

By: Representative Pierce

To: Judiciary A

HOUSE BILL NO. 1028

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

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

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

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

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

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

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

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

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

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

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

40 * * *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

106 * * *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

172 or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

417 * * *

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

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

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

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

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

447 * * *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

722 (d) The exercise by a seller of its right to stop
723 delivery pursuant to Section 75-2-705 or by a lessor of its right
724 to stop delivery pursuant to Section 75-2A-525; the provisions of
725 the chapter on Sales (Section 2-705) [§75-2-705];

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

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

730 (g) Any other lawful excuse.

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

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

744 * * *

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

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

752 the document or to dispose of the goods; or (b) the person to
753 which the bailee delivered the goods did not have authority to
754 receive the goods.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

807 (a) Title to the document;

808 (b) Title to the goods;

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

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

818 acquired by the holder is that the issuer and any indorser will
819 procure the acceptance of the bailee.

820 (2) Subject to Section 75-7-503, title and rights * * *
821 acquired by due negotiation are not defeated by any stoppage of
822 the goods represented by the document of title or by surrender
823 of * * * goods by the bailee and are not impaired even if: (a)
824 the due negotiation or any prior negotiation constituted a breach
825 of duty; or (b) any person has been deprived of possession of a
826 negotiable tangible document or control of a negotiable electronic
827 document by misrepresentation, fraud, accident, mistake, duress,
828 loss, theft or conversion; or (c) a previous sale or other
829 transfer of the goods or document has been made to a third person.

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

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

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

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

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

851 (3) Title to goods based upon a bill of lading issued to a
852 freight forwarder is subject to the rights of any person to whom a
853 bill issued by the freight forwarder is duly negotiated. However,
854 delivery by the carrier in accordance with Part 4 * * * pursuant
855 to its own bill of lading discharges the carrier's obligation to
856 deliver.

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

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

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

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

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

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

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

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

883 (4) Delivery pursuant to a nonnegotiable document of title
884 may be stopped by a seller under Section * * * 75-2-705 or a
885 lessor under Section 75-2A-526, subject to the requirements of due
886 notification in those sections. A bailee that honors the seller's
887 or lessor's instructions is entitled to be indemnified by the
888 seller or lessor against any resulting loss or expense.

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

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

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

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

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

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

908 (a) That the document is genuine; and

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

911 (c) The negotiation or delivery is rightful and fully
912 effective with respect to the title to the document and the goods
913 it represents.

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

916 75-7-508. A collecting bank or other intermediary known to
917 be entrusted with documents of title on behalf of another or with
918 collection of a draft or other claim against delivery of documents
919 warrants by the delivery of the documents only its own good faith
920 and authority even if the collecting bank or other intermediary
921 has purchased or made advances against the claim or draft to be
922 collected.

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

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

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

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

943 (2) A bailee that, without court order, delivers goods to a
944 person claiming under a missing negotiable document of title is
945 liable to any person injured thereby. If the delivery is not in
946 good faith, the bailee is liable for conversion. Delivery in good
947 faith is not conversion * * * if the claimant posts security with
948 the bailee in an amount at least double the value of the goods at

949 the time of posting to indemnify any person injured by the
950 delivery which files a notice of claim within one (1) year after
951 the delivery.

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

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

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

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

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

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

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

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

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

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

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

999 (6) "Bill of lading" means a document of title
1000 evidencing the receipt of goods for shipment issued by a person
1001 engaged in the business of directly or indirectly transporting or
1002 forwarding goods. The term does not include a warehouse receipt.

1003 (7) "Branch" includes a separately incorporated foreign
1004 branch of a bank.

1005 (8) "Burden of establishing" a fact means the burden of
1006 persuading the triers of fact that the existence of the fact is
1007 more probable than its nonexistence.

1008 (9) "Buyer in ordinary course of business" means a
1009 person that buys goods in good faith, without knowledge that the
1010 sale violates the rights of another person in the goods, and in
1011 the ordinary course from a person, other than a pawnbroker, in the
1012 business of selling goods of that kind. A person buys goods in

1013 the ordinary course if the sale to the person comports with the
1014 usual or customary practices in the kind of business in which the
1015 seller is engaged or with the seller's own usual or customary
1016 practices. A person that sells oil, gas, or other minerals at the
1017 wellhead or minehead is a person in the business of selling goods
1018 of that kind. A buyer in the ordinary course of business may buy
1019 for cash, by exchange of other property, or on secured or
1020 unsecured credit, and may acquire goods or documents of title
1021 under a preexisting contract for sale. Only a buyer that takes
1022 possession of the goods or has a right to recover the goods from
1023 the seller under Article 2 may be a buyer in ordinary course of
1024 business. A person that acquires goods in a transfer in bulk or
1025 as security for or in total or partial satisfaction of a money
1026 debt is not a buyer in ordinary course of business.

1027 (10) "Conspicuous," with reference to a term, means so
1028 written, displayed, or presented that a reasonable person against
1029 which it is to operate ought to have noticed it. Whether a term
1030 is "conspicuous" or not is a decision for the court. Conspicuous
1031 terms include the following:

1032 (a) A heading in capitals equal to or greater in
1033 size than the surrounding text, or in contrasting type, font, or
1034 color to the surrounding text of the same or lessor size; and

1035 (b) Language in the body of a record or display in
1036 larger type than the surrounding text, or in contrasting type,
1037 font, or color to the surrounding text of the same size, or set
1038 off from surrounding text of the same size by symbols or other
1039 marks that call attention to the language.

1040 (11) "Contract" means the total legal obligation which
1041 results from the parties' agreement as affected by this code and
1042 any other applicable rules of law. (Compare "Agreement.")

1043 (12) "Creditor" includes a general creditor, a secured
1044 creditor, a lien creditor and any representative of creditors,
1045 including an assignee for the benefit of creditors, a trustee in

1046 bankruptcy, a receiver in equity and an executor or administrator
1047 of an insolvent debtor's or assignor's estate.

1048 (13) "Defendant" includes a person in the position of
1049 defendant in a cross-action or counterclaim.

1050 (14) "Delivery" with respect to an electronic document
1051 of title means voluntary transfer of control and with respect to
1052 instruments, tangible documents of title, chattel paper, or
1053 certificated securities means voluntary transfer of possession.

1054 (15) "Document of title" means a record (a) that in the
1055 regular course of business or financing is treated as adequately
1056 evidencing that the person in possession or control of the record
1057 is entitled to receive, control, hold and dispose of the record
1058 and the goods the record covers and (b) that purports to be issued
1059 by or addressed to a bailee and to cover goods in the bailee's
1060 possession which are either identified or are fungible portions of
1061 an identified mass. The term includes a bill of lading, transport
1062 document, dock warrant, dock receipt, warehouse receipt and order
1063 for delivery of goods. An electronic document of title means a
1064 document of title evidenced by a record consisting of information
1065 stored in an electronic medium. A tangible document of title
1066 means a document of title evidenced by a record consisting of
1067 information that is inscribed on a tangible medium.

1068 (16) "Fault" means wrongful act, omission or breach.

1069 (17) "Fungible" with respect to goods or securities
1070 means goods or securities of which any unit is, by nature or usage
1071 of trade, the equivalent of any other like unit. Goods which are
1072 not fungible shall be deemed fungible for the purposes of this
1073 code to the extent that under a particular agreement or document
1074 unlike units are treated as equivalents.

1075 (18) "Genuine" means free of forgery or counterfeiting.

1076 (19) "Good faith" means honesty in fact in the conduct
1077 or transaction concerned.

1078 (20) "Holder," means:

1079 (a) The person in possession of a negotiable
1080 instrument that is payable either to bearer or to an identified
1081 person that is the person in possession;

1082 (b) The person in possession of a negotiable
1083 tangible document of title if the goods are deliverable either to
1084 bearer or to the order of the person in possession; or

1085 (c) The person in control of a negotiable
1086 electronic document of title.

1087 (21) To "honor" is to pay or to accept and pay, or
1088 where a credit so engages to purchase or discount a draft
1089 complying with the terms of the credit.

1090 (22) "Insolvency proceedings" includes any assignment
1091 for the benefit of creditors or other proceedings intended to
1092 liquidate or rehabilitate the estate of the person involved.

1093 (23) A person is "insolvent" who either has ceased to
1094 pay his debts in the ordinary course of business or cannot pay his
1095 debts as they become due or is insolvent within the meaning of the
1096 federal bankruptcy law.

1097 (24) "Money" means a medium of exchange authorized or
1098 adopted by a domestic or foreign government and includes a
1099 monetary unit of account established by an intergovernmental
1100 organization or by agreement between two (2) or more nations.

1101 (25) Subject to subsection (27), a person has "notice"
1102 of a fact if the person:

1103 (a) * * * Has actual knowledge of it; or

1104 (b) * * * Has received a notice or notification of
1105 it; or

1106 (c) From all the facts and circumstances known to
1107 the person at the time in question he has reason to know that it
1108 exists.

1109 A person "knows" or has "knowledge" of a fact when the person
1110 has actual knowledge of it. "Discover" or "learn" or a word or
1111 phrase of similar import refers to knowledge rather than to reason

1112 to know. The time and circumstances under which a notice or
1113 notification may cease to be effective are not determined by this
1114 code.

1115 (26) A person "notifies" or "gives" a notice or
1116 notification to another person by taking such steps as may be
1117 reasonably required to inform the other person in ordinary course
1118 whether or not the other person actually comes to know of it.
1119 Subject to subsection (27), a person "receives" a notice or
1120 notification when:

1121 (a) It comes to that person's attention; or

1122 (b) It is duly delivered in a form reasonable
1123 under the circumstances at the place of business through which the
1124 contract was made or at another location held out by that person
1125 as the place for receipt of such communications.

1126 (27) Notice, knowledge or a notice or notification
1127 received by an organization is effective for a particular
1128 transaction from the time when it is brought to the attention of
1129 the individual conducting that transaction, and in any event from
1130 the time when it would have been brought to his attention if the
1131 organization had exercised due diligence. An organization
1132 exercises due diligence if it maintains reasonable routines for
1133 communicating significant information to the person conducting the
1134 transaction and there is reasonable compliance with the routines.
1135 Due diligence does not require an individual acting for the
1136 organization to communicate information unless such communication
1137 is part of the individual's regular duties or the individual has
1138 reason to know of the transaction and that the transaction would
1139 be materially affected by the information.

1140 (28) "Organization" includes a corporation, government
1141 or governmental subdivision or agency, business trust, estate,
1142 trust, partnership or association, two (2) or more persons having
1143 a joint or common interest, or any other legal or commercial
1144 entity.

1145 (29) "Party," as distinct from "third party," means a
1146 person who has engaged in a transaction or made an agreement
1147 within this code.

1148 (30) "Person" includes an individual or an organization
1149 (see Section 75-1-102).

1150 (31) "Presumption" or "presumed" means that the trier
1151 of fact must find the existence of the fact presumed unless and
1152 until evidence is introduced which would support a finding of its
1153 nonexistence.

1154 (32) "Purchase" includes taking by sale, discount,
1155 negotiation, mortgage, pledge, lien, security interest, issue or
1156 reissue, gift or any other voluntary transaction creating an
1157 interest in property.

1158 (33) "Purchaser" means a person who takes by purchase.

1159 (34) "Remedy" means any remedial right to which an
1160 aggrieved party is entitled with or without resort to a tribunal.

1161 (35) "Representative" includes an agent, an officer of
1162 a corporation or association, and a trustee, executor or
1163 administrator of an estate, or any other person empowered to act
1164 for another.

1165 (36) "Rights" includes remedies.

1166 (37) "Security interest" means an interest in personal
1167 property or fixtures which secures payment or performance of an
1168 obligation.

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

1178 acquire possession of the goods is not a "security interest," but
1179 a seller or lessor may also acquire a "security interest" by
1180 complying with Article 9. The retention or reservation of title
1181 by a seller of goods notwithstanding shipment or delivery to the
1182 buyer (Section 75-2-401) is limited in effect to a reservation of
1183 a security interest.

1184 (b) Whether a transaction creates a lease or
1185 security interest is determined by the facts of each case;
1186 however, a transaction creates a security interest if the
1187 consideration the lessee is to pay the lessor for the right to
1188 possession and use of the goods is an obligation for the term of
1189 the lease not subject to termination by the lessee, and

1190 (i) The original term of the lease is equal
1191 to or greater than the remaining economic life of the goods,

1192 (ii) The lessee is bound to renew the lease
1193 for the remaining economic life of the goods or is bound to become
1194 the owner of the goods,

1195 (iii) The lessee has an option to renew the
1196 lease for the remaining economic life of the goods for no
1197 additional consideration or nominal additional consideration upon
1198 compliance with the lease agreement, or

1199 (iv) The lessee has an option to become the
1200 owner of the goods for no additional consideration or nominal
1201 additional consideration upon compliance with the lease agreement.

1202 (c) A transaction does not create a security
1203 interest merely because it provides that:

1204 (i) The present value of the consideration
1205 the lessee is obligated to pay the lessor for the right to
1206 possession and use of the goods is substantially equal to or is
1207 greater than the fair market value of the goods at the time the
1208 lease is entered into,

1209 (ii) The lessee assumes risk of loss of the
1210 goods, or agrees to pay taxes, insurance, filing, recording, or

1211 registration fees, or service or maintenance costs with respect to
1212 the goods,

1213 (iii) The lessee has an option to renew the
1214 lease or to become the owner of the goods,

1215 (iv) The lessee has an option to renew the
1216 lease for a fixed rent that is equal to or greater than the
1217 reasonably predictable fair market rent for the use of the goods
1218 for the term of the renewal at the time the option is to be
1219 performed, or

1220 (v) The lessee has an option to become the
1221 owner of the goods for a fixed price that is equal to or greater
1222 than the reasonably predictable fair market value of the goods at
1223 the time the option is to be performed.

1224 (d) For purposes of this subsection (37):

1225 (i) Additional consideration is not nominal
1226 if

1227 1. When the option to renew the lease is
1228 granted to the lessee the rent is stated to be the fair market
1229 rent for the use of the goods for the term of the renewal
1230 determined at the time the option is to be performed, or

1231 2. When the option to become the owner
1232 of the goods is granted to the lessee the price is stated to be
1233 the fair market value of the goods determined at the time the
1234 option is to be performed. Additional consideration is nominal if
1235 it is less than the lessee's reasonably predictable cost of
1236 performing under the lease agreement if the option is not
1237 exercised;

1238 (ii) "Reasonably predictable" and "remaining
1239 economic life of the goods" are to be determined with reference to
1240 the fact and circumstances at the time the transaction is entered
1241 into; and

1242 (iii) "Present value" means the amount as of
1243 a date certain of one or more sums payable in the future,

1244 discounted to the date certain. The discount is determined by the
1245 interest rate specified by the parties if the rate is not
1246 manifestly unreasonable at the time the transaction is entered
1247 into; otherwise, the discount is determined by a commercially
1248 reasonable rate that takes into account the facts and
1249 circumstances of each case at the time the transaction was entered
1250 into.

1251 (38) "Send" in connection with any writing or notice
1252 means: (a) to deposit in the mail or deliver for transmission by
1253 any other usual means of communication with postage or cost of
1254 transmission provided for and properly addressed and in the case
1255 of an instrument to an address specified thereon or otherwise
1256 agreed, or if there be none, to an address specified thereon or
1257 otherwise agreed, or if there be none to any address reasonable
1258 under the circumstances; or (b) in any other way to cause to be
1259 received any record or notice within the time * * * it would have
1260 arrived if properly sent * * *.

1261 (39) "Signed" includes any symbol executed or adopted
1262 by a party with present intention to authenticate a writing.

1263 (40) "Surety" includes guarantor.

1264 (41) "Telegram" includes a message transmitted by
1265 radio, teletype, cable, any mechanical method of transmission, or
1266 the like.

1267 (42) "Term" means that portion of an agreement which
1268 relates to a particular matter.

1269 (43) "Unauthorized" signature means one made without
1270 actual, implied or apparent authority and includes a forgery.

1271 (44) "Value," except as otherwise provided with respect
1272 to negotiable instruments and bank collections (Sections 75-3-303,
1273 75-4-208 and 75-4-209), a person gives "value" for rights if he
1274 acquires them:

1275 (a) In return for a binding commitment to extend
1276 credit or for the extension of immediately available credit

1277 whether or not drawn upon and whether or not a charge-back is
1278 provided for in the event of difficulties in collection; or

1279 (b) As security for or in total or partial
1280 satisfaction of a preexisting claim; or

1281 (c) By accepting delivery pursuant to a
1282 preexisting contract for purchase; or

1283 (d) Generally, in return for any consideration
1284 sufficient to support a simple contract.

1285 (45) "Warehouse receipt" means a document of title
1286 issued by a person engaged in the business of storing goods for
1287 hire.

1288 (46) "Written" or "writing" includes printing,
1289 typewriting, or any other intentional reduction to tangible form.

1290 **SECTION 41.** Section 75-2-103, Mississippi Code of 1972, is
1291 amended as follows:

1292 75-2-103. (1) In this chapter unless the context otherwise
1293 requires:

1294 (a) "Buyer" means a person who buys or contracts to buy
1295 goods.

1296 (b) "Good faith" in the case of a merchant means
1297 honesty in fact and the observance of reasonable commercial
1298 standards of fair dealing in the trade.

1299 (c) "Receipt" of goods means taking physical possession
1300 of them.

1301 (d) "Seller" means a person who sells or contracts to
1302 sell goods.

1303 (2) Other definitions applying to this chapter or to
1304 specified parts thereof, and the sections in which they appear
1305 are:

1306 "Acceptance" Section 75-2-606.

1307 "Banker's credit" Section 75-2-325.

1308 "Between merchants" Section 75-2-104.

1309 "Cancellation" Section 75-2-106(4).

1310	"Commercial unit"	Section 75-2-105.
1311	"Confirmed credit"	Section 75-2-325.
1312	"Conforming to contract"	Section 75-2-106.
1313	"Contract for sale"	Section 75-2-106.
1314	"Cover"	Section 75-2-712.
1315	"Entrusting"	Section 75-2-403.
1316	"Financing agency"	Section 75-2-104.
1317	"Future goods"	Section 75-2-105.
1318	"Goods"	Section 75-2-105.
1319	"Identification"	Section 75-2-501.
1320	"Installment contract"	Section 75-2-612.
1321	"Letter of Credit"	Section 75-2-325.
1322	"Lot"	Section 75-2-105.
1323	"Merchant"	Section 75-2-104.
1324	"Overseas"	Section 75-2-323.
1325	"Person in position of seller"	Section 75-2-707.
1326	"Present sale"	Section 75-2-106.
1327	"Sale"	Section 75-2-106.
1328	"Sale on approval"	Section 75-2-326.
1329	"Sale or return"	Section 75-2-326.
1330	"Termination"	Section 75-2-106.

1331 (3) "Control" as provided in Section 57-7-106 and the
1332 following definitions in other chapters apply to this chapter:

1333	"Check"	Section 75-3-104.
1334	"Consignee"	Section 75-7-102.
1335	"Consignor"	Section 75-7-102.
1336	"Consumer goods"	Section 75-9-102.
1337	"Dishonor"	Section 75-3-502.
1338	"Draft"	Section 75-3-104.

1339 (4) In addition Chapter 1 contains general definitions and
1340 principles of construction and interpretation applicable
1341 throughout this chapter.

1342 **SECTION 42.** Section 75-2-104, Mississippi Code of 1972, is
1343 amended as follows:

1344 75-2-104. (1) "Merchant" means a person who deals in goods
1345 of the kind or otherwise by his occupation holds himself out as
1346 having knowledge or skill peculiar to the practices or goods
1347 involved in the transaction or to whom such knowledge or skill may
1348 be attributed by his employment of an agent or broker or other
1349 intermediary who by his occupation holds himself out as having
1350 such knowledge or skill.

1351 (2) "Financing agency" means a bank, finance company or
1352 other person who in the ordinary course of business makes advances
1353 against goods or documents of title or who by arrangement with
1354 either the seller or the buyer intervenes in ordinary course to
1355 make or collect payment due or claimed under the contract for
1356 sale, as by purchasing or paying the seller's draft or making
1357 advances against it or by merely taking it for collection whether
1358 or not documents of title accompany or are associated with the
1359 draft. "Financing agency" includes also a bank or other person
1360 who similarly intervenes between persons who are in the position
1361 of seller and buyer in respect to the goods (Section 2-707)
1362 [Section 75-2-707].

1363 (3) "Between merchants" means in any transaction with
1364 respect to which both parties are chargeable with the knowledge or
1365 skill of merchants.

1366 **SECTION 43.** Section 75-2-310, Mississippi Code of 1972, is
1367 amended as follows:

1368 75-2-310. Unless otherwise agreed:

1369 (a) Payment is due at the time and place at which the
1370 buyer is to receive the goods even though the place of shipment is
1371 the place of delivery; and

1372 (b) If the seller is authorized to send the goods he
1373 may ship them under reservation, and may tender the documents of
1374 title, but the buyer may inspect the goods after their arrival

1375 before payment is due unless such inspection is inconsistent with
1376 the terms of the contract (Section 2-513) [Section 75-2-513]; and

1377 (c) If delivery is authorized and made by way of
1378 documents of title otherwise than by subsection (b) then payment
1379 is due regardless of where the goods are to be received (i) at the
1380 time and place at which the buyer is to receive delivery of the
1381 tangible documents or (ii) at the time the buyer is to receive
1382 delivery of the electronic documents and at a seller's place of
1383 business or if none, the sellers residence; and

1384 (d) Where the seller is required or authorized to ship
1385 the goods on credit the credit period runs from the time of
1386 shipment but postdating the invoice or delaying its dispatch will
1387 correspondingly delay the starting of the credit period.

1388 **SECTION 44.** Section 75-2-323, Mississippi Code of 1972, is
1389 amended as follows:

1390 75-2-323. (1) Where the contract contemplates overseas
1391 shipment and contains a term CIF or C&F or FOB vessel, the seller
1392 unless otherwise agreed must obtain a negotiable bill of lading
1393 stating that the goods have been loaded on board or, in the case
1394 of a term CIF or C&F, received for shipment.

1395 (2) Where in a case within subsection (1) a tangible bill of
1396 lading has been issued in a set of parts, unless otherwise agreed
1397 if the documents are not to be sent from abroad the buyer may
1398 demand tender of the full set; otherwise only one (1) part of the
1399 bill of lading need be tendered. Even if the agreement expressly
1400 requires a full set:

1401 (a) Due tender of a single part is acceptable within
1402 the provisions of this chapter on cure of improper delivery
1403 (subsection (1) of Section 2-508) [Section 75-2-508]; and

1404 (b) Even though the full set is demanded, if the
1405 documents are sent from abroad the person tendering an incomplete
1406 set may nevertheless require payment upon furnishing an indemnity
1407 which the buyer in good faith deems adequate.

1408 (3) A shipment by water or by air or a contract
1409 contemplating such shipment is "overseas" insofar as by usage of
1410 trade or agreement it is subject to the commercial, financing or
1411 shipping practices characteristic of international deep water
1412 commerce.

1413 **SECTION 45.** Section 75-2-401, Mississippi Code of 1972, is
1414 amended as follows:

1415 75-2-401. Each provision of this chapter with regard to the
1416 rights, obligations and remedies of the seller, the buyer,
1417 purchasers or other third parties applies irrespective of title to
1418 the goods except where the provision refers to such title.

1419 Insofar as situations are not covered by the other provisions of
1420 this chapter and matters concerning title become material the
1421 following rules apply:

1422 (1) Title to goods cannot pass under a contract for
1423 sale prior to their identification to the contract (Section 2-501)
1424 [Section 75-2-501], and unless otherwise explicitly agreed the
1425 buyer acquires by their identification a special property as
1426 limited by this code. Any retention or reservation by the seller
1427 of the title (property) in goods shipped or delivered to the buyer
1428 is limited in effect to a reservation of a security interest.
1429 Subject to these provisions and to the provisions of the chapter
1430 on Secured Transactions (Chapter 9), title to goods passes from
1431 the seller to the buyer in any manner and on any conditions
1432 explicitly agreed on by the parties.

1433 (2) Unless otherwise explicitly agreed title passes to
1434 the buyer at the time and place at which the seller completes his
1435 performance with reference to the physical delivery of the goods,
1436 despite any reservation of a security interest and even though a
1437 document of title is to be delivered at a different time or place;
1438 and in particular and despite any reservation of a security
1439 interest by the bill of lading:

1440 (a) If the contract requires or authorizes the
1441 seller to send the goods to the buyer but does not require him to
1442 deliver them at destination, title passes to the buyer at the time
1443 and place of shipment; but

1444 (b) If the contract requires delivery at
1445 destination, title passes on tender there.

1446 (3) Unless otherwise explicitly agreed where delivery
1447 is to be made without moving the goods:

1448 (a) If the seller is to deliver a tangible
1449 document of title, title passes at the time, when and the place
1450 where he delivers such documents and if the seller is to deliver
1451 an electronic document of title, title passes when the seller
1452 delivers the document; or

1453 (b) If the goods are at the time of contracting
1454 already identified and no documents of title are to be delivered,
1455 title passes at the time and place of contracting.

1456 (4) A rejection or other refusal by the buyer to
1457 receive or retain the goods, whether or not justified, or a
1458 justified revocation of acceptance revests title to the goods in
1459 the seller. Such reversioning occurs by operation of law and is not
1460 a "sale."

1461 **SECTION 46.** Section 75-2-503, Mississippi Code of 1972, is
1462 amended as follows:

1463 75-2-503. (1) Tender of delivery requires that the seller
1464 put and hold conforming goods at the buyer's disposition and give
1465 the buyer any notification reasonably necessary to enable him to
1466 take delivery. The manner, time and place for tender are
1467 determined by the agreement and this chapter, and in particular:

1468 (a) Tender must be at a reasonable hour, and if it is
1469 of goods they must be kept available for the period reasonably
1470 necessary to enable the buyer to take possession; but

1471 (b) Unless otherwise agreed the buyer must furnish
1472 facilities reasonably suited to the receipt of the goods.

1473 (2) Where the case is within the Section 75-2-504 respecting
1474 shipment tender requires that * * * seller comply with its
1475 provisions.

1476 (3) Where the seller is required to deliver at a particular
1477 destination tender requires that he comply with subsection (1) and
1478 also in any appropriate case tender documents as described in
1479 subsections (4) and (5) of this section.

1480 (4) Where goods are in the possession of a bailee and are to
1481 be delivered without being moved:

1482 (a) Tender requires that the seller either tender a
1483 negotiable document of title covering such goods or procure
1484 acknowledgment by the bailee of the buyer's right to possession of
1485 the goods; but

1486 (b) Tender to the buyer of a nonnegotiable document of
1487 title or of a record directing the bailee to deliver is sufficient
1488 tender unless the buyer seasonably objects, and except as
1489 otherwise provided in Article 9 receipt by the bailee of
1490 notification of the buyer's rights fixes those rights as against
1491 the bailee and all third persons; but risk of loss of the goods
1492 and of any failure by the bailee to honor the nonnegotiable
1493 document of title or to obey the direction remains on the seller
1494 until the buyer has had a reasonable time to present the document
1495 or direction, and a refusal by the bailee to honor the document or
1496 to obey the direction defeats the tender.

1497 (5) Where the contract requires the seller to deliver
1498 documents:

1499 (a) He must tender all such documents in correct form,
1500 except as provided in this chapter with respect to bills of lading
1501 in a set (subsection (2) of Section 2-323) [Section 75-2-323(2)];
1502 and

1503 (b) Tender through customary banking channels is
1504 sufficient and dishonor of a draft accompanying or associated with
1505 the documents constitutes nonacceptance or rejection.

1506 **SECTION 47.** Section 75-2-505, Mississippi Code of 1972, is
1507 amended as follows:

1508 75-2-505. (1) Where the seller has identified goods to the
1509 contract by or before shipment:

1510 (a) His procurement of a negotiable bill of lading to
1511 his own order or otherwise reserves in him a security interest in
1512 the goods. His procurement of the bill to the order of a
1513 financing agency or of the buyer indicates in addition only the
1514 seller's expectation of transferring that interest to the person
1515 named.

1516 (b) A nonnegotiable bill of lading to himself or his
1517 nominee reserves possession of the goods as security but except in
1518 a case of conditional delivery (subsection (2) of Section 2-507)
1519 [Section 75-2-507(2)] a nonnegotiable bill of lading naming the
1520 buyer as consignee reserves no security interest even though the
1521 seller retains possession or control of the bill of lading.

1522 (2) When shipment by the seller with reservation of a
1523 security interest is in violation of the contract for sale it
1524 constitutes an improper contract for transportation within Section
1525 75-2-504 but impairs neither the rights given to the buyer by
1526 shipment and identification of the goods to the contract nor the
1527 seller's powers as a holder of a negotiable document of title.

1528 **SECTION 48.** Section 75-2-506, Mississippi Code of 1972, is
1529 amended as follows:

1530 75-2-506. (1) A financing agency by paying or purchasing
1531 for value a draft which relates to a shipment of goods acquires to
1532 the extent of the payment or purchase and in addition to its own
1533 rights under the draft and any document of title securing it any
1534 rights of the shipper in the goods including the right to stop
1535 delivery and the shipper's right to have the draft honored by the
1536 buyer.

1537 (2) The right to reimbursement of a financing agency which
1538 has in good faith honored or purchased the draft under commitment

1539 to or authority from the buyer is not impaired by subsequent
1540 discovery of defects with reference to any relevant document which
1541 was apparently regular * * *.

1542 **SECTION 49.** Section 75-2-509, Mississippi Code of 1972, is
1543 amended as follows:

1544 75-2-509. (1) Where the contract requires or authorizes the
1545 seller to ship the goods by carrier:

1546 (a) If it does not require him to deliver them at a
1547 particular destination, the risk of loss passes to the buyer when
1548 the goods are duly delivered to the carrier even though the
1549 shipment is under reservation (Section 2-505) [Section 75-2-505];
1550 but

1551 (b) If it does require him to deliver them at a
1552 particular destination and the goods are there duly tendered while
1553 in the possession of the carrier, the risk of loss passes to the
1554 buyer when the goods are there duly so tendered as to enable the
1555 buyer to take delivery.

1556 (2) Where the goods are held by a bailee to be delivered
1557 without being moved, the risk of loss passes to the buyer:

1558 (a) On his receipt of possession or control of a
1559 negotiable document of title covering the goods; or

1560 (b) On acknowledgment by the bailee of the buyer's
1561 right to possession of the goods; or

1562 (c) After his receipt of possession or control of a
1563 nonnegotiable document of title or other * * * direction to
1564 deliver in a record, as provided in subsection (4)(b) of Section
1565 2-503 [Section 75-2-503(4)(b)].

1566 (3) In any case not within subsection (1) or (2), the risk
1567 of loss passes to the buyer on his receipt of the goods if the
1568 seller is a merchant; otherwise the risk passes to the buyer on
1569 tender of delivery.

1570 (4) The provisions of this section are subject to contrary
1571 agreement of the parties and to the provisions of this chapter on

1572 sale on approval (Section 2-327) [Section 75-2-327] and on effect
1573 of breach on risk of loss (Section 2-510) [Section 75-2-510].

1574 **SECTION 50.** Section 75-2-605, Mississippi Code of 1972, is
1575 amended as follows:

1576 75-2-605. (1) The buyer's failure to state in connection
1577 with rejection a particular defect which is ascertainable by
1578 reasonable inspection precludes him from relying on the unstated
1579 defect to justify rejection or to establish breach:

1580 (a) Where the seller could have cured it if stated
1581 seasonably; or

1582 (b) Between merchants when the seller has after
1583 rejection made a request in writing for a full and final written
1584 statement of all defects on which the buyer proposes to rely.

1585 (2) Payment against documents made without reservation of
1586 rights precludes recovery of the payment for defects apparent in
1587 the documents.

1588 **SECTION 51.** Section 75-2-705, Mississippi Code of 1972, is
1589 amended as follows:

1590 75-2-705. (1) The seller may stop delivery of goods in the
1591 possession of a carrier or other bailee when he discovers the
1592 buyer to be insolvent (Section 2-702) [Section 75-2-702] and may
1593 stop delivery of carload, truckload, planeload or larger shipments
1594 of express or freight when the buyer repudiates or fails to make a
1595 payment due before delivery or if for any other reason the seller
1596 has a right to withhold or reclaim the goods.

1597 (2) As against such buyer the seller may stop delivery
1598 until:

1599 (a) Receipt of the goods by the buyer; or

1600 (b) Acknowledgments to the buyer by any bailee of the
1601 goods except a carrier that the bailee holds the goods for the
1602 buyer; or

1603 (c) Such acknowledgment to the buyer by a carrier by
1604 reshipment or as a warehouse; or

1605 (d) Negotiation to the buyer of any negotiable document
1606 of title covering the goods.

1607 (3) (a) To stop delivery the seller must so notify as to
1608 enable the bailee by reasonable diligence to prevent delivery of
1609 the goods.

1610 (b) After such notification the bailee must hold and
1611 deliver the goods according to the directions of the seller but
1612 the seller is liable to the bailee for any ensuing charges or
1613 damages.

1614 (c) If a negotiable document of title has been issued
1615 for goods the bailee is not obliged to obey a notification to stop
1616 until surrender of the possession or control of the document.

1617 (d) A carrier who has issued a nonnegotiable bill of
1618 lading is not obliged to obey a notification to stop received from
1619 a person other than the consignor.

1620 **SECTION 52.** Section 75-2A-103, Mississippi Code of 1972, is
1621 amended as follows:

1622 75-2A-103. (1) In this chapter unless the context otherwise
1623 requires:

1624 (a) "Buyer in ordinary course of business" means a
1625 person who in good faith and without knowledge that the sale to
1626 him is in violation of the ownership rights or security interest
1627 or leasehold interest of a third party in the goods, buys in
1628 ordinary course from a person in the business of selling goods of
1629 that kind but does not include a pawnbroker. "Buying" may be for
1630 cash or by exchange of other property or on secured or unsecured
1631 credit and includes acquiring goods or documents of title under a
1632 preexisting contract for sale but does not include a transfer in
1633 bulk or as security for or in total or partial satisfaction of a
1634 money debt.

1635 (b) "Cancellation" occurs when either party puts an end
1636 to the lease contract for default by the other party.

1637 (c) "Commercial unit" means such a unit of goods as by
1638 commercial usage is a single whole for purposes of lease and
1639 division of which materially impairs its character or value on the
1640 market or in use. A commercial unit may be a single article, as a
1641 machine, or a set of articles, as a suite of furniture or a line
1642 of machinery, or a quantity, as a gross or carload, or any other
1643 unit treated in use or in the relevant market as a single whole.

1644 (d) "Conforming" goods or performance under a lease
1645 contract means goods or performance that are in accordance with
1646 the obligations under the lease contract.

1647 (e) "Consumer lease" means a lease that a lessor
1648 regularly engaged in the business of leasing or selling makes to a
1649 lessee who is an individual and who takes under the lease
1650 primarily for a personal, family or household purpose, if the
1651 total payments to be made under the lease contract, excluding
1652 payments for options to renew or buy, do not exceed Twenty-five
1653 Thousand Dollars (\$25,000.00).

1654 (f) "Fault" means wrongful act, omission, breach or
1655 default.

1656 (g) "Finance lease" means a lease with respect to
1657 which:

1658 (i) The lessor does not select, manufacture, or
1659 supply the goods;

1660 (ii) The lessor acquires the goods or the right to
1661 possession and use of the goods in connection with the lease; and

1662 (iii) One (1) of the following occurs:

1663 (A) The lessee receives a copy of the
1664 contract by which the lessor acquired the goods or the right to
1665 possession and use of the goods before signing the lease contract;

1666 (B) The lessee's approval of the contract by
1667 which the lessor acquired the goods or the right to possession and
1668 use of the goods is a condition to effectiveness of the lease
1669 contract;

1670 (C) The lessee, before signing the lease
1671 contract, receives an accurate and complete statement designating
1672 the promises and warranties, and any disclaimers of warranties,
1673 limitations or modifications of remedies, or liquidated damages,
1674 including those of a third party, such as the manufacturer of the
1675 goods, provided to the lessor by the person supplying the goods in
1676 connection with or as part of the contract by which the lessor
1677 acquired the goods or the right to possession and use of the
1678 goods; or

1679 (D) If the lease is not a consumer lease, the
1680 lessor, before the lessee signs the lease contract, informs the
1681 lessee in writing (a) of the identity of the person supplying the
1682 goods to the lessor, unless the lessee has selected that person
1683 and directed the lessor to acquire the goods or the right to
1684 possession and use of the goods from that person, (b) that the
1685 lessee is entitled under this chapter to the promises and
1686 warranties, including those of any third party, provided to the
1687 lessor by the person supplying the goods in connection with or as
1688 part of the contract by which the lessor acquired the goods or the
1689 right to possession and use of the goods, and (c) that the lessee
1690 may communicate with the person supplying the goods to the lessor
1691 and receive an accurate and complete statement of those promises
1692 and warranties, including any disclaimers and limitations of them
1693 or of remedies.

1694 (h) "Goods" means all things that are movable at the
1695 time of identification to the lease contract, or are fixtures
1696 (Section 75-2A-309), but the term does not include money,
1697 documents, instruments, accounts, chattel paper, general
1698 intangibles or minerals or the like, including oil and gas, before
1699 extraction. The term also includes the unborn young of animals.

1700 (i) "Installment lease contract" means a lease contract
1701 that authorizes or requires the delivery of goods in separate lots

1702 to be separately accepted, even though the lease contract contains
1703 a clause "each delivery is a separate lease" or its equivalent.

1704 (j) "Lease" means a transfer of the right to possession
1705 and use of goods for a term in return for consideration, but a
1706 sale, including a sale on approval or a sale or return, or
1707 retention or creation of a security interest is not a lease.
1708 Unless the context clearly indicates otherwise, the term includes
1709 a sublease.

1710 (k) "Lease agreement" means the bargain, with respect
1711 to the lease, of the lessor and the lessee in fact as found in
1712 their language or by implication from other circumstances
1713 including course of dealing or usage of trade or course of
1714 performance as provided in this chapter. Unless the context
1715 clearly indicates otherwise, the term includes a sublease
1716 agreement.

1717 (l) "Lease contract" means the total legal obligation
1718 that results from the lease agreement as affected by this chapter
1719 and any other applicable rules of law. Unless the context clearly
1720 indicates otherwise, the term includes a sublease contract.

1721 (m) "Leasehold interest" means the interest of the
1722 lessor or the lessee under a lease contract.

1723 (n) "Lessee" means a person who acquires the right to
1724 possession and use of goods under a lease. Unless the context
1725 clearly indicates otherwise, the term includes a sublease.

1726 (o) "Lessee in ordinary course of business" means a
1727 person who in good faith and without knowledge that the lease to
1728 him is in violation of the ownership rights or security interest
1729 or leasehold interest of a third party in the goods leases in
1730 ordinary course from a person in the business of selling or
1731 leasing goods of that kind but does not include a pawnbroker.
1732 "Leasing" may be for cash or by exchange of other property or on
1733 secured or unsecured credit and includes acquiring goods or
1734 documents of title under a preexisting lease contract but does not

1735 include a transfer in bulk or as security for or in total or
1736 partial satisfaction of a money debt.

1737 (p) "Lessor" means a person who transfers the right to
1738 possession and use of goods under a lease. Unless the context
1739 clearly indicates otherwise, the term includes a sublessor.

1740 (q) "Lessor's residual interest" means the lessor's
1741 interest in the goods after expiration, termination or
1742 cancellation of the lease contract.

1743 (r) "Lien" means a charge against or interest in goods
1744 to secure payment of a debt or performance of an obligation, but
1745 the term does not include a security interest.

1746 (s) "Lot" means a parcel or a single article that is
1747 the subject matter of a separate lease or delivery, whether or not
1748 it is sufficient to perform the lease contract.

1749 (t) "Merchant lessee" means a lessee that is a merchant
1750 with respect to goods of the kind subject to the lease.

1751 (u) "Present value" means the amount as of a date
1752 certain of one or more sums payable in the future, discounted to
1753 the date certain. The discount is determined by the interest rate
1754 specified by the parties if the rate was not manifestly
1755 unreasonable at the time the transaction was entered into;
1756 otherwise, the discount is determined by a commercially reasonable
1757 rate that takes into account the facts and circumstances of each
1758 case at the time the transaction was entered into.

1759 (v) "Purchase" includes taking by sale, lease,
1760 mortgage, security interest, pledge, gift or any other voluntary
1761 transaction creating an interest in goods.

1762 (w) "Sublease" means a lease of goods the right to
1763 possession and use of which was acquired by the lessor as a lessee
1764 under an existing lease.

1765 (x) "Supplier" means a person from whom a lessor buys
1766 or leases goods to be leased under a finance lease.

1767 (y) "Supply contract" means a contract under which a
1768 lessor buys or leases goods to be leased.

1769 (z) "Termination" occurs when either party pursuant to
1770 a power created by agreement or law puts an end to the lease
1771 contract otherwise than for default.

1772 (2) Other definitions applying to this chapter and the
1773 sections in which they appear are:

1774	"Accessions."	Section 75-2A-310(1).
1775	"Construction mortgage."	Section 75-2A-309(1)(d).
1776	"Encumbrance."	Section 75-2A-309(1)(e).
1777	"Fixtures."	Section 75-2A-309(1)(a).
1778	"Fixture filing."	Section 75-2A-309(1)(b).
1779	"Purchase money lease."	Section 75-2A-309(1)(c).

1780 (3) The following definitions in other chapters apply to
1781 this chapter:

1782	"Account"	Section 75-9-102(a)(2).
1783	"Between merchants"	Section 75-2-104(3).
1784	"Buyer"	Section 75-2-103(1)(a).
1785	"Chattel paper"	Section 75-9-102(a)(11).
1786	"Consumer goods"	Section 75-9-102(a)(23).
1787	"Document"	Section 75-9-102(a)(30).
1788	"Entrusting"	Section 75-2-403(3).
1789	"General intangible"	Section 75-9-102(a)(42).
1790	"Good faith"	Section 75-2-103(1)(b).
1791	"Instrument"	Section 75-9-102(a)(47).
1792	"Merchant"	Section 75-2-104(1).
1793	"Mortgage"	Section 75-9-102(a)(55).
1794	"Pursuant to commitment"	Section 75-9-102(a)(68).
1795	"Receipt"	Section 75-2-103(1)(c).
1796	"Sale"	Section 75-2-106(1).
1797	"Sale on approval"	Section 75-2-326.
1798	"Sale or return"	Section 75-2-326.
1799	"Seller"	Section 75-2-103(1)(d).

1800 (4) In addition, Chapter 1 contains general definitions and
1801 principles of construction and interpretation applicable
1802 throughout this chapter.

1803 **SECTION 53.** Section 75-2A-514, Mississippi Code of 1972, is
1804 amended as follows:

1805 75-2A-514. (1) In rejecting goods, a lessee's failure to
1806 state a particular defect that is ascertainable by reasonable
1807 inspection precludes the lessee from relying on the defect to
1808 justify rejection or to establish default:

1809 (a) If, stated seasonably, the lessor or the supplier
1810 could have cured it (Section 75-2A-513); or

1811 (b) Between merchants if the lessor or the supplier
1812 after rejection has made a request in writing for a full and final
1813 written statement of all defects on which the lessee proposes to
1814 rely.

1815 (2) A lessee's failure to reserve rights when paying rent or
1816 other consideration against documents precludes recovery of the
1817 payment for defects apparent in the documents.

1818 **SECTION 54.** Section 75-2A-526, Mississippi Code of 1972, is
1819 amended as follows:

1820 75-2A-526. (1) A lessor may stop delivery of goods in the
1821 possession of a carrier or other bailee if the lessor discovers
1822 the lessee to be insolvent and may stop delivery of carload,
1823 truckload, planeload, or larger shipments of express or freight if
1824 the lessee repudiates or fails to make a payment due before
1825 delivery, whether for rent, security or otherwise under the lease
1826 contract, or for any other reason the lessor has a right to
1827 withhold or take possession of the goods.

1828 (2) In pursuing its remedies under subsection (1), the
1829 lessor may stop delivery until

1830 (a) Receipt of the goods by the lessee;

1831 (b) Acknowledgment to the lessee by any bailee of the
1832 goods, except a carrier, that the bailee hold the goods for the
1833 lessee; or

1834 (c) Such an acknowledgement to the lessee by a carrier
1835 via reshipment or as a warehouse.

1836 (3) (a) To stop delivery, a lessor shall so notify as to
1837 enable the bailee by reasonable diligence to prevent delivery of
1838 the goods.

1839 (b) After notification, the bailee shall hold and
1840 deliver the goods according to the directions of the lessor, but
1841 the lessor is liable to the bailee for any ensuing charges or
1842 damages.

1843 (c) A carrier who has issued a nonnegotiable bill of
1844 lading is not obliged to obey a notification to stop received from
1845 a person other than the consignor.

1846 **SECTION 55.** Section 75-4-104, Mississippi Code of 1972, is
1847 amended as follows:

1848 75-4-104. (a) In this chapter, unless the context otherwise
1849 requires:

1850 (1) "Account" means any deposit or credit account with
1851 a bank, including a demand, time, savings, passbook, share draft,
1852 or like account, other than an account evidenced by a certificate
1853 of deposit;

1854 (2) "Afternoon" means the period of a day between noon
1855 and midnight;

1856 (3) "Banking day" means the part of a day on which a
1857 bank is open to the public for carrying on substantially all of
1858 its banking functions;

1859 (4) "Clearinghouse" means an association of banks or
1860 other payors regularly clearing items;

1861 (5) "Customer" means a person having an account with a
1862 bank or for whom a bank has agreed to collect items, including a
1863 bank that maintains an account at another bank;

1864 (6) "Documentary draft" means a draft to be presented
1865 for acceptance or payment if specified documents, certificated
1866 securities (Section 75-8-102) or instructions for uncertificated
1867 securities (Section 75-8-102), or other certificates, statements,
1868 or the like are to be received by the drawee or other payor before
1869 acceptance or payment of the draft;

1870 (7) "Draft" means a draft as defined in Section
1871 75-3-104 or an item, other than an instrument, that is an order;

1872 (8) "Drawee" means a person ordered in a draft to make
1873 payment;

1874 (9) "Item" means an instrument or a promise or order to
1875 pay money handled by a bank for collection or payment. The term
1876 does not include a payment order governed by Chapter 4A or a
1877 credit or debit card slip;

1878 (10) "Midnight deadline" with respect to a bank is
1879 midnight on its next banking day following the banking day on
1880 which it receives the relevant item or notice or from which the
1881 time for taking action commences to run, whichever is later;

1882 (11) "Settle" means to pay in cash, by clearinghouse
1883 settlement, in a charge or credit or by remittance, or otherwise
1884 as agreed. A settlement may be either provisional or final;

1885 (12) "Suspends payments" with respect to a bank means
1886 that it has been closed by order of the supervisory authorities,
1887 that a public officer has been appointed to take it over, or that
1888 it ceases or refuses to make payments in the ordinary course of
1889 business.

1890 (b) Other definitions applying to this chapter and the
1891 sections in which they appear are:

1892 "Agreement for electronic	
1893 presentment"	Section 75-4-110
1894 "Bank"	Section 75-4-105
1895 "Collecting bank"	Section 75-4-105
1896 "Depositary bank"	Section 75-4-105

1897	"Intermediary bank"	Section 75-4-105
1898	"Payor bank"	Section 75-4-105
1899	"Presenting bank"	Section 75-4-105
1900	"Presentment notice"	Section 75-4-110
1901	(c) <u>"Control" as provided in Section 75-7-106 and the</u>	
1902	following definitions in other chapters apply to this chapter:	
1903	"Acceptance"	Section 75-3-409
1904	"Alteration"	Section 75-3-407
1905	"Cashier's check"	Section 75-3-104
1906	"Certificate of deposit"	Section 75-3-104
1907	"Certified check"	Section 75-3-409
1908	"Check"	Section 75-3-104
1909	"Good faith"	Section 75-3-103
1910	"Holder in due course"	Section 75-3-302
1911	"Instrument"	Section 75-3-104
1912	"Notice of dishonor"	Section 75-3-503
1913	"Order"	Section 75-3-103
1914	"Ordinary care"	Section 75-3-103
1915	"Person entitled to enforce"	Section 75-3-301
1916	"Presentment"	Section 75-3-501
1917	"Promise"	Section 75-3-103
1918	"Prove"	Section 75-3-103
1919	"Teller's check"	Section 75-3-104
1920	"Unauthorized signature"	Section 75-3-403

1921 (d) In addition, Chapter 1 contains general definitions and
1922 principles of construction and interpretation applicable
1923 throughout this chapter.

1924 **SECTION 56.** Section 75-4-210, Mississippi Code of 1972, is
1925 amended as follows:

1926 75-4-210. (a) A collecting bank has a security interest in
1927 an item and any accompanying documents or the proceeds of either:

1928 (1) In case of an item deposited in an account, to the
1929 extent to which credit given for the item has been withdrawn or
1930 applied;

1931 (2) In case of an item for which it has given credit
1932 available for withdrawal as of right, to the extent of the credit
1933 given, whether or not the credit is drawn upon or there is a right
1934 of charge-back; or

1935 (3) If it makes an advance on or against the item.

1936 (b) If credit given for several items received at one time
1937 or pursuant to a single agreement is withdrawn or applied in part,
1938 the security interest remains upon all the items, any accompanying
1939 documents or the proceeds of either. For the purpose of this
1940 section, credits first given are first withdrawn.

1941 (c) Receipt by a collecting bank of a final settlement for
1942 an item is a realization on its security interest in the item,
1943 accompanying documents, and proceeds. So long as the bank does
1944 not receive final settlement for the item or give up possession of
1945 the item or possession or control of the accompanying documents
1946 for purposes other than collection, the security interest
1947 continues to that extent and is subject to Chapter 9, but:

1948 (1) No security agreement is necessary to make the
1949 security interest enforceable (Section 75-9-203(b)(3)(A));

1950 (2) No filing is required to perfect the security
1951 interest; and

1952 (3) The security interest has priority over conflicting
1953 perfected security interests in the item, accompanying documents,
1954 or proceeds.

1955 **SECTION 57.** Section 75-8-103, Mississippi Code of 1972, is
1956 amended as follows:

1957 75-8-103. (a) A share or similar equity interest issued by
1958 a corporation, business trust, joint stock company, or similar
1959 entity is a security.

1960 (b) An "investment company security" is a security.
1961 "Investment company security" means a share or similar equity
1962 interest issued by an entity that is registered as an investment
1963 company under the federal investment company laws, an interest in
1964 a unit investment trust that is so registered, or a face-amount
1965 certificate issued by a face-amount certificate company that is so
1966 registered. Investment company security does not include an
1967 insurance policy or endowment policy or annuity contract issued by
1968 an insurance company.

1969 (c) An interest in a partnership or limited liability
1970 company is not a security unless it is dealt in or traded on
1971 securities exchanges or in securities markets, its terms expressly
1972 provide that it is a security governed by this chapter, or it is
1973 an investment company security. However, an interest in a
1974 partnership or limited liability company is a financial asset if
1975 it is held in a securities account.

1976 (d) A writing that is a security certificate is governed by
1977 this chapter and not by Chapter 3, even though it also meets the
1978 requirements of that chapter. However, a negotiable instrument
1979 governed by Chapter 3 is a financial asset if it is held in a
1980 securities account.

1981 (e) An option or similar obligation issued by a clearing
1982 corporation to its participants is not a security, but is a
1983 financial asset.

1984 (f) A commodity contract, as defined in Section
1985 75-9-102(a)(15), is not a security or a financial asset.

1986 (g) A document of title is not a financial asset unless
1987 Section 75-8-102(a)(9)(iii) applies.

1988 **SECTION 58.** Section 75-9-102, Mississippi Code of 1972, is
1989 amended as follows:

1990 75-9-102. (a) In this article:

1991 (1) "Accession" means goods that are physically united
1992 with other goods in such a manner that the identity of the
1993 original goods is not lost.

1994 (2) "Account," except as used in "account for," means a
1995 right to payment of a monetary obligation, whether or not earned
1996 by performance, (i) for property that has been or is to be sold,
1997 leased, licensed, assigned, or otherwise disposed of, (ii) for
1998 services rendered or to be rendered, (iii) for a policy of
1999 insurance issued or to be issued, (iv) for a secondary obligation
2000 incurred or to be incurred, (v) for energy provided or to be
2001 provided, (vi) for the use or hire of a vessel under a charter or
2002 other contract, (vii) arising out of the use of a credit or charge
2003 card or information contained on or for use with the card, or
2004 (viii) as winnings in a lottery or other game of chance operated
2005 or sponsored by a state, governmental unit of a state, or person
2006 licensed or authorized to operate the game by a state or
2007 governmental unit of a state. The term includes
2008 health-care-insurance receivables. The term does not include (i)
2009 rights to payment evidenced by chattel paper or an instrument,
2010 (ii) commercial tort claims, (iii) deposit accounts, (iv)
2011 investment property, (v) letter-of-credit rights or letters of
2012 credit, or (vi) rights to payment for money or funds advanced or
2013 sold, other than rights arising out of the use of a credit or
2014 charge card or information contained on or for use with the card.

2015 (3) "Account debtor" means a person obligated on an
2016 account, chattel paper, or general intangible. The term does not
2017 include persons obligated to pay a negotiable instrument, even if
2018 the instrument constitutes part of chattel paper.

2019 (4) "Accounting," except as used in "accounting for,"
2020 means a record:

2021 (A) Authenticated by a secured party;

2022 (B) Indicating the aggregate unpaid secured
2023 obligations as of a date not more than thirty-five (35) days

2024 earlier or thirty-five (35) days later than the date of the
2025 record; and

2026 (C) Identifying the components of the obligations
2027 in reasonable detail.

2028 (5) "Agricultural lien" means an interest in farm
2029 products:

2030 (A) Which secures payment or performance of an
2031 obligation for:

2032 (i) Goods or services furnished in connection
2033 with a debtor's farming operation; or

2034 (ii) Rent on real property leased by a debtor
2035 in connection with its farming operation;

2036 (B) Which is created by statute in favor of a
2037 person that:

2038 (i) In the ordinary course of its business
2039 furnished goods or services to a debtor in connection with a
2040 debtor's farming operation; or

2041 (ii) Leased real property to a debtor in
2042 connection with the debtor's farming operation; and

2043 (C) Whose effectiveness does not depend on the
2044 person's possession of the personal property.

2045 (6) "As-extracted collateral" means:

2046 (A) Oil, gas, or other minerals that are subject
2047 to a security interest that:

2048 (i) Is created by a debtor having an interest
2049 in the minerals before extraction; and

2050 (ii) Attaches to the minerals as extracted;

2051 or

2052 (B) Accounts arising out of the sale at the
2053 wellhead or minehead of oil, gas, or other minerals in which the
2054 debtor had an interest before extraction.

2055 (7) "Authenticate" means:

2056 (A) To sign; or

2057 (B) To execute or otherwise adopt a symbol, or
2058 encrypt or similarly process a record in whole or in part, with
2059 the present intent of the authenticating person to identify the
2060 person and adopt or accept a record.

2061 (8) "Bank" means an organization that is engaged in the
2062 business of banking. The term includes savings banks, savings and
2063 loan associations, credit unions, and trust companies.

2064 (9) "Cash proceeds" means proceeds that are money,
2065 checks, deposit accounts, or the like.

2066 (10) "Certificate of title" means a certificate of
2067 title with respect to which a statute provides for the security
2068 interest in question to be indicated on the certificate as a
2069 condition or result of the security interest's obtaining priority
2070 over the rights of a lien creditor with respect to the collateral.

2071 (11) "Chattel paper" means a record or records that
2072 evidence both a monetary obligation and a security interest in
2073 specific goods, a security interest in specific goods and software
2074 used in the goods, a security interest in specific goods and
2075 license of software used in the goods, a lease of specific goods,
2076 or a lease of specific goods and license of software used in the
2077 goods. In this paragraph, "monetary obligation" means a monetary
2078 obligation secured by the goods or owed under a lease of the goods
2079 and includes a monetary obligation with respect to software used
2080 in the goods. The term does not include (i) charters or other
2081 contracts involving the use or hire of a vessel or (ii) records
2082 that evidence a right to payment arising out of the use of a
2083 credit or charge card or information contained on or for use with
2084 the card. If a transaction is evidenced by records that include
2085 an instrument or series of instruments, the group of records taken
2086 together constitutes chattel paper.

2087 (12) "Collateral" means the property subject to a
2088 security interest or agricultural lien. The term includes:

2089 (A) Proceeds to which a security interest
2090 attaches;

2091 (B) Accounts, chattel paper, payment intangibles,
2092 and promissory notes that have been sold; and

2093 (C) Goods that are the subject of a consignment.

2094 (13) "Commercial tort claim" means a claim arising in
2095 tort with respect to which:

2096 (A) The claimant is an organization; or

2097 (B) The claimant is an individual and the claim:

2098 (i) Arose in the course of the claimant's
2099 business or profession; and

2100 (ii) Does not include damages arising out of
2101 personal injury to or the death of an individual.

2102 (14) "Commodity account" means an account maintained by
2103 a commodity intermediary in which a commodity contract is carried
2104 for a commodity customer.

2105 (15) "Commodity contract" means a commodity futures
2106 contract, an option on a commodity futures contract, a commodity
2107 option, or another contract if the contract or option is:

2108 (A) Traded on or subject to the rules of a board
2109 of trade that has been designated as a contract market for such a
2110 contract pursuant to federal commodities laws; or

2111 (B) Traded on a foreign commodity board of trade,
2112 exchange, or market, and is carried on the books of a commodity
2113 intermediary for a commodity customer.

2114 (16) "Commodity customer" means a person for which a
2115 commodity intermediary carries a commodity contract on its books.

2116 (17) "Commodity intermediary" means a person that:

2117 (A) Is registered as a futures commission merchant
2118 under federal commodities law; or

2119 (B) In the ordinary course of its business
2120 provides clearance or settlement services for a board of trade

2121 that has been designated as a contract market pursuant to federal
2122 commodities law.

2123 (18) "Communicate" means:

2124 (A) To send a written or other tangible record;

2125 (B) To transmit a record by any means agreed upon
2126 by the persons sending and receiving the record; or

2127 (C) In the case of transmission of a record to or
2128 by a filing office, to transmit a record by any means prescribed
2129 by filing-office rule.

2130 (19) "Consignee" means a merchant to which goods are
2131 delivered in a consignment.

2132 (20) "Consignment" means a transaction, regardless of
2133 its form, in which a person delivers goods to a merchant for the
2134 purpose of sale and:

2135 (A) The merchant:

2136 (i) Deals in goods of that kind under a name
2137 other than the name of the person making delivery;

2138 (ii) Is not an auctioneer; and

2139 (iii) Is not generally known by its creditors
2140 to be substantially engaged in selling the goods of others;

2141 (B) With respect to each delivery, the aggregate
2142 value of the goods is One Thousand Dollars (\$1,000.00) or more at
2143 the time of delivery;

2144 (C) The goods are not consumer goods immediately
2145 before delivery; and

2146 (D) The transaction does not create a security
2147 interest that secures an obligation.

2148 (21) "Consignor" means a person that delivers goods to
2149 a consignee in a consignment.

2150 (22) "Consumer debtor" means a debtor in a consumer
2151 transaction.

2152 (23) "Consumer goods" means goods that are used or
2153 bought for use primarily for personal, family, or household
2154 purposes.

2155 (24) "Consumer-goods transaction" means a consumer
2156 transaction in which:

2157 (A) An individual incurs an obligation primarily
2158 for personal, family, or household purposes; and

2159 (B) A security interest in consumer goods secures
2160 the obligation.

2161 (25) "Consumer obligor" means an obligor who is an
2162 individual and who incurred the obligation as part of a
2163 transaction entered into primarily for personal, family, or
2164 household purposes.

2165 (26) "Consumer transaction" means a transaction in
2166 which (i) an individual incurs an obligation primarily for
2167 personal, family, or household purposes, (ii) a security interest
2168 secures the obligation, and (iii) the collateral is held or
2169 acquired primarily for personal, family, or household purposes.
2170 The term includes consumer-goods transactions.

2171 (27) "Continuation statement" means an amendment of a
2172 financing statement which:

2173 (A) Identifies, by its file number, the initial
2174 financing statement to which it relates; and

2175 (B) Indicates that it is a continuation statement
2176 for, or that it is filed to continue the effectiveness of, the
2177 identified financing statement.

2178 (28) "Debtor" means:

2179 (A) A person having an interest, other than a
2180 security interest or other lien, in the collateral, whether or not
2181 the person is an obligor;

2182 (B) A seller of accounts, chattel paper, payment
2183 intangibles, or promissory notes; or

2184 (C) A consignee.

2185 (29) "Deposit account" means a demand, time, savings,
2186 passbook, or similar account maintained with a bank. The term
2187 does not include investment property or accounts evidenced by an
2188 instrument.

2189 (30) "Document" means a document of title or a receipt
2190 of the type described in Section 75-7-201(2).

2191 (31) "Electronic chattel paper" means chattel paper
2192 evidenced by a record or records consisting of information stored
2193 in an electronic medium.

2194 (32) "Encumbrance" means a right, other than an
2195 ownership interest, in real property. The term includes mortgages
2196 and other liens on real property.

2197 (33) "Equipment" means goods other than inventory, farm
2198 products, or consumer goods.

2199 (34) "Farm products" means goods, other than standing
2200 timber, with respect to which the debtor is engaged in a farming
2201 operation and which are:

2202 (A) Crops grown, growing, or to be grown,
2203 including:

2204 (i) Crops produced on trees, vines, and
2205 bushes; and

2206 (ii) Aquatic goods produced in aquacultural
2207 operations;

2208 (B) Livestock, born or unborn, including aquatic
2209 goods produced in aquacultural operations;

2210 (C) Supplies used or produced in a farming
2211 operation; or

2212 (D) Products of crops or livestock in their
2213 unmanufactured states.

2214 (35) "Farming operation" means raising, cultivating,
2215 propagating, fattening, grazing, or any other farming, livestock
2216 or aquacultural operation.

2217 (36) "File number" means the number assigned to an
2218 initial financing statement pursuant to Section 9-519(a).

2219 (37) "Filing office" means an office designated in
2220 Section 75-9-501 as the place to file a financing statement.

2221 (38) "Filing-office rule" means a rule adopted pursuant
2222 to Section 75-9-526.

2223 (39) "Financing statement" means a record or records
2224 composed of an initial financing statement and any filed record
2225 relating to the initial financing statement.

2226 (40) "Fixture filing" means the filing of a financing
2227 statement covering goods that are or are to become fixtures and
2228 satisfying Section 75-9-502(a) and (b). The term includes the
2229 filing of a financing statement covering goods of a transmitting
2230 utility which are or are to become fixtures.

2231 (41) "Fixtures" means goods that have become so related
2232 to particular real property that an interest in them arises under
2233 real property law.

2234 (42) "General intangible" means any personal property,
2235 including things in action, other than accounts, chattel paper,
2236 commercial tort claims, deposit accounts, documents, goods,
2237 instruments, investment property, letter-of-credit rights, letters
2238 of credit, money, and oil, gas, or other minerals before
2239 extraction. The term includes payment intangibles and software.

2240 (43) "Good faith" means honesty in fact and the
2241 observance of reasonable commercial standards of fair dealing.

2242 (44) "Goods" means all things that are movable when a
2243 security interest attaches. The term includes (i) fixtures, (ii)
2244 standing timber that is to be cut and removed under a conveyance
2245 or contract for sale, (iii) the unborn young of animals, (iv)
2246 crops grown, growing, or to be grown, even if the crops are
2247 produced on trees, vines, or bushes, (v) farm-raised fish produced
2248 in fresh water according to the usual and customary techniques of
2249 commercial agriculture, (vi) manufactured homes and (vii) marine

2250 vessels (herein defined as every type of watercraft used, or
2251 capable of being used, as a means of transportation on water)
2252 including both marine vessels under construction, including
2253 engines and all items of equipment installed or to be installed
2254 therein, whether such vessels are being constructed by the
2255 shipbuilder for his own use or for sale (said vessels under
2256 construction being classified as inventory within the meaning of
2257 Section 75-9-102(48)), and marine vessels after completion of
2258 construction so long as such vessels have not become "vessels of
2259 the United States" within the meaning of the Ship Mortgage Act of
2260 1920, 46 USCS, Section 911(4), as same is now written or may
2261 hereafter be amended (said completed vessels being classified as
2262 equipment within the meaning of Section 75-9-102(33)). The term
2263 also includes a computer program embedded in goods and any
2264 supporting information provided in connection with a transaction
2265 relating to the program if (i) the program is associated with the
2266 goods in such a manner that it customarily is considered part of
2267 the goods, or (ii) by becoming the owner of the goods, a person
2268 acquires a right to use the program in connection with the goods.
2269 The term does not include a computer program embedded in goods
2270 that consist solely of the medium in which the program is
2271 embedded. The term also does not include accounts, chattel paper,
2272 commercial tort claims, deposit accounts, documents, general
2273 intangibles, instruments, investment property, letter-of-credit
2274 rights, letters of credit, money, or oil, gas, or other minerals
2275 before extraction.

2276 (45) "Governmental unit" means a subdivision, agency,
2277 department, county, parish, municipality or other unit of the
2278 government of the United States, a state, or a foreign country.
2279 The term includes an organization having a separate corporate
2280 existence if the organization is eligible to issue debt on which
2281 interest is exempt from income taxation under the laws of the
2282 United States.

2283 (46) "Health-care-insurance receivable" means an
2284 interest in or claim under a policy of insurance which is a right
2285 to payment of a monetary obligation for health-care goods or
2286 services provided or to be provided.

2287 (47) "Instrument" means a negotiable instrument or any
2288 other writing that evidences a right to the payment of a monetary
2289 obligation, is not itself a security agreement or lease, and is of
2290 a type that in ordinary course of business is transferred by
2291 delivery with any necessary endorsement or assignment. The term
2292 does not include (i) investment property, (ii) letters of credit,
2293 or (iii) writings that evidence a right to payment arising out of
2294 the use of a credit or charge card or information contained on or
2295 for use with the card.

2296 (48) "Inventory" means goods, other than farm products,
2297 which:

2298 (A) Are leased by a person as lessor;

2299 (B) Are held by a person for sale or lease or to
2300 be furnished under a contract of service;

2301 (C) Are furnished by a person under a contract of
2302 service; or

2303 (D) Consist of raw materials, work in process or
2304 materials used or consumed in a business.

2305 (49) "Investment property" means a security, whether
2306 certificated or uncertificated, security entitlement, securities
2307 account, commodity contract or commodity account.

2308 (50) "Jurisdiction of organization," with respect to a
2309 registered organization, means the jurisdiction under whose law
2310 the organization is organized.

2311 (51) "Letter-of-credit right" means a right to payment
2312 or performance under a letter of credit, whether or not the
2313 beneficiary has demanded or is at the time entitled to demand
2314 payment or performance. The term does not include the right of a

2315 beneficiary to demand payment or performance under a letter of
2316 credit.

2317 (52) "Lien creditor" means:

2318 (A) A creditor that has acquired a lien on the
2319 property involved by attachment, levy, or the like;

2320 (B) An assignee for benefit of creditors from the
2321 time of assignment;

2322 (C) A trustee in bankruptcy from the date of the
2323 filing of the petition; or

2324 (D) A receiver in equity from the time of
2325 appointment.

2326 (53) "Manufactured home" means a structure,
2327 transportable in one or more sections, which, in the traveling
2328 mode, is eight (8) body feet or more in width or forty (40) body
2329 feet or more in length, or, when erected on site, is three hundred
2330 twenty (320) or more square feet, and which is built on a
2331 permanent chassis and designed to be used as a dwelling with or
2332 without a permanent foundation when connected to the required
2333 utilities, and includes the plumbing, heating, air-conditioning,
2334 and electrical systems contained therein. The term includes any
2335 structure that meets all of the requirements of this paragraph
2336 except the size requirements and with respect to which the
2337 manufacturer voluntarily files a certification required by the
2338 United States Secretary of Housing and Urban Development and
2339 complies with the standards established under Title 42 of the
2340 United States Code.

2341 (54) "Manufactured-home transaction" means a secured
2342 transaction:

2343 (A) That creates a purchase-money security
2344 interest in a manufactured home, other than a manufactured home
2345 held as inventory; or

2346 (B) In which a manufactured home, other than a
2347 manufactured home held as inventory, is the primary collateral.

2348 (55) "Mortgage" means a consensual interest in real
2349 property, including fixtures, which secures payment or performance
2350 of an obligation. "Mortgage" shall mean and include a deed of
2351 trust.

2352 (56) "New debtor" means a person that becomes bound as
2353 debtor under Section 75-9-203(d) by a security agreement
2354 previously entered into by another person.

2355 (57) "New value" means (i) money, (ii) money's worth in
2356 property, services, or new credit, or (iii) release by a
2357 transferee of an interest in property previously transferred to
2358 the transferee. The term does not include an obligation
2359 substituted for another obligation.

2360 (58) "Noncash proceeds" means proceeds other than cash
2361 proceeds.

2362 (59) "Obligor" means a person that, with respect to an
2363 obligation secured by a security interest in or an agricultural
2364 lien on the collateral, (i) owes payment or other performance of
2365 the obligation, (ii) has provided property other than the
2366 collateral to secure payment or other performance of the
2367 obligation, or (iii) is otherwise accountable in whole or in part
2368 for payment or other performance of the obligation. The term does
2369 not include issuers or nominated persons under a letter of credit.

2370 (60) "Original debtor," except as used in Section
2371 75-9-310(c), means a person that, as debtor, entered into a
2372 security agreement to which a new debtor has become bound under
2373 Section 75-9-203(d).

2374 (61) "Payment intangible" means a general intangible
2375 under which the account debtor's principal obligation is a
2376 monetary obligation.

2377 (62) "Person related to," with respect to an
2378 individual, means:

2379 (A) The spouse of the individual;

2380 (B) A brother, brother-in-law, sister, or
2381 sister-in-law of the individual;
2382 (C) An ancestor or lineal descendant of the
2383 individual or the individual's spouse; or
2384 (D) Any other relative, by blood or marriage, of
2385 the individual or the individual's spouse who shares the same home
2386 with the individual.

2387 (63) "Person related to," with respect to an
2388 organization, means:

2389 (A) A person directly or indirectly controlling,
2390 controlled by, or under common control with the organization;

2391 (B) An officer or director of, or a person
2392 performing similar functions with respect to, the organization;

2393 (C) An officer or director of, or a person
2394 performing similar functions with respect to, a person described
2395 in subparagraph (A);

2396 (D) The spouse of an individual described in
2397 subparagraph (A), (B), or (C); or

2398 (E) An individual who is related by blood or
2399 marriage to an individual described in subparagraph (A), (B), (C),
2400 or (D) and shares the same home with the individual.

2401 (64) "Proceeds," except as used in Section 75-9-609(b),
2402 means the following property:

2403 (A) Whatever is acquired upon the sale, lease,
2404 license, exchange or other disposition of collateral;

2405 (B) Whatever is collected on, or distributed on
2406 account of, collateral;

2407 (C) Rights arising out of collateral;

2408 (D) To the extent of the value of collateral,
2409 claims arising out of the loss, nonconformity, or interference
2410 with the use of, defects or infringement of rights in, or damage
2411 to, the collateral; or

2412 (E) To the extent of the value of collateral and
2413 to the extent payable to the debtor or the secured party,
2414 insurance payable by reason of the loss or nonconformity of,
2415 defects or infringement of rights in, or damage to, the
2416 collateral.

2417 (64A) "Production-money crops" means crops that secure
2418 a production-money obligation incurred with respect to the
2419 production of those crops.

2420 (64B) "Production-money obligation" means an obligation
2421 of an obligor incurred for new value given to enable the debtor to
2422 produce crops if the value is in fact used for the production of
2423 the crops.

2424 (64C) "Production of crops" includes tilling and
2425 otherwise preparing land for growing, planting, cultivating,
2426 fertilizing, irrigating, harvesting and gathering crops, and
2427 protecting them from damage or disease.

2428 (65) "Promissory note" means an instrument that
2429 evidences a promise to pay a monetary obligation, does not
2430 evidence an order to pay, and does not contain an acknowledgment
2431 by a bank that the bank has received for deposit a sum of money or
2432 funds.

2433 (66) "Proposal" means a record authenticated by a
2434 secured party which includes the terms on which the secured party
2435 is willing to accept collateral in full or partial satisfaction of
2436 the obligation it secures pursuant to Sections 75-9-620, 75-9-621,
2437 and 75-9-622.

2438 (67) "Public-finance transaction" means a secured
2439 transaction in connection with which:

2440 (A) Debt securities are issued;

2441 (B) All or a portion of the securities issued have
2442 an initial stated maturity of at least twenty (20) years; and

2443 (C) The debtor, obligor, secured party, account
2444 debtor or other person obligated on collateral, assignor or

2445 assignee of a secured obligation, or assignor or assignee of a
2446 security interest is a state or a governmental unit of a state.

2447 (68) "Pursuant to commitment," with respect to an
2448 advance made or other value given by a secured party, means
2449 pursuant to the secured party's obligation, whether or not a
2450 subsequent event of default or other event not within the secured
2451 party's control has relieved or may relieve the secured party from
2452 its obligation.

2453 (69) "Record," except as used in "for record," "of
2454 record," "record or legal title," and "record owner," means
2455 information that is inscribed on a tangible medium or which is
2456 stored in an electronic or other medium and is retrievable in
2457 perceivable form.

2458 (70) "Registered organization" means an organization
2459 organized solely under the law of a single state or the United
2460 States and as to which the state or the United States must
2461 maintain a public record showing the organization to have been
2462 organized.

2463 (71) "Secondary obligor" means an obligor to the extent
2464 that:

2465 (A) The obligor's obligation is secondary; or

2466 (B) The obligor has a right of recourse with
2467 respect to an obligation secured by collateral against the debtor,
2468 another obligor, or property of either.

2469 (72) "Secured party" means:

2470 (A) A person in whose favor a security interest is
2471 created or provided for under a security agreement, whether or not
2472 any obligation to be secured is outstanding;

2473 (B) A person that holds an agricultural lien;

2474 (C) A consignor;

2475 (D) A person to which accounts, chattel paper,
2476 payment intangibles, or promissory notes have been sold;

2477 (E) A trustee, indenture trustee, agent,
2478 collateral agent, or other representative in whose favor a
2479 security interest or agricultural lien is created or provided for;
2480 or

2481 (F) A person that holds a security interest
2482 arising under Section 75-2-401, 75-2-505, 75-2-711(3),
2483 75-2A-508(5), 75-4-210, or 75-5-118.

2484 (73) "Security agreement" means an agreement that
2485 creates or provides for a security interest.

2486 (74) "Send," in connection with a record or
2487 notification, means:

2488 (A) To deposit in the mail, deliver for
2489 transmission, or transmit by any other usual means of
2490 communication, with postage or cost of transmission provided for,
2491 addressed to any address reasonable under the circumstances; or

2492 (B) To cause the record or notification to be
2493 received within the time that it would have been received if
2494 properly sent under subparagraph (A).

2495 (75) "Software" means a computer program and any
2496 supporting information provided in connection with a transaction
2497 relating to the program. The term does not include a computer
2498 program that is included in the definition of goods.

2499 (76) "State" means a state of the United States, the
2500 District of Columbia, Puerto Rico, the United States Virgin
2501 Islands, or any territory or insular possession subject to the
2502 jurisdiction of the United States.

2503 (77) "Supporting obligation" means a letter-of-credit
2504 right or secondary obligation that supports the payment or
2505 performance of an account, chattel paper, a document, a general
2506 intangible, an instrument, or investment property.

2507 (78) "Tangible chattel paper" means chattel paper
2508 evidenced by a record or records consisting of information that is
2509 inscribed on a tangible medium.

2510 (79) "Termination statement" means an amendment of a
2511 financing statement which:

2512 (A) Identifies, by its file number, the initial
2513 financing statement to which it relates; and

2514 (B) Indicates either that it is a termination
2515 statement or that the identified financing statement is no longer
2516 effective.

2517 (80) "Transmitting utility" means a person primarily
2518 engaged in the business of:

2519 (A) Operating a railroad, subway, street railway,
2520 or trolley bus;

2521 (B) Transmitting communications electrically,
2522 electromagnetically, or by light;

2523 (C) Transmitting goods by pipeline or sewer; or

2524 (D) Transmitting or producing and transmitting
2525 electricity, steam, gas, or water.

2526 (b) "Control" as provided in Section 75-7-106 and the
2527 following definitions in other articles apply to this article:

2528 "Applicant" Section 75-5-102

2529 "Beneficiary" Section 75-5-102

2530 "Broker" Section 75-8-102

2531 "Certificated security" Section 75-8-102

2532 "Check" Section 75-3-104

2533 "Clearing corporation" Section 75-8-102

2534 "Contract for sale" Section 75-2-106

2535 "Customer" Section 75-4-104

2536 "Entitlement holder" Section 75-8-102

2537 "Financial asset" Section 75-8-102

2538 "Holder in due course" Section 75-3-302

2539 "Issuer" (with respect to
2540 a letter of credit or
2541 letter-of-credit right) Section 75-5-102

2542 "Issuer" (with respect to a

2543	security)	Section 75-8-201
2544	<u>"Issuer" (with respect to</u>	
2545	<u>documents of title)</u>	<u>Section 75-7-102</u>
2546	"Lease"	Section 75-2A-103
2547	"Lease agreement"	Section 75-2A-103
2548	"Lease contract"	Section 75-2A-103
2549	"Leasehold interest"	Section 75-2A-103
2550	"Lessee"	Section 75-2A-103
2551	"Lessee in ordinary course	
2552	of business"	Section 75-2A-103
2553	"Lessor"	Section 75-2A-103.
2554	"Lessor's residual interest"	Section 75-2A-103
2555	"Letter of credit"	Section 75-5-102
2556	"Merchant"	Section 75-2-104
2557	"Negotiable instrument"	Section 75-3-104.
2558	"Nominated person"	Section 75-5-102
2559	"Note"	Section 75-3-104
2560	"Proceeds of a letter of	
2561	credit"	Section 75-5-114
2562	"Prove"	Section 75-3-103
2563	"Sale"	Section 75-2-106
2564	"Securities account"	Section 75-8-501
2565	"Securities intermediary"	Section 75-8-102
2566	"Security"	Section 75-8-102
2567	"Security certificate"	Section 75-8-102
2568	"Security entitlement"	Section 75-8-102
2569	"Uncertificated security"	Section 75-8-102
2570	(c) Article 1 contains general definitions and principles of	
2571	construction and interpretation applicable throughout this	
2572	article.	
2573	SECTION 59. Section 75-9-203, Mississippi Code of 1972, is	
2574	amended as follows:	

2575 75-9-203. (a) A security interest attaches to collateral
2576 when it becomes enforceable against the debtor with respect to the
2577 collateral, unless an agreement expressly postpones the time of
2578 attachment.

2579 (b) Except as otherwise provided in subsections (c) through
2580 (i), a security interest is enforceable against the debtor and
2581 third parties with respect to the collateral only if:

2582 (1) Value has been given;

2583 (2) The debtor has rights in the collateral or the
2584 power to transfer rights in the collateral to a secured party; and

2585 (3) One (1) of the following conditions is met:

2586 (A) The debtor has authenticated a security
2587 agreement that provides a description of the collateral and, if
2588 the security interest covers timber to be cut, a description of
2589 the land concerned;

2590 (B) The collateral is not a certificated security
2591 and is in the possession of the secured party under Section
2592 75-9-313 pursuant to the debtor's security agreement;

2593 (C) The collateral is a certificated security in
2594 registered form and the security certificate has been delivered to
2595 the secured party under Section 75-8-301 pursuant to the debtor's
2596 security agreement; or

2597 (D) The collateral is deposit accounts, electronic
2598 chattel paper, investment property, or letter-of-credit rights, or
2599 electronic documents, and the secured party has control under
2600 Section 75-7-106, 75-9-104, 75-9-105, 75-9-106 or 75-9-107
2601 pursuant to the debtor's security agreement.

2602 (c) Subsection (b) is subject to Section 75-4-210 on the
2603 security interest of a collecting bank, Section 75-5-118 on the
2604 security interest of a letter-of-credit issuer or nominated
2605 person, Section 75-9-110 on a security interest arising under
2606 Article 2 or 2A of Title 75, and Section 75-9-206 on security
2607 interests in investment property.

2608 (d) A person becomes bound as debtor by a security agreement
2609 entered into by another person if, by operation of law other than
2610 this article or by contract:

2611 (1) The security agreement becomes effective to create
2612 a security interest in the person's property; or

2613 (2) The person becomes generally obligated for the
2614 obligations of the other person, including the obligation secured
2615 under the security agreement, and acquires or succeeds to all or
2616 substantially all of the assets of the other person.

2617 (e) If a new debtor becomes bound as debtor by a security
2618 agreement entered into by another person:

2619 (1) The agreement satisfies subsection (b)(3) with
2620 respect to existing or after-acquired property of the new debtor
2621 to the extent the property is described in the agreement; and

2622 (2) Another agreement is not necessary to make a
2623 security interest in the property enforceable.

2624 (f) The attachment of a security interest in collateral
2625 gives the secured party the rights to proceeds provided by Section
2626 75-9-315 and is also attachment of a security interest in a
2627 supporting obligation for the collateral.

2628 (g) The attachment of a security interest in a right to
2629 payment or performance secured by a security interest or other
2630 lien on personal or real property is also attachment of a security
2631 interest in the security interest, mortgage, or other lien.

2632 (h) The attachment of a security interest in a securities
2633 account is also attachment of a security interest in the security
2634 entitlements carried in the securities account.

2635 (i) The attachment of a security interest in a commodity
2636 account is also attachment of a security interest in the commodity
2637 contracts carried in the commodity account.

2638 **SECTION 60.** Section 75-9-207, Mississippi Code of 1972, is
2639 amended as follows:

2640 75-9-207. (a) Except as otherwise provided in subsection
2641 (d), a secured party shall use reasonable care in the custody and
2642 preservation of collateral in the secured party's possession. In
2643 the case of chattel paper or an instrument, reasonable care
2644 includes taking necessary steps to preserve rights against prior
2645 parties unless otherwise agreed.

2646 (b) Except as otherwise provided in subsection (d), if a
2647 secured party has possession of collateral:

2648 (1) Reasonable expenses, including the cost of
2649 insurance and payment of taxes or other charges, incurred in the
2650 custody, preservation, use, or operation of the collateral are
2651 chargeable to the debtor and are secured by the collateral;

2652 (2) The risk of accidental loss or damage is on the
2653 debtor to the extent of a deficiency in any effective insurance
2654 coverage;

2655 (3) The secured party shall keep the collateral
2656 identifiable, but fungible collateral may be commingled; and

2657 (4) The secured party may use or operate the
2658 collateral:

2659 (A) For the purpose of preserving the collateral
2660 or its value;

2661 (B) As permitted by an order of a court having
2662 competent jurisdiction; or

2663 (C) Except in the case of consumer goods, in the
2664 manner and to the extent agreed by the debtor.

2665 (c) Except as otherwise provided in subsection (d), a
2666 secured party having possession of collateral or control of
2667 collateral under Section 75-7-106, 75-9-104, 75-9-105, 75-9-106,
2668 or 75-9-107:

2669 (1) May hold as additional security any proceeds,
2670 except money or funds, received from the collateral;

2671 (2) Shall apply money or funds received from the
2672 collateral to reduce the secured obligation, unless remitted to
2673 the debtor; and

2674 (3) May create a security interest in the collateral.

2675 (d) If the secured party is a buyer of accounts, chattel
2676 paper, payment intangibles, or promissory notes or a consignor:

2677 (1) Subsection (a) does not apply unless the secured
2678 party is entitled under an agreement:

2679 (A) To charge back uncollected collateral; or

2680 (B) Otherwise to full or limited recourse against
2681 the debtor or a secondary obligor based on the nonpayment or other
2682 default of an account debtor or other obligor on the collateral;
2683 and

2684 (2) Subsections (b) and (c) do not apply.

2685 **SECTION 61.** Section 75-9-208, Mississippi Code of 1972, is
2686 amended as follows:

2687 75-9-208. (a) This section applies to cases in which there
2688 is no outstanding secured obligation and the secured party is not
2689 committed to make advances, incur obligations, or otherwise give
2690 value.

2691 (b) Within ten (10) days after receiving an authenticated
2692 demand by the debtor:

2693 (1) A secured party having control of a deposit account
2694 under Section 75-9-104(a)(2) shall send to the bank with which the
2695 deposit account is maintained an authenticated statement that
2696 releases the bank from any further obligation to comply with
2697 instructions originated by the secured party;

2698 (2) A secured party having control of a deposit account
2699 under Section 75-9-104(a)(3) shall:

2700 (A) Pay the debtor the balance on deposit in the
2701 deposit account; or

2702 (B) Transfer the balance on deposit into a deposit
2703 account in the debtor's name;

2704 (3) A secured party, other than a buyer, having control
2705 of electronic chattel paper under Section 75-9-105 shall:

2706 (A) Communicate the authoritative copy of the
2707 electronic chattel paper to the debtor or its designated
2708 custodian;

2709 (B) If the debtor designates a custodian that is
2710 the designated custodian with which the authoritative copy of the
2711 electronic chattel paper is maintained for the secured party,
2712 communicate to the custodian an authenticated record releasing the
2713 designated custodian from any further obligation to comply with
2714 instructions originated by the secured party and instructing the
2715 custodian to comply with instructions originated by the debtor;
2716 and

2717 (C) Take appropriate action to enable the debtor
2718 or its designated custodian to make copies of or revisions to the
2719 authoritative copy which add or change an identified assignee of
2720 the authoritative copy without the consent of the secured party;

2721 (4) A secured party having control of investment
2722 property under Section 75-8-106(d)(2) or 75-9-106(b) shall send to
2723 the securities intermediary or commodity intermediary with which
2724 the security entitlement or commodity contract is maintained an
2725 authenticated record that releases the securities intermediary or
2726 commodity intermediary from any further obligation to comply with
2727 entitlement orders or directions originated by the secured
2728 party; * * *

2729 (5) A secured party having control of a
2730 letter-of-credit right under Section 75-9-107 shall send to each
2731 person having an unfulfilled obligation to pay or deliver proceeds
2732 of the letter of credit to the secured party an authenticated
2733 release from any further obligation to pay or deliver proceeds of
2734 the letter of credit to the secured party; and

2735 (6) A secured party having control of an electronic
2736 document shall:

2737 (A) Give control of the electronic document to the
2738 debtor or its designated custodian.

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

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

2751 **SECTION 62.** Section 75-9-301, Mississippi Code of 1972, is
2752 amended as follows:

2753 75-9-301. Except as otherwise provided in Sections 75-9-303
2754 through 75-9-306, the following rules determine the law governing
2755 perfection, the effect of perfection or nonperfection, and the
2756 priority of a security interest in collateral:

2757 (1) Except as otherwise provided in this section, while
2758 a debtor is located in a jurisdiction, the local law of that
2759 jurisdiction governs perfection, the effect of perfection or
2760 nonperfection, and the priority of a security interest in
2761 collateral.

2762 (2) While collateral is located in a jurisdiction, the
2763 local law of that jurisdiction governs perfection, the effect of
2764 perfection or nonperfection, and the priority of a possessory
2765 security interest in that collateral.

2766 (3) Except as otherwise provided in paragraph (4),
2767 while tangible negotiable documents, goods, instruments, money, or
2768 tangible chattel paper is located in a jurisdiction, the local law
2769 of that jurisdiction governs:

2770 (A) Perfection of a security interest in the goods
2771 by filing a fixture filing;

2772 (B) Perfection of a security interest in timber to
2773 be cut; and

2774 (C) The effect of perfection or nonperfection and
2775 the priority of a nonpossessory security interest in the
2776 collateral.

2777 (4) The local law of the jurisdiction in which the
2778 wellhead or minehead is located governs perfection, the effect of
2779 perfection or nonperfection, and the priority of a security
2780 interest in as-extracted collateral.

2781 **SECTION 63.** Section 75-9-310, Mississippi Code of 1972, is
2782 amended as follows:

2783 75-9-310. (a) Except as otherwise provided in subsection
2784 (b) and Section 75-9-312(b), a financing statement must be filed
2785 to perfect all security interests and agricultural liens.

2786 (b) The filing of a financing statement is not necessary to
2787 perfect a security interest:

2788 (1) That is perfected under Section 75-9-308(d), (e),
2789 (f), or (g);

2790 (2) That is perfected under Section 75-9-309 when it
2791 attaches;

2792 (3) In property subject to a statute, regulation, or
2793 treaty described in Section 75-9-311(a);

2794 (4) In goods in possession of a bailee which is
2795 perfected under Section 75-9-312(d)(1) or (2);

2796 (5) In certificated securities, documents, goods or
2797 instruments which is perfected without filing, control or
2798 possession under Section 75-9-312(e), (f), or (g);

2799 (6) In collateral in the secured party's possession
2800 under Section 75-9-313;

2801 (7) In a certificated security which is perfected by
2802 delivery of the security certificate to the secured party under
2803 Section 75-9-313;

2804 (8) In deposit accounts, electronic chattel paper,
2805 investment property, or letter-of-credit rights which is perfected
2806 by control under Section 75-9-314;

2807 (9) In proceeds which is perfected under Section
2808 75-9-315; or

2809 (10) That is perfected under Section 75-9-316.

2810 (c) If a secured party assigns a perfected security interest
2811 or agricultural lien, a filing under this article is not required
2812 to continue the perfected status of the security interest against
2813 creditors of and transferees from the original debtor.

2814 **SECTION 64.** Section 75-9-312, Mississippi Code of 1972, is
2815 amended as follows:

2816 75-9-312. (a) A security interest in chattel paper,
2817 negotiable documents, instruments, or investment property may be
2818 perfected by filing.

2819 (b) Except as otherwise provided in Section 75-9-315(c) and
2820 (d) for proceeds:

2821 (1) A security interest in a deposit account may be
2822 perfected only by control under Section 75-9-314;

2823 (2) And except as otherwise provided in Section
2824 75-9-308(d), a security interest in a letter-of-credit right may
2825 be perfected only by control under Section 75-9-314; and

2826 (3) A security interest in money may be perfected only
2827 by the secured party's taking possession under Section 75-9-313.

2828 (c) While goods are in the possession of a bailee that has
2829 issued a negotiable document covering the goods:

2830 (1) A security interest in the goods may be perfected
2831 by perfecting a security interest in the document; and

2832 (2) A security interest perfected in the document has
2833 priority over any security interest that becomes perfected in the
2834 goods by another method during that time.

2835 (d) While goods are in the possession of a bailee that has
2836 issued a nonnegotiable document covering the goods, a security
2837 interest in the goods may be perfected by:

2838 (1) Issuance of a document in the name of the secured
2839 party;

2840 (2) The bailee's receipt of notification of the secured
2841 party's interest; or

2842 (3) Filing as to the goods.

2843 (e) A security interest in certificated securities,
2844 negotiable documents, or instruments is perfected without filing
2845 or the taking of possession or control for a period of twenty (20)
2846 days from the time it attaches to the extent that it arises for
2847 new value given under an authenticated security agreement.

2848 (f) A perfected security interest in a negotiable document
2849 or goods in possession of a bailee, other than one that has issued
2850 a negotiable document for the goods, remains perfected for twenty
2851 (20) days without filing if the secured party makes available to
2852 the debtor the goods or documents representing the goods for the
2853 purpose of:

2854 (1) Ultimate sale or exchange; or

2855 (2) Loading, unloading, storing, shipping,
2856 transshipping, manufacturing, processing, or otherwise dealing
2857 with them in a manner preliminary to their sale or exchange.

2858 (g) A perfected security interest in a certificated security
2859 or instrument remains perfected for twenty (20) days without
2860 filing if the secured party delivers the security certificate or
2861 instrument to the debtor for the purpose of:

2862 (1) Ultimate sale or exchange; or

2863 (2) Presentation, collection, enforcement, renewal, or
2864 registration of transfer.

2865 (h) After the twenty-day period specified in subsection (e),
2866 (f), or (g) expires, perfection depends upon compliance with this
2867 article.

2868 **SECTION 65.** Section 75-9-313, Mississippi Code of 1972, is
2869 amended as follows:

2870 75-9-313. (a) Except as otherwise provided in subsection
2871 (b), a secured party may perfect a security interest in tangible
2872 negotiable documents, goods, instruments, money, or tangible
2873 chattel paper by taking possession of the collateral. A secured
2874 party may perfect a security interest in certificated securities
2875 by taking delivery of the certificated securities under Section
2876 75-8-301.

2877 (b) With respect to goods covered by a certificate of title
2878 issued by this state, a secured party may perfect a security
2879 interest in the goods by taking possession of the goods only in
2880 the circumstances described in Section 75-9-316(d).

2881 (c) With respect to collateral other than certificated
2882 securities and goods covered by a document, a secured party takes
2883 possession of collateral in the possession of a person other than
2884 the debtor, the secured party, or a lessee of the collateral from
2885 the debtor in the ordinary course of the debtor's business, when:

2886 (1) The person in possession authenticates a record
2887 acknowledging that it holds possession of the collateral for the
2888 secured party's benefit; or

2889 (2) The person takes possession of the collateral after
2890 having authenticated a record acknowledging that it will hold
2891 possession of collateral for the secured party's benefit.

2892 (d) If perfection of a security interest depends upon
2893 possession of the collateral by a secured party, perfection occurs
2894 no earlier than the time the secured party takes possession and
2895 continues only while the secured party retains possession.

2896 (e) A security interest in a certificated security in
2897 registered form is perfected by delivery when delivery of the

2898 certificated security occurs under Section 75-8-301 and remains
2899 perfected by delivery until the debtor obtains possession of the
2900 security certificate.

2901 (f) A person in possession of collateral is not required to
2902 acknowledge that it holds possession for a secured party's
2903 benefit.

2904 (g) If a person acknowledges that it holds possession for
2905 the secured party's benefit:

2906 (1) The acknowledgment is effective under subsection
2907 (c) or Section 75-8-301(a), even if the acknowledgment violates
2908 the rights of a debtor; and

2909 (2) Unless the person otherwise agrees or law other
2910 than this article otherwise provides, the person does not owe any
2911 duty to the secured party and is not required to confirm the
2912 acknowledgment to another person.

2913 (h) A secured party having possession of collateral does not
2914 relinquish possession by delivering the collateral to a person
2915 other than the debtor or a lessee of the collateral from the
2916 debtor in the ordinary course of the debtor's business if the
2917 person was instructed before the delivery or is instructed
2918 contemporaneously with the delivery:

2919 (1) To hold possession of the collateral for the
2920 secured party's benefit; or

2921 (2) A secured party does not relinquish possession,
2922 even if a delivery under subsection (h) violates the rights of a
2923 debtor. A person to which collateral is delivered under
2924 subsection (h) does not owe any duty to the secured party and is
2925 not required to confirm the delivery to another person unless the
2926 person otherwise agrees or law other than this article otherwise
2927 provides.

2928 **SECTION 66.** Section 75-9-314, Mississippi Code of 1972, is
2929 amended as follows:

2930 75-9-314. (a) A security interest in investment property,
2931 deposit accounts, letter-of-credit rights, or electronic chattel
2932 paper or electronic documents may be perfected by control of the
2933 collateral under Section 75-7-106, 75-9-104, 75-9-105, 75-9-106,
2934 or 75-9-107.

2935 (b) A security interest in deposit accounts, electronic
2936 chattel paper, letter-of-credit rights or electronic documents is
2937 perfected by control under Section 75-7-106, 75-9-104, 75-9-105,
2938 or 75-9-107 when the secured party obtains control and remains
2939 perfected by control only while the secured party retains control.

2940 (c) A security interest in investment property is perfected
2941 by control under Section 75-9-106 from the time the secured party
2942 obtains control and remains perfected by control until:

2943 (1) The secured party does not have control; and

2944 (2) One (1) of the following occurs:

2945 (A) If the collateral is a certificated security,
2946 the debtor has or acquires possession of the security certificate;

2947 (B) If the collateral is an uncertificated
2948 security, the issuer has registered or registers the debtor as the
2949 registered owner; or

2950 (C) If the collateral is a security entitlement,
2951 the debtor is or becomes the entitlement holder.

2952 **SECTION 67.** Section 75-9-317, Mississippi Code of 1972, is
2953 amended as follows:

2954 75-9-317. (a) A security interest or agricultural lien is
2955 subordinate to the rights of:

2956 (1) A person entitled to priority under Section
2957 75-9-322; and

2958 (2) Except as otherwise provided in subsection (e), a
2959 person that becomes a lien creditor before the earlier of the
2960 time:

2961 (A) The security interest or agricultural lien is
2962 perfected; or

2963 (B) One (1) of the conditions specified in Section
2964 75-9-203(b)(3) is met and a financing statement covering the
2965 collateral is filed.

2966 (b) Except as otherwise provided in subsection (e), a buyer,
2967 other than a secured party, of tangible chattel paper, tangible
2968 documents, goods, instruments, or a security certificate takes
2969 free of a security interest or agricultural lien if the buyer
2970 gives value and receives delivery of the collateral without
2971 knowledge of the security interest or agricultural lien and before
2972 it is perfected.

2973 (c) Except as otherwise provided in subsection (e), a lessee
2974 of goods takes free of a security interest or agricultural lien if
2975 the lessee gives value and receives delivery of the collateral
2976 without knowledge of the security interest or agricultural lien
2977 and before it is perfected.

2978 (d) A licensee of a general intangible or a buyer, other
2979 than a secured party, of accounts, electronic chattel paper,
2980 electronic documents, general intangibles, or investment property
2981 other than a certificated security takes free of a security
2982 interest if the licensee or buyer gives value without knowledge of
2983 the security interest and before it is perfected.

2984 (e) Except as otherwise provided in Sections 75-9-320 and
2985 75-9-321, if a person files a financing statement with respect to
2986 a purchase-money security interest before or within twenty (20)
2987 days after the debtor receives delivery of the collateral, the
2988 security interest takes priority over the rights of a buyer,
2989 lessee, or lien creditor which arise between the time the security
2990 interest attaches and the time of filing.

2991 **SECTION 68.** Section 75-9-338, Mississippi Code of 1972, is
2992 amended as follows:

2993 75-9-338. If a security interest or agricultural lien is
2994 perfected by a filed financing statement providing information

2995 described in Section 75-9-516(b)(5) which is incorrect at the time
2996 the financing statement is filed:

2997 (1) The security interest or agricultural lien is
2998 subordinate to a conflicting perfected security interest in the
2999 collateral to the extent that the holder of the conflicting
3000 security interest gives value in reasonable reliance upon the
3001 incorrect information; and

3002 (2) A purchaser, other than a secured party, of the
3003 collateral takes free of the security interest or agricultural
3004 lien to the extent that, in reasonable reliance upon the incorrect
3005 information, the purchaser gives value and, in the case of
3006 tangible chattel paper, tangible documents, goods, instruments, or
3007 a security certificate, receives delivery of the collateral.

3008 **SECTION 69.** Section 75-9-601, Mississippi Code of 1972, is
3009 amended as follows:

3010 75-9-601. (a) After default, a secured party has the rights
3011 provided in this part and, except as otherwise provided in Section
3012 75-9-602, those provided by agreement of the parties. A secured
3013 party:

3014 (1) May reduce a claim to judgment, foreclose, or
3015 otherwise enforce the claim, security interest, or agricultural
3016 lien by any available judicial procedure; and

3017 (2) If the collateral is documents, may proceed either
3018 as to the documents or as to the goods they cover.

3019 (b) A secured party in possession of collateral or control
3020 of collateral under Section 75-7-106, 75-9-104, 75-9-105,
3021 75-9-106, or 75-9-107 has the rights and duties provided in
3022 Section 75-9-207.

3023 (c) The rights under subsections (a) and (b) are cumulative
3024 and may be exercised simultaneously.

3025 (d) Except as otherwise provided in subsection (g) and
3026 Section 75-9-605, after default, a debtor and an obligor have the
3027 rights provided in this part and by agreement of the parties.

3028 (e) If a secured party has reduced its claim to judgment,
3029 the lien of any levy that may be made upon the collateral by
3030 virtue of an execution based upon the judgment relates back to the
3031 earliest of:

3032 (1) The date of perfection of the security interest or
3033 agricultural lien in the collateral;

3034 (2) The date of filing a financing statement covering
3035 the collateral; or

3036 (3) Any date specified in a statute under which the
3037 agricultural lien was created.

3038 (f) A sale pursuant to an execution is a foreclosure of the
3039 security interest or agricultural lien by judicial procedure
3040 within the meaning of this section. A secured party may purchase
3041 at the sale and thereafter hold the collateral free of any other
3042 requirements of this article.

3043 (g) Except as otherwise provided in Section 75-9-607(c),
3044 this part imposes no duties upon a secured party that is a
3045 consignor or is a buyer of accounts, chattel paper, payment
3046 intangibles, or promissory notes.

3047 **SECTION 70.** This act shall take effect and be in force from
3048 and after July 1, 2005.