 (b) If an adverse claim could not have been asserted against
6173 an entitlement holder under Section 75-8-502, the adverse claim
6174 cannot be asserted against a person who purchases a security
6175 entitlement, or an interest therein, from the entitlement holder.

6176 (c) In a case not covered by the priority rules in Chapter
6177 9, a purchaser for value of a security entitlement, or an interest
6178 therein, who obtains control has priority over a purchaser of a
6179 security entitlement, or an interest therein, who does not obtain
6180 control. Except as otherwise provided in subsection (d),
6181 purchasers who have control rank according to priority in time of:

6182 (1) The purchaser's becoming the person for whom the
6183 securities account, in which the security entitlement is carried,
6184 is maintained, if the purchaser obtained control under Section
6185 75-8-106(d)(1);

6186 (2) The securities intermediary's agreement to comply
6187 with the purchaser's entitlement orders with respect to security
6188 entitlements carried or to be carried in the securities account in
6189 which the security entitlement is carried, if the purchaser
6190 obtained control under Section 75-8-106(d)(2); or

6191 (3) If the purchaser obtained control through another
6192 person under Section 75-8-106(d)(3), the time on which priority
6193 would be based under this subsection if the other person were the
6194 secured party.

6195 (d) A securities intermediary as purchaser has priority over
6196 a conflicting purchaser who has control unless otherwise agreed by
6197 the securities intermediary.

6198 SECTION 23. Section 71-3-43, Mississippi Code of 1972, is
6199 amended as follows:

6200 71-3-43. No assignment, release, or commutation of
6201 compensation or benefits due or payable under this chapter, except
6202 as provided by this chapter, shall be valid; and such compensation
6203 and benefits shall be exempt from all claims of creditors and from
6204 levy, execution and attachment or other remedy for recovery or
6205 collection of a debt, which exemption may be waived. This section
6206 prevails over Sections 75-9-406 and 75-9-408 of Article 9 of the
6207 Uniform Commercial Code to the extent, if any, that these sections
6208 may otherwise be applicable.

6209 SECTION 24. Section 41-29-177, Mississippi Code of 1972, is
6210 amended as follows:

6211 41-29-177. (1) Except as otherwise provided in Section
6212 41-29-176, Mississippi Code of 1972, when any property, other than
6213 a controlled substance, raw material or paraphernalia, is seized
6214 under the Uniform Controlled Substances Law, proceedings under
6215 this section shall be instituted within thirty (30) days from the
6216 date of seizure or the subject property shall be immediately
6217 returned to the party from whom seized.

6218 (2) A petition for forfeiture shall be filed in the name of
6219 the State of Mississippi, the county or the municipality and may
6220 be filed in the county in which the seizure is made, the county in
6221 which the criminal prosecution is brought or the county in which
6222 the owner of the seized property is found. Forfeiture proceedings
6223 may be brought in the circuit court or the county court if a
6224 county court exists in the county and the value of the seized
6225 property is within the jurisdictional limits of the county court
6226 as set forth in Section 9-9-21, Mississippi Code of 1972. A copy
6227 of such petition shall be served upon the following persons by
6228 service of process in the same manner as in civil cases:

6229 (a) The owner of the property, if address is known;

6230 (b) Any secured party who has registered his lien or
6231 filed a financing statement as provided by law, if the identity of
6232 such secured party can be ascertained by the Bureau of Narcotics
6233 or the local law enforcement agency by making a good faith effort
6234 to ascertain the identity of such secured party as described in
6235 subsections (3), (4), (5), (6) and (7) of this section;

6236 (c) Any other bona fide lienholder or secured party or
6237 other person holding an interest in the property in the nature of
6238 a security interest of whom the Mississippi Bureau of Narcotics or
6239 the local law enforcement agency has actual knowledge;

6240 (d) Any holder of a mortgage, deed of trust, lien or
6241 encumbrance of record, if the property is real estate, by making a
6242 good faith inquiry as described in subsection (8) of this section;
6243 and

6244 (e) Any person in possession of property subject to
6245 forfeiture at the time that it was seized.

6246 (3) If the property is a motor vehicle susceptible of
6247 titling under the Mississippi Motor Vehicle Title Law and if there
6248 is any reasonable cause to believe that the vehicle has been
6249 titled, the Bureau of Narcotics or the local law enforcement
6250 agency shall make inquiry of the State Tax Commission as to what

6251 the records of the State Tax Commission show as to who is the
6252 record owner of the vehicle and who, if anyone, holds any lien or
6253 security interest which affects the vehicle.

6254 (4) If the property is a motor vehicle and is not titled in
6255 the State of Mississippi, then the Bureau of Narcotics or the
6256 local law enforcement agency shall attempt to ascertain the name
6257 and address of the person in whose name the vehicle is licensed,
6258 and if the vehicle is licensed in a state which has in effect a
6259 certificate of title law, the bureau or the local law enforcement
6260 agency shall make inquiry of the appropriate agency of that state
6261 as to what the records of the agency show as to who is the record
6262 owner of the vehicle and who, if anyone, holds any lien, security
6263 interest or other instrument in the nature of a security device
6264 which affects the vehicle.

6265 (5) If the property is of a nature that a financing
6266 statement is required by the laws of this state to be filed to
6267 perfect a security interest affecting the property and if there is
6268 any reasonable cause to believe that a financing statement
6269 covering the security interest has been filed under the laws of
6270 this state, the Bureau of Narcotics or the local law enforcement
6271 agency shall make inquiry of the appropriate office designated in
6272 Section 75-9-501, Mississippi Code of 1972, as to what the records
6273 show as to who is the record owner of the property and who, if
6274 anyone, has filed a financing statement affecting the property.

6275 (6) If the property is an aircraft or part thereof and if
6276 there is any reasonable cause to believe that an instrument in the
6277 nature of a security device affects the property, then the Bureau
6278 of Narcotics or the local law enforcement agency shall make
6279 inquiry of the Mississippi Department of Transportation as to what
6280 the records of the Federal Aviation Administration show as to who
6281 is the record owner of the property and who, if anyone, holds an
6282 instrument in the nature of a security device which affects the
6283 property.

6284 (7) In the case of all other personal property subject to
6285 forfeiture, if there is any reasonable cause to believe that an
6286 instrument in the nature of a security device affects the
6287 property, then the Bureau of Narcotics or the local law
6288 enforcement agency shall make a good faith inquiry to identify the
6289 holder of any such instrument.

6290 (8) If the property is real estate, the Bureau of Narcotics
6291 or the local law enforcement agency shall make inquiry of the
6292 chancery clerk of the county wherein the property is located to
6293 determine who is the owner of record and who, if anyone, is a
6294 holder of a bona fide mortgage, deed of trust, lien or
6295 encumbrance.

6296 (9) In the event the answer to an inquiry states that the
6297 record owner of the property is any person other than the person
6298 who was in possession of it when it was seized, or states that any
6299 person holds any lien, encumbrance, security interest, other
6300 interest in the nature of a security interest, mortgage or deed of
6301 trust which affects the property, the Bureau of Narcotics or the
6302 local law enforcement agency shall cause any record owner and also
6303 any lienholder, secured party, other person who holds an interest
6304 in the property in the nature of a security interest, or holder of
6305 an encumbrance, mortgage or deed of trust which affects the
6306 property to be named in the petition of forfeiture and to be
6307 served with process in the same manner as in civil cases.

6308 (10) If the owner of the property cannot be found and served
6309 with a copy of the petition of forfeiture, or if no person was in
6310 possession of the property subject to forfeiture at the time that
6311 it was seized and the owner of the property is unknown, the Bureau
6312 of Narcotics or the local law enforcement agency shall file with
6313 the clerk of the court in which the proceeding is pending an
6314 affidavit to such effect, whereupon the clerk of the court shall
6315 publish notice of the hearing addressed to "the Unknown Owner of
6316 _____," filling in the blank space with a reasonably

6317 detailed description of the property subject to forfeiture.
6318 Service by publication shall contain the other requisites
6319 prescribed in Section 11-33-41, and shall be served as provided in
6320 Section 11-33-37, Mississippi Code of 1972, for publication of
6321 notice for attachments at law.

6322 (11) No proceedings instituted pursuant to the provisions of
6323 this article shall proceed to hearing unless the judge conducting
6324 the hearing is satisfied that this section has been complied with.
6325 Any answer received from an inquiry required by subsections (3)
6326 through (8) of this section shall be introduced into evidence at
6327 the hearing.

6328 SECTION 25. Section 49-7-251, Mississippi Code of 1972, is
6329 amended as follows:

6330 49-7-251. (1) Except as otherwise provided in Section
6331 49-7-257, when any property is seized pursuant to Section
6332 49-7-103, 49-15-21(2) or 59-21-33, Mississippi Code of 1972,
6333 proceedings under this section shall be instituted promptly.
6334 Provided, however, that the seizing law enforcement agency may, in
6335 the sound exercise of discretion, decide not to bring a forfeiture
6336 action if the interests of bona fide lienholders or secured
6337 creditors equal or exceed the value of the seized property, or if
6338 other factors would produce a negative economic result. Provided
6339 further, that no property shall be subject to forfeiture which has
6340 been stolen from its owner if the owner can be identified and
6341 prosecution for the theft has been initiated.

6342 (2) A petition for forfeiture shall be filed promptly in the
6343 name of the State of Mississippi, the county or the municipality
6344 and may be filed in the county in which the seizure is made, the
6345 county in which the criminal prosecution is brought or the county
6346 in which the owner of the seized property is found. Forfeiture
6347 proceedings may be brought in the circuit court or the county
6348 court if a county court exists in the county and the value of the
6349 seized property is within the jurisdictional limits of the county

6350 court as set forth in Section 9-9-21, Mississippi Code of 1972. A
6351 copy of such petition shall be served upon the following persons
6352 by service of process in the same manner as in civil cases:

6353 (a) The owner of the property, if address is known;

6354 (b) Any secured party who has registered his lien or
6355 filed a financing statement as provided by law, if the identity of
6356 such secured party can be ascertained by the Department of
6357 Wildlife Conservation or the local law enforcement agency by
6358 making a good faith effort to ascertain the identity of such
6359 secured party as described in subsections (3), (4), (5), (6) and
6360 (7) of this section;

6361 (c) Any other bona fide lienholder or secured party or
6362 other person holding an interest in the property in the nature of
6363 a security interest of whom the Department of Wildlife
6364 Conservation or the local law enforcement agency has actual
6365 knowledge; and

6366 (d) Any person in possession of property subject to
6367 forfeiture at the time that it was seized.

6368 (3) If the property is a motor vehicle susceptible of
6369 titling under the Mississippi Motor Vehicle Title Law and if there
6370 is any reasonable cause to believe that the vehicle has been
6371 titled, the Department of Wildlife Conservation or the local law
6372 enforcement agency shall make inquiry of the State Tax Commission
6373 as to what the records of the State Tax Commission show as to who
6374 is the record owner of the vehicle and who, if anyone, holds any
6375 lien or security interest which affects the vehicle.

6376 (4) If the property is a motor vehicle and is not titled in
6377 the State of Mississippi, then the Department of Wildlife
6378 Conservation or the local law enforcement agency shall attempt to
6379 ascertain the name and address of the person in whose name the
6380 vehicle is licensed, and if the vehicle is licensed in a state
6381 which has in effect a certificate of title law, the Department of
6382 Wildlife Conservation or the local law enforcement agency shall

6383 make inquiry of the appropriate agency of that state as to what
6384 the records of the agency show as to who is the record owner of
6385 the vehicle and who, if anyone, holds any lien, security interest
6386 or other instrument in the nature of a security device which
6387 affects the vehicle.

6388 (5) If the property is of a nature that a financing
6389 statement is required by the laws of this state to be filed to
6390 perfect a security interest affecting the property and if there is
6391 any reasonable cause to believe that a financing statement
6392 covering the security interest has been filed under the laws of
6393 this state, the Department of Wildlife Conservation or the local
6394 law enforcement agency shall make inquiry of the appropriate
6395 office designated in Section 75-9-501, Mississippi Code of 1972,
6396 as to what the records show as to who is the record owner of the
6397 property and who, if anyone, has filed a financing statement
6398 affecting the property.

6399 (6) If the property is an aircraft or part thereof and if
6400 there is any reasonable cause to believe that an instrument in the
6401 nature of a security device affects the property, then the
6402 Department of Wildlife Conservation or the local law enforcement
6403 agency shall make inquiry of the Administrator of the Mississippi
6404 Aeronautics Commission as to what the records of the Federal
6405 Aviation Administration show as to who is the record owner of the
6406 property and who, if anyone, holds an instrument in the nature of
6407 a security device which affects the property.

6408 (7) In the case of all other personal property subject to
6409 forfeiture, if there is any reasonable cause to believe that an
6410 instrument in the nature of a security device affects the
6411 property, then the Department of Wildlife Conservation or the
6412 local law enforcement agency shall make a good faith inquiry to
6413 identify the holder of any such instrument.

6414 (8) In the event the answer to an inquiry states that the
6415 record owner of the property is any person other than the person

6416 who was in possession of it when it was seized, or states that any
6417 person holds any lien, encumbrance, security interest, other
6418 interest in the nature of a security interest, mortgage or deed of
6419 trust which affects the property, the Department of Wildlife
6420 Conservation or the local law enforcement agency shall cause any
6421 record owner and also any lienholder, secured party, other person
6422 who holds an interest in the property in the nature of a security
6423 interest which affects the property to be named in the petition of
6424 forfeiture and to be served with process in the same manner as in
6425 civil cases.

6426 (9) If the owner of the property cannot be found and served
6427 with a copy of the petition of forfeiture, or if no person was in
6428 possession of the property subject to forfeiture at the time that
6429 it was seized and the owner of the property is unknown, the
6430 Department of Wildlife Conservation or the local law enforcement
6431 agency shall file with the clerk of the court in which the
6432 proceeding is pending an affidavit to such effect, whereupon the
6433 clerk of the court shall publish notice of the hearing addressed
6434 to "the Unknown Owner of _____," filling in the blank
6435 space with a reasonably detailed description of the property
6436 subject to forfeiture. Service by publication shall contain the
6437 other requisites prescribed in Section 11-33-41, Mississippi Code
6438 of 1972, and shall be served as provided in Section 11-33-37,
6439 Mississippi Code of 1972, for publication of notice for
6440 attachments at law.

6441 (10) No proceedings instituted pursuant to the provisions of
6442 this section shall proceed to hearing unless the judge conducting
6443 the hearing is satisfied that this section has been complied with.
6444 Any answer received from an inquiry required by subsections (3)
6445 through (7) of this section shall be introduced into evidence at
6446 the hearing.

6447 SECTION 26. Section 67-1-93, Mississippi Code of 1972, is
6448 amended as follows:

6449 67-1-93. (1) Except as otherwise provided in Section
6450 67-1-99, when any property, other than an alcoholic beverage or
6451 raw material, is seized under this chapter or Chapter 31 of Title
6452 97, Mississippi Code of 1972, proceedings under this section shall
6453 be instituted promptly.

6454 (2) A petition for forfeiture shall be filed promptly in the
6455 name of the State of Mississippi with the clerk of the circuit or
6456 county court of the county in which the seizure is made. A copy
6457 of such petition shall be served upon the following persons by
6458 service of process in the same manner as in civil cases:

6459 (a) The owner of the property, if address is known;

6460 (b) Any secured party who has registered his lien or
6461 filed a financing statement as provided by law, if the identity of
6462 such secured party can be ascertained by the agent or agency which
6463 seized the property making a good faith effort to ascertain the
6464 identity of such secured party as described in subsections (3),
6465 (4), (5), (6) and (7) of this section;

6466 (c) Any other bona fide lienholder or secured party or
6467 other person holding an interest in the property in the nature of
6468 a security interest of whom the agent or agency has actual
6469 knowledge; and

6470 (d) Any person in possession of property subject to
6471 forfeiture at the time that it was seized.

6472 (3) If the property is a motor vehicle susceptible of
6473 titling under the Mississippi Motor Vehicle Title Law and if there
6474 is any reasonable cause to believe that the vehicle has been
6475 titled, the agent or agency shall make inquiry of the State Tax
6476 Commission as to what the records of the State Tax Commission show
6477 as to who is the record owner of the vehicle and who, if anyone,
6478 holds any lien or security interest which affects the vehicle.

6479 (4) If the property is a motor vehicle and is not titled in
6480 the State of Mississippi then the agent or agency shall attempt to
6481 ascertain the name and address of the person in whose name the

6482 vehicle is licensed, and if the vehicle is licensed in a state
6483 which has in effect a certificate of title law, the agent or
6484 agency shall make inquiry of the appropriate agency of that state
6485 to determine through such agency's records the name of the record
6486 owner of the vehicle and who, if anyone, holds any lien, security
6487 interest or other instrument in the nature of a security device
6488 which affects the vehicle.

6489 (5) If the property is of a nature that a financing
6490 statement is required by the laws of this state to be filed to
6491 perfect a security interest affecting the property and if there is
6492 any reasonable cause to believe that a financing statement
6493 covering the security interest has been filed under the laws of
6494 this state, the agent or agency shall make inquiry of the
6495 appropriate office designated in Section 75-9-501 to determine
6496 through the records of such office the name of the record owner of
6497 the property and who, if anyone, has filed a financing statement
6498 affecting the property.

6499 (6) If the property is an aircraft or part thereof and if
6500 there is any reasonable cause to believe that an instrument in the
6501 nature of a security device affects the property, then the agent
6502 or agency shall make inquiry of the Administrator of the Federal
6503 Aviation Administration to determine through records of the
6504 administrator the name of the record owner of the property and
6505 who, if anyone, holds an instrument in the name of a security
6506 device which affects the property.

6507 (7) In the case of all other property other than an
6508 alcoholic beverage or raw material subject to forfeiture, if there
6509 is any reasonable cause to believe that an instrument in the
6510 nature of a security device affects the property, then the agent
6511 or agency shall make a good faith inquiry to identify the holder
6512 of any such instrument.

6513 (8) In the event the answer to an inquiry states that the
6514 record owner of the property is any person other than the person

6515 who was in possession of it when it was seized, or states that any
6516 person holds any lien, security interest or other interest in the
6517 nature of a security interest which affects the property, the
6518 agent or agency shall cause any record owner and also any
6519 lienholder, secured party or other person who holds an interest in
6520 the property in the nature of a security interest which affects
6521 the property to be named in the petition of forfeiture and to be
6522 served with process in the same manner as in civil cases.

6523 (9) If the owner of the property cannot be found and served
6524 with a copy of the petition of forfeiture, or if no person was in
6525 possession of the property subject to forfeiture at the time that
6526 it was seized and the owner of the property is unknown, the agent
6527 or agency shall file with the clerk of the court in which the
6528 proceeding is pending an affidavit to such effect, whereupon the
6529 clerk of the court shall publish notice of the hearing addressed
6530 to "the Unknown Owner of _____," filling in the blank
6531 space with a reasonably detailed description of the property
6532 subject to forfeiture. Service by publication shall be made in
6533 accordance with the Mississippi Rules of Civil Procedure.

6534 (10) No proceedings instituted pursuant to the provisions of
6535 this chapter shall proceed to hearing unless the judge conducting
6536 the hearing is satisfied that this section has been complied with.
6537 Any answer received from an inquiry required by subsections (3)
6538 through (7) of this section shall be introduced into evidence at
6539 the hearing.

6540 SECTION 27. Section 97-17-4, Mississippi Code of 1972, is
6541 amended as follows:

6542 97-17-4. (1) All property, real or personal, including
6543 money, used in the course of, intended for use in the course of,
6544 derived from, or realized through, conduct in violation of a
6545 provision of Section 97-17-1 or 97-17-3 is subject to civil
6546 forfeiture to the state pursuant to the provisions of this
6547 section; provided, however, that a forfeiture of personal property

6548 encumbered by a bona fide security interest or real property
6549 encumbered by a bona fide mortgage, deed of trust, lien or
6550 encumbrance of record shall be subject to the interest of the
6551 secured party or subject to the interest of the holder of the
6552 mortgage deed of trust, lien of encumbrance of record if such
6553 secured party or holder neither had knowledge of or consented to
6554 the act or omission.

6555 (2) Property subject to forfeiture may be seized by law
6556 enforcement officers upon process issued by any appropriate court
6557 having jurisdiction over the property. Seizure without process
6558 may be made if:

6559 (a) The seizure is incident to an arrest or a search
6560 under a search warrant or an inspection under a lawful
6561 administrative inspection;

6562 (b) The property subject to seizure has been the
6563 subject of a prior judgment in favor of the state in a criminal
6564 injunction or forfeiture proceeding based upon this section.

6565 (3) When any property is seized pursuant to this section,
6566 proceedings under this section shall be instituted promptly.

6567 (4) (a) A petition for forfeiture shall be filed promptly
6568 in the name of the State of Mississippi with the clerk of the
6569 circuit court of the county in which the seizure is made. A copy
6570 of such petition shall be served upon the following persons by
6571 service of process in the same manner as in civil cases:

6572 (i) The owner of the property, if address is
6573 known;

6574 (ii) Any secured party who has registered his lien
6575 or filed a financing statement as provided by law, if the identity
6576 of such secured party can be ascertained by the state by making a
6577 good faith effort to ascertain the identity of such secured party
6578 as described in paragraphs (b), (c), (d), (e) and (f) of this
6579 subsection;

6580 (iii) Any other bona fide lienholder or secured
6581 party or other person holding an interest in the property in the
6582 nature of a security interest of whom the state has actual
6583 knowledge;

6584 (iv) A holder of a mortgage, deed of trust, lien
6585 or encumbrance of record, if the property is real estate by making
6586 a good faith inquiry as described in paragraph (g) of this
6587 section; and

6588 (v) Any person in possession of property subject
6589 to forfeiture at the time that it was seized.

6590 (b) If the property is a motor vehicle susceptible of
6591 titling under the Mississippi Motor Vehicle Title Law and if there
6592 is any reasonable cause to believe that the vehicle has been
6593 titled, the state shall make inquiry of the State Tax Commission
6594 as to what the records of the State Tax Commission show as to who
6595 is the record owner of the vehicle and who, if anyone, holds any
6596 lien or security interest which affects the vehicle.

6597 (c) If the property is a motor vehicle and is not
6598 titled in the State of Mississippi, then the state shall attempt
6599 to ascertain the name and address of the person in whose name the
6600 vehicle is licensed, and if the vehicle is licensed in a state
6601 which has in effect a certificate of title law, the state shall
6602 make inquiry of the appropriate agency of that state as to what
6603 the records of the agency show as to who is the record owner of
6604 the vehicle and who, if anyone, holds any lien, security interest,
6605 or other instrument in the nature of a security device which
6606 affects the vehicle.

6607 (d) If the property is of a nature that a financing
6608 statement is required by the laws of this state to be filed to
6609 perfect a security interest affecting the property and if there is
6610 any reasonable cause to believe that a financing statement
6611 covering the security interest has been filed under the laws of
6612 this state, the state shall make inquiry of the appropriate office

6613 designated in Section 75-9-501 as to what the records show as to
6614 who is the record owner of the property and who, if anyone, has
6615 filed a financing statement affecting the property.

6616 (e) If the property is an aircraft or part thereof and
6617 if there is any reasonable cause to believe that an instrument in
6618 the nature of a security device affects the property, then the
6619 state shall make inquiry of the administrator of the Federal
6620 Aviation Administration as to what the records of the
6621 administrator show as to who is the record owner of the property
6622 and who, if anyone, holds an instrument in the nature of a
6623 security device which affects the property.

6624 (f) In the case of all other personal property subject
6625 to forfeiture, if there is any reasonable cause to believe that an
6626 instrument in the nature of a security device affects the
6627 property, then the state shall make a good faith inquiry to
6628 identify the holder of any such instrument.

6629 (g) If the property is real estate, the state shall
6630 make inquiry at the appropriate places to determine who is the
6631 owner of record and who, if anyone is a holder of a bona fide
6632 mortgage, deed of trust, lien or encumbrance.

6633 (h) In the event the answer to an inquiry states that
6634 the record owner of the property is any person other than the
6635 person who was in possession of it when it was seized, or states
6636 that any person holds any lien, encumbrance, security interest,
6637 other interest in the nature of a security interest, mortgage or
6638 deed of trust which affects the property, the state shall cause
6639 any record owner and also any lienholder, secured party, other
6640 person who holds an interest in the property in the nature of a
6641 security interest, or holder of an encumbrance, mortgage or deed
6642 of trust which affects the property to be named in the petition of
6643 forfeiture and to be served with process in the same manner as in
6644 civil cases.

6645 (i) If the owner of the property cannot be found and
6646 served with a copy of the petition of forfeiture, or if no person
6647 was in possession of the property subject to forfeiture at the
6648 time that it was seized and the owner of the property is unknown,
6649 the state shall file with the clerk of the court in which the
6650 proceeding is pending an affidavit to such effect, whereupon the
6651 clerk of the court shall publish notice of the hearing addressed
6652 to "the Unknown Owner of _____," filling in the blank
6653 space with a reasonably detailed description of the property
6654 subject to forfeiture. Service by publication shall contain the
6655 other requisites prescribed in Section 11-33-41, and shall be
6656 served as provided in Section 11-33-37 for publication of notice
6657 for attachments at law.

6658 (j) No proceedings instituted pursuant to the
6659 provisions of this article shall proceed to hearing unless the
6660 judge conducting the hearing is satisfied that this section has
6661 been complied with. Any answer received from an inquiry required
6662 by paragraphs (b) through (g) of this section shall be introduced
6663 into evidence at the hearing.

6664 (5) (a) An owner of property that has been seized shall
6665 file a verified answer within twenty (20) days after the
6666 completion of service of process. If no answer is filed, the
6667 court shall hear evidence that the property is subject to
6668 forfeiture and forfeit the property to the state. If an answer is
6669 filed, a time for hearing on forfeiture shall be set within thirty
6670 (30) days of filing the answer or at the succeeding term of court
6671 if court would not be in progress within thirty (30) days after
6672 filing the answer. Provided, however, that upon request by the
6673 state or the owner of the property, the court may postpone said
6674 forfeiture hearing to a date past the time any criminal action is
6675 pending against said owner.

6676 (b) If the owner of the property has filed a verified
6677 answer denying that the property is subject to forfeiture, then

6678 the burden is on the state to prove that the property is subject
6679 to forfeiture. The burden of proof placed upon the state shall be
6680 clear and convincing proof. However, if no answer has been filed
6681 by the owner of the property, the petition for forfeiture may be
6682 introduced into evidence and is prima facie evidence that the
6683 property is subject to forfeiture.

6684 (c) At the hearing any claimant of any right, title or
6685 interest in the property may prove his lien, encumbrance, security
6686 interest, other interest in the nature of a security interest,
6687 mortgage or deed of trust to be bona fide and created without
6688 knowledge or consent that the property was to be used so as to
6689 cause the property to be subject to forfeiture.

6690 (d) If it is found that the property is subject to
6691 forfeiture, then the judge shall forfeit the property to the
6692 state. However, if proof at the hearing discloses that the
6693 interest of any bona fide lienholder, secured party, other person
6694 holding an interest in the property in the nature of a security
6695 interest or any holder of a bona fide encumbrance, mortgage or
6696 deed of trust is greater than or equal to the present value of the
6697 property, the court shall order the property released to him. If
6698 such interest is less than the present value of the property and
6699 if the proof shows that the property is subject to forfeiture, the
6700 court shall order the property forfeited to the state.

6701 (6) (a) All personal property, including money, which is
6702 forfeited to the state and is not capable of being sold at public
6703 auction shall be liquidated and the proceeds, after deduction of
6704 all storage and court costs, shall be forwarded to the State
6705 Treasurer and deposited in the General Fund of the state.

6706 (b) All real estate which is forfeited to the state
6707 shall be sold to the highest bidder at a public auction to be
6708 conducted by the state at such place, on such notice and in
6709 accordance with the same procedure, as far as practicable, as is
6710 required in the case of sales of land under execution of law. The

6711 proceeds of such sale shall first be applied to the cost and
6712 expense in administering and conducting such sale, then to the
6713 satisfaction of all mortgages, deeds of trusts, liens and
6714 encumbrances of record on such property. All proceeds in excess
6715 of the amount necessary for the cost of the sale of such land and
6716 the satisfaction of any liens thereon shall be deposited in the
6717 General Fund of the State Treasury.

6718 (c) All other property that has been seized by the
6719 state and that has been forfeited shall, except as otherwise
6720 provided, be sold at a public auction for cash by the state to the
6721 highest and best bidder after advertising the sale for at least
6722 once each week for three (3) consecutive weeks, the last notice to
6723 appear not more than ten (10) days nor less than five (5) days
6724 prior to such sale, in a newspaper having a general circulation
6725 throughout the State of Mississippi. Such notices shall contain a
6726 description of the property to be sold and a statement of the time
6727 and place of sale. It shall not be necessary to the validity of
6728 such sale either to have the property present at the place of sale
6729 or to have the name of the owner thereof stated in such notice.
6730 The proceeds of the sale shall be delivered to the circuit clerk
6731 and shall be disposed of as follows:

6732 (i) To any bona fide lienholder, secured party, or
6733 other party holding an interest in the property in the nature of a
6734 security interest, to the extent of his interest; and

6735 (ii) The balance, if any, after deduction of all
6736 storage and court costs, shall be forwarded to the State Treasurer
6737 and deposited with and used as general funds of the state.

6738 (d) The State Tax Commission shall issue a certificate
6739 of title to any person who purchases property under the provisions
6740 of this section when a certificate of title is required under the
6741 laws of this state.

6742 SECTION 28. Section 97-43-11, Mississippi Code of 1972, is
6743 amended as follows:

6744 97-43-11. (1) When any property is seized pursuant to
6745 Section 97-43-9, proceedings under this section shall be
6746 instituted promptly.

6747 (2) (a) A petition for forfeiture shall be filed promptly
6748 in the name of the State of Mississippi with the clerk of the
6749 circuit court of the county in which the seizure is made. A copy
6750 of such petition shall be served upon the following persons by
6751 service of process in the same manner as in civil cases:

6752 (i) The owner of the property, if address is
6753 known;

6754 (ii) Any secured party who has registered his lien
6755 or filed a financing statement as provided by law, if the identity
6756 of such secured party can be ascertained by the state by making a
6757 good faith effort to ascertain the identity of such secured party
6758 as described in paragraphs (b), (c), (d), (e) and (f) of this
6759 subsection;

6760 (iii) Any other bona fide lienholder or secured
6761 party or other person holding an interest in the property in the
6762 nature of a security interest of whom the state has actual
6763 knowledge;

6764 (iv) A holder of a mortgage, deed of trust, lien
6765 or encumbrance of record, if the property is real estate by making
6766 a good faith inquiry as described in paragraph (g) of this
6767 section; and

6768 (v) Any person in possession of property subject
6769 to forfeiture at the time that it was seized.

6770 (b) If the property is a motor vehicle susceptible of
6771 titling under the Mississippi Motor Vehicle Title Law and if there
6772 is any reasonable cause to believe that the vehicle has been
6773 titled, the state shall make inquiry of the State Tax Commission
6774 as to what the records of the State Tax Commission show as to who
6775 is the record owner of the vehicle and who, if anyone, holds any
6776 lien or security interest which affects the vehicle.

6777 (c) If the property is a motor vehicle and is not
6778 titled in the State of Mississippi, then the state shall attempt
6779 to ascertain the name and address of the person in whose name the
6780 vehicle is licensed, and if the vehicle is licensed in a state
6781 which has in effect a certificate of title law, the state shall
6782 make inquiry of the appropriate agency of that state as to what
6783 the records of the agency show as to who is the record owner of
6784 the vehicle and who, if anyone, holds any lien, security interest,
6785 or other instrument in the nature of a security device which
6786 affects the vehicle.

6787 (d) If the property is of a nature that a financing
6788 statement is required by the laws of this state to be filed to
6789 perfect a security interest affecting the property and if there is
6790 any reasonable cause to believe that a financing statement
6791 covering the security interest has been filed under the laws of
6792 this state, the state shall make inquiry of the appropriate office
6793 designated in Section 75-9-501 as to what the records show as to
6794 who is the record owner of the property and who, if anyone, has
6795 filed a financing statement affecting the property.

6796 (e) If the property is an aircraft or part thereof and
6797 if there is any reasonable cause to believe that an instrument in
6798 the nature of a security device affects the property, then the
6799 state shall make inquiry of the administrator of the Federal
6800 Aviation Administration as to what the records of the
6801 administrator show as to who is the record owner of the property
6802 and who, if anyone, holds an instrument in the nature of a
6803 security device which affects the property.

6804 (f) In the case of all other personal property subject
6805 to forfeiture, if there is any reasonable cause to believe that an
6806 instrument in the nature of a security device affects the
6807 property, then the state shall make a good faith inquiry to
6808 identify the holder of any such instrument.

6809 (g) If the property is real estate, the state shall
6810 make inquiry at the appropriate places to determine who is the
6811 owner of record and who, if anyone is a holder of a bona fide
6812 mortgage, deed of trust, lien or encumbrance.

6813 (h) In the event the answer to an inquiry states that
6814 the record owner of the property is any person other than the
6815 person who was in possession of it when it was seized, or states
6816 that any person holds any lien, encumbrance, security interest,
6817 other interest in the nature of a security interest, mortgage or
6818 deed of trust which affects the property, the state shall cause
6819 any record owner and also any lienholder, secured party, other
6820 person who holds an interest in the property in the nature of a
6821 security interest, or holder of an encumbrance, mortgage or deed
6822 of trust which affects the property to be named in the petition of
6823 forfeiture and to be served with process in the same manner as in
6824 civil cases.

6825 (i) If the owner of the property cannot be found and
6826 served with a copy of the petition of forfeiture, or if no person
6827 was in possession of the property subject to forfeiture at the
6828 time that it was seized and the owner of the property is unknown,
6829 the state shall file with the clerk of the court in which the
6830 proceeding is pending an affidavit to such effect, whereupon the
6831 clerk of the court shall publish notice of the hearing addressed
6832 to "the Unknown Owner of _____," filling in the blank
6833 space with a reasonably detailed description of the property
6834 subject to forfeiture. Service by publication shall contain the
6835 other requisites prescribed in Section 11-33-41, and shall be
6836 served as provided in Section 11-33-37 for publication of notice
6837 for attachments at law.

6838 (j) No proceedings instituted pursuant to the
6839 provisions of this article shall proceed to hearing unless the
6840 judge conducting the hearing is satisfied that this section has
6841 been complied with. Any answer received from an inquiry required

6842 by paragraphs (b) through (g) of this section shall be introduced
6843 into evidence at the hearing.

6844 (3) (a) An owner of property that has been seized shall
6845 file a verified answer within twenty (20) days after the
6846 completion of service of process. If no answer is filed, the
6847 court shall hear evidence that the property is subject to
6848 forfeiture and forfeit the property to the state. If an answer is
6849 filed, a time for hearing on forfeiture shall be set within thirty
6850 (30) days of filing the answer or at the succeeding term of court
6851 if court would not be in progress within thirty (30) days after
6852 filing the answer. Provided, however, that upon request by the
6853 state or the owner of the property, the court may postpone said
6854 forfeiture hearing to a date past the time any criminal action is
6855 pending against said owner.

6856 (b) If the owner of the property has filed a verified
6857 answer denying that the property is subject to forfeiture, then
6858 the burden is on the state to prove that the property is subject
6859 to forfeiture. The burden of proof placed upon the state shall be
6860 clear and convincing proof. However, if no answer has been filed
6861 by the owner of the property, the petition for forfeiture may be
6862 introduced into evidence and is prima facie evidence that the
6863 property is subject to forfeiture.

6864 (c) At the hearing any claimant of any right, title, or
6865 interest in the property may prove his lien, encumbrance, security
6866 interest, other interest in the nature of a security interest,
6867 mortgage or deed of trust to be bona fide and created without
6868 knowledge or consent that the property was to be used so as to
6869 cause the property to be subject to forfeiture.

6870 (d) If it is found that the property is subject to
6871 forfeiture, then the judge shall forfeit the property to the
6872 state. However, if proof at the hearing discloses that the
6873 interest of any bona fide lienholder, secured party, other person
6874 holding an interest in the property in the nature of a security

6875 interest or any holder of a bona fide encumbrance, mortgage or
6876 deed of trust is greater than or equal to the present value of the
6877 property, the court shall order the property released to him. If
6878 such interest is less than the present value of the property and
6879 if the proof shows that the property is subject to forfeiture, the
6880 court shall order the property forfeited to the state.

6881 (4) (a) All personal property, including money, which is
6882 forfeited to the state and is not capable of being sold at public
6883 auction shall be liquidated and the proceeds, after deduction of
6884 all storage and court costs, shall be forwarded to the State
6885 Treasurer and deposited in the General Fund of the state.

6886 (b) All real estate which is forfeited to the state
6887 shall be sold to the highest bidder at a public auction to be
6888 conducted by the state at such place, on such notice and in
6889 accordance with the same procedure, as far as practicable, as is
6890 required in the case of sales of land under execution of law. The
6891 proceeds of such sale shall first be applied to the cost and
6892 expense in administering and conducting such sale, then to the
6893 satisfaction of all mortgages, deeds of trusts, liens and
6894 encumbrances of record on such property. All proceeds in excess
6895 of the amount necessary for the cost of the sale of such land and
6896 the satisfaction of any liens thereon shall be deposited in the
6897 General Fund of the State Treasury.

6898 (c) All other property that has been seized by the
6899 state and that has been forfeited shall, except as otherwise
6900 provided, be sold at a public auction for cash by the state to the
6901 highest and best bidder after advertising the sale for at least
6902 once each week for three (3) consecutive weeks, the last notice to
6903 appear not more than ten (10) days nor less than five (5) days
6904 prior to such sale, in a newspaper having a general circulation
6905 throughout the State of Mississippi. Such notices shall contain a
6906 description of the property to be sold and a statement of the time
6907 and place of sale. It shall not be necessary to the validity of

6908 such sale either to have the property present at the place of sale
6909 or to have the name of the owner thereof stated in such notice.
6910 The proceeds of the sale shall be delivered to the circuit clerk
6911 and shall be disposed of as follows:

6912 (i) To any bona fide lienholder, secured party or
6913 other party holding an interest in the property in the nature of a
6914 security interest, to the extent of his interest; and

6915 (ii) The balance, if any, after deduction of all
6916 storage and court costs, shall be forwarded to the State Treasurer
6917 and deposited with and used as general funds of the state.

6918 (d) The State Tax Commission shall issue a certificate
6919 of title to any person who purchases property under the provisions
6920 of this section when a certificate of title is required under the
6921 laws of this state.

6922 SECTION 29. Section 53-3-41, Mississippi Code of 1972, is
6923 amended as follows:

6924 53-3-41. (1) For the purposes of this section, the
6925 following terms shall have the meanings ascribed herein:

6926 (a) "Oil and gas production" means any oil, natural
6927 gas, condensate of either, natural gas liquids, other gaseous,
6928 liquid or dissolved hydrocarbons, sulfur or helium, or other
6929 substance produced as a by-product or adjunct to their production,
6930 or any combination of these, which is severed, extracted or
6931 produced from the ground, the seabed or other submerged lands
6932 within the jurisdiction of the State of Mississippi. Any such
6933 substance, including recoverable or recovered natural gas liquids,
6934 which is transported to or in a natural gas pipeline or natural
6935 gas gathering system, or otherwise transported or sold for use as
6936 natural gas, or is transported or sold for the extraction of
6937 helium or natural gas liquids is gas production. Any such
6938 substance which is transported or sold to persons and for purposes
6939 not included in the foregoing natural gas definition is oil
6940 production.

6941 (b) "Interest owner" means a person owning an entire or
6942 fractional interest of any kind or nature in oil or gas production
6943 at the time of severance, or a person who has an express, implied
6944 or constructive right to receive a monetary payment determined by
6945 the value of oil or gas production or by the amount of production.

6946 (c) "Royalty owner" means any person who possesses an
6947 interest in the production, but who is not an owner as defined in
6948 Section 53-1-3(g).

6949 (d) "Disbursing agent" shall mean that person who,
6950 pursuant to an oil and gas lease, operating agreement, purchase
6951 contract, or otherwise, assumes the responsibility of paying
6952 royalty proceeds derived from a well's oil and gas production to
6953 the royalty owner or owners legally entitled thereto. A first
6954 purchaser shall not be deemed to be the disbursing agent unless
6955 the first purchaser expressly assumes such responsibility in the
6956 purchase contract.

6957 (e) "First purchaser" means the first person who
6958 purchases oil or gas production from the interest owners after the
6959 production is severed and may include the operator if the operator
6960 acts as a purchaser of production attributable to other interest
6961 owners.

6962 (f) An "operator" is a person engaged in the business
6963 of severing oil or gas production from the ground, whether for
6964 himself alone, for other persons alone or for himself and others.

6965 (2) Whenever a disbursing agent has not disbursed the
6966 royalty proceeds derived from the well's production to the royalty
6967 owner within one hundred twenty (120) days following the date of
6968 first sale of oil or gas in the event the disbursing agent is a
6969 first purchaser of oil or gas, or within one hundred twenty (120)
6970 days following the date the disbursing agent receives the proceeds
6971 from such production if the disbursing agent is not the first
6972 purchaser, such royalty owner shall have a lien to secure the
6973 payment of the royalty proceeds. The lien shall attach to the

6974 proceeds from such production received by the disbursing agent
6975 attributable to the royalty owner's interest.

6976 (3) The lien provided by this section shall be effective
6977 against a third party only from the time a financing statement
6978 evidencing such lien is filed in the same manner as financing
6979 statements evidencing security interests in minerals are filed in
6980 accordance with the provisions of Section 75-9-501.

6981 (4) The lien provided by this section shall expire one (1)
6982 year after it becomes effective against a third party, unless
6983 judicial proceedings have been commenced to assert it or unless
6984 insolvency proceedings have been commenced by or against the
6985 disbursing agent, in which event the lien shall remain effective
6986 until termination of the insolvency proceedings or until
6987 expiration of the one-year period, whichever occurs later.

6988 (5) Whenever there is a conflict between a lien under this
6989 section and a security interest under Title 75, Chapter 9, the
6990 lien or security interest first to be filed has priority. Liens
6991 provided for in this section shall have priorities among
6992 themselves according to priority in time of filing of such liens.

6993 (6) The filing required by this section shall be a financing
6994 statement as provided for in Section 75-9-310 and shall be subject
6995 to the provisions of Part 5 of Article 9 of the Uniform Commercial
6996 Code, except that in order for the filing to be sufficient, it
6997 shall not be necessary for the debtor to sign the financing
6998 statement, and the filing shall be effective for a period of only
6999 one (1) year from the date of filing.

7000 (7) This section does not impair an operator's right to set
7001 off or withhold funds from other interest owners as security for
7002 or in satisfaction of any debt or security interest. This section
7003 does not impair a disbursing agent's right to withhold funds in
7004 the event a question is raised concerning the title or ownership
7005 of, or right to sell, the oil or gas production. In case of a
7006 dispute between interest owners, a good-faith tender by the

7007 disbursing agent of funds to the person the interest owners shall
7008 agree on, or to a court of competent jurisdiction in the event of
7009 litigation or bankruptcy, shall operate as a tender of the funds
7010 to both.

7011 (8) Nothing in this section shall be construed to enlarge or
7012 diminish the rights and obligations provided to or imposed on
7013 interest owners, royalty owners, disbursing agents, first
7014 purchasers or operators by contract or otherwise by law. The sole
7015 purpose of this section is to provide royalty owners a lien under
7016 the conditions provided herein.

7017 SECTION 30. Section 75-11-106, Mississippi Code of 1972, is
7018 amended as follows:

7019 75-11-106. (1) If a security interest is perfected or has
7020 priority on April 1, 1978, as to all persons or as to certain
7021 persons without any filing or recording, and if the filing of a
7022 financing statement would be required for the perfection or
7023 priority of the security interest against those persons under the
7024 revised Uniform Commercial Code, the perfection and priority
7025 rights of the security interest shall continue until three (3)
7026 years after April 1, 1978. The perfection will then lapse unless
7027 a financing statement is filed as provided in Section 75-11-104 or
7028 unless the security interests is perfected otherwise than by
7029 filing.

7030 (2) A financing statement may be filed within six (6) months
7031 before the perfection of a security interest would otherwise
7032 lapse. Any such financing statement may be signed by either the
7033 debtor or the secured party. It must identify the security
7034 agreement, statement or notice (however denominated in any statute
7035 or other law repealed or modified by Chapter 452, Laws of 1977),
7036 state the office where and the date when the last filing, refiling
7037 or recording, if any, was made with respect thereto, and the
7038 filing number, if any, or book and page, if any, of recording and
7039 further state that the security agreement, statement or notice,

7040 however denominated, in another filing office under the old
7041 Uniform Commercial Code or under any statute or other law repealed
7042 or modified by Chapter 452, Laws of 1977, is still effective.
7043 Section 75-9-501 * * * determines the proper place to file such a
7044 financing statement. Except as specified in this subsection, the
7045 provisions of Section 75-9-510 for continuation statements apply
7046 to such a financing statement.

7047 SECTION 31. Section 85-7-1, Mississippi Code of 1972, is
7048 amended as follows:

7049 85-7-1. (1) Every employer shall have a lien on the share
7050 or interest of his employee in any crop made under such
7051 employment, for all advances of money, and for the fair market
7052 value of other things advanced by him, or anyone at his request,
7053 for supplies for himself, his family and business during the
7054 existence of such employment, which lien the employer may offset,
7055 recoup or otherwise assert and maintain.

7056 (2) Every employee, laborer, cropper, part owner, overseer
7057 or manager or other person who may aid by his labor to make,
7058 gather, or prepare for sale or market any crop, shall have a lien
7059 on the interest of the person who contracts with him for such
7060 labor for his wages, share or interest in such crop, whatever may
7061 be the kind of wages or the nature of the interest, which lien
7062 such employee, laborer, cropper, part owner, overseer or manager
7063 or other person may offset, recoup or otherwise assert and
7064 maintain.

7065 (3) Except as provided in subsection (4) of this section,
7066 any lien arising under the provisions of this section shall be
7067 paramount to all liens and encumbrances or rights of any kind
7068 created by or against the person so contracting for such
7069 assistance when perfected in accordance with Uniform Commercial
7070 Code Revised Article 9 - Secured Transactions (Section 75-9-101 et
7071 seq.), except the lien of the lessor of the land on which the crop
7072 is made, for rent and supplies furnished, as provided in the

7073 chapter on "Landlord and Tenant," appearing as Chapter 7 of Title
7074 89, Mississippi Code of 1972.

7075 (4) Any lien arising under the provisions of subsection (2)
7076 of this section in favor of any person other than an employee,
7077 laborer, cropper, part owner, overseer or manager as to crops or
7078 the proceeds thereof shall be effective against a third party only
7079 for a period of twenty-one (21) days from and after the time the
7080 labor is completed, unless within such period of time * * * the
7081 lien is perfected in accordance with * * * Uniform Commercial Code
7082 Revised Article 9 - Secured Transactions (Section 75-9-101 et
7083 seq.). Any such lien in favor of any person other than an
7084 employee, laborer, cropper, overseer or manager for which notice
7085 has not been filed within the twenty-one-day period as herein
7086 provided shall, upon a subsequent filing of the notice of such
7087 lien, have the priority as against a third party to which a
7088 perfected security interest may be entitled under Uniform
7089 Commercial Code Revised Article 9 - Secured Transactions (Section
7090 75-9-101 et seq.).

7091 SECTION 32. Section 85-8-9, Mississippi Code of 1972, is
7092 amended as follows:

7093 85-8-9. (1) If a notice of federal lien, a refiling of a
7094 notice of federal lien, or a notice of revocation of any
7095 certificate described in subsection (2) of this section is
7096 presented to the filing officer who is:

7097 (a) The Secretary of state, he shall cause the notice
7098 to be marked, held and indexed in accordance with the provisions
7099 of subsection (4) of Section 75-9-501, Mississippi Code of 1972,
7100 of the Uniform Commercial Code as if the notice were a financing
7101 statement within the meaning of that code; or

7102 (b) Chancery clerk, he shall endorse thereon his
7103 identification and the date and time of receipt and forthwith file
7104 it alphabetically or enter it in an alphabetical index showing the
7105 name and address of the person named in the notice, the date and

7106 time of receipt, the title and address of the official party
7107 certifying the lien, and the total amount appearing on the notice
7108 of lien.

7109 (2) If a certificate of release, nonattachment, discharge or
7110 subordination of any lien is presented to the Secretary of State
7111 for filing he shall:

7112 (a) Cause a certificate of release or nonattachment to
7113 be marked, held and indexed as if the certificate were a
7114 termination statement within the meaning of the Uniform Commercial
7115 Code, but the notice of lien to which the certificate relates may
7116 not be removed from the files; and

7117 (b) Cause a certificate of discharge or subordination
7118 to be held, marked and indexed as if the certificate were a
7119 release of collateral within the meaning of the Uniform Commercial
7120 Code.

7121 (3) If a refiled notice of federal lien referred to in
7122 subsection (1) of this section or any of the certificates or
7123 notices referred to in subsection (2) of this section is presented
7124 for filing with the chancery clerk, he shall permanently attach
7125 the refiled notice or the certificate to the original notice of
7126 lien and enter the refiled notice of the certificate with the date
7127 of filing in any alphabetical lien index on the line where the
7128 original notice of lien is entered.

7129 (4) Upon request of any person, the filing officer shall
7130 issue his certificate showing whether there is on file, on the
7131 date and hour stated therein, any notice of lien or certificate or
7132 notice affecting any lien, filed under this act, naming a
7133 particular person, and if a notice or certificate is on file,
7134 giving the date and hour of its filing. The fee for a certificate
7135 is Five Dollars (\$5.00). Upon request the filing officer shall
7136 furnish a copy of any notice of federal lien or notice or
7137 certificate affecting a federal lien for a fee of Two Dollars
7138 (\$2.00) per page.

7139 SECTION 33. Section 89-7-51, Mississippi Code of 1972, is
7140 amended as follows:

7141 89-7-51. (1) Every lessor of land shall have a lien on the
7142 agricultural products of the leased premises, however and by
7143 whomsoever produced, to secure the payment of the rent and of
7144 money advanced to the tenant, and the fair market value of all
7145 advances made by him to his tenant for supplies for the tenant and
7146 others for whom he may contract, and for his business carried on
7147 upon the leased premises. This lien shall be paramount to all
7148 other liens, claims or demands upon such products when perfected
7149 in accordance with Uniform Commercial Code Revised Article 9 -
7150 Secured Transactions (Section 75-9-101 et seq.). The claim of the
7151 lessor for supplies furnished may be enforced in the same manner
7152 and under the same circumstances as his claim for rent may be; and
7153 all the provisions of law as to attachment for rent and
7154 proceedings under it shall be applicable to a claim for supplies
7155 furnished, and such attachment may be levied on any goods and
7156 chattels liable for rent, as well as on the agricultural products.

7157 (2) All articles of personal property, except a stock of
7158 merchandise sold in the normal course of business, owned by the
7159 lessee of real property and situated on the leased premises shall
7160 be subject to a lien in favor of the lessor to secure the payment
7161 of rent for such premises as has been contracted to be paid,
7162 whether or not then due. Such lien shall be subject to all prior
7163 liens or other security interests perfected according to law. No
7164 such articles of personal property may be removed from the leased
7165 premises until such rent is paid except with the written consent
7166 of the lessor. All of the provisions of law as to attachment for
7167 rent and proceedings thereunder shall be applicable with reference
7168 to the lessor's lien under this subsection.

7169 SECTION 34. Section 89-7-53, Mississippi Code of 1972, is
7170 amended as follows:

7171 89-7-53. A landlord shall have, for one (1) year, a lien for
7172 the reasonable value of all livestock, farming tools, implements
7173 and vehicles furnished by him to his tenant, upon the property so
7174 furnished and, as an additional security therefor, upon all the
7175 agricultural products raised upon the leased premises. The said
7176 property so furnished shall be considered as supplies and the lien
7177 therefor may be enforced accordingly. Such lien shall be a
7178 superior and first lien when perfected in accordance with Uniform
7179 Commercial Code Revised Article 9 - Secured Transactions (Section
7180 75-9-101 et seq.), and need not otherwise be evidenced by writing,
7181 or if in writing need not be recorded.

7182 SECTION 35. Section 99-41-23, Mississippi Code of 1972, is
7183 amended as follows:

7184 99-41-23. (1) Compensation for work loss may not
7185 exceed Four Hundred Fifty Dollars (\$450.00) per week, not to
7186 exceed fifty-two (52) weeks; the total amount of the award may not
7187 exceed the aggregate limitation of this section.

7188 (2) Compensation for economic loss of a dependent may not
7189 exceed Four Hundred Fifty Dollars (\$450.00) per week not to exceed
7190 fifty-two (52) weeks; provided, however, if there is more than one
7191 (1) dependent per victim the amount of compensation awarded shall
7192 be prorated among the dependents and the total amount of the award
7193 may not exceed the aggregate limitation of this section.

7194 (3) In the event of the victim's death, compensation for
7195 work loss of claimant may not exceed Four Hundred Fifty Dollars
7196 (\$450.00) per week not to exceed one (1) week; provided, however,
7197 if there is more than one (1) claimant per victim, the amount of
7198 compensation awarded shall be prorated among the claimants and the
7199 total amount of the award may not exceed Four Hundred Fifty
7200 Dollars (\$450.00).

7201 (4) Compensation payable to a victim and to all other
7202 claimants sustaining economic loss because of injury to or death

7203 of that victim may not exceed Ten Thousand Dollars (\$10,000.00) in
7204 the aggregate.

7205 (5) A determination that compensation shall be awarded may
7206 provide for payment to a claimant in a lump sum or in
7207 installments. All medical bills may be paid directly to affected
7208 health care providers. At the request of the claimant, the
7209 director may convert future economic loss, other than allowable
7210 expense, to a lump sum, but only upon a finding of either of the
7211 following:

7212 (a) That the award in a lump sum will promote the
7213 interests of the claimant; or

7214 (b) That the present value of all future economic loss,
7215 other than allowable expense, does not exceed One Thousand Dollars
7216 (\$1,000.00).

7217 (6) An award payable in installments for future economic
7218 loss may be made only for a period as to which the future economic
7219 loss can reasonably be determined. An award payable in
7220 installments for future economic loss may be modified upon
7221 findings that a material and substantial change of circumstances
7222 has occurred.

7223 (7) An award shall not be subject to execution, attachment,
7224 garnishment or other process, except that an award shall not be
7225 exempt from orders for the withholding of support for minor
7226 children, and except that an award for allowable expense shall not
7227 be exempt from a claim of a creditor to the extent that such
7228 creditor has provided products, services or accommodations, the
7229 costs of which are included in the award.

7230 (8) An assignment by the claimant to any future award under
7231 the provisions of this chapter is unenforceable, except:

7232 (a) An assignment of any award for work loss to assure
7233 payment of court-ordered alimony, maintenance or child support; or

7234 (b) An assignment for any award for allowable expense
7235 to the extent that the benefits are for the cost of products,

7236 services or accommodations necessitated by the injury or death on
7237 which the claim is based and which are provided or are to be
7238 provided by the assignee.

7239 (9) Subsections (5) and (6) of this section prevail over
7240 Sections 75-9-406 and 75-9-408 of Article 9 of the Uniform
7241 Commercial Code to the extent, if any that Sections 75-9-406 and
7242 75-9-408 may otherwise be applicable.

7243 SECTION 36. Section 25-7-9, Mississippi Code of 1972, is
7244 amended as follows:

7245 25-7-9. (1) The clerks of the chancery courts shall charge
7246 the following fees:

7247 (a) For the act of certifying copies of filed
7248 documents, for each complete document..... \$1.00

7249 (b) Recording deeds, wills, leases, amendments,
7250 subordinations, liens other than those perfected in accordance
7251 with Uniform Commercial Code Revised Article 9 - Secured
7252 Transactions (Section 75-9-101 et seq.), releases, cancellations,
7253 orders, decrees, oaths, etc., including indexing..... 6.00

7254 Sectional index entries per section or
7255 subdivision..... 1.00

7256 (c) Recording deeds of trust..... 10.00
7257 Sectional index entries per section or
7258 subdivision..... 1.00

7259 (d) (i) Recording oil and gas leases, etc., including
7260 indexing in general indices..... 12.00

7261 Sectional index entries per section or
7262 subdivision..... 1.00

7263 (ii) Recording oil and gas cancellations,
7264 assignments, etc., including indexing in general indices:

7265 First page..... 5.00

7266 Each additional page..... 2.00

7267 Abstracting each section or subdivision..... 1.00

7268 Sectional index entries per section or

7269 subdivision..... 6.00

7270 (e) Furnishing copies of any papers of record or on

7271 file and entering marginal notations on documents of record:

7272 If performed by the clerk or his employee,

7273 per page..... .50

7274 If performed by any other person, per page..... .25

7275 (f) For each day's attendance on the board of

7276 supervisors, for himself and one (1) deputy, each..... 20.00

7277 (g) For other services as clerk of the board of

7278 supervisors an allowance shall be made to him (payable

7279 semiannually at the July and January meetings) out of the county

7280 treasury, an annual sum not exceeding..... 1,500.00

7281 (h) For each day's attendance on the chancery court, to

7282 be approved by the chancellor:

7283 For the first chancellor sitting only, clerk and

7284 two (2) deputies, each..... 30.00

7285 For the second chancellor sitting, clerk

7286 only..... 30.00

7287 Provided that the fees herein prescribed shall be the total

7288 remuneration for the clerk and his deputies for attending chancery

7289 court.

7290 (i) On order of the court, clerks and not more than two

7291 (2) deputies may be allowed five (5) extra days for each term of

7292 court for attendance upon the court to get up records.

7293 (j) For public service not otherwise specifically

7294 provided for, the chancery court may by order allow the clerk to

7295 be paid by the county on the order of the board of supervisors, an

7296 annual sum not exceeding..... 5,000.00

7297 The chancery clerk shall itemize on the original document a

7298 detailed fee bill of all charges due or paid for filing, recording

7299 and abstracting same. No person shall be required to pay such

7300 fees until same have been so itemized, but said fees may be

7301 demanded before the document is recorded.

7302 (2) In accordance with Uniform Chancery Court Rule 9.01 as
7303 approved by Order of the Mississippi Supreme Court, the following
7304 fees shall be a total fee for all services performed by the clerk
7305 with respect to a complaint which shall be payable upon filing and
7306 shall accrue to the chancery clerk at the time of filing. The
7307 clerk or his successor in office shall perform all duties set
7308 forth without additional compensation or fee to wit:

- 7309 (a) Divorce to be contested..... \$ 75.00
- 7310 (b) Divorce uncontested..... 30.00
- 7311 (c) Alteration of birth or marriage certificate.. 25.00
- 7312 (d) Removal of minority..... 25.00
- 7313 (e) Guardianship or conservatorship..... 75.00
- 7314 (f) Estate of deceased, intestate..... 75.00
- 7315 (g) Estate of deceased, testate..... 75.00
- 7316 (h) Adoption..... 75.00
- 7317 (i) Land dispute..... 75.00
- 7318 (j) Injunction..... 75.00
- 7319 (k) Settlement of small claim..... 30.00
- 7320 (l) Contempt in child support..... 75.00
- 7321 (m) Partition suit..... 75.00
- 7322 (n) Any cross-complaint..... 25.00

7323 Cost of process shall be borne by the issuing party.
7324 Additionally, should the attorney or person filing the pleadings
7325 desire the clerk to pay the cost to the sheriff for serving
7326 process on one person or more, or to pay the cost of publication,
7327 the clerk shall demand the actual charges therefor, at the time of
7328 filing.

7329 SECTION 37. All fees collected by the Office of the
7330 Secretary of State under Section 75-9-525 shall be deposited in a
7331 special fund which is created in the State Treasury to be
7332 designated as the Uniform Commercial Code Revised Article 9 Fund.
7333 Money in this fund shall be used by the Secretary of State as
7334 necessary to administer the filing and research provisions of the

7335 Uniform Commercial Code Revised Article 9 - Secured Transactions
7336 (Section 75-9-101 et seq.) and to pay each chancery clerk such
7337 amounts as that clerk shall be owed under subsection (2) of this
7338 section. Interest earned on the principal in the fund shall be
7339 deposited into the special fund. Expenditures from the fund shall
7340 be paid by the State Treasurer upon requisition signed by the
7341 Office of the Secretary of State.

7342 (2) The purpose of this subsection is to compensate chancery
7343 clerks for maintaining certain records under the former provisions
7344 of Uniform Commercial Code Article 9 - Secured Transactions, which
7345 are being repealed in Section 2 of this act, and which are being
7346 replaced by Uniform Commercial Code Revised Article 9 - Secured
7347 Transactions (Section 75-9-101 et seq.) in Section 1 of this act.
7348 The provisions of the Uniform Commercial Code Revised Article 9 -
7349 Secured Transactions contained in Section 1 of this act provide
7350 that filings of certain security interest records and financing
7351 statements shall be uniform and centralized in the Office of the
7352 Secretary of State and that such records shall no longer be filed
7353 concurrently in the offices of chancery clerks. Further, the
7354 purpose of this subsection is to provide notice to those persons
7355 who may seek to be elected to the office of chancery clerk for the
7356 term beginning January 1, 2004, and ending December 31, 2007, that
7357 such filing fees will no longer be collected by the chancery
7358 clerk.

7359 Notwithstanding the fact that such records are no longer to
7360 be filed in the offices of chancery clerks, the Secretary of State
7361 shall pay to each chancery clerk the following:

7362 (a) For the fiscal year beginning July 1, 2001, and
7363 ending June 30, 2002, a sum equal to fifty percent (50%) of the
7364 amount collected by the Office of the Secretary of State in fees
7365 under Section 75-9-525 pertaining to the chancery clerk's county,
7366 if any, indicated on the face of the financing statement by county
7367 code or county name as the domicile of the debtor, or if no county

7368 is so indicated, pertaining to the chancery clerk's county of the
7369 address of the debtor stated on the financing statement;

7370 (b) For the fiscal year beginning July 1, 2002, and
7371 ending June 30, 2003, a sum equal to forty percent (40%) of the
7372 amount collected by the Office of the Secretary of State in fees
7373 under Section 75-9-525 pertaining to the chancery clerk's county,
7374 if any, indicated on the face of the financing statement by county
7375 code or county name as the domicile of the debtor, or if no county
7376 is so indicated, pertaining to the chancery clerk's county of the
7377 address of the debtor stated on the financing statement; and

7378 (c) For the time period beginning July 1, 2003, and
7379 ending December 31, 2003, a sum equal to twenty-five percent (25%)
7380 of the amount collected by the Office of the Secretary of State in
7381 fees under Section 75-9-525 pertaining to the chancery clerk's
7382 county, if any, indicated on the face of the financing statement
7383 by county code or county name as the domicile of the debtor, or if
7384 no county is so indicated, pertaining to the chancery clerk's
7385 county of the address of the debtor stated on the financing
7386 statement.

7387 (3) The provisions of this section shall be repealed from
7388 and after December 31, 2003.

7389 SECTION 38. Section 37 of this act shall be codified as a
7390 new section in Chapter 3, Title 7, Mississippi Code of 1972.

7391 SECTION 39. This act shall take effect and be in force from
7392 and after July 1, 2001.